

Local Law Filing

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Town of Fowler

Local Law No. 3 of the year 2023

A local law Repealing Local Law No. 1 for the Year 1996, Local Law No. 1 for the Year 2019, Local Law No. 1 for the Year 2020, Local Law No. 3 for the Year 2021, and Local Law No. 4 for the Year 2021, and Providing for Land Use Law and Regulations for the Town of Fowler.

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

Town of Fowler as follows:

WHEREAS the Town of Fowler wishes to ensure that the construction, installation or alteration of buildings, structures or land are beneficial to the residents of the Town and to ensure the purposes set out under Article IIA contained herein; and

WHEREAS currently there are prior, inconsistent and/or insufficient provisions or regulations for such projects and the Town seeks to consolidate and update its Land Use Regulations into a single law;

NOW THEREFORE, it is hereby resolved as follows:

RESOLVED that Local Law No. 1 for the Year 1996, Local Law No. 1 for the Year 2019, Local Law No. 1 for the Year 2020, Local Law No. 3 for the Year 2021, Local Law No. 4 for the Year 2021, are hereby repealed, except that this repeal shall not affect or prevent prosecution or punishment of any person for any act done or committed in violation of said laws prior to the taking effect of this local law; and it is further

RESOLVED that the following is hereby enacted:

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ARTICLE I – TITLE

This law shall be known and may be cited as “LAND USE LAW AND REGULATIONS FOR THE TOWN OF FOWLER”.

This law is adopted pursuant to NYS Town Law, Sections 261-265 and NYS Municipal Home Rule Law, Article 2.

ARTICLE II – GENERAL PROVISIONS

A. PURPOSE. The provisions of these regulations shall be held to be the minimum requirements adopted to promote the health, safety, and general welfare of this community. Such requirements are deemed necessary to achieve the following purposes:

- PROMOTE ORDERLY DEVELOPMENT – to protect the character and maintain the stability of residential, recreational, commercial and agricultural areas within the town, and to promote the orderly and beneficial development of such areas.
- REGULATE INTENSITY OF USE – to regulate the intensity of use and the size of development lots, and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air, privacy and convenience of access to property, and to protect the public health and safety.
- REGULATE LOCATION OF BUILDINGS – to establish building lines, setbacks and the location of buildings designed for residential, recreational, commercial, agricultural, or other uses within such lines.
- ESTABLISH STANDARDS OF DEVELOPMENT – to fix reasonable standards to which buildings or structures or the use of the land shall conform.
- PROHIBIT INCOMPATIBLE USES – to prohibit uses, buildings or structures which are incompatible with existing or desirable character of development within specified development districts.
- REGULATE ALTERATIONS OF EXISTING BUILDINGS – to prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
- LIMIT CONGESTION IN THE STREETS AND HIGHWAYS – to limit congestion in the public streets and so protect the public health, safety, convenience and the general welfare by providing for off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.
- PROTECT AGAINST HAZARDS – to provide protection against fire, flood, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort and general welfare.
- CONSERVE TAXABLE VALUE OF LAND – to conserve and enhance the taxable value of land and buildings throughout the Town through an enlightened approach to land development and building location.

B. SCOPE. This Local Law shall apply to the construction, installation or alteration of any building, structure or appurtenant system and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town of Fowler.

C. RELATIONSHIP OF THIS LAW TO OTHER LAWS AND REGULATIONS

1. Conflict with other laws. Whenever the requirements of this Local Law are at variance with the requirement of any lawfully adopted rules, regulations or ordinances, such as the New York State Uniform Fire Prevention and Building Code, the most restrictive of those imposing the highest standards shall govern.
2. Requirement for New York State General Municipal Law §239-m Referral to County Planning Board. Section 239-m requires that certain matters be referred to the St. Lawrence County Planning Board by the Town Board, the Planning Board, or the Town Development Board of Appeals, as appropriate, and that the referring board shall not take final action until it has received a recommendation within thirty (30) days from the County Planning Board. The following matters shall be referred to the St. Lawrence County Planning Board:
 - a. Adoption or amendment of a comprehensive plan pursuant to Section 272-a of Town Law;
 - b. Adoption or amendment of a land use ordinance or local law;
 - c. Issuance of special use permits;
 - d. Approval of site plans;
 - e. Granting of use and area variances;
 - f. Other authorizations that a referring body may issue under the provisions of any Land Use Regulation or local law.

The proposed actions set forth above shall be subject to referral to the County Planning Board if they apply to real property within five hundred (500) feet of the following:

- a. The boundary of any city, village or town; or
 - b. The boundary of any existing or proposed county or state park or any other recreation area; or
 - c. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - d. 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
 - e. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 - f. The boundary of any farm operation located in an agricultural district, as defined by Article Twenty-Five-AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.
3. Agricultural Districts. Notwithstanding any other provision of this Local Law, "farm operations" as defined in Article Twenty-Five-AA of the New York State Agriculture and Markets Law, shall be a permitted principal use in all areas located within an agricultural district adopted by the Town of Fowler and certified by the Commissioner of Agriculture pursuant to said Article Twenty-Five-AA, regardless of what development district such

areas are located within. This provision shall supersede any conflicting provision of this Local Law.

D. APPROVAL. Should the County Planning Board fail to report its recommendations and reason therefore within thirty (30) days, or at such other time as may be agreed upon by the referring body, the referring body may take final action on the proposed action without such report.

E. FEES. Permit fees shall be paid according to the fee schedule as may, from time to time, be established by resolution of the Town Board.

F. EXTRAORDINARY VOTE. Upon recommendation of modification or disapproval, if such County Planning Board or regional planning council recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof. Within thirty (30) days after final action, the referring body shall file a report of the final action it has taken with the County Planning Board or regional planning council.

G. STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

1. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article (VIII) and Part 617 of Title 6 of the New York Code of Rules and Regulations (6 NYCRR Part 617) are hereby adopted by reference.
2. All "Type I" and unlisted actions (6 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
3. The Board that is empowered to approve the action shall be the lead agency.
4. If the opinion of the lead agency after review of the Environmental Assessment form is that there appears to be the potential for a significant environmental impact, such lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement (DEIS). Review, notice, and action on the DEIS shall be conducted according to 6 NYCRR, Part 617.

ARTICLE III – Definitions

■ **accessory building:** A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

■ **accessory use:** A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal building.

■ **adult use, adult bookstore:** An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other periodicals or photographs, drawings, slides, films, video tapes, recording tapes, and novelty items which are distinguished by or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

■ **agribusiness:** A retail or wholesale enterprise that manufactures or sells services or products principally utilized in agricultural production, including: structures; agricultural equipment and equipment parts; batteries and tires; equipment repair; livestock; feed, seed and fertilizer; the processing, storage, and distribution of farm commodities; or the wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other agricultural product.

