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Town of Chemung

2019

Zoning and Building Ordinance

Adopted

Certification

ADOPTED "ZONING ORDINANCE FOR THE TOWN OF CHEMUNG"

Provisions for an Ordinance Establishing a Comprehensive Zoning Plan for the Town of Chemung, Chemung County, State of New York.

ARTICLE I - PURPOSES

Section 1. Enactment and Purposes.

There is hereby established a comprehensive zoning plan for the Town of Chemung, Chemung County, New York, which plan is set forth in the text, maps and schedules which constitute this Ordinance. Said plan is adopted for the purposes set forth in Article 16, Chapter 62 of the Consolidated Laws of the State of New York, and more particularly for the protection and promotion of the public health, safety, convenience, morals and general welfare of the community as follows:

1. To protect and conserve the character, environment, stability and value of all parts of the Town and to encourage the orderly and beneficial development of all parts of the Town.
2. To develop guidelines for the use of private land.
3. To develop a comprehensive zoning plan that would encourage private enterprise, promote possible tourism and economic growth within our community, while preserving the character of our neighborhood.
4. For the purpose of establishing special provisions for land use and building construction in those areas identified as special flood hazard zones as hereinafter provided.

ARTICLE II - DEFINITIONS

Section 1. Definitions.

For the purpose of this ordinance certain words and terms shall have the meaning specified in this section. Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. Words used in present tense include the future; the singular number includes the plural and the plural the singular. The word "lot" includes the word "structure". The words "used" or "occupied" includes the words "designed or intended to be used" or "designed or intended to be occupied". The word "person" includes the words "firm", "association", "organization", "partnership", "trust", "company", or "corporation", and "individual". The word "shall" is intended to be mandatory.

Accessory Use or Structure - A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Adult Use - See Article X.

Agricultural Operation - Those operations as so defined by New York State Department of Ag and Market. (Article I, Section 2 of NYS Department of Ag and Market's Law)

Airport or Airstrip - Including heliport (public or privately owned including landing strip or runway) is an area of land or water that is used or intended to be used for the landing and take-off of aircraft, and incorporates its buildings and facilities, if any.

Alteration - A building or structural change or re-arrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Boarding House - Any dwelling which more than three persons, either individually or as families are housed or lodged with or without meals for which compensation is paid, either directly or indirectly. The term "boarding house" shall include "rooming house", "lodging house" but not "foster home".

Building - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

Building Area - The total floor space taken on a horizontal plane at the main grade level and at the floor levels of each story of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Camp, Private - Any area of land, or land and water, including any buildings, tents, shelters or other accommodations suitable for temporary or seasonal living purposes, and any dwelling units occupied by the owner, caretaker or superintendent.

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

Commercial Dog Kennel - A structure, or any portion of property, used for the boarding, breeding, training or keeping of more than four dogs that are more than six months old for any commercial purpose.

Commercial Riding Stable - Boarding and training stables, riding academies and similar establishments.

Convalescent Home - Any establishment where three or more persons suffering from, or afflicted with, or convalescing from any infirmity, disease or ailment that are habitually kept or boarded or housed for remuneration. The term shall not include municipal or incorporated hospitals, but shall include establishments licensed by the State Commissioner of Mental Hygiene and maternity homes licensed by the State Commissioner of Health. The term "convalescent home" shall include "nursing home".

Coverage - That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

Dump - Is a lot of land or part thereof used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purposes of garbage, sewage, dump refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

Dwelling - A building designed or used exclusively as the living quarters for one or more families. A dwelling shall not be deemed to include motel, hotel, tourist home or tent.

Dwelling Unit - a building or portion thereof providing complete living facilities for one family.

Dwelling, One-Family - A detached building containing one dwelling unit only.

Dwelling, Two-Family - A detached building containing two dwelling units.

Dwelling, Three-Family and Four-Family - A detached building containing three dwelling units and four dwelling units respectively.

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship, including domestic help, but not including a group occupying a boarding house, club, fraternity, tourist home, motel or hotel.

Federal Flood Insurance Program - Definitions in special flood hazard zones for land use and building construction shall be those words and phrases as defined by the Town Board by resolution duly adopted by the Town Board in accordance with instructions received from the Federal Insurance Administration and the New York State Departments of State and Environmental Conservation from time to time to comply with the Federal Flood Insurance Program in order to maintain and make available to the people of the Town of Chemung the Federal Flood Insurance Program.

Funeral Home - A structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

Gasoline Service Station - Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles excepting painting automobiles.

Handcraft - Fabrication of products using primarily manual arts as giftware, sportswear, sports equipment, ceramics, cabinetry, lawn furniture, small storage sheds, etc.

Height of Building - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Hospital - a structure or group of structures used for the diagnosis, treatment or the care of ailments. The term "hospital" shall include "sanitarium" but shall not include "convalescent home", "nursing home", or "medical clinic".

Hotel - A building containing rooms intended or designed to be used, rented or hired out to be occupied for sleeping purposes by guests and where only a general kitchen and dining room and other customary features are provided within the building or in an accessory building.

Junk Yard - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded materials; or primarily for the collecting, dismantling, storage, and salvaging of machinery or vehicles no longer in condition for legal use. The term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel or non-ferrous scrap and whose principal produce is scrap iron, steel or non-ferrous scrap for sale for re-melting purposes. Furthermore, farm machinery on a farm shall not be defined as being a junk yard.

Lot - A parcel of land occupied or capable of being occupied by one or more buildings or structures and the accessory buildings or structures or customarily incidental uses including such open spaces as are arranged and designed to be used in connection with such buildings or structures.

Lot Area - The total ground space included within the property lines, excluding external streets.

Lot Lines - The legal property lines bounding a lot as defined herein.

Lot Width - The mean horizontal distance measured between the side lot lines.

Mobile Home - Any vehicle or similar portable structure with or without a foundation or wheels, jacks, skirting, wood or masonry block supports, designed or constructed to be towed, driven or otherwise transported to its resting site and which is further designed to permit occupancy for dwelling or sleeping purposes. The term "mobile home" shall also include the term "trailer", "house trailer" and "manufactured home".

Motel - A building or group of buildings, detached or in connected units, designed for or used as individual sleeping units and provided with automobile parking space convenient to each unit and including incidental services for a transient clientele.

Motor Vehicle - Shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

Neighborhood Services - Those enterprises including, but not necessarily limited to, retail outlets, professional services, maintenance and repair services as well as medical, financial and educational institutions.

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

Parking Space - An off-street space on the ground or in a structure available for the parking of one motor vehicle and having an area of not less than 180 square feet exclusive of passageways and driveways appurtenant thereto, giving access thereto, and having direct usable access to a street.

Residential Businesses - Any enterprise customarily conducted on the premises which is carried on primarily by the residents thereof.

SEQRA - New York State Environmental Quality Review Act.

Sign - Any structure of part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, picture, light, or other device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. The term "sign" shall include the terms "billboard", "advertising sign", and "outdoor advertising sign". Public Service signs are signs that communicate a message intended to be for the convenience of the public telling about the location, character, size and other pertinent information about a public or quasi-public place or facility, or a hotel, motel, restaurant, or automotive service station, but otherwise excluding a commercial enterprise or product.

