

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~City~~ of Fremont  
Town  
~~Village~~

Local Law No. 1 of the year 2005.

A local law Town of Fremont Land Use Regulations  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Fremont as follows:  
Town  
~~Village~~

SECTION 1 GENERAL PROVISIONS

1.1 AUTHORITY, ENACTMENT, EFFECTIVE DATE, AND SHORT TITLE

Pursuant to Article 16 of the Town Law, and Article 2 Section 10 of the Municipal Home Rule Law, of the State of New York:

- (1) The Town of Fremont Land Use Ordinance, adopted March 10, 1993, and as amended, is hereby repealed in its entirety and replaced by the Regulations hereinafter set forth.
- (2) There is hereby established a comprehensive plan of land use regulation for the Town of Fremont, Steuben County, New York, regulating and restricting the location, construction and use of structures and the use of land, and for said purposes dividing the Town into districts, which plan is expressed in the text, maps and schedules enacted hereby.
- (3) This local law and any amendments that may be enacted by the Town Board from time to time, shall take effect upon proper filing in the office of the New York State Secretary of State, duly acknowledged.
- (4) This local law shall be known and may be cited as the Town of Fremont Land Use Regulations.

1.2 INTERPRETATION

1.2.1 PURPOSE - These regulations are designed to lessen congestion in the streets, secure safety from fire, flood, panic, and other dangers; to promote the health and general welfare; provide adequate light and air, to prevent overcrowding of land; to facilitate provision of transportation, water, sewerage, schools, parks and other public facilities, to encourage the most appropriate use of land; and otherwise carry out the purposes set forth in Article 16 of the Town Law.

1.2.2 SUPERSESSON - These Regulations supersede, as applied to the Town of Fremont, a provision of Article 16 Section 265 of the Town Law, that an amendment hereof must be duly published prior to taking effect. Instead, these Regulations provide that amendments duly enacted shall be effective upon completion of local law filing procedures.

1.2.3 MINIMUM REQUIREMENT DECLARED

- (1) In their interpretation and application, these Regulations are hereby declared to be the minimum necessary and appropriate for the purpose hereof, and are adopted to protect the public health, safety, and general welfare.
- (2) Notwithstanding the foregoing, whenever these Regulations are at variance any other lawfully adopted rule, regulation, or standard, the more restrictive or that imposing the higher standard shall govern.
- (3) These regulations do hereby establish requirements for parcels of land created pursuant to the Town of Fremont Subdivision Regulations, adopted 10-12-94, amended by Local

Law #2 of 1995. Complying with any portion of these Land Use Regulations does not, however, in any way constitute compliance with the requirements of the Subdivision Regulations.

#### 1.2.4 APPLICATION OF REGULATIONS

- (1) The Regulations established below in Section 6 for each land use district shall apply uniformly to each class or kind of use or structure or land, except as otherwise provided herein.
- (2) Except as otherwise provided herein, no structure shall hereafter be erected and no existing structure shall be moved, structurally altered, rebuilt, added to or enlarged, or used, nor shall any land be used, except in conformity with all of the requirements herein for the district in which it is located.
- (3) No part of any yard or off-road parking or loading space required herein for any premises shall be included as part of any such yard or space similarly required for any other premises.
- (4) No yard or lot existing on the effective date of these Regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Lots and yards created after the effective date of these Regulations shall meet at least the minimum requirements established herein.

#### 1.2.5 OWNER TO BE ACCOUNTABLE

To timely file an Application required by these Regulations is hereby declared to be a duty equally of the concerned property owner, developer, and contractor; by agreement, one may act for all. Nevertheless, when the Code Enforcement Officer finds a violation of these Regulations, the owner of the premises shall be held accountable therefor and may be subject to enforcement action or proceedings.

#### 1.2.6 COMPLIANCE IS STRICTLY LIMITED

A Permit or Certificate duly issued pursuant to these Regulations shall be evidence of compliance with the requirements hereof, but shall not imply or be evidence of compliance with any other regulation, standard, or rule of the Town, Steuben County, New York State, the United States, or any agency thereof, that may be applicable to the premises. The latter shall include, without in any way limiting the generality thereof, the Town of Fremont Subdivision Regulations, the New York State Uniform Fire Prevention and Building Code; Flood Damage Prevention (Town of Fremont Local Law No. 1 of 1987); the Town of Fremont Mobile Home Park Ordinance (adopted April 11, 1973); and rules, regulations, and standards for potable water supply and sewage disposal facilities promulgated by the NYS Department of Health and Department of Environmental Conservation. Compliance with any such other regulation, standard, or rule applicable to a development, shall be a separate duty of the owner of the premises affected thereby, or other person responsible for the development.

## 1.3 ENFORCEMENT

### 1.3.1 POLICY

It is hereby declared to be in the interest of the public health, safety, and general welfare, that all reasonable efforts shall be made to prevent or to correct as promptly as possible any condition that violates these Regulations, before the Town takes action to seek punishment of the person responsible for the violation.

### 1.3.2 ADMINISTRATIVE PROCEDURES

- (1) Complaint – Any resident of the Town who believes there is a violation of these Regulations may file a written complaint describing the alleged violation. Such complaint shall be filed with the Code Enforcement Officer, who shall record all such complaints, immediately investigate, and take action thereon as provided herein.
- (2) Notice of Violation – When the Code Enforcement Officer finds a violation, he shall promptly send a written Notice to the person responsible, stating the nature of the violation and any appropriate corrective steps. The Officer also may give such Notice verbally. The Notice shall advise that each week the violation continues shall constitute a separate additional violation of these Regulations, and may be punishable accordingly.
- (3) Permit Violation – When the Code Enforcement Officer finds a violation of a Land Use Permit or Special Permit before a Certificate of Compliance has been issued, his Notice shall advise that such Certificate shall not be issued until the violation has been corrected, and that to begin use of the premises without a Certificate of Compliance is a violation of these Regulations.
- (4) Stop Order – When a violation is maintained after due Notice, beyond what the Code Enforcement Officer considers under the circumstances to be a reasonable period, he shall send an Order by certified mail to the owner of record of the premises. The Order shall direct the immediate discontinuance of all construction, occupancy, or use of buildings, other structures, and land in violation of these Regulations, and if appropriate also shall direct the removal of any illegal building or other structure, illegal addition thereto, or illegal alteration thereof. The Order shall advise that failure to comply may result in the Town bringing civil and/or criminal action or proceedings. Copies shall be filed by the Officer with the Town Clerk and Town Attorney.
- (5) When the Code Enforcement Officer finds that a cited violation has been duly corrected, he shall enter a statement to that effect in his record of the matter, with a copy to the owner of the premises and if appropriate also to the Town Clerk and Town Attorney.
- (6) Appeal – Any person aggrieved by a Notice or Order of the Code Enforcement Officer may appeal for Administrative Review, which shall take preference over any other matter before the Board of Appeals. Until the Board issues its decision, the passage of each week shall not mark a separate violation of these Regulations.

### 1.3.3 REMEDIAL ACTIONS

- (1) Action by Town – When any building or other structure is erected, constructed, reconstructed, altered, converted or maintained, or any building or other structure or land is used or occupied, in violation of these Regulations, the proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such violation. Such action shall be taken promptly whenever the Town Board finds that continued violation is likely to place in imminent peril the public health, safety, or general welfare. The Town Board, by resolution, may authorize the Code Enforcement Officer to institute such action or proceedings.
- (2) Action by Taxpayers – Such action or proceedings, if not initiated by the proper Town authorities within ten (10) days after written request by a resident taxpayer to so proceed, may be initiated by any three taxpayers of the Town, resident in the district wherein such violation exists and severally or jointly aggrieved thereby, in the same manner as such Town authorities are authorized to do.
- (3) Monetary Penalty – The Town or complainants may seek monetary penalties, which shall not exceed the fines provided for in paragraph (4) of Subsection 1.3.4.

### 1.3.4 CRIMINAL PROCEEDINGS

- (1) Procedure – Whenever a violation of these Regulations is continued in a willful manner following service of an Order to cease, the Code Enforcement Officer shall serve an appearance ticket on the responsible party, file an Information with the Town Justice, and notify the Town Supervisor thereof.
- (2) Jurisdiction – A violation of these Regulations is hereby declared to be an offense, triable by the Town Justice or other magistrate without a jury.
- (3) Separate Offenses – Each week's continued violation, prior to the Code Enforcement Officer's filing of the Information with the Town Justice and following the Notice of Violation, shall constitute a separate additional offense except as otherwise provided in paragraph (6) of Subsection 1.3.2, above.
- (4) Penalty
  - (a) A violation of these Regulations is punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense.
  - (b) Conviction of a second offense, both of which were committed within a period of five (5) years, shall be punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00), or imprisonment for a period not to exceed six (6) months, or both.
  - (c) Conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, shall be punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six (6) months, or both.

## 1.4 JUDICIAL REVIEW

- 1.4.1 Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any office, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under Article seventy-eight of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of such a decision in the office of the Town Clerk.
- 1.4.2 Should any section or provision of these Regulations or the application thereof to a particular person or circumstance, be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the whole or of any part thereof, other than the part so decided to be unconstitutional or invalid.

## SECTION II

### MEANING OF TERMS

#### 2.1 CUSTOMARY USAGE

Terms used in these Regulations shall have their customarily recognized meanings, except as stated otherwise in Sections 2.2 and 2.3.

#### 2.2 INTERPRETING CERTAIN TERMS

2.2.1 Certain Terms shall be interpreted as stated below, unless the context clearly indicates otherwise:

- (1) The word "shall" designates a mandatory action or condition, while "may" is permissive.
- (2) The word "person" includes an individual, a firm, group of individuals, association, organization, partnership, trust, company or corporation, local government or agency thereof.
- (3) Masculine pronouns include feminine pronouns. Words used in the present tense include the future tense. Singular words include their plural forms.
- (4) The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.

#### 2.3 DEFINITIONS

The following terms are hereby defined as stated.

**ACCESSORY USE, BUILDING OR STRUCTURE** – A use, building, or other structure on the same lot as, and of a nature customarily and clearly incidental and subordinate to, the principal use or structure.

**ADULT USES** Shall be defined as follows:

Adult Book and/or Video Store: A commercial establishment which has as a substantial or significant portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental, or any form of consideration, of any one or more of the following: books, magazines, periodicals, or visual representations which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities which are for sale, rental, or viewing on or off the premises. An establishment may have other principal business purposes that do not involve the offering for sale or rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult book and/or video store so long as one of its principal purposes is offering for sale or rental, or some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

Adult Entertainment Cabaret: A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters, or waitresses, male or female impersonators or exotic dancers, or other similar entertainment, or films, motions pictures, videos, slides or other photographic material, or which utilizes employees, as part of their employment, to regularly expose patrons to specified sexual activities or anatomical areas.

Adult Theater: A theater, concert hall, auditorium, or similar establishment which for any form of consideration regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater: Any motion picture theater where, for any form of consideration, films, motion picture, video cassettes, slides, or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by the emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Establishment: Any establishment having a fixed place of business where massages, or any other treatment or manipulation of the human body, are administered for any form of consideration or gratuity, as part of or in connection with specified sexual activities or where any person providing such treatment or services related thereto exposes specified anatomical areas. This definition shall not be construed to include hospital, nursing home, or medical clinic, or office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

Specified Sexual Activities: 1.) Human genitals in a state of sexual stimulation or arousal; or 2.) Acts of human masturbation, sexual intercourse, oral copulation, or sodomy; or 3.) Fondling or other erotic touching of human genitals, pubic region, buttocks, or breasts.

Specified Anatomical Areas: 1.) Less than completely and opaquely clothing covered human genitals, pubic region, buttocks, and female breasts directly and laterally below the top of the areola; and 2.) Human male genitals in a discernible turgid state even if completely and opaquely clothing covered.

**AGRICULTURAL BUILDING OR STRUCTURE** – Customary non-residential farm buildings and other structure; includes barns, silos, storage sheds, corn cribs, grain bins, milk houses, animal pens, and similar structures when used in connection with agriculture.

**AGRICULTURE** – The commercial use of land for customary farming purposes; may include raising farm animals, crops of grains, grasses, and other vegetables or fruits. Accessory uses may include processing, packing, and storing such plant and animal products, and their retail sale at a roadside vegetable stand and to self-service customers who gather such produce in the fields.

**APPLICANT** – A property owner, or his duly authorized representative, who intends to undertake a development subject to these Regulations.

**AUTOMOBILE JUNK YARD** – Premises where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, for the purpose of disposing of the same, or for any other purpose. (See also **JUNK YARD**)

**BED-AND-BREAKFAST** – See **TOURIST HOME**.

**BOARDING HOUSE** – A single-family dwelling where, for monetary compensation, lodging and meals are offered to non-transient guests; may also be termed a “rooming house” or “lodging house”.

**BUILDING** – Any structure which has a roof supported by columns or walls, used for the shelter or enclosure of persons, animals, or chattel.

**BUILDING HEIGHT** – The number of stories in the building. (See also **STORY**)

**CAMPGROUND** – Premises occupied for monetary compensation by recreational vehicles, tents, and other movable or temporary dwellings, shelters, or sleeping quarters of any kind.

**CONVENIENCE BUSINESS** – Small commercial establishments, catering primarily to residents of nearby areas, providing frequently-needed retail goods and personal services, including but not limited to grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons and barber shops, carry-out dry cleaning and laundry pickup stations.

**DEVELOPMENT** – Making use of previously vacant premises, or converting premises from one use to another. (See also **SITE PREPARATION**)

**DRIVE-IN ESTABLISHMENT** – A retail sales or service establishment designed to serve customers while in their automobiles parked on the premises; also may include facilities for serving customers inside the principal building or elsewhere on the premises.

**DWELLING** – A building containing one or more dwelling units.

**DWELLING UNIT** – One or more rooms constituting a separately accessible, independent housekeeping establishment containing cooking, living, sanitary, and sleeping facilities for the use of not more than one family and resident domestic servants.