■ **alley:** A service way which affords public means of vehicular access to abutting property.

■ **alternative energy systems:** Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or a stand-alone system. Same does not include any type of energy storage system, such as battery banks or compressed air, which energy storage systems will require additional review and approval.

■ **airport:** Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

■ **alteration:** Any change, addition or modification in construction other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams or girders.

■ **animal hospital:** A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

■ **automobile body shop:** A facility which provides collision repair services, including body frame straightening, replacement of damaged parts, and painting.

■**auto wash:** A structure designed or intended primarily for the washing of automobiles including conveyor, drive-through and self-service types.

■**automobile sales lot:** Premises on which new or used passenger automobiles, trailers, manufactured homes, or trucks in operating condition are displayed in the open for sale or trade. Vehicles on these lots must be able to pass state vehicle inspection requirements.

■**automobile service station:** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automotive repair and maintenance, car wash service, and food sales.

■**bar:** An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

■**basement:** A space of full story height partly below grade and having at least half of its height, measured from floor to ceiling, above the established grade of the street center line or, if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living accommodations.

■**battery(ies):** A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

■**battery energy storage system:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

A. Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600kWh and, if a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

■**bed-and-breakfast (B&B):** A transient lodging establishment, generally in a single-family dwelling or detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

■ **boathouse:** A covered structure with direct access to a body of water that is used only for the storage of boats and associated equipment, does not contain sanitary plumbing of any kind, does not contain kitchen facilities of any kind, does not contain a heating system of any kind, does not contain beds or sleeping quarters of any kind, does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall, and has a footprint of 1200 square feet or less and a height of fifteen (15) feet or less. The footprint of a boathouse is measured at the exterior walls, or at the perimeter of the roof if the roof is flat or there are no exterior walls. The height of a boathouse is measured from the surface of the floor serving the boat berths to the highest point of the structure and cannot/shall not block the neighbor's view of the water.

■ **body shop:** General repair, rebuilding or reconditioning of engines, motor vehicles, trailers; collision service including body, frame or fender straightening or repair, overall painting or paint job and vehicle steam cleaning.

■ **building:** A structure used or intended for supporting or sheltering any use or occupancy.

■ **building area:** The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces.

■ **building coverage:** That portion of the plot or lot area covered by a building.

■ **building, detached:** A building surrounded by open space on all sides on the same lot.

■ **building floor area:** The sum of the gross horizontal area of the several floors of a building and its accessory building on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

■ **building height:** The overall height of a building as measured from the established grade at street center line or, if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building to (1) the top of the roof for flat roofs, (2) the deck lines for mansard roofs, and (3) the average height between eaves and ridge for gable, hip, and gambrel roofs.

■ **building-integrated photovoltaic systems** A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

■ **building line:** A line parallel with the front, side, or rear property lines respectively, beyond which a structure may not extend as determined by these regulations.

■ **building, principal:** A building in which is conducted the main or predominant use of the lot on which it is located.

■**camp:** A tent, trailer, shelter, cottage or other accommodation for seasonal or other more or less temporary living accommodations, regardless of whether such structure or accommodation is actually used seasonally or otherwise; **or**

A parcel of land on which is located two or more cottages, shelters, recreational vehicles, tents or other accommodation for seasonal or other more or less temporary living arrangements; **or**

A parcel of land, including buildings and facilities thereon, used for the assembly of children or adults for what is commonly known as 'day camp' purposes; **or**

A parcel of land, including buildings and facilities thereon, used for overnight, weekend or longer periods of camping by organized groups.

■**campground:** A lot used for the parking and use on individual camping sites by travel trailers, tent-trailers, tents or similar transportable accommodations, together with all yards, sanitary facilities, roadways, open space and other requirements as defined by this local law. A campground shall not include use by manufactured homes or other residential appurtenances on a permanent year-round basis, except where required for operation, maintenance or security of the campground.

■**cellar:** that space of a building that is partly or entirely below grade which has more than half its height, measured from floor to ceiling, below the established grade at the street center line or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living.

■**commercial service:** Retail establishments that primarily render services rather than goods. Such services may include, but not be limited to, copy shops, printing services, package and postal services, photo processing, janitorial services and similar operations.

■**condominium:** A multiple unit residential complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc. that unit and sharing in joint ownership of any common grounds, passageways, and so on.

■**convenience store:** A retail commercial establishment that supplies groceries and other daily household necessities to the immediate surrounding area. It may sell gasoline or oil or other motor vehicle fuel and lubricating products but does not include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles.

■**creek:** A natural stream of water smaller than a river (and often a tributary of a river).

■**daycare, center:** A child day care center means a program or facility which is not a residence in which child day care is provided on a regular basis to more than six children.

A small day care center means a program or facility which is not a residence in which child day care is provided to three to six children. No more than two children under the age of two may

be cared for at any one time. When any child who is less than two years of age is present, the maximum capacity is five. When all children present are at least two years of age, maximum capacity is six.

Family day care home means a residence in which child day care is provided for three to six children. No more than two children under the age of two may be cared for at any one time. When any child who is less than two years of age is present, the maximum capacity is five. When all children present are at least two years of age, maximum capacity is six. Group family day care means seven to twelve children.

■ **daycare, home:** A day care facility located in a single-family residence where an occupant of the residence provides care and supervision for eight or fewer children. Children under the age of ten years who reside in the home count as children served by the daycare facility.

■ **dedicated-use building:** A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the international Building Code, and complies with the following:

- A. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- B. No other occupancy types are permitted in the building.
- C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

■ **distribution facility:** A post-production warehouse for finished goods held for distribution. Facilities that "accumulate and consolidate products from various points of manufacture within a single firm, or from several firms, for combined shipment to common customers."

■ **dock:** A floating or fixed structure no more than eight (8) feet in width, including at its attachment to a shoreline or boathouse, that could be used for securing and/or loading or unloading watercraft and/or for swimming or water recreation. A structure that meets this definition is considered a dock below the mean high-water mark and a boardwalk, deck or other structure upland of the mean high-water mark. Docks that are hoisted or suspended above the water level for storage must conform to additional parameters.

■ **drive-in restaurant or refreshment stand:** Any place or premises used for sale, dispensing, or serving of food, refreshments or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

■ **dwelling, one-family:** A detached building designed for year-round occupancy by one family only, including a sectional dwelling or a modular home located on a permanent continuous masonry foundation, other than a manufactured home, recreational vehicle, or any temporary structure.

■ **dwelling, two-family:** A detached building, designed for year-round occupancy by two families living independently of each other, other than a manufactured home, recreational vehicle, or rooming house.

■ **dwelling, multiple-family:** An apartment building or other residential building or portion thereof designed for year-round occupancy, containing separate dwelling units for three or more families living independently of each other, other than hotels, motels, and rooming houses.