Story - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between any floor

and the ceiling next above it. A basement shall be counted as a story if the ceiling is more than six feet above the level from which the height of the building is measured.

Structure - Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground. **“UTILITY TRANSMISSION SITE - any installation used for transmission and/or relay of electricity, natural gas, petroleum, microwave signals, or other communication signals (excluding those privately owned for personal use).” **AMENDED BY LL#1 OF 1997****

Structural Alteration – Any change, addition or rebuilding to any permitted structure that causes a change in size, any opening size, any supporting wall, or exterior wall, roof or foundation.

Theater - A building or part of a building devoted primarily to showing moving pictures or stage productions on a paid admission basis.

Tourist Home - A dwelling, except a hotel, motel, boarding or rooming house, in which overnight accommodations are provided or offered for transient guests for compensation. The term "tourist home" shall include a bed and breakfast.

Yard - An unoccupied space open to the sky on the same lot with a building.

Yard, Front - An open unoccupied space on the same lot with a building situated between the street center line and a line connecting the parts of the building setting back from and nearest to such street center line, and extending to the side lines of the lot.

Yard, Rear - An open unoccupied space on the same lot with a building situated between the rear line of the lot and a line connecting the parts of the building setting back from and nearest to such rear lot line, and extending to the side lines of the lot.

Yard, Side - An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE III: NON-CONFORMING USES

Section 1. Continuation.

The lawful use of any building or structure or land existing at the time of the enactment of this ordinance may be continued, except as is otherwise provided in this article.

Section 2. Non-Conforming Lots of Record.

Other provisions of this ordinance notwithstanding, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, provided that all yard requirements are met on an application to the Board of Appeals. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

Section 3. Non-Conforming Use of Land.

No non-conforming use of land shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption or amendment of this ordinance. No such non-conforming use of land may be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption or amendment of this ordinance. No non-conforming use of land shall be changed to another non-conforming use.

Section 4. Non-Conforming Buildings or Structures.

Where a lawful building or structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the building or structure or its location on the lot, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such building or structure may be enlarged or altered in a way which increases its non-conformity.

2. Should such building or structure be destroyed by any means, it shall not be reconstructed except on its original foundation or in conformity with the requirements governing yards, building coverage and building height.

3. Should such building or structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located.

Section 5. Non-Conforming Uses of Buildings or Structures.

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

1. No building or structure devoted to a non-conforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the building or structure to a permitted use.

2. A non-conforming use may be extended to any part of a building or structure manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance.

3. If no structural alternation is made, a non-conforming use of a building or structure may be changed to another non-conforming use by permission of the Board of Appeals, provided the Board finds that the proposed use is no more inappropriate or incompatible to the district than the existing use. If permitting such change, the Board of appeals may require appropriate conditions and safeguards to minimize the impact of such proposed use on a neighboring property.

4. If a non-conforming use of a building or structure is superseded by a permitted use, the non-conforming use may not there be resumed.

5. If any building or structure in which any non-conforming use is conducted is hereafter removed, the subsequent use of the lot on which such building or structure was

located and the subsequent use of any building or structure erected thereon shall be in conformity with the regulations of the district.

6. Maintenance and repair work required to keep non-conforming building or structure in sound condition shall be permitted. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure of part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

7. Should a building or structure devoted to a non-conforming use be destroyed by any means to an extent greater than 75 percent of its replacement cost at the time of destruction, it shall not be reconstructed except as a permitted use.

8. If the lot in question has an approved septic system as so determined by the Chemung County Health Department prior to the adoption of this ordinance, such non-conforming use shall be permitted to continue.

Section 6. Discontinuance.

Whenever a non-conforming use of land, building or structure has been discontinued, such use shall not thereafter be established, and any further use shall be in conformity with the provisions of this ordinance. A use shall be deemed to have been discontinued under any of the following circumstances:

1. The vacancy of any building or structure occupied by a non-conforming use for a continuous period of one (1) year.

2. A change in or cessation of a non-conforming use for a continuous period of one (1) year.

Section 7. Uses Permitted as Variances.

Uses permitted by the Board of Appeals as variances shall not be deemed non-conforming uses.

**ARTICLE IV-ESTABLISHMENT OF DISTRICTS
AND APPLICATIONS OF DISTRICT REGULATIONS**

Section 1. Districts Established.

The Town of Chemung is hereby divided into the following types of zoning districts:

Residence-Agriculture	R-A
Residence	R-1
Residence	R-2
Business-Neighborhood	B-1
Business-Highway	B-2
Industrial	I
Conservation-Agriculture	C-A
Planned Development	P-D

Section 2. Zoning Map.

The boundaries of the zoning districts hereby established are shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Local Law. The official Zoning Map shall be identified by the signature of the Supervisor attested by the Town Clerk following the words: "This is to certify that this is the Official Zoning Map referred to in Section 2, Article III of Local Law #1 of 1996 of the Town of Chemung". No amendment to this Local Law which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map. The Official Zoning Map shall be kept on file in the office of the Town Clerk. (Amended by LL#2-2000)

Section 3. Planned Development Districts.

Provision is also made in this ordinance for the establishment of a P-D Planned Development District which may be created under the procedure specified in Article VIII.

Section 4. Rules for Interpretation of District Boundaries.

Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines. In residential zones (R1 and R2), district boundaries shall be interpreted to extend five hundred (500) feet back from the street center line, unless otherwise noted.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following platted lot lines shall be construed as following town lines.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines and in the event of change in streams, rivers, canals, lakes or other bodies of water shall be construed as moving with the actual center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1-5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Town Board shall determine and fix the location of said line.

Section 5. Application of District Regulations.

The regulations established by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

2. No building or other structure shall hereafter be erected or altered:

- a. To exceed the height;
- b. To accommodate or house a greater number of families;
- c. To occupy a greater percentage of lot area;

d. Or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this ordinance.

3. No part of a yard, or other open space, or off-street parking or loading space required or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

ARTICLE V - DISTRICT REGULATIONS

Section 1. Schedule of District Regulations.

District regulations shall be as set forth in the Schedule of District Regulations which is hereby adopted by reference and declared to be a part of this ordinance. The regulations appearing in this Schedule are subject to the supplementary provisions of this ordinance.

SCHEDULE OF DISTRICT REGULATIONS

<u>DISTRICT</u>	<u>PERMITTED PRINCIPAL USES</u>	<u>PERMITTED ACCESSORY USES</u>
R-A	Agricultural, agricultural uses, dairy, stock farming or other agricultural vehicles. occupations, plant or tree nursery, greenhouse, truck garden. Residential dwellings (one per parcel)	Seasonal vacation farm. Garage for private motor home Barns, silos and other structures for agricultural purposes. Seasonal roadside stands

Church or other place of worship, convent, parish house, Sunday school building.
 Educational institutions.
 Commercial riding stable.
 Cemetery.
 Public park.
 Private camp for seasonal residence.
 Fire station or other public use or structure necessary for the protection or servicing of the neighborhood or district.
 Residential businesses as governed by the laws of the State of New York.

for the sale of agricultural products.
 Signs not exceeding thirty-two (32) square feet in area pertaining to a permitted use on the premises, excluding general advertising signs and devices whether free-standing or painted on a building.
 Any accessory building or use customarily incidental to a permitted principal use.