Following are related terms:

**SINGLE-FAMILY DWELLING** – A building comprising one dwelling unit.

**TWO-FAMILY DWELLING** – A building comprising two dwelling units.

**MULTIPLE-FAMILY DWELLING** – A building comprising three or more dwelling units.

**MOBILE HOME** – A single-family dwelling that (a) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and transported to the home site on its own permanent chassis, and (b) exceeds forty (40) feet in length and ten (10) feet in width, and (c) is designed to be occupied when connected to utilities, with or without a permanent foundation.

**MODULAR HOME** – A single-family or two-family dwelling that is composed of two or more components, each of which was substantially assembled in a manufacturing plant and which when combined on a foundation and connected with necessary utilities, constitute a dwelling meeting the standards set forth in the Residential Code of New York State.



**EAF, FULL** – A “Full Environmental Assessment Form”, as specified in 6 NYCRR Part 617, Section 617.21, Appendix A; it is part of an Application or Appeal for development likely to have a significant effect on the environment.

**EAF, SHORT** – A “Short Environmental Assessment Form”, as specified in 6 NYCRR Part 617, Section 617.21, Appendix C; it is part of an Application or Appeal for development no likely to have a significant effect on the environment. (See also, SEQR)

**ESSENTIAL SERVICES** – Telephone switching equipment centers, electrical and gas substations, antenna towers for TV cable and cellular telephone systems, gasoline and fuel oil distribution and storage centers, sewage collection and treatment facilities, solid waste transfer facilities, and water supply, filtering, pumping and distribution installations.

**FAMILY** – A person, or persons related by blood, marriage, or adoption, or not more than five persons not so related, residing in one dwelling unit.

**FARM ANIMALS** – Animals raised or maintained for their products or labor, such as dairy cows, beef cattle, poultry, sheep, horses, goats, mules, fish, and mink or other fur-bearers.

**FARMING** – See AGRICULTURE.

**GARAGE, PRIVATE** – An accessory building commonly used for the storage of motor vehicles.

**GARAGE SALE** – Sale of, generally, used person or household goods as a temporary use accessory to a dwelling, conducted within or adjacent to a garage, patio or porch. (See also YARD SALE)

**HOME OCCUPATION** – An accessory use conducted for monetary gain entirely within a dwelling or accessory building, and which is clearly incidental and secondary to the residential use of the premises.

**JUNK YARD** – Premises used for the collection, storage, disassembly, packing, sorting, salvage, buying, selling or exchange of waste paper, rags, metals, scrap or discarded material or machinery or parts of any sort, but not including used furniture or clothing stores, pawn shops, antique shops, or automobile junk yards.

**KENNEL** – Premises where, for monetary compensation, four (4) or more domestic animals other than farm animals, more than four (4) months of age, are housed, groomed, bred, trained, or offered for sale.

**LOT** – A parcel of land in single ownership, either a single lot of record or a combination of lots of record.

Following are related terms:

**BUILDABLE PORTION OF LOT** – That part of a lot remaining after exclusion of all required yards. (See also YARD and related terms)

**CENTER OF LOT** – The mid-point of a line connecting the mid-points of the side lot lines of a lot.

**LOT AREA** – The total area of a lot within its lot lines, as calculated by standard surveying methods.

**LOT FRONTAGE** – The edge of a lot delineated by a road right-of-way line.

**LOT LINE** – A boundary line of a lot, as legally defined by property deed or survey plat duly recorded in the office of the Steuben County Clerk.

**LOT LINE, FRONT** – The lot line that is most nearly coincident with the lot frontage.

**LOT LINE, REAR** – The lot line farthest from the lot frontage.

**LOT LINE, SIDE** – A lot line that extends from the front lot line to the rear lot line.

**LOT OF RECORD** – A lot shown on a survey plat or subdivision plat, or described by a deed, duly filed or recorded in the office of the Steuben County Clerk.

**LOT WIDTH** – The least distance between the side lot lines of a lot, measured through the center of the lot.

**MEMBERSHIP CLUB** – Premises designed for the exclusive use of an organization's members and their guests for social, recreational, and/or athletic purposes, not primarily for gain, and not including food service or other commercial activities except incidentally for the convenience of the membership.

**MOBILE HOME** – See **DWELLING**.

**MOBILE HOME PARK** – A lot designed to accommodate two (2) or more mobile homes used as dwellings, placed in such proximity that they do not comply with the lot area and yard, requirement of **Subsection 7.2.5**.

**MOTEL** – A building or group of buildings, whether detached or in connected units, providing individual sleeping quarters with direct outside access, primarily for use by travelers; may also be termed tourist court, motor lodge, auto court, or similar terms.

**MUNICIPAL PARKS** – Parks and playgrounds established and operated by the Town.

**NON-CONFORMING BUILDING, STRUCTURE, LOT OR USE** – A building, other structure, lot, or use, lawfully existing on the effective date of these Regulations, but not in conformity with one or more of the requirements of these Regulations.

**NURSING HOME** – Premises licensed by the State where, for monetary compensation, persons who are ill, infirm or convalescent, are offered room and board, nursing care, physical therapy, or non-acute medical care as needed, generally for prolonged periods. Is not an acute-care facility such as a hospital.

**OFFICER OR CODE ENFORCEMENT OFFICER** – That person duly appointed by the Town Board to administer and enforce these Regulations, as provided for in Section 3.1.

**PARKING LOT, PRIVATE** – Premises where automobiles, other motor vehicles, and boats may be parked for a fee.

**PROFESSIONAL OFFICES** – Premises where professional services are offered by medical practitioners, attorneys, architects, engineers, photographers, brokers, and others offering business or personal services.

**RECREATION DWELLING** – A recreation vehicle, or a movable or temporary shelter or a structure, used or occupied only occasionally or seasonally chiefly for recreational purposes.

**RECREATION EQUIPMENT, MAJOR** – Includes recreation vehicles and those types of vehicles and related equipment commonly termed boats and boat trailers, snowmobiles and snowmobile trailers, cars and other motor vehicles used in races or demolition derbies, and all-terrain vehicles.

**RECREATION VEHICLE** – Type of vehicle used as temporary living quarters for recreation, camping, or travel, that either has its own motive power or is mounted on or drawn by a motor vehicle; includes travel trailer, camper trailer, truck camper, and motor home.

**REST HOME** – Premises where, for monetary compensation, ambulatory person who are frail or convalescent are offered room and board, and where any incidental personal care provided shall not include the services of medical, nursing, or physical therapy personnel. (See **NURSING HOME**)

**RESTAURANT** – Premises at which food is sold for consumption by customers seated within a building or elsewhere on the premises, but excluding such accessory uses as a snack bar or refreshment stand operated for the convenience of patrons of a public or community swimming pool, playground, playfield or park.

**RESTAURANT, DRIVE-IN** – A drive-in establishment where meals, beverages, or snack foods are offered for sale.

**RETREAT** – Premises usually operated by a religious or not-for-profit organization in a rural setting, offering guests room and board and the benefits of temporary removal from their normal pursuits, for such purposes as study, contemplation or prayer, and fellowship.

**ROAD** – A way for vehicular use by the general public that is the principal means of access to abutting lots; may be designated as a road, highway, street, lane, or other name.

Following are related terms:

**PRIVATE ROAD** – A road owned by either the owners of the abutting lots individually, or an association of such owners, or a single lot owner.

**PUBLIC ROAD** – A road owned by either the Town, County, or the State.

**ROAD RIGHT-OF-WAY LINE** – A line marking the legal limit of the road rights of the general public; may mark an existing or proposed right-of-way. (See also **LOT FRONTAGE**)

**ROADSIDE STAND** – Premises, accessory to a farm or residence, devoted to retail sale of seasonal locally-grown produce and related products, with or without a permanent building.

**SEQR** – The acronym for State Environmental Quality Review; refers herein to those reviews and related procedures as are provided for by **6 NYCRR Part 617**.

**SERVICE STATION** – Premises primarily devoted to retail sale of automotive fuel, oil, grease, batteries, tires, and automobile parts and accessories, and where such may be dispensed and/or installed in customers' vehicles.

**SIGN** – A device containing letters, numbers or symbols affixed to, painted or represented on, or installed on, any part of a building or other structure, or otherwise placed in view of the general public, that is designed to direct public attention to or to convey information about a person, idea, institution, organization, activity, place, object, product, or business; when such a device is placed within a building or on an operable registered motor vehicle, it shall not be deemed to be a sign.

Following are related terms:

**BUSINESS SIGN** – A sign that is designed to advertise a business, industry, profession, commodity, service, or activity that is located, conducted, sold or offered upon the specific premises where such sign is placed; a business sign is an accessory use.

**DIRECTLY ILLUMINATED SIGN** – A sign illuminated by and including electric light bulbs or tubes as an integral part thereof.

**DOUBLE-FACED SIGN** – A sign with two display faces placed essentially back-to-back, so as to be readable separately from opposite directions, provided that the backs of such faces are placed at an angle from each other not greater than sixty (60) degrees.

**FLASHING SIGN** – A directly illuminated sign, the illumination of which fluctuates in intensity while in use.

**FREESTANDING SIGN** – Any sign and sign support structure that is not attached to or part of a building.

**INDIRECTLY ILLUMINATED SIGN** – A sign illuminated by a light source that is external to the sign.

**PORTABLE OR MOBILE SIGN** – A sign designed to be transported from place to place, not permanently affixed to the ground or to a building.

**PROJECTING SIGN** – A sign attached to a building wall and any part of which extends more than eighteen (18) inches from the face of such wall.

**REVOLVING SIGN** – A sign that revolves 360 degrees.

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**ROOF SIGN** – A sign painted on, constructed on, or supported by the roof of any building.

**SIGN AREA** – The surface area measurement of that part of a sign installation, designed to carry the message, including all letters, numbers, symbols, logos, pictures, areas of color forming an integral part of the design, and decorative trim; for a double-faced sign, only one display face shall be measured to determine the sign area.

**SIGN INSTALLATION** – The sign and its supporting structural framework.

**WALL SIGN** – A sign, other than a projecting sign, that is painted on or attached to the wall of a building.

**SITE PREPARATION** – Altering premises so as to accommodate development, including for example: cutting and planting trees and other plants; grubbing, grading, filling, and excavation; paving; and, constructing, altering and demolishing buildings and other structures. (See also **DEVELOPMENT**)

**SMALL ANIMAL HOSPITAL** – Premises where for monetary compensation animals may be medically treated or boarded temporarily; may include escape-proof pens and outside runs.

**STABLE, COMMERCIAL** – Premises where for monetary compensation two or more horses not the property of the proprietor are boarded, or on which horses are maintained commercially for hire, exhibition, or sale; may include bridle trails for the customers' use.

**STABLE, PRIVATE** – Premises on which is maintained not more than one horse not the property of the proprietor, and horses of the proprietor not maintained for commercial purposes; is accessory to a farm or dwelling.

**STORY** – That portion of a building between the surface of a floor and the surface of the floor next above it or (if there be no floor above it) the ceiling next above it. The first story is the lowest story of which at least half the floor area is at or above the average level of the adjacent ground.

**STRUCTURE** – Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground; includes buildings, towers, mobile homes, walls, fences, billboards and poster panels.

**TOURIST HOME** – A single-family dwelling in which, for financial compensation, overnight accommodations are offered to transient guests; also may be termed a "bed-and-breakfast".

**TOWN BOARD** – The governing body of the Town of Fremont, including the Town Supervisor and the Town Councilpersons.

**TRAVEL TRAILER** – See **RECREATION VEHICLE**

**VEGETABLE STAND** – See **ROADSIDE STAND**

**VETERINARY HOSPITAL** – See **SMALL ANIMAL HOSPITAL**

**YARD** – Required open area of a lot, unoccupied and unobstructed by any building or portion of a structure from thirty (30) inches above the general ground level of the lot, upward. (See also **LOT** and related terms)

Following are related terms:

**FRONT YARD** – A yard extending from the front lot line to the setback line; corner lots and through lots shall have front yards along both frontages.

**REAR YARD** – A yard extending across the rear of the lot between side yards. In the case of through lots and corner lots, there shall be no rear yards. Rear yard depth is measured perpendicularly from the rear lot line.

**SET-BACK DISTANCE** – The required minimum depth of a front yard, as measured along the side lot lines from the front lot line.

**SET-BACK LINE** – The line marking the inner edge of a required front yard, drawn between points on the side lot lines located at the specified set-back distance.

**SIDE YARD** – A yard extending along a side lot line from the set-back line to the rear lot line or, in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the frontage. In the case of through lots and corner lots, yards remaining after the required front yards have been established shall be considered side yards. Side yard depth is measured perpendicularly from the side lot line.

**YARD SALE** – Sale of, generally, used personal or household goods, locally-produced baked goods, preserves or similar domestic products, and/or handicrafts, conducted as a temporary accessory use on any premises; may include tables or benches with or without waterproof covers or umbrellas.

## SECTION III

### TOWN RESPONSIBILITIES

#### 3.1 THE TOWN BOARD

- 3.1.1 **CODE ENFORCEMENT OFFICER** – The Town Board shall appoint a Code Enforcement Officer, who may be a member of the Planning Board, to administer and enforce these Regulations. Such Officer shall so serve at the Town Board’s pleasure.
- 3.1.2 **BOARD OF APPEALS** – The Town Board shall appoint five (5) persons not members of the Town Board, to be members of a Board of Appeals and shall designate one to be the Chair. The original term of appointment of each member shall be specified, and shall be as follows: one for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years, except that an appointment to fill a vacancy shall be for the balance of that term. Members may be appointed to successive terms, and the Town Board may remove a member for cause after a public hearing.
- 3.1.3 **AMENDMENTS** – The Town Board after public notice and hearing may amend these Regulations.
- 3.1.4 **EXPENSES** – The Town Board shall set the compensation of the Code Enforcement Officer and the compensation, if any, of the members of the Board of Appeals and the Planning Board, and shall provide such funds as it deems appropriate for their actual and necessary expenses in the performance of their duties.