■ **dwelling, condominium:** Any residential building portion thereof, involving a combination of two kinds of ownership of real property:

- a. Fee simple ownership of the individual dwelling unit; and
- b. Undivided ownership together with other purchasers of the common elements of the structure, land and appurtenances, the management thereof controlled by a property owners 'association'.

■ **dwelling, town house:** Three or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy by one family per unit, with each unit making its own footprint on the ground and involving fee simple ownership of the individual units.

■ **dwelling unit:** A building or portion thereof, providing complete housekeeping facilities for one family, including living, cooking, sanitary and sleeping facilities.

■ **essential services:** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings used or intended to be used for human habitation.

■ **family:** One or more persons occupying the premises related by blood, marriage or adoption, living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging home, club, fraternity, hotel or commune.

■ **farm:** The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse-boarding

operation. Such agricultural operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

■ **flush mounted solar panel:** Photovoltaic panels and tiles that installed flush to the surface of the roof and which cannot be angled or raised.

■ **freestanding or ground-mounted solar energy system:** A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

■ **funeral home:** A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this code, includes a funeral chapel.

■ **garage sale:** The sale of miscellaneous used items commonly associated with residential use. Garage sales shall not be for the sale of primarily a single commodity. The term 'garage sale' includes 'sidewalk sale', 'yard sale', 'basement sale' and 'estate sale'.

■ **garage, private:** A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein or space for more than one car is leased to a non-resident of the premises.

■ **garage, public:** A building or part thereof operated for gain and used for the storage, hiring, selling, greasing and washing, servicing or repair of motor driven vehicles.

■ **gas station:** A property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity and may also include a freestanding automatic car wash.

■ **helicopter landing site:** Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling and emergency service facilities.

■ **holding area:** The portion of a farm where cattle or other livestock are held and bulk fed commercially in a restricted area.

■ **holding tank:** An approved structure for the temporary storage of sewage for off site disposal requiring regular cleanout.

■ **home occupation:** An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the neighborhood.

■ **hospital, animal:** see animal hospital

■ **hotel or motel:** Any building or group of buildings having six or more guest rooms which are used, rented, or hired for sleeping purposes by transient guests.

■ **junkyard:** Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, salvaging, scrapping or disposal of junk.

■ **kennel:** A commercial establishment for the keeping, breeding, boarding or training of four or more mature dogs, cats, or other domestic animals, excluding common farm animals (horses, cows, pigs, goats, sheep, etc.).

■ **lake:** A body of water where no rooted plants can grow and is of unspecified surface size.

■ **laundromat:** A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

■ **lot:** A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces, and parking spaces required by this law and having its principal frontage upon a street or upon an officially approved place.

■ **lot area:** The computed area contained within the lot lines.

■ **lot, corner:** A lot situated at the intersection of two or more streets, which streets have an angle of intersection of not more than 135 degrees.

■ **lot depth:** The mean horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

■ **lot, interior:** A lot other than a corner lot.

■ **lot line:** The property line bounding the lot.

a. lot line, front: the line separating the lot from the street right-of-way.

b. lot line, rear: the line opposite to and most distant from the front lot line.

c. lot line, side: any lot line other than a front or rear lot line which intersects a front lot line.

■ **lot, through:** A lot having frontage on two approximately parallel or converging streets

■ **lot line, common:** A line dividing one lot from another.

■ **lot width:** The horizontal distance between side lines measured along a line that is parallel to the front lot line and located the minimum exterior setback distance from the front lot line.

■ **major solar collection system:** An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid but also may be for on-site use and is intended to be used for any purpose, other than private, or residential, or agricultural use, including community based systems. Solar farm facilities consist of one or more freestanding ground-mounted or roof-mounted solar collector devices. Major solar systems are those systems which generate more than 100% of the energy demand for onsite use.

■ **manufactured home court:** A parcel of land which has been planned and improved for the placement of two or more mobile homes or manufactured homes for dwelling purposes. The term shall include Mobile Home Park, Manufactured Home Park, or other area planned and/or improved for two or more mobile homes or manufactured homes.

■ **manufactured home:** A structure transportable in one or more sections that, in the traveling mode, is 8 feet or more in width or 40 feet or more in length or, when erected on site, is 320 square feet minimum, and that was built on or after June 15, 1976 on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal department of housing and urban development and complies with the standards established under the national manufactured housing construction and safety act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

■ **marina:** Waterfront establishments whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or storage of same. Such establishments may also provide travel lift services, slip rental, gasoline, sanitary pump-out service and food, drink and transient lodging accommodations.

■ **medical clinic:** a facility providing primary health services and/or day treatment/medical care or services to persons with either acute or long-term medical conditions.

■ **minor and accessory solar collection system:** A solar photovoltaic cell, panel, array, solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, minor solar collection systems may consist of building-integrated photovoltaics, ground-mounted or roof-mounted solar collector devices. Minor or accessory solar collection systems that do not generate more than 110% of the energy demand for onsite use. In the case of a farm operation in any agricultural district, it shall be considered as farm equipment under New York State Agriculture and Markets Law §301.

■ **mobile home:** A moveable or portable dwelling unit that was built prior to June 15, 1976 and designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living, excluding travel trailers. It does not include a recreational vehicle.

■ **modular home:** A structure designed primarily for residential occupancy and constructed by a method or system of construction where by the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation.

■ **net-metering:** A billing arrangement that allows solar customers to receive a credit for excess electricity that they generate and deliver to the power grid, so that they only pay for their net electricity usage at the end of a given month.

■ **nursing home:** A proprietary facility, licensed by the State of New York for the accommodation of convalescents or other persons who are not acutely ill or not in need of hospital care, but who require skilled nursing and related medical services which are prescribed by or performed under the direction of a person or persons licensed to provide such care or services in accordance with the laws of the State of New York.

■ **nonconforming use:** See 'use, nonconforming'

■ **office:** A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

■ **parking space:** An off-street space available for the parking of one motor vehicle conforming to the typical lot standards.

■ **permit granting authority:** The Town authority charged with granting permits for the operation of solar energy systems.

■ **personal service shop:** A business where non-medical professional or personal services are provided for gain and where the sale of retail goods, wares, merchandise, articles or things is only accessory to the provision of such services. Including but not limited to the following: barber shops, beauty shops, tailor shops, laundromats, shoe repair shops, etc.

■ **photovoltaic system:** A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

■ **planned development:** A tract of land in single ownership or controlled by an individual, partnership, cooperative or corporation, designed for and capable of being used for one or more

residential, commercial, industrial or recreational uses which have certain facilities in common and which have been designed as in integrated unit.

■ **plat:** A map representing a tract of land showing the boundaries and location of individual properties and streets.

■ **pond:** A body of water shallow enough to permit the growth of rooted plants throughout its total extent and is of unspecified surface size.