DISTRICT USES REQUIRING SPECIAL PERMITS

R-A Utility transmission “**Sites**”, other than local service lines and unit substations.

**** (Amended by LL#1 of 1997)****

Hospital, nursing or convalescent home.
 Temporary structures and operations in connection with and on the site of building or land development activities.
 Commercial dog kennel and commercial raising of fur-bearing animals other than customary farm livestock.
 Mobile home park or trailer camp.
 Public service signs.
 Airport or heliport.
 Veterinary hospital.
 Private membership club.
 Outdoor recreational and entertainment activities of a commercial nature.
 Signage exceeding over thirty-two (32) square feet.

DISTRICT PERMITTED PRINCIPAL USES

R-1-2
 Residential dwellings (one per parcel)
 Church or other place of worship, convent, parish house, Sunday school building.
 Educational institutions.
 Public park.
 Fire station or other public use structure necessary for the protection or servicing of the neighborhood or district.

PERMITTED ACCESSORY USES

Garage for private motor vehicles.
 Seasonal roadside stands for the sale of agricultural products.
 Signs not exceeding thirty-two (32) square feet in area pertaining to a permitted use on the premises, excluding general advertising signs and devices whether freestanding or painted on a building.
 Any accessory building or use customarily incidental to a permitted principal use.

DISTRICT **USES REQUIRING SPECIAL PERMITS**
R-1-2

Same as R-A District.
 Neighborhood Services.

DISTRICT **PERMITTED PRINCIPAL USES**
C-A

Agricultural uses
 permitted in R-A District.

PERMITTED ACCESSORY USES

Same as R-A District
 except for non- agricultural uses.

Other uses permitted in an R-A District provided that no residence, church, school, cemetery, club, or camp shall be constructed or located except upon issuance of a Special Permit by the Town Board upon a finding that the reasonable probability of flooding of the site is not more than one (1) inundating flood in twenty (20) years, that the main floor elevation of said structure shall be at least three (3) feet above the design flood plain elevation of such twenty (20) year flood, that at least one access drive serving the structure from a public street or highway shall have an elevation of at least one (1) foot above said flood elevation, and that such structure shall not be located within twenty-five (25) feet of the encroachment lines of the Chemung River as they may be established by the Town of Chemung, Chemung County, New York State of the United States.

DISTRICT **USES REQUIRING SPECIAL PERMITS**
C-A

Same as R-A District.

DISTRICT **PERMITTED PRINCIPAL USES**
B-1-2

All non-agricultural, non-industrial businesses as governed by the laws of the State of New York.
 Handcraft industry.

PERMITTED ACCESSORY USES

Any accessory building or use customarily incidental to a permitted principal use.

Outdoor advertising signs or display devices, provided the commodities or services advertised are for sale, hire or use on the premises, and not exceeding

(32) square feet.

DISTRICT **USES REQUIRING SPECIAL PERMITS**
B-1-2 Outdoor advertising signs or display devices, provided the commodities or services advertised are for sale, hire or use on the premises, exceeding thirty-two (32) square feet.
 Outdoor recreational or entertainment activities of a commercial nature.

<u>DISTRICT</u> <u>I</u>	<u>PERMITTED PRINCIPAL USES</u> Any industrial or manufacturing use, including fabrication, converting, processing, altering, assembly, or other handling of products the operation of which uses only electric power or other unobjectionable motor power, or utilizing hand labor. Airport or heliport. Adult uses.	<u>PERMITTED ACCESSORY USES</u> Any accessory building or use customarily incidental to a permitted use. Outdoor advertising sign or display device, provided the products advertised are available for sale, hire, or use on the premises not exceeding thirty-two (32) square feet.
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DISTRICT **USES REQUIRING SPECIAL PERMITS**
I Public service signs.
 Dump or landfill areas-Public or privately owned.
 Outdoor recreational or entertainment activities of a commercial nature.
 Any industrial or manufacturing use not covered as a permitted principal use.

<u>DISTRICT</u> <u>P-D</u>	<u>PERMITTED PRINCIPAL USES</u> Uses permitted in the R-A and R-1-2 Districts. Multiple family and apartment buildings. Office buildings for business and professional uses. Light industry. Retail and services permitted in the B-1-2 District	<u>PERMITTED ACCESSORY USES</u> Any accessory building or use customarily incidental to the permitted use.
<u>P-D II.</u>	Mobile home parks Cluster housing development	

<u>District</u>	<u>Area in Sq. Ft (Contiguous)</u>	<u>Width in Ft.</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
R-A	3 acres	150	50	20	40
R-1	10,000	75	45	10	25
R-2	20,000	100	50	15	40
B-1	10,000	50	35	10	30
B-2	Same as for B-1	Same as for B-1			
I	20,000	100	50	15	30
C-A	Same as for R-A	Same as for R-A			
P-D	5 acres	500	100	50	100
P-D II	25 acres	1000	100	100	100

*Front yard measurements will be taken from the center line of roadway for all structures.

*****Width measurements shall be made along the streets adjoining said lot” (amended by LL#1 of 1997****

<u>District</u>	<u>Maximum Building Coverage</u>	<u>Maximum Height of Bldg.</u>
R-A	25%	3 stories, or 35 feet for residential buildings which may be increased 1 foot for each 1 foot by which front, side and rear yards exceed minimum requirements.
R-1	25%	
R-2	25%	
B-1	35%	4 stories or 50 feet
B-2	35%	4 stories or 50 feet
I	35%	4 stories or 50 feet
C-A	Same as for R-A	Same as for R-A
P-D & P-D II	20%	6 stories or 75 feet

ARTICLE VI: SUPPLEMENTARY DISTRICT REGULATIONS

Section 1. Height Exceptions.

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, and necessary mechanical appurtenances usually carried above the roof level; not to flag poles, monuments, transmission towers and cables, radio or television

antennas or towers and similar structures. Such features, however, shall be erected only to such heights as is reasonable necessary to accomplish the purpose they are intended to serve.

Section 2. Visibility at Intersections.

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially interfere with vision between a height of two and one-half (2 1/2) and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street from the point of intersection.

Section 3. Projecting Architectural Features.

The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features, provided such features shall not project more than three (3) feet into any required yard.

Section 4. Terraces, Porches and Steps.

A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form of enclosure exceeding six (6) feet in height. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.

Section 5. Fire Escapes.

An open fire escape may extend into any required yard not more than four (4) feet provided that such fire escape shall not be closer than four (4) feet at any point to any lot line.

Section 6. Walls, Fences and Swimming Pools.

The yard requirements of this local law shall not prohibit any necessary retaining wall or prohibit any fence or wall, providing that in any residence district no fence or wall shall exceed six (6) feet in height in any front or side yard, and provide further that such fence or wall shall be no closer to any front lot line than its height.