#### 3.2 THE CODE ENFORCEMENT OFFICER

- 3.2.1 **GENERAL DUTIES** – The Code Enforcement Officer shall administer and enforce these Regulations, and for that purpose shall have such powers as are set forth herein and as may be reasonably implied.
- 3.2.2 **SPECIFIC DUTIES** – The Code Enforcement Officer shall have the following particular powers and duties:
- (1) To receive an Application or Appeal as provided for herein, and duly process the same;
  - (2) To issue Land Use Permits, Special Permits, and Certificates of Compliance, as provided in Sections 4.1, 4.2, and 4.3;
  - (3) Upon finding a violation of these Regulations, to proceed as provided in Section 1.3; and,
  - (4) To attend Town Board, Board of Appeals, and Planning Board meetings as requested, or give a written report identifying permits or certificates issued, appeals received and other actions taken pursuant to these Regulations.

### 3.3 THE BOARD OF APPEALS

- 3.3.1 **RULES** – The Board of Appeals shall make and adopt by resolution such rules of procedure, forms, and other matters as it deems necessary or useful for proper performance of their duties under these Regulations, and shall promptly file copies with the Town Clerk.
- 3.3.2 **OFFICE** – The office of the Town Clerk shall be the office of the Board of Appeals and every rule, order, requirement, decision or determination of the Board shall be filed there promptly.
- 3.3.3 **MEETINGS AND RECORDS:**
- (1) All meetings of the Board of Appeals shall be open to the public, and shall be held at the call of the Chairperson and at such other times as the Board may determine. The concurring vote of a majority of all members of the Board shall be necessary to determine matters on which the Board is required to rule, except as otherwise provided herein.
  - (2) The Board of Appeals shall keep minutes of their proceedings showing the absence, vote or abstention of each member on every question.
- 3.3.4 **EXPENDITURES** – The Board of Appeals may retain such consultants and employ such staff as it shall deem necessary, provided that no expense shall be incurred beyond the amount of any appropriation that shall have been made by the Town Board therefor and is then available for such use.
- 3.3.5 **BOUNDARIES** – The Board of Appeals shall resolve any uncertainty regarding the location of a land use district boundary upon request.
- 3.3.6 **SPECIAL PERMITS** – The Board of Appeals shall review and decide each Application for a Special Permit as provided in Section 4.2.
- 3.3.7 **ADMINISTRATIVE REVIEW** – The Board of Appeals shall review and decide each appeal from an order, requirement, decision, or determination of the Code Enforcement Officer on the ground of error; and, on request, shall interpret any provision of these Regulations, as provided in Section 4.4.
- ~~3.3.8 **VARIANCE** – The Board of Appeals shall review and decide each Appeal of Variance from the strict application of any requirement of these Regulations, as provided in Section 4.5.~~

### 3.4 PLANNING BOARD

- 3.4.1 **RULES** – The Planning Board shall make and adopt by resolution such rules of procedure, forms, and other matters as it deems necessary or useful for proper performance of its duties under these Regulations, and shall promptly file copies with the Town Clerk.



- 3.4.2 **OFFICE** – The office of the Town Clerk shall be the office of the Planning Board and every rule, order, requirement, decision or determination of the Board shall be filed there promptly.
- 3.4.3 **MEETINGS AND RECORDS:**
- (1) All meetings of the Planning Board shall be open to the public, and shall be held at the call of the Chairperson and at such other times as the Board may determine. The concurring vote of a majority of all members of the Board shall be necessary to determine matters on which the Board is required to rule, except as otherwise provided herein.
  - (2) The Planning Board shall keep minutes of their proceedings showing the absence, vote or abstention of each member on every question.
- 3.4.4 **EXPENDITURES** – The Planning Board may retain such consultants and employ such staff as it shall deem necessary, provided that no expense shall be incurred beyond the amount of any appropriation that shall have been made by the Town Board therefor and is then available for such use.
- 3.4.5 **SPECIAL PERMITS** - The Planning Board shall review each Application for a Special Permit, and give its recommendation to the Board of Appeals.
- 3.4.6 **AMENDMENTS** - The Planning Board shall submit its recommendation to the Town Board regarding a proposed amendment of these Regulations.
- 3.4.7 **PERIODIC REVIEW** - The Planning Board shall, at least every five (5) years, review these Regulations in their entirety, in order to identify desirable changes thereto, and shall recommend same to the Town Board.
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**SECTION IV**  
**PROCEDURES**

**4.1 OBTAINING A LAND USE PERMIT**

**4.1.1 THE LAND USE PERMIT**

- (1) A Land Use Permit designates that the proposed development complies with these Regulations. All work shall be consistent with the Permit. During the course of the work, the Code Enforcement Officer shall inspect the site to ensure compliance with the Permit.
  - (a) No one shall start site preparation or development, or change the current use of an existing site or structure, for a purpose allowable by Land Use Permit, as designated in Section 6.2, without a Land Use Permit.
  - (b) No Land Use Permit shall be issued for a property where there exists a violation of these Regulations, except that one may be issued for the purpose of correction such violation.
- (2) Lapse – When site preparation has not begun within ninety (90) days, or has not been completed within two (2) years, of the date of the Permit, the Permit shall lapse. The Code Enforcement Officer shall so notify the Applicant. The Applicant may request an extension for good cause, which the Officer may allow. The Officer shall maintain a file of all such requests.

**4.1.2 APPLICATION**

- (1) Pre-Application – An applicant may obtain an “Application for a Land Use Permit” from the Town Clerk, and may discuss the proposed development with the Code Enforcement Officer to clarify procedures or other requirements and to identify possible problems to be overcome; no fee shall be charged.
- (2) Submittal – An Application shall be submitted to the Town Clerk with the required supplemental information and fee. The Code Enforcement Officer shall determine when the Application is complete and shall then accept it. The Application shall be part of the Officer’s permanent record.

**4.1.3 REVIEW PROCEDURES**

- (1) Review – An Application shall be reviewed by the Code Enforcement Officer; he shall inspect the site of the proposed development and determine whether the proposal would be in compliance with these Regulations.
- (2) Decision – Within fourteen (14) days after an Application is accepted, the Code Enforcement Officer shall issue or deny the Permit as follows:
  - (a) The Permit shall be denied when the proposal is for a use not allowed in the district or would otherwise not comply with provisions of Sections VI or VII. In

that case, the Code Enforcement Officer shall send the applicant a written statement of the reason for rejection, and shall retain one copy in his file.

- (b) The Permit shall be issued when the proposal is for a use allowed in the district in which the property is located and would comply with all other relevant requirements.

## 4.2 OBTAINING A SPECIAL PERMIT

### 4.2.1 PURPOSE

Special Permit uses designated in Section 6.2 are hereby declared to be generally appropriate in the districts in which they are allowed. Nevertheless, their location, design, and site preparation require particular attention in order to prevent or minimize undesirable affects on nearby properties or on the general welfare of the Town. For that reason such uses shall be allowed only in accordance with a Special Permit.

### 4.2.2 APPLICATION

#### (1) Special Permit Required

- (a) No one shall start site preparation or development for a purpose allowable by Special Permit, as designated in Section 6.2, without a Special Permit.
- (b) No Special Permit shall be issued for a property where there exists a violation of these Regulations, except that one may be issued for the purpose of correction such violation.

(2) Pre-Application – An Applicant may obtain an “Application for a Special Permit” from the Town Clerk, and may discuss the proposal with the Code Enforcement Officer to identify requirements and possible problems before the Application is submitted; no fee shall be charged.

(3) Submittal – An Application shall be submitted to the Town Clerk with the required supplemental information and fee. The Code Enforcement Officer shall determine when the information supplied constitutes a complete Special Permit Application, and shall promptly send it to the chairperson of the Board of Appeals. The Application shall be deemed to have been submitted to the Board as provided paragraph (2) (b) or paragraph (3) of Subsection 4.8.3.

### 4.2.3 REVIEW

- (1) Environmental Quality Review – Promptly after receiving an Application, the Board of Appeals shall undertake environmental quality review (SEQR) in accordance with Section 4.8. After completing SEQR review, the Board shall finish action on the Application.
- (2) Referral to County Planning Agency – When an Application is for a development within five hundred (500) feet from a boundary of the Town, or from a County or State

road or highway, or from a County or State park or other recreation area, the Board of Appeals shall promptly send a copy of the Application to the Steuben County Planning Agency for review. Within thirty (30) days, the County Planning Agency shall recommend approval, disapproval, or approval subject to stated conditions. Failure to report within such period shall be deemed to be approval. If the County Planning Agency recommends disapproval or conditional approval of the proposal, the Board of Appeals shall not act to the contrary except by the concurring vote of a majority plus one of all the members thereof adopting a Resolution fully setting forth their reasons.

(3) Procedure

- (a) An Application shall be given also to the Planning Board for review and recommendation. It shall report its conclusions to the Board of Appeals within thirty (30) days. Without such report, a favorable recommendation shall be assumed.
- (b) The Board of Appeals shall review the application and examine the site of the proposal. The Board of Appeals Review and the Planning Board review may occur concurrently.
- (c) The Board of Appeals shall hold a public hearing on the Application; notice shall be given and the hearing shall be conducted in the same manner as provided in paragraph (3) (a) of Subsection 4.5.2.
- (d) The Board of Appeals shall determine whether the development as proposed meets applicable standards stated in Subsection 4.2.4, and relevant requirements stated in Sections VI and VII.

**4.2.4 STANDARDS**

- (1) To guide its decision the Board of Appeals shall prepare written findings from the record, stating how the proposed development would or would not meet the performance standards stated in paragraphs (2) and (3) below.
  - (2) General Standard – A development allowable by Special Permit shall be generally compatible with other properties in the vicinity, in terms of overall appearance and external evidence of normal operation; fences, planting screens or buffer areas, or restricted hours of operation, may be used to help meet this standard.
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- (3) Specific Standards – A development allowable by Special Permit shall meet each of the following standards that is applicable to that proposal:
    - (a) Facilities and areas for solid waste handling, parking, exterior lighting and other service functions shall be located and designed so that other properties and passerby will be protected from unsightly conditions, dust and trash, fumes and odors, glare, and noise.
    - (b) Signs shall be visually compatible with their surrounds.
    - (c) Buildings and other structures shall be located and designed so that they will not unreasonably impair other properties' access to sunlight, air, and view.

- (d) The development shall be designed so that storm water will not be channeled harmfully onto adjacent properties, and so that there will be no soil erosion from the site.
- (e) The development shall be designed to avoid unnecessary grading; large trees and other attractive existing site features shall be preserved to the extent practicable.
- (f) The development shall be located where normal operation will not cause an unreasonable increase of traffic on public roads in the vicinity.
- (g) Vehicular entrances and exits, drives, and off-road parking and loading areas shall be designed for safe traffic movement under normal use, and for unimpeded access by emergency vehicles.
- (h) Pedestrian ways shall be separated from vehicular traffic, with crossing points clearly marked or otherwise controlled for safety.
- (i) When a development is intended to serve the general public, it shall include at least one access way designed to accommodate physically handicapped persons.

#### 4.2.5 DECISION AND PERMIT

- (1) Within sixty-two (62) days after the close of the public hearing, the Board of Appeals shall issue its decision, and shall promptly send a copy each to the applicant, the Code Enforcement Officer, and the Town Clerk. Such period may be extended to ninety (90) days by agreement between the Board and Applicant. The record, including the complete Application, shall be filed promptly in the Board's records.
- (2) In its decision, the Board may:
  - (a) decline to authorize a Special Permit for the development, stating the reasons therefor; or,
  - (b) authorize a Special Permit for the development, stating any modifications or other conditions found by the Board to be reasonable and necessary for the purposes of these Regulations; or,
  - ~~(c) authorize a Special Permit for the development as proposed in the Application.~~
- (3) The Permit – The Special Permit shall be issued promptly by the Code Enforcement Officer according to the Board of Appeals decision. It shall incorporate by reference the complete Application, together with any modifications and conditions set by the Board.
- (4) Site Preparation – After receiving the Permit, the Applicant may begin site preparation. During the course of the work, the Officer shall inspect the site to ensure compliance with the Permit.
- (5) Lapse – When site preparation has not been begun within ninety (90) days, or has not been completed within two (2) years, of the date of the Special Permit, the Special

Permit shall lapse. However, the Board of Appeals for good cause may approve a request for an extension of such periods of time by a like amount.

#### **4.3 OBTAINING A CERTIFICATE OF COMPLIANCE**

##### **4.3.1 APPLICATION PROCEDURE**

- (1) Certificate Required – No development shall be occupied without a Certificate of Compliance. The Certificate shall state that all activities subject to these Regulations have been properly completed in compliance with the Permit.
- (2) Application – An “Application for a Certificate of Compliance” is part of any Application form for a Land Use Permit or Special Permit. A copy shall be filled out by the Applicant and then sent to the Code Enforcement Officer.
- (3) Inspection – The Code Enforcement Officer shall promptly inspect the premises, and compare the same with the plans, specifications, conditions and other requirements set forth in the relevant Permit or Order.

##### **4.3.2 CERTIFICATE TO BE ISSUED**

- (1) When the Code Enforcement Officer finds that the development conforms with the requirements, he shall promptly issue the Certificate of Compliance to the Applicant; a copy will remain in his files together with the Application.
- (2) When the Code Enforcement Officer finds that the development does not conform with requirements, he shall issue a Notice of Violation pursuant to Subsection 1.3.2 (3). A copy shall remain in the Officer’s file.
- (3) Upon correction of the stated defect by the applicant, the matter shall be reconsidered at once by the Code Enforcement Officer who, when he finds all correct, shall issue the Certificate.