■ **private club or lodge:** Building and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

■ **qualified solar installer:** A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

Persons who are on a list of qualified photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as solar installers by the North American Board of Certified Energy Practitioners (NABCEP), shall deemed to be qualified solar installers for the purposes of this definition.

Persons not on either of these lists may be deemed to be qualified solar installers if the Town's Code Enforcement Officer determines that such persons have had adequate training to determine the degree and extent of the hazards and personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the use of special precautionary techniques and personal protective equipment as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

■ **recreation vehicle (RV):** A mobile recreational unit including travel trailer, pickup, camper, converted bus, tent-trailer, camper trailer, tent or similar device used for temporary portable housing.

■ **recreational facility:** A commercial or private recreation facility operated as a business and open to the general public for a fee; country clubs, riding stables, golf courses, and other private non-commercial recreation areas and facilities; or recreation centers, including private swimming pools; a private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities.

■ **restaurant:** A building where food and beverages are offered for sale to the public for consumption at tables or counter either inside or outside the building on the lot. As an accessory use, take-out service of food and beverages for off-site consumption may be provided.

■ **retail sales establishment:** A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

- **River:** A natural stream, usually a repository of fresh water that flows in a channel to the sea, lake or any other river.

■ **roadside stand:** A semi-permanent structure, stand or location for the sale of any product or material on a temporary, part-time or seasonal basis.

■ **rooftop or building mounted solar systems:** A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to a frame which can be tilted toward the south at an optimal angle.

■ **setback, front:** A distance to be measured from the center line of the principal street adjoining the parcel and the building line. Uncovered decks of thirty (30) inches in height or less shall be allowed to encroach into setbacks up to thirty percent of the stated setback.

■ **setback, rear:** A distance to be measured from the rear line of the lot to the building line. If the rear line of the lot is a shoreline, the rear line is to be determined using the lot dimensions in the deed and measuring from the front line to the rear lot line. Where terrain prohibits measurement by this method, the lot line along the shoreline is to be determined by a licensed surveyor. Uncovered decks of thirty (30) inches in height or less shall be allowed to encroach into setbacks up to thirty percent of the stated setback.

■ **setback, side:** A distance to be measured from the lot line which is perpendicular or approximately perpendicular to the front lot line and which separates two lots. Uncovered decks of thirty (30) inches in height or less shall be allowed to encroach into setbacks up to thirty percent of the stated setback.

■ **sign:** Any device (including but not limited to letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible from the public right-of-way or other properties. The term "sign" shall not include any flag, badge, or insignia, of any governmental unit, nor shall it include any item of merchandise normally displayed within a show window of a business.

■ **sign, advertising:** A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed and only incidentally on the premises if at all. A commercial billboard shall be construed to be an advertising sign.

■ **sign, business:** A sign directing attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered on the premises on which such sign is

located or to which it is affixed. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

■**sign, flashing:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color always when such is in use. Any moving, illuminated sign shall be considered a "flashing sign".

■**small rural business:** A small-scale business conducted on a rural lot by the owner-occupant, employing no more than four persons, consisting of a retail business or personal service business of a limited size to meet the needs of residents and visitors.

■**small-scale solar:** Photovoltaic systems that produce up to ten (10) kilowatts (kw) per hour of energy, or solar thermal systems which serve the buildings to which they are attached, and do not provide energy for other buildings.

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

■**solar collector:** A solar photovoltaic cell, panel, or array or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or the transfer of stored heat.

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

■**solar panel:** A device for the direct conversion of solar energy into electricity.

■**solar storage battery:** A device that stores energy from the sun and makes it available in an electrical form.

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

■**story:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above the floor of such story.

■**story, half:** That portion of a building between a pitched roof and the uppermost full story and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

■**street:** A public thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

■**structure:** Anything constructed or erected that requires location on the ground or attached to something having location on the ground.

■**structural alteration:** Any change, addition or modification in construction other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams or girders.

■**tavern:** A building or part thereof where, in consideration of payment therefore, liquor, beer, wine, or any combination thereof is served for consumption on the premises, with or without food.

■**tourist cottages:** Residential buildings offered for rent for short terms, typically for vacations.

■**town house:** One of a row of houses joined by common sidewalls, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc. that unit.

■**truck terminal:** The use of land, buildings or structure for the purpose of maintenance, servicing, storage or repair of commercial vehicles. The term does not include automobile service stations or transportation sales or rental outlets.

■**use, nonconforming:** A use that was valid when brought into existence but, by subsequent regulation, becomes no longer conforming. "Nonconforming use" is a generic term and includes (1) nonconforming structures (by virtue of size, type of construction, location on land, or proximity to other structures), (2) nonconforming use of a conforming building, (3) nonconforming use of a nonconforming building, and (4) nonconforming use of land.

■**variance:** An authorized departure by the Development Board of Appeals from the terms of this local law where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these regulations would result in unnecessary and undue hardship. As used in these regulations, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance.

■**wetland:** Any land which is annually subject to periodic or continual inundation and commonly referred to as a bog, swamp or marsh which is 20,000 square feet or more in size. Located adjacent to a body of water, including a permanent stream, with which there is a free interchange of water at the surface, or is determined to be part of a seepage system related to other bodies of water.

■ **yard:** An open space on the same lot or parcel of land that is unoccupied and unobstructed from the ground upward, except as otherwise permitted by this Law.

■ **yard, front:** An open space extending across the full width of a lot that abuts the principal street side of a parcel.

■ **yard, rear:** An open, unoccupied space, except for accessory buildings as permitted, extending across the rear of a lot from one side lot line to the other side lot line.

■ **yard, side:** An open space area extending from the front yard to the rear yard between the building and the nearest side lot line unobstructed from the ground upward except for steps and unenclosed porches.

ARTICLE IV – ESTABLISHMENT OF DISTRICTS

A. DESIGNATION OF DISTRICTS. For the purpose of this Local Law, the Town of Fowler is divided into the following districts:

R-A	Residential-Agricultural District
S	Shoreline District

B. DISTRICTS AND THEIR PERMITTED USES.

1. R-A Residential-Agricultural District

a. Purpose. The purpose of the Residential-Agricultural District is to delineate agriculture, rural and open land areas, to include acceptable, compatible residential and business uses and growth, yet maintain a rural character.

b. Primary uses allowed with no Site Plan Review or Special Permit.