All swimming pools, with any depth of two feet or more, shall be fenced by erection of a four (4) feet barrier completely enclosing the swimming pool with provision for a self-closing access gate. The height of the fence shall be measured from the coping of the pool and the gate shall be latched so as to prevent access to the pool.

Section 7. Front Yard Exceptions.

In residence districts where the average front yard for buildings existing immediately adjacent to a lot exceeds the minimum specified, a front yard shall be provided on the lot equal to this greater average depth, but need not exceed fifty (50) feet. Where such average front yard is less than the minimum specified, the building may be built to this lesser depth, but shall not be less than thirty-five (35) feet from the street center line. An adjacent vacant

lot shall be considered as having the minimum front yard as required in the district for the purpose of computing such average front yard.

Section 8. Transition Yard Requirements.

Where two districts abut on a street line, there shall be provided for a distance of fifty feet (50) from the district boundary line into the less restricted district a front yard equal in depth to the average of the required yard dimensions in the two districts. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side and/or rear yard equal in depth to that required in the more restricted district.

Section 9. Auto and Commercial Vehicle Parking.

Adequate off-street parking space shall be required for all uses. One (1) off-street parking space shall consist of at least one-hundred and eighty (180) square feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. There shall be no parking permitted in, or along, any highway so as that might interfere with highway maintenance.

Parking requirements for the following uses are hereby established:

<u>USE</u>	<u>OFF-STREET PARKING REQUIREMENTS</u>
Dwellings	1 space for each dwelling unit
Rooming house/tourist home	1 space for each guest room
Professional office	4 spaces for each separate professional office suite
Church	1 space for each 5 seats
Auditorium, stadium, theater, restaurant, club	1 space for each 3 seats
Hospital	1 1/2 spaces for each bed
Convalescent home or sanitarium	1 space for each bed
Retail store, bank or business office	1 space for each 600 gross square feet of floor area
Bowling alley	5 spaces for each alley
Wholesale, storage or utility use, or other use not customarily visited by the public	1 space for each 1000 square feet of floor area
Funeral home	1 space for each 50 square feet of floor area in rooms used for funeral services
Industrial or manufacturing	1 space for each 2 employees on the maximum working shift

For uses not specified above, the Town Board shall, on appeal, after public hearing, establish parking requirements in specific cases not inconsistent with those specified above.

Section 10. Extraction of Earth Products.

Except when incidental to the construction of a building, the excavation in excess of One Thousand (1000) cubic yards of sand, gravel, clay, or other natural earth product, including the quarrying of any kind of rock formation is subject to the approval of the Town Board. Before issuing a permit for such use, the Town Board shall find that such excavation or quarrying will not endanger the stability of adjacent land nor constitute a detriment to the public welfare, convenience or safety by reason of excessive dust, noise, traffic congestion, or other condition. The Town Board may specify any reasonable requirement to safeguard the public health, safety or welfare in granting such permit, including a plan for rehabilitation and the posting of a bond or equivalent security.

Section 11. Side Yard on Corner Lot.

On a corner lot in a Residence District, the side yard on the street side shall be at least one-half the required front yard of the side street.

Section 12. More than One Building on a Lot.

When there is more than one principal building on a lot in any district, the space between such buildings must be at least equal to the sum of the side yards required by such buildings or the sum of the rear and front yards as the case may be.

Section 13. Abandoned Cellar Holes.

Within one year after work on any excavation for a building has begun, any excavation for a building shall be covered over or refilled by the owner to the normal grade. Any excavation or cellar hole remaining after the demolition or destruction of building from any cause shall be immediately enclosed by temporary fencing not less than four feet in height, and shall be filled with earthen material by the owner, lessee or tenant within twelve (12) months of such demolition.

Section 14. Access to Business or Manufacturing Use.

No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any Residence District for the servicing of a business, or manufacturing use located in a Business or Manufacturing District.

Section 15. Building Floor Area.

No residential dwelling in any district shall be erected or altered so as to provide for less than seven hundred twenty (720) square feet of enclosed floor area. For the purpose of this ordinance, mobile homes or automobile house trailers, whether on wheels or jacked off the ground, shall be considered a dwelling. All existing mobile homes or trailers located in the Town at the time this ordinance takes effect shall be deemed to comply with the terms of this ordinance.

No tent may be used for residence except on permit of the Town Board.

Section 16. Outside Storage of Unregistered and/or Uninsured Motor Vehicles.

In all districts, there shall be no outside storage of any motor vehicle, or other vehicle customarily drawn by vehicle, not displaying valid registration or current inspection. Upon no less than five (5) days notice by the Code Enforcement Officer to the owner of any unregistered and/or uninspected motor vehicle kept in violation of this Ordinance or upon the record owner of real property upon which said vehicle is found, such a vehicle may be, after a hearing held before the Town Court of the Town of Chemung and if found to be kept in violation of this Local Law, confiscated and removed by the Town of Chemung or its agents, and any costs associated with said removal may be assessed to the owner of said vehicle or the owner, occupant, tenant, or lessee of those lands upon which said vehicle was found.

The provisions of this Section shall not apply to those automobiles located in a duly approved and licensed junk/salvage yard or to a licensed automobile dealer.

Section 16a. Exceptions.

1. The provision of this Section shall not apply to the private sale of an automobile by an individual under the following terms and conditions:

a. That an individual shall be allowed no more than one (1) street operable uninsured and/or unregistered vehicle to be displayed on his property at any one time for a period of not more than sixty (60) days.

b. That no parcel of property shall have more than three (3) such automobiles displayed in any calendar year.

2. A licensed automobile repair shop may be allowed the outside storage of no more than six (6) such automobiles with said automobiles to be stored for no longer than thirty (30) days.

Section 17. Subdivision of Land.

1. This section shall apply to all districts within the Town.
2. Any alterations to existing lot boundaries or any division of lands that result in the creation of a new lot must conform to all regulations of the district in which the land/parcel is located as set forth in Article V of the Town zoning ordinance. The development of any such land must comply with all sewer, septic, and SEQRA (State Environmental Quality Review Act) requirements.
3. Failure to comply with this section will be considered a lack of due diligence on the part of any property owner that may create or cause to create an improper division of lands resulting in the creation of a new lot. Additionally, it will be considered a lack of due diligence on the

part of any individual acquiring such non-conforming parcel. Any such lack of due diligence may be deemed a self-created hardship that may disqualify the nonconforming parcel for any building permits and use and/or area variances.

ARTICLE VII
SEVERABILITY

Should any section or portion of this Local Law be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Local Law which shall remain in full force and effect.

ARTICLE VIII
EFFECTIVE DATE

This Local Law shall be effective May 1, 2013, after filing with the New York State Department of State.

ARTICLE IX: PROCEDURE FOR USES REQUIRING SPECIAL PERMITS

Section 1. General.

All uses identified in the Schedule of District Regulations as permitted uses requiring special permit are hereby declared to possess distinctive characteristics requiring individual examination to determine their suitability for particular sites and their impact on the district in which they are located and on surrounding property.

Section 2. Required Application and Referral.