#### **4.4 APPEAL FOR ADMINISTRATIVE REVIEW**

**4.4.1 GROUND FOR APPEAL**– Anyone may file an Appeal for Administrative Review, when:

- (1) seeking interpretation of a particular provision of these Regulations; or,
- (2) seeking correction of an alleged error in an order, requirement, decision, or determination of the Code Enforcement Officer.

**4.4.2 SUBMITTAL** – An appellant may obtain from the Code Enforcement Officer an “Appeal for Administrative Review”. The completed form shall be submitted to the Code Enforcement Officer within thirty (30) days following any decision or other action appealed. The Officer shall promptly send the complete record of the matter to the Board of Appeals. The appeal shall stay all action on the matter under appeal, unless

the Officer shall certify to the Board of Appeals that for stated reasons such stay would in his judgement cause imminent peril to life or property.

4.4.3 **REVIEW** – The Board of Appeals shall hold a public hearing on the Appeal. Public notice shall be given and the hearing shall be conducted in the same manner as provided in paragraph (3) (a) of Subsection 4.5.2. The Board may meet with the appellant and the Code Enforcement Officer to obtain information. Minutes of the hearing shall be part of the record. The Board of Appeals shall duly consider the record.

#### 4.4.4 **DECISION**

- (1) Within sixty-two (62) days after the close of the public hearing, the Board shall issue its decision. It shall affirm the Code Enforcement Officer's determination unless it finds the error alleged, or other ground for reversal or modification. In that case the Board may make such order, requirement, decision or determination as it shall find to be correct, so that the spirit of these Regulations shall be observed, public safety and welfare secured, and substantial justice done.
- (2) A copy of each decision shall be sent promptly to the appellant, the Code Enforcement Officer, and the Town Clerk. The appellant and the Code Enforcement Officer shall then continue with the matter at hand, subject to the terms of the Board's decision.
- (3) Where the Appeal is for an interpretation of the Regulations, the Board shall give their interpretation and the reasons therefor. A file of such decisions shall be maintained for reference.

### 4.5 **APPEAL FOR A VARIANCE**

#### 4.5.1 **GENERAL PROVISIONS**

##### (1) **Area Variances**

- (a) The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer to grant area variances. An area variance shall mean the authorization by the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of these Regulations.
- (b) In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall 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 granting 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 variance is substantial;
  4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
  5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The Board of Appeals, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- (d) An applicant for a Special Permit may appeal for an Area Variance upon being advised by the Code Enforcement Officer or the Board of Appeals that the proposed development would not comply with a specified requirement of Sections VI or VII and accordingly is not allowable. In such cases, the Board shall not consider the Application for Special Permit unless it first shall have issued an Order of Variance.

(2) Use Variances

- (a) The Board of Appeals shall have the authority to issue use variances. A use variance is the authorization for the use of land for a purpose which is otherwise not allowed by, or prohibited by, these regulations.
- (b) No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

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- (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 property in questions 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) that the alleged hardship has not been self-created.



- (3) Imposition of Conditions – The Board of Appeals shall, in the granting of both area variances and use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of these Regulations, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### 4.5.2 APPEAL FOR VARIANCE – PROCEDURES

- (1) Submittal  
An appellant may obtain from the Town Clerk an “Appeal for a Variance”. The completed form shall identify the particular provision of these Regulations from which relief is sought and shall be accompanied by the required fee, and materials in support of the appeal as provided in Section 5.6. It shall be submitted to the Town Clerk, who shall inform the Code Enforcement Officer. The Officer shall then promptly send the Appeal and all records of matter in his file to the Board of Appeals. The appeal shall stay action on the matter, unless the Code Enforcement Officer certifies to the Board of Appeals that for stated reasons in his judgement such stay would cause imminent peril to life or property. The Appeal shall be deemed to have been submitted to the Board as provided in paragraph (2) (b) or paragraph (3) of Subsection 4.8.3.
- (2) Review
  - (a) Environmental Quality Review – Promptly after receiving an Appeal, the Board of Appeals/Planning Board shall undertake environmental quality review (SEQR) in accordance with Section 4.8. After completing SEQR review, the Board shall finish their action on the Appeal.
  - (b) Referral to County Planning Agency – When an Appeal pertains to premises within five hundred (500) feet from a boundary of the Town or from a County or State road, or from a County or State park or other recreation area, the Board of Appeals/Planning Board shall send a copy of the Appeal to the Steuben County Planning Agency for review and recommendation as provided for in paragraph (2) of Subsection 4.2.3.
- (3) Hearing
  - (a) The Board of Appeals shall promptly set a date for public hearing of an Appeal, mail notice thereof to the appellant and to the Code Enforcement Officer, publish notice thereof in the official newspaper of the Town, and issue any other notice the Board may choose, at least five (5) days prior to such date. At the hearing relevant information may be presented by interested persons. The Chairperson may compel attendance of witnesses and administer oaths thereto. Minutes of the proceedings shall become part of the record.
  - (b) At the hearing, the appellant may be represented by counsel, and may supplement his written Appeal.

(4) Decision and Order

- (a) Time – The Board shall issue their decision within sixty-two (62) days following the close of the public hearing. Copies shall be sent promptly to the appellant, Code Enforcement Officer, and Town Clerk.
- (b) Vote – The affirmative vote of a majority of the members of the Board shall be necessary to grant a variance, except that when the County Planning Agency recommends denial or conditional approval of the appeal, the Board of Appeals shall not act to the contrary except by concurring vote of a majority plus one of the members thereof adopting a Resolution fully setting forth the reasons for their decision.
- (c) Order – When the Board grants relief, an Order of Variance shall be directed to the Code Enforcement Officer, fully describing the variance granted. The Order shall become effective promptly, shall be observed strictly, and shall be enforceable in the same manner as any provision of these Regulations.
- (d) Lapse – A Variance authorized by the Board of Appeals that is not exercised within one year from the date of issuance shall expire without further action by the Board.

## 4.6 AMENDING THE REGULATIONS

### 4.6.1 GENERAL PROVISIONS

The Town Board may amend these Regulations after a public hearing, as provided for in this Section. A petition for amendment may be presented by an owner of property affected thereby, and shall be filed with the Town Clerk in a form prescribed by the Town Board; it shall include the required fee. An amendment may be proposed by the Town Board, the Planning Board, or the Board of Appeals.

### 4.6.2 PROCEDURE

- (1) Advisory Report by Planning Board – A proposed amendment, unless initiated by the Planning Board, shall be referred by the Town Board to the Planning Board which shall report its recommendation to the Town Board, and the reasons therefor, prior to a public hearing. When the Planning Board does not report within sixty-two (62) days or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
- (2) Environmental Quality Review – The Planning Board’s recommendation shall include its assessment of environmental impact of the proposed amendment, as provided in Subsection 4.8.4. Upon receiving the Planning Board’s recommendations, the Town Board shall undertake environmental quality review in accordance with Section 4.8. Following SEQR review the Board shall complete action on the proposed Amendment.

(3) Referral to County Planning Agency

- (a) Where a proposed amendment would alter the Regulations pertaining to property within five hundred (500) feet from any boundary of the Town, or from any County or State road or highway, or from any County or State Park or other recreational area, the Town Board shall send a copy of the proposal to the Steuben County Planning Agency for review and comment in the same manner as provided for in paragraph (2) of Subsection 4.2.3.
- (b) When the County Planning Agency disapproves a proposal or recommends modification thereof, the Town Board shall not act to the contrary, except by the concurring vote of four of the members thereof adopting a Resolution fully setting forth the reasons therefor.

(4) Public Notice, Hearing, and Decision

- (a) The Town Board by resolution shall fix the time and place of the public hearing and cause notice to be given by publishing a notice of the proposed amendment and the time and place of the public hearing in the official newspaper of the Town, not less than ten (10) days prior to the date thereof.
- (b) Where a proposed amendment would affect property within five hundred (500) feet from a boundary with another Town, written notice of such hearing shall be given to the Town Clerk thereof, and a representative of such Town may appear and be heard at the meeting.
- (c) The hearing shall be held and any person may present relevant information or views pertaining to the proposal. The minutes of the hearing shall contain the information received.
- (d) The Town Board shall make its decision within sixty-two (62) days after the close of the public hearing. Every amendment enacted shall be entered in the minutes of the Town Board, and shall become effective as provided by in Section 1.1, paragraph (3). An amendment of the official Land Use Regulations map shall be inscribed thereon and certified by the Town Clerk.

(5) Protest by Owners – When a protest against a proposed amendment is presented to the Town Board by the owners of twenty (20) percent or more of the area of either

- (a) the property affected thereby, or
- (b) the properties immediately adjacent to and extending 100 feet therefrom, or
- (c) the properties directly opposite thereto, and extending 100 feet from the frontage thereof,

then such amendment shall not be enacted except by the affirmative vote of four of the members of the Town Board.

(6) Periodic Review – At least once every five years following their enactment, these Regulations shall be reviewed thoroughly by the Planning Board, with advice from the

Board of Appeals and Code Enforcement Officer. The Planning Board shall recommend to the Town Board any amendments it considers desirable.

#### 4.7 FEES

4.7.1 **REQUIREMENT** – Application fees shall be paid to the Town Clerk according to the following schedule. No action shall be taken on an Application or Appeal until the Application has been paid. (Fees may be changed according to changes in State or local requirements, as the Town Board sees necessary).

4.7.2 **FEE SCHEDULE** – When work requiring a Permit is started before the Application is filed, an additional fee of \$50.00 shall be charged. The required fees are as follows:

Application for a Land Use Permit (when Building Permit not needed) .....	5.00
Application for a Special Permit.....	25.00
Application for a Certificate of Compliance .....	None
Appeal for Administrative Review .....	None
Appeal for a Variance .....	25.00
Petition for Amendment .....	25.00
Application for Building Permit .....	
\$35.00 for first 1000 sq. ft.; \$10.00 / each additional 500 sq. ft. or part thereof	

4.7.3 **EXCEPTIONS** – The Building Permit fee shall be \$10.00 for an accessory building or structure or for a building addition exceeding one hundred (100) square feet of gross floor area. No fee shall be charged for a Building Permit for an agricultural building or structure, or for a building addition not exceeding one hundred (100) square feet of gross floor area.

#### 4.8 ENVIRONMENTAL QUALITY REVIEW

##### 4.8.1 POLICY

(1) In accordance with State Environmental Quality Review (SEQR) regulations (6 NYCRR Part 617), it is hereby declared to be a policy of the Town that protection and enhancement of the environment be given appropriate weight with social and economic considerations, and that those factors be considered together in reaching decisions on proposed developments under these Regulations.

(2) Applications for Special Permits, Appeals for Variances, and proposals for amending these Regulations, shall be reviewed as provided for in this Section to determine whether the proposed action would be likely to have a significant affect on the environment and, if so, how possible adverse effects could be reduced or prevented.

##### 4.8.2 STANDARDS

(1) The following actions under these Regulations are deemed likely to have a significant effect on the environment:

- (a) amending these Regulations to change the allowable uses within any land use district, affecting an area of twenty-five (25) acres or larger;
  - (b) authorizing a Special Permit, granting a Variance, or amending these Regulations at the request of an applicant, in order to allow construction of fifty (50) or more dwelling units, or non-residential development that would entail site preparation covering an area of ten (10) acres, or parking space for 1,000 motor vehicles, or a facility with gross floor area exceeding 100,000 square feet;
  - (c) authorizing a Special Permit, granting a Variance, or amending these Regulations in order to allow expansion of an existing non-residential development that would entail site preparation covering five (5) acres, or parking for no more than five hundred (500) motor vehicles, or a facility with gross floor area exceeding 50,000 square feet; and,
  - (d) authorizing a Special Permit, granting a Variance or amending these Regulations in order to allow non-agricultural development within an agricultural district created in accordance with Article 25-AA of NYS Agriculture and Markets Law, comprising: construction of more than twelve (12) dwelling units, or site preparation covering an area of two and one-half acres or larger, or provision of parking spaces for 250 or more motor vehicles, or construction of a facility having a gross floor area of over 25,000 square feet.
- (2) The following actions are deemed unlikely to have a significant effect on the environment:
- (a) granting a Variance, other than for a development noted above in paragraph (1), or as provided in paragraph (3) below;
  - (b) authorizing a Special Permit for a development other than for a development noted above in paragraph (1); and,
  - (c) amending these Regulations for a purpose other than those noted in paragraph (1).
- (3) The following actions under these Regulations are not subject to environmental quality review and do not need an environmental assessment:
- (a) issuing a violation Notice, Order, or Appearance Ticket;
  - (b) issuing a Land Use Permit;
  - (c) issuing a Certificate of Compliance;
  - (d) granting a variance from the required minimum setback distance or depth of required yards; and,
  - (e) deciding an Appeal for Administrative Review, or a request for Clarification of a district boundary.

#### 4.8.3 SPECIAL PERMITS AND VARIANCES

##### (1) Environmental Assessment Forms

- (a) An Application for a Special Permit or Appeal for a Variance shall not be complete until the appropriate Environmental Assessment Form (EAF) has been submitted.
- (b) When the intended development is likely to have a significant effect on the environment (as listed above) paragraph (1) of Subsection 4.8.2), a Full EAF shall be submitted.
- (c) When the intended development is not likely to have a significant effect on the environment (as listed above, paragraph (2) of Subsection 4.8.2), a Short EAF shall be submitted.

##### (2) Determination of Significance

- (a) Promptly after receiving an Application or Appeal, the Board of Appeals shall determine whether the proposed development might have a significant effect on the environment. The Board shall use the criteria set forth in Section 617.11 of 6 NYCRR Part 617, and complete Parts II and III of the EAF.
- (b) When no significant effect is identified, a "Negative Declaration" shall be prepared, certified by the Chairman or other designated officer, and filed with the Board's records. The Application or Appeal shall be deemed to have been submitted on the date of the Board's "Negative Declaration". Review of the proposal then shall proceed as provided in the appropriate Section, above, of these Regulations.
- (c) When a possibly significant effect on the environment is found by the Board of Appeals, it shall make no decision on the matter until SEQR review has been completed in accordance with provisions of 6 NYCRR Part 617.