- i. Agricultural and agri-business.
- ii. One- and two-family dwellings.
- iii. Manufactured homes.

c. Prohibited uses: Unless a use is listed as permitted, it is prohibited.

d. Permitted accessory uses

- i. Uses and structures customarily incidental to primary uses, special permit and site plan review uses and structures.
- ii. Accessory uses are not to be used on a commercial basis except for home occupations and agriculture.

e. Uses allowed with either Site Plan Review (SPR) or SPR and Special Permit

- i. Home occupations / Bed and Breakfast operations.
- ii. Airports & Helicopter landing sites.
- iii. Camping grounds
- iv. Small rural businesses (retail, restaurants, taverns, contracting and construction businesses, personal and professional services, professional offices, funeral homes, plumbing, building or electrical contracting or supplies businesses, etc.) compatible with the surrounding character and aesthetics of the neighborhood.
- v. Multiple family dwellings.
- vi. Kennels and Animal hospitals
- vii. Institutional Uses, Clubs, and Day-care Centers
- viii. Recreational Facilities
- ix. Telecommunications Towers and Wind Energy Generator Towers
- x. Condominiums and Town Houses.
- xi. Convenience Stores and Gas Operations
- xii. Automobile sales, rental, repair, service, and body shop
- xiii. Places of Public Assembly
- xiv. Distribution facilities.
- xv. Adult use, adult bookstore.
- xvi. Junkyards/Salvage Operations.
- xvii. Medical Clinics or Nursing Homes.

- xviii. Solar energy systems (facilities).
 - xix. Mining and mineral extraction.
- f. Specifications.
- i. Setbacks.
 - (a) Front: Fifty (50) feet from the center of the road.
 - (b) Side: Fifteen (15) feet.
 - (c) Rear: Fifteen (15) feet.
 - ii. Road Frontage: two hundred (200) feet.
 - iii. Height: forty-five (45) feet, except for agricultural buildings.
 - iv. Minimum lot size: one (1) acre.
 - v. See Article V – Regulations Applicable to All Zones, B. Non – Conforming Uses, especially Existing Lots of Record.

2. S Shoreline District

- a. Purpose. The purpose of this district is to delineate areas where residences are mixed with water-related businesses along a shoreline, yet protect the water quality and other environmental issues and maintain the scenic appeal of the shoreline. The Shoreline District extends 300 feet inland from the shorelines of the Oswegatchie River, Chubb Lake and Sylvia Lake.
- b. Primary uses allowed with no Site Plan Review or Special Permit.: Single family dwelling units including manufactured homes.
- c. Prohibited uses: Unless a use is listed as permitted, it is prohibited.
- d. Permitted accessory uses. Uses and structures customarily incidental to primary, special permit & site plan review uses and structures. Agricultural operations in the Shoreline District along the Oswegatchie River.
- e. Specifications.

- i. Setbacks:
 - (a) Front: Minimum Fifty (50) feet from the center of the road.
 - (b) Side: Minimum Twenty (20) feet.
 - (c) Rear: Minimum Twenty (20) feet measured from three (3) feet above the high water mark.
- ii. Road Frontage:
 - (a) Existing property: fifty (50) feet.
 - (b) New property: one hundred (100) feet.
- iii. Height: forty-five (45) feet.
- iv. Minimum lot size: one-half (1/2) acre.
- v. See Article V – Regulations Applicable to All Zones, B. Non –Conforming Uses, especially Existing Lots of Record.

C. TEMPORARY USES. The following temporary uses are allowed without a building permit, provided that they meet the requirements established for each of the following:

- 1. Garage Sales. Sales of tangible personal property shall be held on the premises of an owner of goods for sale or on the property of a charitable organization. Such retail sales shall be conducted for no more than fourteen (14) days in any calendar year.

2. Town-sponsored or approved uses. Temporary uses or events sponsored, supported or approved by the Town Board shall be permitted for no more than fourteen (14) days in any calendar year.

D. DEVELOPMENT DISTRICT MAP. The location and boundaries of said districts are hereby established in the Development District Map of the Town of Fowler. Said map, as may be amended from time to time, with all notations, references and designations shown thereon, is hereby made a part of these regulations as if incorporated herein.

E. INTERPRETATION OF DISTRICT BOUNDARIES. The district boundary lines are intended generally to follow the centerline of streets and highways; the centerline of railroad right-of-way; existing lot lines, the shoreline of rivers, streams, and other waterways; and Town boundary lines. Where a district boundary line does not follow such a line, its position shall be shown in the Development District map by a dimension expressing its distance in feet from a street line or other boundary line as indicated; or by use of the scale appearing on the Development District map. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundary. Where district boundaries are so indicated that they are approximately parallel to the centerline of streets or highways, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Development District map. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals shall render a determination with respect thereto.

F. MANUFACTURED HOMES ON SINGLE LOTS

1. Purpose. The purpose of this section is to establish regulations for manufactured homes on a single lot in a manner that protects adjacent landowners and the safety and the general welfare of the Town. In all cases in this document when the term "manufactured home" is used, it also includes the term "mobile home". These regulations are further intended to recognize manufactured homes as a legitimate source of affordable housing appropriate to certain areas of the community. Because quality and appearance varies greatly among manufactured homes the regulations of this section are designed to insure that newly located manufactured homes are compatible with the surrounding neighborhood and that Town property values are protected.

2. A mobile home may be located on a residential lot outside of the Development District as an accessory dwelling unit for family members or hired help on farms, subject to the following restrictions:

- a. The mobile home shall be located in conformance with the yard and parking requirements of a one-family dwelling.
 - i. The mobile home shall have an adequate supply of water and a sewage disposal system.
 - ii. The exterior of the accessory mobile home and the parcel of land on which it is located shall be maintained in a neat, orderly and presentable condition. Failure to maintain the property may result in revocation of the special permit.

- b. A mobile home may be located as an accessory dwelling unit for a caretaker, watchman or security guard on a non-residential lot. The Planning Board may impose conditions on the location of such mobile home to protect neighboring uses. Sanitary provisions must comply with these regulations.
- c. Exterior Covering. The exterior covering material of the manufactured home shall be similar or closely compatible to that found on conventionally built residential structures in the surrounding area.
3. No more than one (1) manufactured home may be placed on a lot.
4. Storage. A closed, secure storage area outside the manufactured home with a minimum footprint of twenty five (25) square feet is required. That storage may be in the form of a garage, barn, storage shed, or other accessory building.