All applications for special use permits shall be submitted to the Town Board for consideration. The Town Board reserves the right to act on the application or to refer it to the Planning Board for further consideration and recommendation. The Planning Board shall render its report to the Town Board within sixty (60) days of receipt of the referral.

Section 3. Town and/or Planning Board(s) Consideration.

The Town and/or Planning Board(s) shall consider each application and shall recommend the issuance of a permit if it finds that the following conditions have been met:

1. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
2. The location, nature and height of buildings, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
3. The operation shall meet all state and federal environmental regulation standards.

4. Parking areas will be suitable in size, properly located, and suitably screened from any adjoining residential uses, and in entrance and exit drives shall be located so as to achieve maximum safety.

The Planning Board may recommend additional conditions and safeguards as are reasonably necessary to assure continual conforming to all applicable standards and regulations.

Section 4. Public Hearing by Town Board.

The Town Board shall fix a reasonable time for a public hearing on the matter of granting the special permit and it shall give public notice thereof by the publication in the official newspaper of the Town notice of such hearing at least ten (10) days before the date thereof.

Section 5. Requirements for Special Uses.

In addition to other provisions of this ordinance and other provisions specified by the Planning Board in reviewing applications under this Article, the following standards shall be required for the following uses:

1. Utility transmission “SITES”, other than local service lines, and unit substations.

Transmission “SITES” shall be so constructed as not to endanger the public or surrounding property. Right-of-way of adequate width shall be provided to allow for safe construction and maintenance. Public utility substations shall be on lots of not less than 10,000 square feet in area. Suitable fencing shall be provided for protection of the public and in Residential Districts, suitable landscape screening shall also be provided. Yards required in the district shall be provided for all structures. **** (Amended by LL#1 of 1997) ****

2. Temporary structures and operations in connection with and on the site of building or land development. Such temporary structures shall observe the yard, coverage, and height requirements of the district in which located. Permits shall be granted for periods of six (6) months only and may be renewed for subsequent periods of the same length. Storage of equipment and supplies shall be maintained in a safe and sanitary condition. One sign not exceeding eight (8) square feet may be displayed indicating the nature of the operation and the owner, contractor, and designer.

3. Commercial dog kennel and commercial raising of fur-bearing animals other than customary farm livestock. Such activity shall be located not less than one hundred (100) feet from a property line. All such activities shall meet the requirements of the Chemung County Health Department.

4. Mobile home park or trailer camp. Mobile home parks or trailer camps shall meet the requirements of the Chemung County Health Department and any applicable town ordinances and regulations.

5. Public service signs. Public service signs shall not constitute a hazard to traffic by obstructing the view of the road intersections or of traffic control signs or devices. They shall not be of the same shape or color as standard traffic control signs or devices and shall not be lit in such a manner that they will distract the attention of a driver from traffic lights or traffic signs.

6. Junk yards.

a. Requirements for operation or maintenance. No person shall operate, establish or maintain a junk yard until he has obtained a license to operate a junk yard business and has obtained a certificate of approval for the location of such junk yard from the Town Board.

b. Application for license and certificate of approval. Application for the license and the certificate of approved location shall be made in writing to the Town Board. Such application shall thereafter be referred to the Town Planning Board, which is directed to make an investigation and when the same has been completed, to make its recommendations to the Town Board, which shall include, but not be limited to, whether the proposed automobile junk yard would be contrary to the comprehensive zoning plan and map of the Town; and whether the same would have any detrimental effect upon the community; or whether it would be a hazard to the health, safety and welfare of the inhabitants of this Town. The application shall contain a description of the land to be included within the junk yard.

c. Hearing. A hearing on the application shall be held by the Town Board not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the Town, which publication shall not be less than ten (10) days before the date of hearing.

d. License requirements. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard.

e. Location requirements. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

f. Aesthetic considerations. At the hearing regarding location of the junk yard, the Town board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Town Board may consider collectively the type of road servicing the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard.

g. Grant or denial of application: appeal. After hearing and upon completion of SEQRA review, the Town Board shall, within four (4) weeks, make a finding as to whether or not the application should be granted giving notice of their finding to the applicant by

mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect for a period of one (1) year. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this amendment are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article Seventy-Eight of the Civil Practice Law and Rules.

h. License fees. The annual license fee shall be twenty-five (\$25.00) dollars to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. The Town Board, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable cost incidental to the hearing as are clearly attributable thereto and may make the license conditional upon payment of the same.

i. Fencing. Before use, a new junk yard shall be completely surrounded with fence at least eight (8) feet in height or with conifer or evergreen trees properly spaced, of at least the same height, which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk yard shall be accomplished within the enclosure.

Where the topography, natural growth of timber or other consideration accomplish the purposes of this amendment may in whole or in part the fencing requirements hereunder may be reduced by the Town Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this amendment.

j. Established junk yards. Junk yards already established and holding a valid license shall be considered approved by the Town Board if such established junk yard is legally located and is not in violation of any local ordinance, rule or regulation, or any other law or statutes applicable to the regulation of automobile junk yards, and the owner thereof deemed suitable or the issuance of such a license. If such owner has a current license issued by the Town Clerk under any existing ordinance before the effective date of this ordinance, the same shall remain in full force and effect until the expiration date thereof after which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this ordinance including the fencing requirements set forth in the subdivision (i) of this section.

k. Notwithstanding any of the foregoing provisions of this ordinance, no junk yard, hereafter established, shall be licensed to operate any yard or part thereof which shall be

within five hundred (500) feet of a church, school, hospital, public building or place of public assembly.

1. Penalties. Any person, firm, corporation or other violating the provisions of this ordinance shall be subject to all the penalties as provided by Section 6, Article XI of the Zoning Ordinance of the Town of Chemung, as amended.

7. Outdoor recreational and entertainment activities of a commercial nature.

a. Drive-in theater. Shall be laid out so that the picture screen shall not face upon a public highway; and shall be limited to a single entrance and exit driveway on any one public highway for purposes of traffic control and safety.

b. Commercial race tracks, automotive or animal. shall provide for safe areas adequately fenced for spectators and parking separated from the track area and bleachers or stands for spectators shall meet New York State regulations and standards.

8. Private membership clubs. At least one off-street parking space shall be provided for each ten (10) members of the club. Off-street parking shall be screened from abutting residential properties with a fence or with landscaping adequate to prevent headlights of cars from shining on neighboring residences and adequate to reduce the sound of automobiles as heard from

neighboring residences. All outdoor lighting shall be designed so that the source of light is directed away from any abutting residences.

9. Veterinary hospital. Shall be located not less than one hundred (100) feet from side and rear property lines unless animals are housed in completely enclosed and soundproof buildings with no objectionable odor emission.

Section 6. Issuance of Permit.

Consequent to the Town Board approval and upon the Zoning Officer determination that all applicable laws and conditions of the aforesaid approval have been complied with, the Zoning Officer shall issue the permit for which application has been made.

ARTICLE X-PLANNED DEVELOPMENT DISTRICT

The regulations of Planned Development Districts (P-D) are intended to establish a procedure for the approval of large-scale planned residential neighborhoods containing mixed housing types and including local services; planned offices, research laboratory, or educational development; light industrial operations, when properly planned and integrated with the community; desirable for the economic growth and welfare of the Town.