- (3) Review Procedure – An Application or Appeal subject to SEQR review (paragraph (2) (c), above) shall be considered to have been submitted on the date of the Board of Appeals' "Notice of Completion of Draft EIS". The matter shall then be reviewed under these Regulations concurrently with its review under SEQR. No final determination shall be reached by the Board before the date of its "Findings Statement" issued at the conclusion of the SEQR review.

#### 4.8.4 AMENDMENTS

##### (1) Environmental Assessment Forms

- (a) Before submitting its recommendation to the Town Board regarding any proposed amendment of these Regulations, the Planning Board shall have prepared the appropriate Environmental Assessment Form (EAF), with all Parts completed in draft form. The Planning Board's recommendation shall include its judgement on the significance of the proposal's likely environmental effects.

- (b) When the proposed amendment is likely to have a significant effect on the environment (as listed above, paragraph (1) of Subsection 4.8.2), a Full EAF shall be prepared and submitted.
  - (c) When the proposed Amendment is not likely to have a significant effect on the environment (as listed above, paragraph (2) of Subsection 4.8.2), a Short EAF shall be prepared and submitted.
- (2) Determination of Significance
- (a) Promptly after receiving the Planning Board's recommendation on a proposed amendment, the Town Board shall review the EAF and determine whether the proposed amendment might have a significant effect on the environment, using the criteria set forth in Section 617.11 of 6 NYCRR Part 617. It may accept or modify the assessment and conclusions proposed by the Planning Board in Parts II and III of the EAF.
  - (b) When no significant effect is identified, the Town Board shall prepare a "Negative Declaration" which shall be certified and filed by the Town Clerk. The Town Board then shall proceed with its consideration of the proposal in accordance with Section 4.6.
  - (c) When a possibly significant effect on the environment is found by the Town Board, no decision on the amendment shall be taken until review has been completed in accordance with the provisions of 6 NYCRR Part 617.
- (3) Review Procedure – The Planning Board's recommendation regarding a proposed amendment subject to SEQR (paragraph (2) (c), above) shall be deemed to have been received by the Town Board on the date of the Town Board's "Notice of Completion of Draft EIS". The matter then shall be considered pursuant to Section 4.6 concurrently with its review under SEQR. The Town Board shall not reach a final decision regarding the amendment before the date of its "Findings Statement" issued at the conclusion of SEQR review.

## SECTION V

### CONTENT OF APPLICATIONS AND APPEALS

#### 5.1 GENERAL PROVISIONS

- 5.1.1 An applicant or appellant may obtain necessary forms from the Town Clerk. Such forms and supplemental information identified in this Section, or specified by the Code Enforcement Officer, are hereby declared to provide the minimum information needed for the purposes of these Regulations.
- 5.1.2 An applicant or appellant shall provide appropriate information, such as a plot plan, scaled drawings, and/or sketches and descriptions of the property, showing existing and proposed conditions. The Code Enforcement Officer in each case shall specify the particular types of information and level of detail for a complete Application for a Land Use Permit or Special Permit. His determination shall be subject to Administrative Review.
- 5.1.3 An applicant or appellant who feels that the specified information would present an inaccurate picture of the matter, may provide additional documentation, which shall be part of the record.

#### 5.2 A LAND USE PERMIT

- 5.2.1 Form – The Application form shall provide spaces for an Application Number and the date accepted, and shall present the following information:
- (1) name, postal address, and telephone number of the owner of record of the property; and of the applicant, if different; the applicant's legal relationship to the owner;
  - (2) tax map identification of the property (map sheet, block and parcel numbers); fire number;
  - (3) the present use or uses of the property;
  - (4) the proposed Allowable Use as listed in Section 6.2; and,
  - (5) a brief description of work proposed to be undertaken.
- 5.2.2 Supplemental Information – An Application shall include enough information describing the proposal so the Code Enforcement Officer can determine its compliance with these Regulations, including one or more clear drawings that shall show appropriate items listed in paragraph (2), Subsection 5.3.2.

#### 5.3 A SPECIAL PERMIT

- 5.3.1 Form – The Application form shall provide spaces for an Application Number and the date submitted, and shall present the following information:



- (1) name, postal address, and telephone number of the owner of record of the property; and of the applicant, if different; the applicant's legal relationship to the owner;
- (2) tax map identification of the property (map sheet, block, and parcel numbers); fire number;
- (3) the present use or uses of the property;
- (4) the proposed Special Use, as listed in Section 6.2; and,
- (5) a brief description of work proposed to be undertaken.

### 5.3.2 SUPPLEMENTAL INFORMATION

- (1) An Application shall include drawings and other appropriate information describing the proposal. The scale of the drawing(s) and acceptable level of detail depend on the location, size and complexity of the proposal, but shall provide the information needed by the Board of Appeals/Planning Board in order to prepare the findings required by Subsection 4.2.4.

- (2) The following items where applicable shall be shown:

- (a) Existing Conditions:

- topographical contour lines;
- property lines, rights-of-way, easements;
- names of owners of adjoining properties;
- road names;
- lot area and dimensions;
- location and dimensions of required front, rear, and side yards;
- identification, location and dimensions of all existing buildings and other structures;
- location, dimensions, and surfacing of all existing drives and parking areas;
- location and description of existing water supply and sewerage facilities;
- identification of all utility lines on or adjacent to the property;
- streams, ditches, culverts, on or adjacent to the property; their direction of flow;
- location and identification of major trees and other prominent natural features on or adjacent to the property.

- (b) The Proposal:

- changes to any of the above features;
- identification, location and dimensions of all proposed buildings and other structures, drives and parking/loading areas, signs, exterior lighting fixtures, drainage, utilities; and,
- grading and erosion control plan wherever required pursuant to Subsection 7.3.4.

5.3.3 An appropriate Environmental Assessment Form (Subsection 4.8.3) shall be submitted with Part I duly completed.

#### 5.4 A CERTIFICATE OF COMPLIANCE

An Application for a Certificate of Compliance is part of an Application for a Land Use Permit/Building Permit or a Special Permit and the information provided therein shall enable the Code Enforcement Officer to determine if all site work has been completed properly.

#### 5.5 APPEAL FOR ADMINISTRATIVE REVIEW

5.5.1 The Appeal form shall have spaces for an Appeal Number and the date accepted, and shall present the following information:

- (1) Name, postal address, and telephone number of the owner of record of the property; and of the appellant, if different, legal relationship of appellant to owner;
- (2) Tax map identification of the property (map sheet, block, and parcel numbers); fire number.

5.5.2 The appellant shall identify the order, requirement, decisions, or determination of the Code Enforcement Officer from which the Appeal is taken, and the alleged error therein; or, the specific provision of the Regulations for which he seeks an interpretation.

#### 5.6 APPEAL FOR A VARIANCE

5.6.1 The Appeal form shall have spaces for an Appeal Number and the date submitted, and shall present the following information:

- (1) Name, postal address, and telephone number of the owner of record of the property; and of the appellant, if different; legal relationship of appellant to owner;
- (2) Tax map identification of the property (map sheet, block, and parcel numbers); fire number;
- (3) The specific provision(s) of these Regulations from which a variance is sought
- (4) An appellant shall support his appeal according to the standards in Subsection 4.5.3. He shall provide a statement of the exact variance desired, supplemented by drawings and other materials needed to clearly and accurately describe the particular circumstances that, in his view, would justify the variance.
- (5) Where an appeal is for variance from a requirement other than the minimum setback distance or depth of required yards, appellant shall submit an appropriate Environmental Assessment Form (Subsection 4.8.3) with Part I duly completed.

## SECTION VI

### DISTRICT REGULATIONS

#### 6.1 THE DISTRICTS

##### 6.1.1 DISTRICT ESTABLISHED; PURPOSES

- (1) The Town of Fremont is hereby divided into three land use districts: Agricultural-Residential (AG-R), Low-density Residential (LDR), and Land Conservation (LC).
- (2) In addition to the general purpose of these Regulations, each land use district is intended to accomplish particular purposes, which shall guide the regulation of uses allowed therein:
  - (a) **The Agricultural-Residential (AG-R) District** – To provide for low-density residential and other non-farm uses; to encourage continued agricultural uses; to preserve open space lands and natural resources.
  - (b) **Low-Density Residential (LDR) District** – To provide for concentrations of residential and related uses, with individual water and sewer facilities.
  - (c) **Land Conservation (LC) District** – To identify areas wherein development could result in public safety or health problems, and/or ecological damage because of topography, drainage, and soil characteristics; to protect public water supplies.

##### 6.1.2 LAND USE REGULATIONS MAP

The said land use districts are shown and bounded on the official Land Use Regulations Map, which map together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these Regulations. Said map shall show the date of enactment of these Regulations and of each subsequent amendment to said map, and shall be duly certified and maintained by the Town Clerk.

##### 6.1.3 INTERPRETATION OF LAND USE REGULATIONS MAP

- (1) The following rules shall apply with respect to the boundaries of any land use district as shown on the official Land Use Regulations Map:
  - (a) Where boundaries of a district appear to follow approximately the center lines of roads, such center lines shall be construed to be such boundaries.
  - (b) Where boundaries of a district appear to be approximately parallel to the center lines or right-of-way lines of roads, such boundaries shall be construed as being parallel thereto and at such distance therefrom as stated on the map. If not stated, such distance shall be determined by use of the scale on the map.
  - (c) Where boundaries of a district appear approximately to follow plotted lot lines, such lot lines shall be construed to be on the boundaries.

- (d) Where boundaries of a district appear to follow the bank of a stream or other watercourse, the boundary shall be deemed to follow such bank, and in the event of any change therein, shall be construed as moving with the actual bank. Boundaries indicated as following approximately the center line of a waterway shall be deemed to follow the center line.
- (2) In other cases of uncertainty, the Board of Appeals shall determine the location of the boundary when asked to do so; no formal application shall be required. The Board shall maintain a file of all such determinations for reference.

## 6.2 ALLOWABLE USES

### 6.2.1 GENERAL PROVISIONS

- (1) Except as otherwise provided herein, no premises shall be used for a purpose other than one allowed in the district in which it is situated. Allowable uses are designated below in Subsections 6.2.2 – 6.2.6, as follows:

L - Designates a use allowed in the district, with a Land Use Permit; and,

S - Designates a use allowed in the district, with a Special Permit.

- (2) Uses that are listed but not so designated are not allowed in that district, but if present on the effective date of these Regulations shall be deemed to be non-conforming uses.
- (3) Uses not subject to these Regulations and which may be undertaken without a Permit are identified in Subsection 7.2.1.
- (4) A duly issued Permit for a principal use (Subsections 6.2 – 6.2.5) shall include appropriate provision for accessory structures, buildings, and uses identified in the Application.

TYPE OF USE	DISTRICT		
	LC	AGR	LDR
<b>6.2.2 RESIDENTIAL USES</b>			
Boarding House		L	L
Mobile Home Park		S	S
Multi-Family Dwelling		S	S
Rest Home		L	L
Single-Family Dwelling		L	L
Two-Family Dwelling		L	L
<b>6.2.3 GENERAL USES</b>			
Campground		S	
Cemetery		S	
Church or House of Worship		L	L
Day Nursery		L	L
Essential Services	*L	S	S
Golf Course		S	
Library		L	L
Membership Club		S	S
Municipal Park, Playground		L	L
Other Municipal Buildings		L	L
Nursing Home		L	L
Recreation Dwelling		S	
<b>6.2.4 BUSINESS USES</b>			
Automotive Sales		S	
Carwash		S	
Convenience Business		S	
Drive-In Establishment		S	
Funeral Home		S	
Kennel		S	
Private Use Airport*		S	
Professional Office		L	L
Restaurant		S	
Roadside Stand		S	S
Service Station		S	
Small Animal Hospital		L	L
Stable, Commercial		S	
<b>6.2.5 INDUSTRIAL USES</b>			
Automotive Service & Storage		S	
Building Materials, Sales		S	
Excavation Operations		S	
Junk Yard		S	
Manufacturing, Fabrication, Assembly		S	
Oil, Gas Wells		S	
Sawmill		S	
Wholesale Warehouse		S	
Cellular Tower(s)		S	
<b>6.2.6 ACCESSORY USES</b>			
Agricultural Buildings & Structures		L	L
Bridle Path		L	
Customary Residential Storage & Other Structures		L	L
Garage, Private		L	L
Home Occupation		L	L
Required Off-Street Parking & Loading Space		L	L
Roadside Stand		L	L
Sign		L	L
Stable, Private		L	
Swimming Pool (Private)		L	L
Tourist Home (B&B)		L	L
Tennis Court		L	L

\* See Subsection 7.8.3

### 6.3 DENSITY SCHEDULE

The minimum allowable lot area per dwelling unit and minimum lot width for residential uses, the minimum allowable depth of yards for any use, and the maximum allowable height of buildings for any use, shall be as shown on the following schedule:

District/Dwelling Type	Residential Uses Minimum:		Any Allowed Use Building:			
	Lot Area Per Dwelling Unit	Lot Width	Minimum Yard Depths:			Maximum Height
			Front	Rear	Each Side	
AG-R						
Single-Family Dwelling	40,000 square feet	200'	50'	25'***	25'***	3 Stories
Two-Family Dwelling	21,000 square feet	200'				
Multiple-Family Dwelling	15,000 square feet	200'				
LDR						
Single-Family Dwelling	40,000 square feet	200'	50'	25'***	25'***	3 stories
Two-Family Dwelling	21,000 square feet	200'				
Multiple-Family Dwelling	15,000 square feet	200'				
Accessory Buildings (See Section 7.8.8)						

\*Plus 10,000 square feet additional for each dwelling unit in excess of three dwelling units.

\*\*Plus 5 feet for each story in excess of two stories.