ARTICLE V – Regulations Applicable to All Developmental Districts

A. ACCESSORY BUILDINGS.

1. On any lot intended or used for residential purposes, accessory buildings may include a garage, non-commercial home workshop or other accessory building or use in connection with principal dwelling and use or for use as a home occupation.
2. Height: as allowed in the zone.
3. Location: Accessory buildings which are not attached to a principal building may be erected in accordance with the setback requirements for the zone applicable to the principal building.
4. Non-residential accessory building. Nonresidential accessory buildings shall comply with front, rear and side yard requirements.
5. Truck bodies, trailers, buses, campers, manufactured homes, etc. shall not be used as accessory buildings.
6. Boat Houses
 - Maximum Height – Boathouse shall be no more than 15 feet in height. The 15 foot maximum height starts at the top of the dock and terminates at the peak of the roof or top of the rail of a roof top deck, if so constructed.
 - Maximum Length- The maximum allowed length for boathouses is 35 feet. Side Setback-Each side setback is 15 feet for R-1 and 10 feet for Shoreline.
 - Distance from Shore - Boathouses must start no more than 8 feet from the high water mark as established by the Code Enforcement Office.
 - Minimum Dock Width- The minimum established width for docks supporting a boathouse is 6 feet on all sides.
 - Structural Soundness of Foundation - Foundation structural soundness will be certified by a registered NYS engineer or architect who will provide a signed and sealed report stating that the dock structure is sufficient to support the proposed boathouse.
 - Supporting Structure-Boathouse must be on permanent non-floating docks for all bodies of water in the town.

B. NONCONFORMING USES, LOTS AND STRUCTURES. Any use commenced after the effective date of the Local Law shall comply with its provisions. Any legal use commenced prior to the effective date of this Local Law shall be permitted; however, expansion of such use shall be subject to this Local Law. Lots of record which are smaller in area than the minimum required size as of the date of this Local Law shall be deemed to be in conformance with the minimum lot sizes specified herein but not automatically with respect to the minimum required setbacks.

1. A nonconforming building or use which has been damaged by fire or other natural causes may be restored, reconstructed or used as before, provided that the non-conforming area requirements shall not exceed that which existed before said damage. Said restoration must have a building permit issued and work started within five years unless an extension is granted by the appropriate Town or Planning Board for due cause. In-kind replacement of existing elements shall be permitted in nonconforming uses.
2. Existing lots of record: A one-family dwelling may be constructed on any lot of record at the time of the passage of these regulations in any permitted district even if said lot is less than the minimum area required for building lots in the district in which it is located, providing the following conditions exist or are met:
 - a. Adjoining vacant land – The owner of said lot owns no adjoining vacant land which would create a conforming lot if combined with the lot which is deficient in area.
 - b. Front and Rear yards – Any structure erected on a nonconforming lot shall have front and rear yards conforming to the minimums required for the Residence District in which said property is located, except where conditions make it impossible, and then such as shall be determined by the Board of Appeals.
 - c. Side yards – Any structure erected on a non-conforming lot shall have a minimum side yard of ten (10) feet, except that it shall be twenty (20) feet adjacent to any street.
 - d. The Planning Board shall determine the yards and building width of a lot of record at the time of the passage of these regulations, if the yard requirements would result in a residential structure less than twenty-four (24) feet wide.
3. The Planning Board may issue a Special Permit allowing replacement of a nonconforming manufactured home destroyed by catastrophe with a unit of the same size or the next larger available size. The replacement must still meet setback requirements and other specifications for the zone to the same degree as the original structure.

C. PARKING. This section is designated to reduce problems caused by inadequate or poorly designed parking facilities.

1. Off Street Parking. All uses shall provide off-street parking for all vehicles parked during typical peak use periods. Parking shall be designed to eliminate the need to back out into any public or private road. Multiple dwellings and commercial

developments must comply with general requirements for facilities for physically handicapped in the New York State Uniform Fire & Building Code.

2. **Parking Spaces.** A parking space shall not be less than ten by twenty (10 by 20) feet, exclusive of access ways and driveways. Parking spaces for single family residences may include driveway area.
3. **Access to Parking.** Off-street parking areas for nonresidential uses shall provide access to parking spaces.
4. **Minimum Parking Standards.** Minimum standards supplementary to the basic standard cited above are as follows:
 - a. One (1) parking space for every three (3) seats in a public meeting place.
 - b. One (1) parking space for each employee in the largest shift at places of employment.
 - c. One (1) parking space for every three-hundred (300) square feet of gross floor area for commercial and retail uses.
 - d. Two (2) parking spaces for the first one-thousand (1000) square feet of gross floor area, plus one (1) parking space for every four-hundred (400) square feet over the one-thousand (1000) square feet of gross floor area in business and professional offices.
 - e. Two (2) parking spaces per dwelling unit must be provided.

D. SIGNS. Signs shall be permitted only according to standards listed as follows, unless otherwise stated in this local law.

1. No sign attached to a building shall be higher than the principal building, and shall not exceed twenty five (25) feet in height above average grade of the site.
2. No free standing sign shall be higher than ten (10) feet above the finished grade of the site.
3. No general advertising signs unrelated to the authorized use of the premises are allowed.
4. No sign shall project into a public right-of-way.
5. No sign shall be erected on a public utility pole or traffic control structure.
6. All existing signs at the enactment of this local law shall be allowed to remain as long as they are properly maintained and their use remains current.
7. Temporary unlighted signs erected by and for non-profit organizations, such as churches, American Legion, scouts, political organizations and/or for political candidates, etc. advertising suppers, banquets, benefits, fund-raising sales, etc. may be erected for a forty-day period without permit in any zone, provided that the sign will not constitute a traffic hazard, and the property owner has given permission. Said sign shall be removed within two weeks after the advertised event and shall include a date of posting.
8. Signage per site permitted: two (2) free standing signs with a total of sixty square feet with no side to exceed thirty square feet. In lieu of one (1) freestanding sign, sign/signs on the building, not to exceed a total of forty (40) square feet are permitted.

9. Home Occupation: One (1) attached or one (1) free standing sign having no more than six (6) square feet per side with a maximum of two (2) sides and a maximum height of eight (8) feet.
10. Any sign adjacent to a residentially used property must be at least fifteen (15) feet from the adjoining property line.
11. Downcast, dark-sky compliant lighting with recessed bulbs and full cut off shields may be provided to illuminate signs.

E. FENCES.

1. A "fence" is defined for the purposes of this chapter, as an artificially constructed barrier of any material or combination of materials erected to enclose or screen an area of land or water. Fences may be erected in any required yard as long as there is provision for maintenance from the property owner's lot.
2. All open, solid or opaque fences, no taller than six (6) feet in height on the side and rear yards or four (4) feet in height on the front yard and, if a corner lot on the said yard, are permitted without a building permit, provided that such fencing:
 - a. Does not block visibility of on-coming traffic at intersections or driveways; and
 - b. Projects a finished side outward towards adjoining lots; and
 - c. Is not a commercial project.
3. Property owners may apply to the Development Board of Appeals for a variance for a higher fence which will require a building permit and is subject to Site Plan Review.
4. The provisions of this section will not apply to agricultural operations in an Agricultural District.

F. MISCELLANEOUS

1. No structure shall be located in an area possibly subject to seasonal flooding, except as it complies with FEMA elevation guidelines.
2. Driveways or other points of vehicular access onto public roads shall be located in such a manner so as to prevent hazards, such as blind driveways.
3. All residences are required to post their addresses.