Section 1. Procedure.

1. Application for establishment of a Planned Development District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration.

2. The Planning Board shall require the applicant to furnish such preliminary plans, drawings, sketches, elevation drawings, and supplementary information as may be required for an understanding of the proposed development.

3. The requirements for permitted uses, lot area, lot width, yards, building coverage and height, shall be as specified in the Schedule of District Regulations and other provisions of Article V. Such requirements are minimum specifications and may be made more restrictive.

4. The Planning Board may require such changes in said plans, drawings, sketches, elevations, and specifications as are found to be necessary to meet the requirements of this ordinance. The Board may make such additional requirements as are reasonably necessary to protect established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the municipality. In reaching its decision on the proposed development and the changes, if any, in the preliminary plans, drawings, elevations and specifications, the Planning Board shall consider, among other things, the following:

- a. The need and desirability for the proposed use in proposed location.
- b. The existing character of the neighborhood in which the use would be located.
- c. The location of main and accessory buildings on the site and in relation to one another.
- d. The traffic circulation features within the site, and the amount, location, and access to automobile parking areas.
- e. The height and bulk of buildings and their relation to other structures in the vicinity.
- f. The proposed location of driveways, service areas and pedestrian ways.
- g. Proposed landscape treatment of the site.
- h. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property and the neighborhood generally.

5. The Planning Board shall within sixty (60) days recommend approval, approval of modifications, or disapproval of such applications as submitted or amended and shall report its decision to the Town Board. The applicant may amend the application to conform to Planning Board recommendations and re-file it with the Town Board, in which case the application need not again be referred to the Planning Board.

6. The Town Board shall hold a public hearing on the proposal in accordance with the application or the amended application. Public notice, as provided by law as in the case of an amendment to the zoning ordinance, shall be given.

7. The Town Board may then amend the zoning ordinance so as to define the boundaries of the Planned Development District. Such action shall have effect only of granting permission for development of the specific proposed use in accordance with the specifications, plans, drawings, and elevations as finally filed with the Town Board prior to the public hearing.

8. In the event that substantial progress has not been made in the execution of the construction authorized by the Town Board within two (2) years from the date of approval, such approval may be revoked upon thirty (30) days notice to the applicant and after public

notice and hearing and the land in question shall be deemed subject to the same regulations and restrictions as were effective before such approval. The Town Board may extend its approval for additional periods of one (1) year.

ARTICLE XI: SPECIAL PROVISIONS FOR LAND USE IN BUILDING CONSTRUCTION IN SPECIAL FLOOD HAZARD ZONES

Section 1. Findings.

The Town Board of the Town of Chemung, Chemung County, New York finds that the potential and/or actual damages from flooding and erosion may be a problem to the residence of the Town of Chemung, Chemung County, New York, and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

Section 2. Statement of Purpose.

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. control filling, grading, dredging and other development which may increase erosion or flood damages;
5. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
6. qualify and maintain for participation in the National Flood Insurance Program.

Section 3. Objectives.

The objectives of this local law are:

1. to protect human life and health;
2. to minimize expenditure of public money for costly flood control projects;
3. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. to minimize prolonged business interruptions;
5. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. to provide that developers are notified that property is in an area of special flood hazard; and,
8. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. Definitions.

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one per- cent or greater chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base flood plain or 100-year flood plain.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor sub-grade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO, or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts or piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "Flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Study" see "flood elevation study."

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Flood-proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in communities with historic preservation programs which have been approved by the Secretary of Interior; or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest Flood" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by a community.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 14-2.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

Section 5. Lands to Which This Applies.

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Chemung, Chemung County, New York.

Section 6. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Agency:

(Complete One Through Five As Necessary)

1. Flood Insurance Rate Map (single panel) No. _____,
whose effective date is _____.

2. Flood Insurance Rate Map (multiple panels) Index No. 360149-0015A, 0025A, 0030A, whose effective date is September 3, 1980.

3. A scientific and engineering report entitled "Flood Insurance Study, Town of Chemung, New York, Chemung County" dated March 1980.

4. Flood Boundary and Floodway Map (single panel) Index No. _____, whose effective date is _____.

5. Flood Boundary and Floodway Map (multiple panels) No. 360149-0015A, 0025A, 0030A, whose effective date is September 3, 1980.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: the Town Clerk's Office located at 788 Rotary Road Extension, Chemung, New York 14825.

Section 7. Interpretation and Conflict with Other Laws.

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 8. Severability.

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

Section 9. Penalties for Non-Compliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions or conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250.00 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Chemung from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an

approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

Section 10. Warning and Disclaimer of Liability.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Chemung, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

Section 11. Designation of the Local Administrator.

The Zoning Officer of the Town of Chemung is hereby appointed Local Administrator to administer and implement this local law by granting or denying flood plain development permits in accordance with its provisions.

Section 12. Purpose of the Permit.

A flood plain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 6, without a valid flood plain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Section 13. Fees for the Permit.

(1) All applications for a flood plain development permit shall be accompanied by an application fee of **\$50.00**. In addition, the applicant shall be responsible for reimbursing the Town of Chemung for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

Section 14. Application for a Permit.

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

1. The proposed elevation, in relation to mean sea level, of the lowest flood (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon

completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

2. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

3. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be flood proofed. Upon completion of the flood-proofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.

4. A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 16-3, UTILITIES.

5. A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the flood-proofing criteria in Section 16-5, NON-RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS).

6. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

7. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

8. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

Section 15. Duties and Responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited the following.

1. PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a flood-plain development permit:

1. Review all applications for completeness, particularly with the requirements of Section 14, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.

2. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 16, CONSTRUCTION STANDARDS and, in particular, sub-section 16-2, SUBDIVISION PROPOSALS.

3. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 16, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

4. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

2. USE OF OTHER FLOOD DATA

1. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3 (8), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

2. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

3. ALTERATION OF WATERCOURSES

1. Notification to adjacent communities and New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4. CONSTRUCTION STAGES

1. In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

2. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

5. INSPECTIONS.

The Local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with requirements of the flood plain development permit and/or any variance provisions.

6. STOP WORK ORDERS.

1. The Local Administrator shall issue, or cause to be issued, a stop work order for any flood plain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 9.

2. The Local Administrator shall issue, or cause to be issued, a stop work order for any flood plain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to penalties described in Section 9.

7. CERTIFICATE OF COMPLIANCE.

1. In areas of special flood hazard, as determined by documents enumerated in Section 6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

2. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

3. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 15-5, INSPECTIONS, and/or any certified elevations, hydraulic data, flood-proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

8. INFORMATION TO BE RETAINED.

The Local Administrator shall retain and make available for inspection, copies of the following:

1. Flood plain development permits and certification of compliance;
2. Certifications of as-built lowest floor elevations of structures, required pursuant to Section 15-4, CONSTRUCTION STAGE, and whether or not the structures contain a basement;
3. Flood-proofing certificates required pursuant to Section 15-4, CONSTRUCTION STAGE, and whether or not the structures contain a basement;
4. Variances issued pursuant to Section 17, VARIANCE PROCEDURES; and,
5. Notices required under Section 15-3, ALTERATION OF WATERCOURSES.