## SECTION VII

### SUPPLEMENTAL REGULATIONS

#### 7.1 GENERAL PROVISIONS

The provisions of this Section supplement those of Section VI. When there is any difference between the two, the provisions of this Section shall control unless the contest clearly requires otherwise.

#### 7.2 EXCEPTIONS

##### 7.2.1 NON-REGULATED USES

- (1) Customary farming operations may be undertaken without a Permit, including planting, applying fertilizer, cultivation, crop harvesting, land drainage and other soil and water conservation practices, timber cutting, and use of pesticides and herbicides in compliance with State regulations. Construction of agricultural buildings, accessory buildings and other structures (other than dwellings) does not require a Permit, but shall meet the minimum yard requirements of Section 6.3 and the provisions of Subsection 7.8.1.
- (2) The following are allowed without a Permit:
  - (a) official traffic control signals and signs of New York State, Steuben County, and the Town of Fremont,
  - (b) signs displaying the name and insignia of any government or agency thereof,
  - (c) legal notices and other signs pursuant to a governmental function or otherwise required by law.
- (3) A facility (such as a transmission line) that can be built only after issuance of a Certificate of Environmental Compatibility and Public Need by the NYS Public Service Commission, may be developed without a Permit.
- (4) No Permit shall be required for portable wading or swimming pools not exceeding twenty-four (24) inches in depth. Such pools may be placed in any yard.
- (5) Fences, hedges, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be allowed in any yard without a Permit. Such accessories shall not obstruct visibility at intersections. All fences, natural and fabricated on residential property shall have maximum height of eight (8) feet from the average ground level to the top.
- (6) No Permit shall be required for conducting household or farm auctions, yard sales, or garage sales. Such a sale shall not continue for longer than one (1) week, nor shall a permanent structure be established therefor.

### 7.2.2 PROHIBITED USES

- (1) No premises shall be used in a manner that would endanger the health, safety, or general welfare of the town's residents. The intent of this restriction is to protect adjoining landowners or occupants.
- (2) The following standards shall apply in all districts:
  - (a) There shall be no offensive or objectionable vibration, noise, odor, or glare noticeable beyond the property line, except that customary agricultural practices shall not be restricted hereby.
  - (b) There shall be no physical hazard due to fire, explosion, radiation or other cause, to persons or property.
  - (c) There shall be no storage of material in such a manner that it facilitates the breeding of vermin, or endangers the public health in any way.
  - (d) There shall be no emission of smoke, fly ash or dust in such a manner as to harm the health of persons, animals, or plants or to damage property.

### 7.2.3 NON-CONFORMING USES, STRUCTURES, AND LOTS

- (1) Non-Conforming Status – A lot, structure, use of a structure, use of land, or characteristic of use that was existing lawfully on the effective date of these Regulations, but that is prohibited or restricted hereunder, is hereby declared to be non-conforming and may be continued and maintained as provided herein.
- (2) Structures and Uses – A non-conforming structure, use, or characteristic of use shall be treated as follows:
  - (a) Expansion – A non-conforming structure or use shall not be expanded in any way.
  - (b) Unsafe Structures – A non-conforming structure declared unsafe by a proper authority, may be restored to a safe condition.
  - (c) Restoration – A non-conforming building destroyed or damaged may be rebuilt on the same location to the same dimensions.
  - (d) Discontinuance – When a non-conforming use or characteristic of use has been discontinued for a period of one (1) year, it shall not thereafter be re-established; use of such premises shall be in conformity with the provisions of these Regulations.
  - (e) Changes – When non-conforming premises are brought into conformity with these Regulations, they shall not be allowed again to become non-conforming.
  - (f) Moving – A structure that is moved from one lot to another shall conform with the requirements for the district in which it is located after such move.



- (3) Lots – A non-conforming lot of record shall be treated as follows:
- (a) In a district where dwellings are allowed, a non-conforming undeveloped lot of record having a lesser area or width than the minimum required for the district in which it is located, may be used for not more than one (1) single-family dwelling, for which no variance need be obtained, provided that:
    - (i) such lot does not adjoin any other lot held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required in that district; and,
    - (ii) the area of such lot is not less than five thousand (5,000) square feet; and,
    - (iii) such dwelling shall be built with side yards not less than five (5) feet deep and with the set-back not less than the average of the two adjoining front yards.
  - (b) In any district, an undersized lot of record may be subdivided only if each and every subdivision of such lot shall be acquired by the owners of adjoining lots, thereby increasing the size of such adjoining lots.

#### **7.2.4 HEIGHT LIMITATIONS**

In any district the maximum allowed height of buildings or structures (Section 6.3) does not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances that usually extend above the roof level and are not intended for human occupancy.

#### **7.2.5 MORE THAN ONE PRINCIPAL BUILDING**

Except as otherwise provided elsewhere herein, more than one building used for an allowed principal use (Subsections 6.2.2 – 6.2.5), may be erected on a single lot, provided that the lot area and yard requirements in Section 6.3 can be met for each building as though it were on a separate lot. A development including multiple principal buildings on a lot shall be allowable only by Special Permit.

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### **7.3 PROTECTION OF NATURAL RESOURCES**

#### **7.3.1 POLICY**

Environmental quality can affect land values in the Town, especially for residential, recreational, and agricultural uses. Therefore, it is Town policy to protect and conserve productive farmlands, soil and water resources, woodlands and other wildlife habitat, and scenic areas. Regulations for that purpose are hereby declared to promote the public health, safety, and general welfare.

### 7.3.2 GENERAL PROVISIONS

- (1) A Land Use or Special Permit shall be understood to include the requirement that due consideration be shown for the natural features of the site and its environs: topography and soils; trees and other cover; streams and wetlands; and, scenic views.
- (2) A Land Use or Special Permit shall be understood to authorize site preparation necessary for the development for which the Permit was issued, subject to the provisions of Subsections 7.3.3 and 7.3.4.

### 7.3.3 PROTECTION OF GROUND COVER

The Code Enforcement Officer (for a Land Use Permit/Building Permit) or the Board of Appeals/Planning Board (for a Special Permit) may require reasonable changes in proposed development plans to ensure that site preparation shall not cause the loss of:

- (1) trees, shrubs or other ground cover on slopes of sixty percent (60%) or steeper, or within twenty-five (25) feet from the edge of a wetland regulated pursuant to the NYS Freshwater Wetlands Act; and,
- (2) trees with trunk circumferences of thirty-six (36) inches or greater, measured four and one-half (4-1/2) feet above average ground level.

### 7.3.4 GRADING AND EROSION CONTROL

- (1) Requirement – An Application for a Land Use Permit/Building Permit or a Special Permit shall be supplemented by a grading plan and an erosion control plan as described below, where the Code Enforcement Officer finds that site preparation will include grading, filling and/or excavation either:
  - (a) on a slope of fifteen percent (15%) or steeper; or,
  - (b) over a contiguous area of ten thousand (10,000) square feet or larger; or,
  - (c) including fifty (50) cubic yards or more of excavated or fill material.
- (2) Standard – Erosion control measures, related storm water runoff facilities, and maintenance practices shall be according to standards recommended by the District Conservationist, Steuben County Soil and Water Conservation District.
- (3) Grading Plan – A grading plan shall be designed to minimize foreseeable problems arising from storm water runoff and soil erosion. The plan shall show clearly the proposed finished ground surfaces throughout the development, with all graded areas properly tied back into areas of ungraded land. The plan shall distinguish cut from fill, and existing from proposed contour lines; contours shall be drawn at vertical intervals of not greater than two (2) feet unless the Code Enforcement Officer specifies otherwise.
- (4) Erosion Control Plan
  - (a) An erosion control plan shall be designed to prevent soil loss from the development site. The plan shall identify all erosion control measures and

practices proposed, both during the construction period and following completion, keyed to the proposed construction schedule.

- (b) The erosion control plan shall identify the maintenance practices needed to ensure proper functioning of control measures. The Code Enforcement Officer shall not issue a Certificate of Compliance, when site preparation has been completed, unless such maintenance has been properly performed to that point.

#### **7.3.5 WATERSHED PROTECTION**

The Land Conservation (LC) district protects the reservoir system for the City of Hornell water supply. Allowable principal uses are limited to public water supply facilities. By Special Permit a subsurface waste disposal facility may be installed not closer than 250 feet from the mean high water line of any reservoir or tributary thereof, provided that the facility's design and operation shall meet all applicable NYS Health Department requirements.

#### **7.3.6 CONVERSION OF RECREATION DWELLINGS**

No recreation dwelling shall be allowed to become occupied permanently as a residential use, except in accordance with a duly issued Land Use Permit/Building Permit or Special Permit, as provided for in Subsection 6.2.2.

### **7.4 ACCESS**

#### **7.4.1 GENERAL PROVISIONS**

- (1) Accessibility – Every building hereafter erected or moved shall be on a lot fronting on a road affording safe and convenient vehicular access for normal use and for emergency vehicles.
- (2) A development intended to serve the general public shall include at least one accessway designed for use by physically handicapped persons.
- (3) Improvement Standards – Drives and parking and loading spaces for public use shall be improved with surfaces of a dust inhibiting nature. Drainage facilities shall prevent ponding of water. The property owner shall maintain drives and parking and loading areas in good condition, free of holes, dust, trash and debris. Access ways designed for use by physically handicapped persons shall be properly signed.
- (4) Landscaping/Screening – Where a non-residential use is required to have one or more loading spaces, or is required to have six (6) or more parking spaces that are located less than twenty (20) feet from a residential lot line, such parking and loading areas shall be screened from the view of passersby and from adjacent residences. Such screening shall be by a fence or compact evergreen hedge or other types of trees and shrubs, designed to form a visual screen at least four (4) feet high, except as otherwise required for traffic safety. All parking and loading areas and screening materials shall be properly maintained thereafter, in a sightly and well-kept condition.

## 7.4.2 DRIVEWAYS

- (1) Jurisdiction – Driveway entrances shall comply with regulations of the New York State Department of Transportation or the Steuben County Department of Public Works, or the Town of Fremont, whichever applies, or the following provisions, whichever is more restrictive. The applicant shall obtain a permit that may be required in order to establish an entrance to a County or State road.
- (2) Driveway Openings – No driveway shall enter a public road at a point that is:
  - (a) within fifty (50) feet of the nearest right-of-way line of an intersecting public road; or,
  - (b) within two hundred fifty (250) feet of the ramp nose at an expressway interchange; or,
  - (c) located where the sight distance in either direction along the public road would be less than five hundred (500) feet where the posted speed limit exceeds thirty-five (35) miles per hour. Where the posted speed limit is thirty-five (35) miles per hour or less, sight distance shall be not less than two hundred fifty (250) feet.
- (3) Residential Driveways – Residential driveways shall be located and built in accordance with the following standards:
  - (a) The angle of entry to the road shall not be less than sixty (60) degrees.
  - (b) Driveway pipe a minimum of eighteen (18) inches in diameter and not less than twenty (20) feet in length shall be provided, in order to cross a ditch or drainage swale. Larger sizes may be required, to accommodate anticipated flows. Pipe shall be so placed so as to maintain the drainage gradient of the road ditch.
  - (c) There shall be concrete, laid stone, or integral end sections on all culverts, with heights not to exceed driveway elevations.
  - (d) Driveway entrances shall be not less than ten (10) feet from a property line nor less than twenty (20) feet from the entrance of another driveway.
  - (e) Driveway grades between the edge of road pavement and the set-back line shall not exceed twelve percent (12%).
  - (f) Drives shall have a transition radius of five (5) feet at the curb or the equivalent of a flared entrance.
  - (g) Normally, there shall be one drive per lot; one additional drive may be granted if sufficient frontage exists to meet the requirements stated in subparagraph (d), above.
- (5) Commercial Driveways – Commercial driveways shall be located and built in accordance with the following standards:

- (a) The same as required for Residential driveways.
- (b) The same as required for Residential driveways.
- (c) The same as required for Residential driveways.
- (d) The same as required for Residential driveways.
- (e) Width of a two-way drive shall be not less than thirty (30) feet or greater than fifty (50) feet. Width of a one-way drive shall be not less than fifteen (15) feet nor greater than twenty (20) feet.
- (f) A driveway entrance may be required to be paved.
- (g) Normally, there shall be two driveways per lot; additional driveways may be granted if sufficient frontage exists to meet the requirements stated in subparagraph (d) above.

#### 7.4.3 OFF-ROAD PARKING

##### (1) General Provisions

- (a) When a building is erected or changed in use, there shall be provided off-road parking spaces at least nine (9) feet by twenty (20) feet in size, together with appropriate access drives and maneuvering area.
- (b) Residential parking spaces shall be on the same lot as the dwelling served; they shall not be located in the front or side yards. Parking spaces for non-residential uses may be on a different lot, but within 700' from the use served. Private garage spaces may be credited toward the required parking spaces, for any use to which such garage is accessory.
- (c) Uses intended to serve the general public shall include appropriate parking spaces properly located, designed, and signed for use by physically handicapped persons.
- (d) Unless there is no practicable alternative, off-road parking spaces shall be designed with maneuvering areas so that vehicles can exit without backing into the road.