ARTICLE VI – SPECIAL PERMITS

A. PURPOSE. It is the intent of this local law to use special permits to control the impact of certain uses upon areas where they could be incompatible unless conditioned in a manner suitable to a particular location. Special permits bring needed flexibility and individuality to the otherwise rigid controls of Land Use Law and Regulations.

B. ADMINISTRATION. The authority to review and grant special permit requests shall rest with the Town Planning Board. In instances where a parcel is within 500 feet of Fort Drum, the applicant shall also provide written notice to the Plans, Analysis, and Integration Office under the Garrison Commander of Fort Drum.

C. PROCEDURE.

1. Each application for a special permit shall be on forms approved by the Town Planning Board and shall meet all requirements and conditions set forth in ARTICLE VII (Site Plan Review). Same shall be submitted to the Code Enforcement Officer upon completion by the applicant.
2. The Code Enforcement Officer shall refer the submitted special permit application to the Town Planning Board within ten (10) days after receiving the complete application.
3. The Town Planning Board or the Chair of the Planning Board shall designate a public hearing date, not to exceed thirty (30) days from the date application was received by the Planning Board. The applicant or agent for the applicant should attend the Planning Board meeting to answer questions concerning the application.
4. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a hearing notice in the official newspaper. The applicant is required to notify any agricultural operator within an Agricultural District and within five-hundred (500) feet of a proposed project. In addition, The Town Planning Board shall provide written notice to all owners of land located within five-hundred (500) feet of real property affected by such a special permit. In instances where a proposed project is within five-hundred (500) feet of an adjacent township, the applicant shall also provide written notice to said township. The applicant shall supply the Town Planning Board with two sets of address labels of all property owners within 500 feet of real property affected by the special permit. The applicant must supply the Planning Board with notification letters post paid at least ten (10) days before the public hearing.
5. The notice of the public hearing shall be published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.
6. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The record of the Planning Board shall contain the reasons for its decision.
7. The Town Board shall render its decision, either approving, approving with conditions or denying within thirty (30) days after the hearing, unless an extension is

- mutually agreed upon. Any conditions included with a Special Permit are subject to inspection annually by the Code Enforcement Officer. All special use permit decisions shall be filed with the Town Clerk no later than five (5) business days from the date of decision and a copy of the decision shall be mailed to the applicant.
8. Special Permits are issued to a property and not to an individual. In the event that a property with a special permit is sold, the special permits continue to run with the land.

D. FINDINGS.

1. The Planning Board shall make written findings for each special permit decision. Findings shall state the decision, the basis for the decision and the evidence relied upon to reach the decision. Compliance with the requirements of Article VI and Article VII shall be substantiated.
2. All decisions shall be made by at least a majority plus one of the full membership of the Town Planning Board. In those cases of a referral disapproved or approved with conditions by the County Planning Board, a majority plus one shall be required to override the County Planning Board decision. A simple majority may always disapprove a County Planning Board recommendation.

E. ADULT STORES.

1. Adult stores shall be a minimum of one thousand (1,000) feet from any school and five hundred (500) feet from any residences.
2. Exterior signage with nudity and/or obscenity is prohibited.
3. The size of signs for Adult Stores is limited to two (2) free standing signs with a total of thirty (30) square feet with no side to exceed fifteen (15) square feet. In lieu of one (1) freestanding sign, sign/signs on the building, not to exceed a total of twenty (20) square feet are permitted.
4. Not allowed in Shoreline (S) Districts.

F. AIRPORTS.

1. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for Special Permit and Site Plan Review as set forth in Article VII, the following statements and information.
 - a. Name and address of the proponent.
 - b. Classification of the proposed airport (commercial, non-commercial or restricted).
 - c. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc).
 - d. Number of aircraft expected to be based at the airport initially and within five (5) years.
 - e. Type of aircraft expected to be based at the airport (single engine, multi-engine, turboprop, etc.).
 - f. Whether an instrument approach procedure will be offered.
 - g. Statement as to the anticipated number of daily operations.

- h. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including United States Geological Survey topographic map.
- i. Copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of #249 of the New York State General Business Law.
- j. A site plan of the airport, as approved by the Planning Board, which includes the following, in addition to other site plan requirements given in Article VII:
 - i. Scale no smaller than one (1) inch equals one hundred (100) feet.
 - ii. Location of existing and proposed structures.
 - iii. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the thirty (30) minutes.
 - iv. Existing and proposed contours at five-foot intervals.
 - v. Location of aircraft parking and tie-down areas.
 - vi. Provisions for access and off-street parking.
 - vii. Provisions for sanitary waste disposal and water supply.
 - viii. Location and method of fuel storage.
- k. An area map at a scale of no less than one (1) inch equals five hundred (500) feet showing:
 - i. Distances, power lines, or other possible obstructions within two thousand (2,000) feet of the ends of runways shall be accurately plotted in an area extending out from each side of the runway at a 45 degree angle.
 - ii. Properties within five hundred (500) feet shall be plotted and identified.
- l. Proof of Compliance with all applicable Federal Aviation Administration requirements and a copy of the New York State Commissioner of Transportation's determination that this facility is in accordance with the provisions of # 249 of the New York State General Business Law.

G. BED AND BREAKFAST OPERATIONS.

1. The Town Planning Board may upon application and a Public Hearing thereon, permit a Bed and Breakfast to operate in any zone subject to the provisions of this definition and subject to the applicant's ability to provide reasonable evidence that all of the following conditions will be met. The following standards shall apply:
 - a. The operation will be conducted entirely within a dwelling or existing accessory structure.
 - b. The operation must clearly be incidental and subordinate to the principal use of the dwelling.
 - c. The establishment and conduct of Bed and Breakfast operation shall not change the principal character or use of the dwelling unit involved.
 - d. No more than three (3) people other than members of the immediate family residing on the premises may be employed.

- e. Such occupation shall not require extensive internal or external alteration or invoke construction features not customarily in a dwelling.
- f. No traffic shall be generated by such Bed and Breakfast operation in significantly greater volume than would normally be expected in the zone, and any need for parking generated by the conduct of such Home Occupation shall be met off the street and other than in a required front yard.
- g. See ARTICLE V, D. 9 in reference to sign regulations.
- h. Food service associated with the housing accommodation will be limited to breakfast and is to be included as part of the accommodation and not operates as a restaurant in anyway.
- i. The need to special permit applies to all B&B operations regardless of the manner in which the service is provides or marketing is undertaken.