Section 16. Construction Standards.

1. GENERAL STANDARDS.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 6.

2. SUBDIVISION PROPOSALS.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

1. Proposals shall be consistent with the need to minimize flood damage;

2. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,

3. Adequate drainage shall be provided to reduce exposure to flood damage.

3. ENCROACHMENTS.

1. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

a. the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

b. the Town of Chemung agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Chemung

for all fees and other costs in relation to the application. The applicant must also provide data, analyses and mapping and reimburse the Town of Chemung for all costs related to the final map revision.

2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 6, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

a. a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

b. the Town of Chemung agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Chemung for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Chemung for all costs related to the final map revisions.

4. STANDARDS FOR ALL STRUCTURES.

1. ANCHORING.

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the

base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

2. CONSTRUCTION MATERIALS AND METHODS.

1. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

3. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and, which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

a. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

b. the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of flood waters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

3. UTILITIES

1. Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;

2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic back flow valves or other automatic back flow devices that are installed in each discharge line passing through a building's exterior wall; and,

4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. **RESIDENTIAL STRUCTURES.**

The following standards, in addition to the standards in Sections 16-2, SUBDIVISION PROPOSALS, and 16-3, ENCROACHMENTS, and Section 16-4, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.

2. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

3. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 6 (at least two feet if no depth number is specified).

4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5. **NON-RESIDENTIAL STRUCTURES.**

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in Sections 16-2, SUBDIVISION PROPOSALS, AND 16-3, ENCROACHMENTS, and 16-4, STANDARDS FOR ALL STRUCTURES.

1. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:

a. have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or

b. be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water.

All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

2. Within Zone AO, new construction and substantial improvements of non-residential structures shall:

a. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

b. together with attendant utility and sanitary facilities, be completely flood proofed to that level to meet the flood proofing standard specified in Section 16-5.

3. If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood proofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 16-5, including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.

4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

6. MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

1. The following standards in addition to the standards in Section 16-1, GENERAL STANDARDS, and Section 16-4, STANDARDS FOR ALL STRUCTURES apply in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard. Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V and VE shall either:

a. be on site fewer than 180 consecutive days,

b. be fully licensed and ready for highway use, or

c. meet the requirements for manufactured homes in paragraphs 6-2.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30 or VE that is on a site either:

- a. outside of an existing manufactured home park or subdivision;
- b. in a new manufactured home park or subdivision as herein defined;
- c. in an expansion to an existing manufactured home park or subdivision as herein defined; or
- d. in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall, within Zones A1-A30, AE and AH, be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; or, within Zones V1-V30 and VE, be elevated on a pile foundation such that the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) is elevated to or above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

3. A manufactured home to be placed or substantially improved in Zone A1-A30, AE, AH, V1-V30, or VE, in an existing manufactured home park or subdivision that is **not** to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- a. elevated in a manner such as required in paragraph 6-2, or
 - b. elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
4. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall have the floor elevated at least three feet above the highest adjacent grade.
5. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 6 (at least two feet if no depth number is specified).

Section 17. Variance Procedure.

1. APPEALS BOARD.

1. The Zoning Board of Appeals as established by the Town of Chemung shall hear and decide appeals and requests for variances from the requirements of this local law.

2. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

3. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

4. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

- a. the danger that materials may be swept onto other lands to the injury of others;
- b. the danger to life and property due to flooding or erosion damage;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity to the facility of a waterfront location, where applicable;
- f. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. the compatibility of the proposed use to the comprehensive plan and flood plain management program of that area;
- h. the relationship of the proposed use to the comprehensive zoning plan and flood plain management program of that area;
- i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

5. Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

6. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

2. CONDITIONS FOR VARIANCES.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-c) in Section 6.1 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

a. the proposed repair or rehabilitation will not preclude the structure's continued designation as a "**Historic structure**".

b. the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a. the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;

b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

5. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

6. Variances shall only be issued upon receiving written justification of:

a. a showing of good and sufficient cause;

b. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

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c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

7. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

ARTICLE XII: AMENDMENTS to THIS ORDINANCE

Section 1. Amendments, How Initiated.

The Town Board may, from time to time, on its own motion or on petition, amend, supplement, repeal or change the regulations and district boundaries established by this ordinance. The Planning Board may, by resolution, propose an amendment so as to supplement, change, or repeal of the regulations or district boundaries to the Town Board.

Section 2. Referral of Proposed Amendments to Planning Board.

Proposed amendments, whether originating by petition or upon motion of the Town Board, shall refer to the Town of Chemung Planning Board for a report and recommendation prior to the Town Board acting thereon. If such a referral is made, the Planning Board shall submit its report to the Town Board within sixty (60) days after receiving such referral exclusive of any time required for compliance with the New York State Environmental Quality Review Act.

Section 3. Notice and Hearing on Proposed Amendments.

Before any amendment, supplement, repeal or change in the regulations or district boundaries, there shall be public notice and hearing thereon as provided by law.

Section 4. Referral to County Planning Board.

At least thirty (30) days prior to any required public hearing on an amendment, supplement, repeal or change of the regulations or district boundaries, or the issuance of any special permit or variance, the Town Board shall comply with the provisions of Article 12-B, Sections 239-1-m of the General Municipal Law, as amended, and refer to the County Planning Board proposed amendments affecting property within a distance of five hundred (500) feet from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

Section 5. Effect of Adverse Report by County Planning Board.

If such County Planning Board recommends disapproval or recommends modifications in the proposed amendment, such amendment shall not become effective except by a majority vote plus one of all the members of the Town board and the adoption of a resolution fully setting forth the reasons for action contrary to the recommendations of the County Planning Board.

Section 6. Amendment, When Effective.

Amendments shall take effect immediately upon proper publication and posting as provided by law, except that such amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Town Clerk under the corporate seal of the Town and showing the date of its passage and entry in the minutes.

ARTICLE XIV: ADMINISTRATION

Section 1. Zoning Officer.

The provisions of this ordinance shall be administered and enforced by the Zoning Officer appointed by the Town Board, who shall have the power to make inspections of buildings necessary to carry out his duties in the enforcement of this ordinance. Zoning and Code Enforcement Officer is empowered by the Town Board to issue violation notices and / or citations for violations to the regulations contained herein.

Section 2. Zoning Permit.

No structure shall be erected, moved, added to, enlarged, or excavation for any building shall begin unless and until a Zoning Permit for such work has been issued by the Zoning Officer. Structures used for bona fide agricultural purposes conducted on a commercial basis (i.e. generating at least \$10,000 in gross annual farm income), whether rented or owned, shall require a permit with fee to be waived. No Zoning Permit shall be issued except in compliance with the provisions of the Zoning ordinance, or as directed by the Board of Appeals. Unless there has been substantial progress in work for which a Zoning Permit was issued, said Zoning Permit shall expire one year from the date of issue.

All construction shall be required to meet all applicable building codes and regulations.