- (2) Number of Spaces Required – Parking spaces shall be provided for various uses in accordance with the following schedule:

SCHEDULE OF OFF-ROAD PARKING AREAS	
TYPE OF USE	NUMBER OF SPACES REQUIRED
Residential	
Single and Two-Family Dwelling	Two (2) per dwelling unit
Multi-Family Dwelling	One and one-half (1 ½) per dwelling unit
Boarding House, Bed & Breakfast	Two (2), plus one (1) per guest sleeping room
Commercial	
Service Station	One (1) for each fuel pump, plus two (2) per service bay
Hotel, Motel	One (1) per sleeping room or unit, plus one-half (1/2) per employee
Funeral Parlor	One (1) per employee, plus one (1) per 100 square feet of floor area in reposing rooms, parlors or service rooms
Professional Office	One (1) per 250 square feet of floor area
Restaurant, Tavern	One (1) per 2.5 seats, plus one-half (1/2) per employee
Drive-In Establishment	Three (3) per service window, plus one (1) per full-time employee
Roadside Stand	Three (3) for customers plus one (1) per employee other than a resident of the premises
Retail Business, personal service, and business service, not Elsewhere classified	Five and one-half (5 ½) per 1,000 square feet of gross floor area
Institutional	
House of Worship	One (1) per five (5) persons' capacity
Nursing Home, Rest Home	One (1) per three (3) beds, plus one (1) per employee
Medical Clinic	One (1) per 200 square feet of floor area
Industrial	
All types of manufacturing, storage, wholesale sales	One-half (1/2) per employee on the largest shift, plus one (1) per business vehicle based on the premises

#### 7.4.4 OFF-ROAD LOADING

- (1) General Requirements – When a building for commercial or industrial use is erected or enlarged, at least one off-road truck loading space shall be maintained on the same lot when such use would normally receive or ship more than one truck load per day. Such space shall be provided in addition to required off-road parking spaces. Unless there is no practicable alternative, loading spaces shall be designed so that vehicles can exit without backing onto the road.
- (2) Dimensions – A loading space shall have a minimum dimension of not less than twelve (12) feet in width and fifty (50) feet in length, exclusive of driveways and maneuvering areas. Height clearance shall not be less than fifteen (15) feet.
- (3) Location – Loading spaces shall not encroach on any required front or side yard, access-way, or off-road parking area, except that parking areas may be used for loading spaces whenever the business is closed, or for not more than three (3) hours per day.

## 7.5 YARDS

### 7.5.1 VISIBILITY FOR TRAFFIC SAFETY

On a corner lot, nothing shall be erected, placed, planted or grown in such a manner as to materially obstruct the line of sight between the intersecting roads, from two and one-half (2 ½) to ten (10) feet above the centerline grades of such roads. This shall apply to the triangular area bounded by the right-of-way lines and a line connecting points thereon located fifty (50) feet from their point of intersection.

## 7.5.2 CORNER LOTS AND THROUGH LOTS

On corner lots and through lots, the front yard set-back distance shall be provided along both frontages.

## 7.5.3 ARCHITECTURAL PROJECTIONS

- (1) An open structure such as a porch, stair, balcony, carport, or similar architectural feature shall be considered part of the building to which it is attached, and shall not project into a required yard.
- (2) A chimney, eave, window or bay window, may intrude not more than three (3) feet in depth into a required yard. An uncovered deck or terrace, essentially at ground level, may extend into a yard; if covered, such construction shall be considered a porch.

## 7.6 SIGNS

### 7.6.1 PROHIBITED SIGNS

- (1) The following are not allowed:
  - (a) a sign other than an official traffic control device, that uses the words "stop", "danger", or "slow" prominently or in a manner that implies danger to motorists;
  - (b) a sign that obstructs motorists' view of an official traffic control device, or their view of oncoming vehicles less than five hundred (500) feet distant;
  - (c) a sign that produces glare to an extent or in a direction that may be a hazard to motorists';
  - (d) a flashing sign or sign employing flashing, pulsating, intermittent, rotating or moving lights or simulation thereof;
  - (e) a sign affixed to a utility-owned pole;
  - (f) a sign located within a public right-of-way, other than an official traffic control device;
  - (g) a sign advertising a business, industry, profession, commodity, service, or activity that is not located, conducted, sold, or offered upon the premises where such sign is placed.

### 7.6.2 SIGNS ALLOWED WITHOUT PERMIT

- (1) Permanent Signs – The following signs are allowed without a Land Use Permit on the premises referred to, subject to the stated limitations:
  - (a) a sign not exceeding four (4) square feet in area identifying a professional office, tourist home, boarding house, or home occupation;

- (b) a sign not exceeding two (2) square feet in area denoting the name and address of the occupants;
  - (c) a sign or bulletin board not exceeding twelve (12) square feet in area customarily incidental to a place of worship, library, museum, club or fraternal society;
  - (d) parking directional and handicapped accessibility signs, each not to exceed one (1) square foot in area.
- (2) Temporary Signs – The following are allowed without a Land Use Permit, subject to the limitations specified:
- (a) Construction Sign – There may be one unlighted sign not exceeding twenty (20) square feet in area on a lot identifying persons or firms involved in construction on that site, and, one illuminated sign not exceeding forty (40) square feet in area, identifying the owner and activity for which the building is intended. Such a sign shall not remain for more than one (1) year.
  - (b) Event Sign – There may be one unlighted sign not exceeding thirty-two (32) square feet in area on a lot announcing a campaign, drive, or other event, conducted by a political, civic, religious, charitable, or educational organization. Such a sign shall be removed not later than three (3) weeks following the advertised occasion.
  - (c) Realty Sign – There may be one unlighted sign not exceeding twenty (20) square feet in area, on any lot designed to be read from each road from which the premises are visible, offering the sale, lease or rental of the premises. Such a sign may remain as long as needed.
  - (c) Produce Sign – There may be one unlighted sign, not exceeding twelve(12) square feet in area, advertising the sale of produce grown on the property where the sig is located. Such produce sign shall be removed when the sale of produce has ceased.

### 7.6.3 BUSINESS SIGNS

Business signs require a Land Use Permit/Building Permit. An enterprise may display business signs having a total area of not more than twelve (12) square feet, designed to be read from each road from which the premises are visible. A business sign may be of any type stated in paragraphs (1) – (5) of Subsection 7.6.4, and may be double-faced.

### 7.6.4 GENERAL SIGN REGULATION

The following provisions shall govern all applicable signs:

- (1) Illuminated Sign – An indirectly illuminated sign shall be illuminated only by a shielded light source directed solely at the sign, not causing glare for motorists, pedestrians or neighboring premises. A directly illuminated sign shall not cause glare for motorists, pedestrians, or neighboring premises.



- (2) Projecting Sign – No sign other than an official traffic control device shall overhang a road right-of-way.
- (3) Roof Sign – No sign installation shall extend above the ridge line of the roof.
- (4) Freestanding or Portable Sign – Portable signs and freestanding signs shall not be placed within a road right-of-way, and shall not extend higher than fifteen (15) feet above the ground. Portable and freestanding stands, and signs on vehicles, shall be done in a professional manner, such as magnetic, painted, or decals.
- (5) Wall Sign – A wall sign installation shall extend not more than eighteen (18) inches from such wall, nor more than four (4) feet above the eaves, nor above the ridge line, of the building to which it is attached.
- (6) Revolving Signs – A revolving sign shall be limited to displays of time and/or temperature.
- (7) Lapse – A sign that no longer advertises an existing business, product, service or activity, shall be removed by the owner of the premises upon which the sign is located after written notice. When the Code Enforcement Officer finds such a sign, he shall notify the owner of the premises in writing to remove said sign within thirty (30) days from the date of said notice.

## **7.7 UNREGISTERED VEHICLES**

### **7.7.1 STORAGE OR DISPLAY IN FRONT YARD**

- (1) No unregistered boat or motor vehicle, or recreational vehicle, shall be stored or displayed in a front yard, except as otherwise provided herein.
- (2) Not more than one(1) such boat or vehicle may be displayed for sale by an individual in his front yard.
- (3) An unregistered motor or recreational vehicle held in stock on the premises of a licensed dealer in new or used automotive vehicles shall not be displayed or stored within a road right-of-way, but may be placed ion the front yard of the business.

### **7.7.2 OTHER UNREGISTERED MOTOR VEHICLES**

The following shall be regulated as specifically provided.

- (1) At the request of the Code Enforcement Officer, the owner of an unregistered motor vehicle held for operation in races shall provide satisfactory evidence of bona fide participation in organized racing, and failure to do so shall be deemed evidence of a violation. Such a vehicle shall not be stored in a front yard.
- (2) An unregistered motor vehicle held for operation in a demolition derby may be stored for no longer than sixty (60) days prior to the derby in which it is to be operated, and must be removed from the premises and properly disposed of no later than thirty (30) days following such derby. The owner thereof, upon request, shall inform the Code

Enforcement Officer of the date of such derby, and failure to do so shall be deemed evidence of a violation. Such a vehicle shall not be stored in a front yard.

### 7.7.3 ABANDONED, JUNKED, OR INOPERATIVE MOTOR VEHICLES

- (1) Any motor vehicle, as defined in the Vehicle and Traffic Law of the State of New York that meets any of the following criteria:
  - (a) Unlicensed, wrecked, discarded, dismantle or partly dismantled.
  - (b) Being held or used for the purpose of resale of used parts therefrom, or for the purpose of reclaiming for some use some or all of the materials therein for the purpose of disposing of the same.
  - (c) With respect to any motor vehicle not required to be licensed or not usually on public highways, the fact that such motor vehicle is an "abandoned, junked, or inoperative motor vehicle."
  - (d) The following shall not be deemed a motor vehicle under this law: recreational vehicles, agricultural equipment, and boats.
  - (e) The fact that a motor vehicle may be licensed or registered with the State of New York but does not display a current registration shall be presumptive evidence that such motor vehicle is unlicensed.
  - (f) The use of the singular herein is intended, where applicable, to include the plural.
- (2) Enforcement of these regulations may be initiated by:
  - (a) Code Enforcement Officer
  - (b) Police Officer if such vehicle is a safety hazard
  - (c) Written complaint submitted to the Town Board by an individual
- (3) For the purposes of these regulations, an owner of private property is any person, firm, partnership or corporation, whether business or not-for-profit or religious, charitable or otherwise, or any purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of private premises of private property or any other unit or entity owning real property in the Town of Fremont.
- (4) Regulations: It shall be unlawful for any person within the Town of Fremont to store or deposit or cause, suffer or permit to be stored or deposited more than one(1) abandoned, junked or inoperative motor vehicle or part or piece thereof on any private property within the Town, except within a garage or building, as to be not visible to public or neighbor. Vehicles under cover are not allowed except by permit.
- (5) Removal Procedure: Any abandoned, junked, or inoperative motor vehicle found by the Enforcement Official to be in violation of Section 4, may be removed from the premises on which it is located in the following manner:
  - (a) The Enforcement Officer shall serve written notice on the owner of the private property on which the vehicle is located, ordering such person to remove the same or cause the same to be removed therefrom within thirty(30) days of the date of said service. The Enforcement Official may determine the ownership of any parcel of land in the Town from the current assessment roll.

- (b) In the event said abandoned, junked or inoperative motor vehicle or vehicles are not removed from the premises within the time required in the notice, the Town or its representative shall have the right to enter upon the premises to remove and dispose of the abandoned, junked or inoperative motor vehicle or vehicles. The expense of such removal and disposal shall be a lawful charge against the owner of the private property and may be collected, if necessary, in a civil action instituted in the name of the Town.
- (6) Penalties for Offenses
- (a) In addition to any expenses which may be collected pursuant to Section (5)(b) above, any person committing an offense against these regulations shall be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding Two hundred fifty dollars (\$250.00) or by imprisonment for a term not exceeding fifteen (15) days, or by both fine and imprisonment. The continuation of an offense against the provisions of these regulations shall constitute a separate and distinct offense hereunder.
  - (b) In addition, or as an alternative to the above penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of these regulations.
- (7) Sixty(60) Day Exemption Permit
- (a) Permit is available at the Office of the Town Clerk during regular business hours for a fee of Ten dollars (\$10.00).
  - (b) Permit is for one motor vehicle for no more than two (2) times per calendar year.
  - (c) Purpose of Permit:
    1. Allow person to make roadworthy a motor vehicle, i.e. to make repairs, etc.
    2. Sale of single vehicle by residential owner.
    3. Resident/s on extended vacation.
  - (d) The permit must be displayed in a window of the vehicle, visible from the street.
  - (e) No permit is needed for NYS Registered Motor Vehicle Repair Shops or Car Dealer. These facilities are exempt.

## 7.8 MISCELLANEOUS USE REGULATIONS

### 7.8.1 FARM ANIMALS

Except in an Agricultural District created pursuant to Agricultural and Markets Law Article 25AA located within the Town of Fremont, housing for farm animals, animal feeding equipment or structures therefor, and outdoor storage of odor or dust-producing materials, shall

not be placed within two hundred (200) feet of a side or rear lot line or three hundred (300) feet of an existing dwelling on another lot, except by Special Permit.

#### 7.8.2 POOLS

- (1) Except for portable pools, private swimming pools shall comply with the following requirements:
  - (a) a pool shall be intended for use primarily by the occupants of the premises; and,
  - (b) a pool shall not be less than five (5) feet away from any lot line; and,
  - (c) a pool, or the entire lot on which it is located, shall be securely enclosed to prevent uncontrolled access by children and animals. Said enclosure shall be no less than four (4) feet in height and maintained with a self-closing and self-latching gate of equal height. However, such enclosure shall be required for an above-ground pool with perimeter decks no less than forty-six (46) inches above the ground, and affording access only by means of a ladder or stairs that can be raised or otherwise blocked to prevent unauthorized entrance.

#### 7.8.3 ESSENTIAL SERVICES

The location, design, maintenance, and operation of essential services shall not adversely affect the character of nearby residential areas. For that purpose, fences, buffer areas or landscaping may be required.

#### 7.8.4 HOME OCCUPATIONS

- (1) Where allowed, a home occupation:
  - (a) shall be carried on only by a member or members of the family residing on the premises;
  - (b) shall not involve sales of good or merchandise at the premises, except as incidental to services provided;
  - (c) shall have no exterior display other than one sign not exceeding two (2) square feet in area, no exterior storage of materials, and no other exterior evidence of variation from the residential character of the principal building;
  - (d) shall use no equipment or process that creates visual or audible interference in any radio or television receiver off the premises, or causes fluctuation of line voltage off the premises; and,
  - (e) shall not cause substantially more traffic than is normal in the neighborhood; required parking spaces shall not be located in the front yard.

#### 7.8.5 SERVICE STATIONS

- (1) Where allowed, a service station shall be subject to the following requirements:

- (a) no structure or area for use by motor vehicles, except access drives and pump islands, shall encroach upon a required yard;
- (b) no fuel pump shall be located closer than twenty (20) feet from a side lot line or closer than twenty (20) feet from a road right-of-way;
- (c) no access drive shall enter a road within one hundred (100) feet of and on the same side of the road as a school or fire station;
- (d) outdoor display of accessory goods for sale is allowable only on the pump island and the building island;
- (e) no motor vehicle parts, or partially dismantled motor vehicles shall be stored outside;
- (f) services offered shall not include: tire re-capping, motor repair requiring removal of block, head or crankcase, major frame and body work, painting, welding, storage of inoperable vehicles; and,
- (g) where a service station abuts a residential district, the latter shall be shielded by a visual buffer of densely planted evergreens, solid fencing or a combination of both. Failure to maintain such buffer in good condition shall be a violation of these Regulations.

#### 7.8.6 CAMPGROUNDS

- (1) General Standards – Where allowed, campgrounds shall be governed by the following requirements:
  - (a) No campground shall be developed on a lot less than two (2) acres in area;
  - (b) No camping space shall be sited within fifty (50) feet of the right-of-way of a public road;
  - (c) Individual spaces shall be dimensioned and arranged so that no camping spaces shall be sited within thirty (30) feet of another; and,
  - (d) No parking or loading, or maneuvering incidental to parking or loading, shall be permitted on a public road.
- (2) Internal Roads – Roads within a campground shall be privately owned, shall afford safe and convenient access to all spaces and facilities, and shall be laid out and built in accordance with the following rules:
  - (a) Surfacing and maintenance shall provide a sound driving surface; and,
  - (b) All traffic into and out of a campground shall be through marked exits and entrances. No material impediment to visibility shall obstruct the view of drivers on public roads.

- (3) Other Locations – An occupied recreational vehicle outside a duly approved campground shall comply with the following rules:
  - (a) There shall be no more than one (1) occupied recreation vehicle on a lot;
  - (b) No recreation vehicle shall be connected permanently to a water supply or sewerage.

#### 7.8.7 MOBILE HOMES

- (1) Placement – A mobile home, whether or not placed in a mobile home park, shall be placed on a stand consisting of appropriate material properly placed, drained, graded and compacted so as to be durable and adequate for the maximum load anticipated during all seasons. The mobile home shall be skirted around the bottom portion with uniform durable material and ventilation, within sixty (60) days from placement of the unit, weather permitting.
- (2) Standards – A mobile home shall be installed in accordance with the manufacturer's instructions, and shall meet all relevant State and Federal standards.
- (3) Density – In a mobile home park, mobile homes shall comply with the lot size and separation standards stated in the Town of Fremont Mobile Home Park Ordinance. Elsewhere, mobile homes shall comply with provisions of Sections 6.3 and 7.4 for single-family dwellings.
- (4) Pre-1976 Mobile Homes shall not be allowed unless they are fully inspected and meet all Federal and State requirements, specifically the Residential Code of New York State.

#### 7.8.8 ACCESSORY BUILDINGS

Accessory buildings may be located not less than five (5) feet from a lot line or from another building. Subject to that restriction, not more than one accessory building not larger than 100 square feet in area may be located within a required rear yard or side yard. Additional accessory buildings shall be located within the buildable portion of the lot, except that a roadside stand or a private garage accessory to a residence may be located in a front yard.

#### 7.8.9 ADULT USES

It is the intent of the Town of Fremont to regulate Adult Uses in order to reduce or mitigate potential secondary impacts of such uses that have occurred in other communities, including, but not limited to, increased crime rates, noise, and traffic; decreased property values; and general deterioration of neighborhoods and hindrance of economic development.

- (1) Adult uses shall be permitted in the Agricultural-residential District subject to the following restrictions:

Adult uses are prohibited within:

- (a) One Thousand (1,000) feet of any single-family, two-family, or multiple-family dwelling.

- (b) One Thousand (1,000) feet of any public or private school or day care center.
  - (c) One Thousand (1,000) feet of any church or other religious facility or institution.
  - (d) One Thousand (1,000) feet of any public park, public bike path, playground, playing field, cemetery, or civic or recreational facility.
  - (e) One Thousand (1,000) feet of any other existing adult use.
- (2) No more than one adult use shall be located on any lot.
  - (3) The distances provided above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the property parcel from which the adult use is to be separated.
  - (4) No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any property not operating as an adult use. This provision shall apply to any sign, show, window, or other openings.
  - (5) There shall be no outdoor sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment.
  - (6) Adult uses shall meet all other regulations of the Town of Fremont including but not limited to lot and bulk regulations, parking regulations, and signage.
  - (7) The right to maintain a legal nonconforming adult use shall terminate in one year from the effective date of this law, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. The owner may apply to the Zoning Board of Appeals for an extension of the amortization period and the Zoning Board of Appeals may grant an extension upon finding that there are substantial and uncovered costs which cannot be recouped within a year. Such nonconforming uses shall not be increased, enlarged, extended, or altered within the one-year period or within any extension of the one-year period except that the use may be changed to a conforming use.

#### 7.8.10 EXCAVATION OPERATIONS

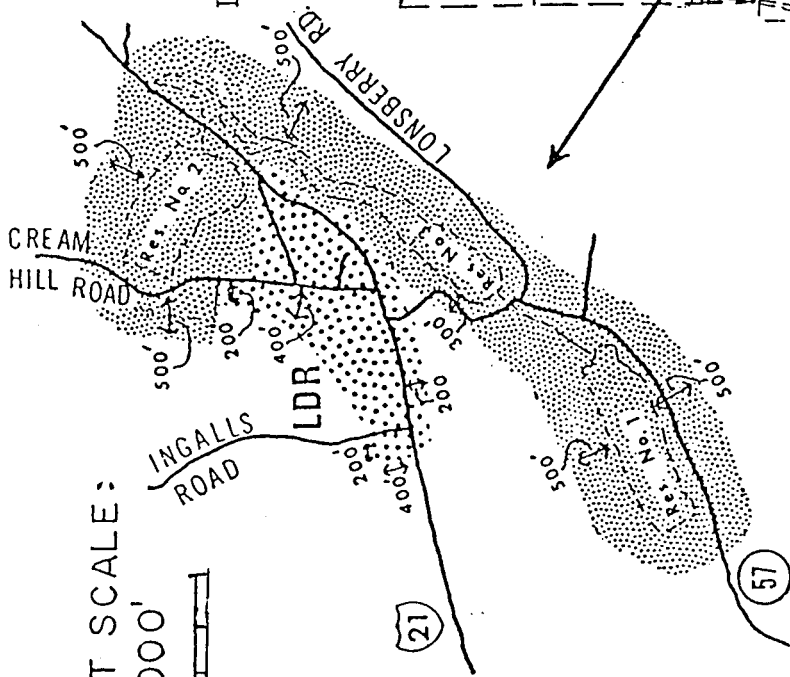
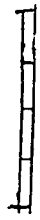
- (1) Operation: A Special Permit shall be required for an excavation of earth materials for commercial purposes, such as top soil, fill, sand, or gravel, including the separation and grading of sand or gravel. Such operation shall be subject to the following regulations:
  - (a) All structures and excavations shall be not less than thirty (30) feet from any street right-of-way or other property line.
  - (b) Fencing or similar effective barriers not less than six (6) feet in height may be required where excavations are to exceed four (4) feet in depth.
  - (c) All buildings, structures, and machinery used in such operations shall be removed within six (6) months following termination of operations.

- (d) All equipment used for the excavation and processing shall be equipped, maintained and operated in such a manner as to prevent noise, vibration, dust, and injurious conditions on adjoining properties.
- (2) Restoration: Excavated areas must be rehabilitated within one (1) year after termination of operations, in accordance with the following standards, or in accordance with the NYS Mined Lands Reclamation Law where applicable. The Town Board may require the operator to post a bond or equivalent security sufficient to cover such rehabilitation.
  - (a) Side slopes of excavated areas shall not be steeper than one (1) foot vertical distance for each one and one-half (1 ½) feet horizontal distance.
  - (b) All excavations must either a) be made into a pond by excavating to a level not less than four (4) feet below water producing depth, or b) be filled if necessary to a level above the seasonal high water table, and graded and drained.
  - (c) Grading and backfilling shall leave the site in substantial conformity with the Topography of adjoining lands.
- (3) Terms: The provisions of paragraphs (1) and (2) above shall be conditions for a Special Permit issued for such an operation.



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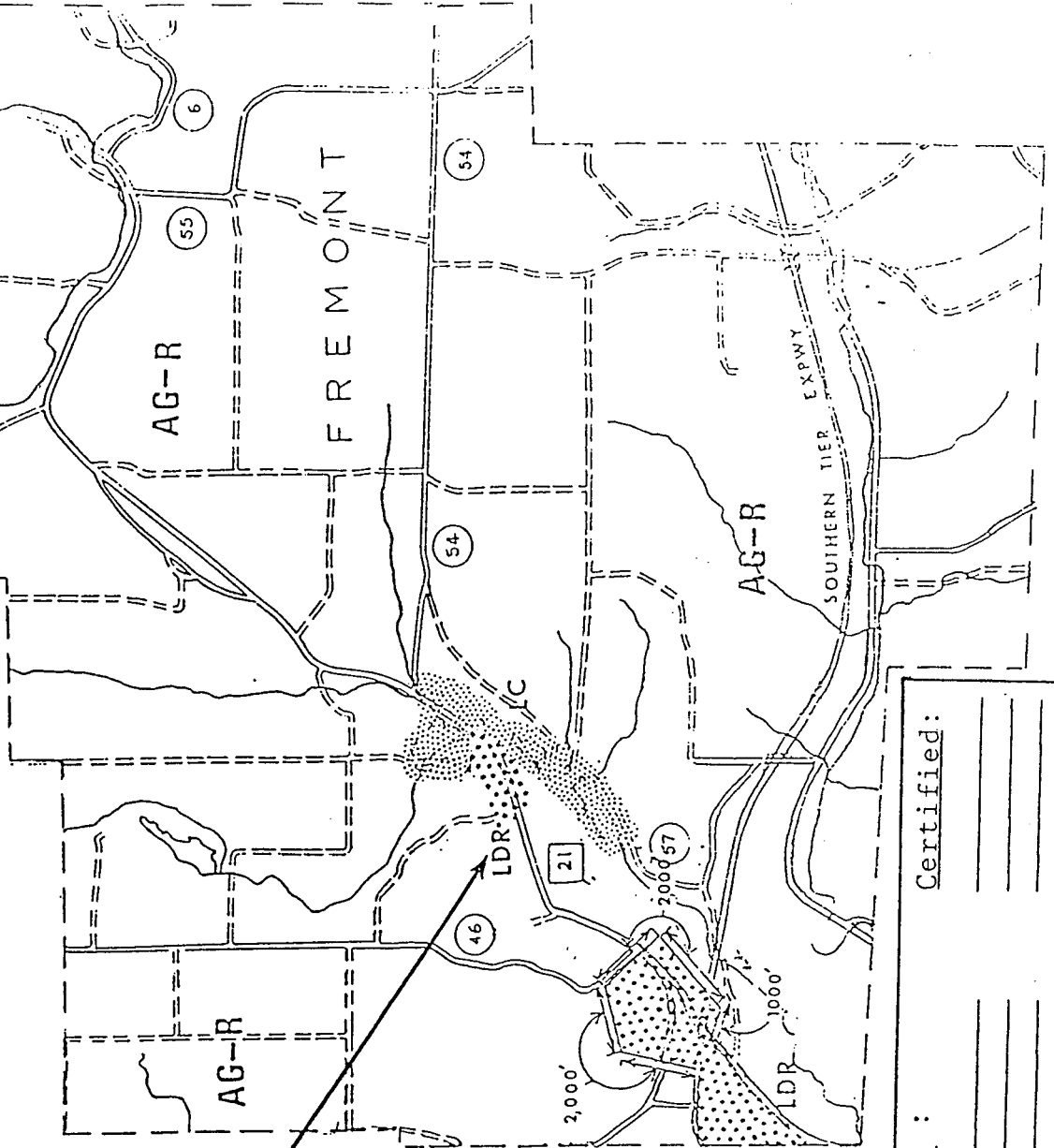
2000'






TOWN OF FREMONT

LAND USE REGULATIONS

MAP



-  AG-R AGRICULTURAL-RESIDENTIAL
-  LDR LOW DENSITY RESIDENTIAL
-  LC LAND CONSERVATION

As referred to in Section 6.1.2 of the Town of Fremont Land Use Regulations, enacted as Local Law No. 1 of 2005 on May 10, 2005.

CERTIFIED: *Spammy Kelly*  
Town Clerk



AMENDED:

1.		Certified:
2.		
3.		
4.		

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(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2005 of the ~~(County)~~(City)(Town)(Village) of Eremont was duly passed by the ~~Town Board~~ on May 10 2005, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ 1\_\_\_\_, above.

Norma J. Kelbury  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

(Seal)

Date: May 11, 2005

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF Steuben

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]  
Signature

Attorney for the Town  
Title

~~County~~  
~~City~~ of Fremont  
~~Town~~  
~~Village~~

Date: MAY 11, 2005



STATE OF NEW YORK  
DEPARTMENT OF STATE  
41 STATE STREET  
ALBANY, NY 12231-0001

GEORGE E. PATAKI  
GOVERNOR

May 19, 2005

RANDY A. DANIELS  
SECRETARY OF STATE

Norma J Kilbury  
Town Clerk/Tax Collector  
8223 Cream Hill Road  
Arkport NY 14807

**RE: Town of Fremont, Local Law 1, 2005, filed on May 13, 2005**

To Whom It May Concern:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,  
Linda Lasch  
Principal Clerk  
State Records & Law Bureau  
(518) 474-2755

LL:cb