- A. When a structure that has any assessed value is to be removed from a parcel, a demolition permit must be obtained. (LL #1 2013).

Section 3. Applications.

Applications for zoning permits shall be submitted on a form or forms provided by the Zoning Officer. Each application shall set forth the purpose for which the building is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot, the building, and required yards.

Section 4. Certificate of Occupancy.

A certificate of occupancy shall be only at the request of government, financial, insurance or other related institutions.

Section 5. Application and Issuance of Certificate of Occupancy.

A certificate of occupancy may be obtained, on application, from the Zoning Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this ordinance and any other zoning ordinance which requires a certificate of occupancy. The Zoning Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within five (5) days from the date of application, Saturdays, Sundays, and legal holidays excepted. Failure to make such inspection and determination within the specified period of time shall be deemed to be approval of the application for a certificate of occupancy.

Section 6. Violations and Penalties.

Failure to comply with any of the provisions of this ordinance shall be deemed a violation punishable by a fine not exceeding \$350.00 and/or confinement for a period not exceeding six months. For any second violation of this ordinance within a five year period the fine increases to not less than \$350.00 nor more than \$700.00 and/or confinement for a period not exceeding six months. For any third violation of this ordinance within a five year period the fine increases to not less than \$700.00 nor more than \$1000.00 and/or confinement for a period not exceeding six months.

ARTICLE XV: ZONING BOARD OF APPEALS

Section 1. Powers and Duties.

The Board of Appeals as heretofore established is continued in accordance with the provisions of Section 267 of the Town Law. The Board of Appeals shall have such powers and perform such duties as prescribed by Section 267 of the Town Law and all other statutes, ordinances, rules or regulations as the same may exist. That in addition to such powers and duties as the Board of Appeals shall also hear and decide all matters referred to it or upon which it is required to pass by the terms of this local law.

ARTICLE XVI: PROCESS

Section 1. Interpretation.

In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the promotion of public health, safety and general welfare. When this ordinance imposes a greater restriction on the use of buildings or structures, or land or on the heights of buildings or structures, or requires larger open spaces, or makes any other greater requirements than is imposed or required by any other ordinance, rule or regulation, or by easement, covenant, agreement, the provisions of this ordinance shall govern.

Section 2. Variances.

The zoning board of appeals, on an appeal from a decision or determination of the code enforcement officer shall have the power to grant area and use variances as defined herein.

- a. Use Variance – No use variance shall be granted by the Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such a necessary hardship, the applicant must demonstrate to the Board of Appeals that the current permitted use under the zoning regulations for the particular district where the property is located:

- (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 question is unique and does not apply to a substantial portion of the district or neighborhood;
- (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) the alleged hardship has not been self-created.

The Board of Appeals, in granting use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

- b. Area Variance – In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighted against the detriment to the health, safety, and welfare of the neighborhood and community. 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 the granting of the area variance;
 - (2) whether the benefit sought by the applicant could be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created. (Such consideration shall be relevant to the decision but shall not necessarily preclude the granting of the area variance.)

The Board of Appeals, in granting the area variance, 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.

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

Section 3. Severability.

If any section, sub-section, phrase, or word of this ordinance is declared to be invalid, such invalidity shall not affect any other portion of this ordinance.

Section 4. Effective Date.

This ordinance shall be in effect upon its passage and publication as provided by law.

ARTICLE XIV: REGULATIONS FOR MANUFACTURED HOME PARKS

Section 1. Definition.

A manufactured home park is any parcel of land which is planned and improved for the placement of two (2) or more manufactured homes on lots which are contiguous, and under same ownership or control, which are used as dwellings. Any manufactured home lots that are served by a common well or a common septic system or common driveway under separate ownership shall be considered a manufactured home park.

Manufactured home parks shall be permitted only in a district for planned development.

Section 2. Permitted Manufactured Homes.

Manufactured homes should meet the following requirements:

1. Minimum of 720 square feet to measured box size.
2. Manufactured after 1976, HUD approved and meets current New York State Fire Prevention and Building Code.

Section 3. Application Procedures for Manufactured Home Parks.

Application must be made and followed as required for a Planned Development District II.

ARTICLE XVII: ADULT USES

Section 1. Allowable Uses.

1. **Adult Uses** - Adult uses shall be allowable in an Industrial District only.

2. Purposes and Conditions:

1. In adopting this Local Law, it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding residential neighborhoods or land uses.

2. It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Chemung.

3. These special regulations are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses, particularly in close proximity to residential neighborhoods, schools, places of worship, and public parks and restricting their accessibility to minors.

Section 2. Definitions.

As used in this Local Law, the following terms shall have the meanings indicated:

1. Adult Bookstore. An establishment having a substantial or significant portion of its stock-in-trade books, magazines, and other periodicals, films, slides and video tapes and which establishment is customarily not open to the public generally, but excludes any minor by reason of age.

2. Adult Drive-in Theater. A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.

3. Adult Theater. A theater that customarily presents motion pictures, films, videotapes or slide shows, that are not open to the public generally but exclude any minor by reason of age.

4. Peep Shows. A theater which presents material in the form of live shows, films or videos, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

5. Adult Entertainment Cabaret. A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Section 3. Restrictions.

The adult uses as defined under Section 2 above are to be restricted as to location in the following manner in addition to any other requirements of this Local Law.

1. Any of the above uses shall not be located within a one-thousand-five hundred foot (1,500 ft.) radius of another such use.

2. Any of the above uses shall not be located within a one-thousand-five-hundred foot (1,500 ft.) radius of any church or other place of religious worship or public park.

3. Any of the above uses shall not be located within a one-thousand-five-hundred foot (1,500 ft.) radius of any New York State accredited grammar, junior high school, or high school.

Section 4. Variances.

A. The restrictions set forth in Section 3 above may be waived by the Town of Chemung Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met (in addition to the general conditions contained in Local Law No. 1 of 1968 of the Town of Chemung, as amended, and this Local Law):

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Local Law will be observed.

2. That the establishment of an additional use of this type in this area will not be contrary to any program of neighborhood conservation or improvement, whether residential or non-residential.

3. That fifty-one percent (51%) or more of the property owners within the restricted area as defined in Section 3 have signed a petition stating that they have no objection to the establishment of the use defined above.

Section 5. Miscellaneous.

A. Severability - If any section, subsection, phrase or word of this Local Law is declared to be invalid, such invalidity shall not affect any other portion of this Local Law.

B. Effective Date - This Local Law shall take effect upon its adoption and publication according to law.

ARTICLE XVIII: ZONING PERMIT FEES

1. Building Permit.....\$60.00, for up to 1000 square feet of space, and \$.035 (two and one-half cents) for each additional square foot of space.

2. Structural alteration to existing structure	\$20.00
3. Chimney	\$20.00
4. Swimming Pool	\$20.00
5. Tool/Storage Shed (exceeding 144 square feet)	\$20.00
6. Garage	\$25.00
7. Junkyard	\$50.00
8. Mining Permit	\$100.00
9. Flood Permit	\$50.00
10. Special Use Permit Fees	\$50.00
11. Demolition Permit	No Charge