H. CAMPGROUNDS. Campgrounds shall be occupied only by travel trailers, pick-up camper, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation and recreational purposes. The removal of wheels or placement of a unit on a foundation in a camping ground is prohibited. Campgrounds must meet these specific regulations:

1. Minimum gross site area: five (5) acres.
2. Not more than eight (8) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area. This provision shall not preclude a single tenant such as a scout troop or a family from erecting multiple tents on a single campsite, subject to the discretion of the camp ground operator.
3. Minimum site: there shall be a minimum of 5,000 square feet per campsite and a minimum of 10% open space per campsite.
4. Minimum site width is fifty (50) feet. Setbacks for the frontage shall be the normal setbacks for the zone the campground is in. No site shall be within fifty (50) feet of a property line.
5. There shall be a fifty (50) foot buffer area between the outside boundaries of the campsite area and adjacent property lines which shall meet setback requirements.
6. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health and safety of the occupants. The site shall not be exposed to objectionable smoke, odors or other adverse influences, and no portion of the campgrounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
7. Management structures, recreational facilities, toilets, dumping stations, showers, coin-operated laundries and other uses and structures customarily incidental to the operation of campgrounds are permitted as accessory uses to the campgrounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds in such zones where such uses are not allowed as principal uses; however, such establishments shall present no visible evidence from any street outside the campground of their commercial character.

8. Potable water and sewage disposal: potable water and sewage disposal must meet Department of Health standards.
9. Campgrounds shall conform to the rules for on-site sewerage for commercial users as listed in the most current edition of the DEC publication "Design Standards for Wastewater Treatment Works" and/or any updated regulations.

I. CONDOMINIUMS AND TOWN HOUSES. Condominium and Town House projects are subject to review by the Planning Board, especially regarding protection of neighboring properties from noise, glare, and other noxious conditions as well as shared property maintenance provisions. The review shall cover the issues involved in Site Plan Review in ARTICLE VII, Section E, 1. General Considerations. The Planning Board may attach conditions to its approval as it sees fit.

J. AGGREGATE QUARRY. Aggregate quarries shall be allowed only in the Residential-Agricultural District.

1. Require Site Plan Review and approval.
2. Must comply with all State and Federal laws, including obtaining a New York State DEC Mining Permit when necessary.

K. COMMERCIAL EXCAVATION AND MINING.

1. Upon receipt of a notice addressed to the Town Supervisor from the Department of Environmental Conservation (DEC) regarding a complete application for a mining permit, the Town Supervisor or Town Clerk shall contact and inform the DEC of the date the notice was received, and forward copies of the notice and completed application to the Town Planning Board for review and final action. The New York State Mined Land Reclamation Law supersedes all other state and local laws related to mining and reclamation, and provides the Town to schedule a public hearing, take action, and respond within 30 days of receiving the DEC notice.
2. Upon taking final action, the Town Planning Board shall submit written comments to the DEC and applicant that the state: whether mining is permitted at the proposed location; the Planning Board's decision; and the recommended conditions of approval in the DEC mining permit regarding ingress and egress to locally controlled roads; routing on locally-controlled roads, setbacks, barriers, dust control, and hours of operation.
 - a. Whether mining is permitted at the location.
 - b. Ingress and egress to locally-controlled roads: Truck access to any excavation site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. At a minimum, there shall be 500 feet of sight distance at the entrance to the facility. In order to prevent dust, such entrances shall be kept wet, treated with chemical dust deterrents, or paved. All ingress and egress points into the site shall be secured from unauthorized access or trespass.
 - c. Routing of mineral transport vehicles on locally-controlled roads: In consultation with the Town Highway Superintendent, necessary improvements to Town roads used as haulage ways shall be based on the width, bearing capacity and type of road surface of all Town roads that are proposed to be used by truck traffic to or from the

site, and based on the number and weight of the vehicles entering and existing the property.

d. Comment as requested on the requirements and conditions as specified in the DEC permit concerning setbacks from property lines and rights-of-way, and fabricated or natural barriers designed to restrict property access (if needed), including type, length, height and location.

e. Dust control: All dust resulting from excavation, processing or use of heavy equipment including trucks shall be controlled by using water, suitable mechanical, and approved chemical control methods identified in the DEC mining permit application. Oils or petroleum products shall not be used in the site or on any haul-road to suppress dust. Visible dust shall not be allowed to leave the permitted area.

f. Hours of operation: Operation shall be limited to the hours of 6:00 a.m. to 6:00 p.m., except when mitigating natural disasters or following prior approval from the Planning Board for specific projects that are restricted to night operations.

g. Conformance with Plants: All activities authorized by the DEC permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Mining operations shall maintain a copy of a current DEC permit at the Town Offices. Delinquency of maintaining a current DEC permit after a period of one year constitutes abandonment.

h. Enforcement of reclamation requirements contained in the DEC permit: A plan for restoration and rehabilitation of a commercial earth excavation area or pit shall accompany the permit and shall be in conformity with the applicable provisions of the State Mined Land and Reclamation Act.

i. Bond, Surety to Remain in Force: A copy of a required reclamation bond or other surety, in an amount determined by the DEC, shall be submitted to the Town and shall be maintained in full force and effect. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the DEC in writing.

L. HELICOPTER LANDING SITES. Helicopter landing sites will be allowed in the Town of Fowler only in the Residential-Agricultural District. In all districts, temporary helicopter landing sites may be designated for special events by special permit issued by the Code Enforcement Officer. Applicants must obtain a special permit that shall be accompanied by a site plan that meets site plan requirements in Article VII. Proof of Compliance with all applicable Federal Aviation Administration requirements and regulations and a copy of the New York State Commissioner of Transportation's determination that this facility is in accordance with the provisions of §249 of the New York State General Business Law shall also be required.

Landings are permitted in all zones for emergency situations.

M. HOME OCCUPATIONS.

1. The Town Planning Board may upon application and a Public Hearing thereon, permit a Home Occupation in any zone subject to the provisions of this definition and

subject to the applicant's ability to provide reasonable evidence that all of the following conditions will be met. The following standards shall apply:

- a. The occupation will be conducted entirely within a dwelling or existing accessory structure.
 - b. The occupation must clearly be incidental and subordinate to the principal use of the dwelling.
 - c. The establishment and conduct of Home Occupation shall not change the principal character or use of the dwelling unit involved.
 - d. No more than three (3) people other than members of the immediate family residing on the premises may be employed.
 - e. Not more than twenty-five percent (25%) of the first floor area, not to exceed five-hundred (500) sq. ft. of the residence may be devoted to such Home Occupation in either the dwelling or an accessory structure.
 - f. Such occupation shall not require extensive internal or external alteration or invoke construction features not customarily in a dwelling.
 - g. No traffic shall be generated by such Home Occupation in significantly greater volume than would normally be expected in the zone, and any need for parking generated by the conduct or such Home Occupation shall be met off the street and other than in a required front yard.
 - h. See ARTICLE V, D. 9 in reference to sign regulations.
 - i. Notwithstanding the provisions of this section The Town Planning Board, upon application, with a Public Hearing and, at its option, Site Plan Review, may permit daycare as a Home Occupation.
2. Voiding of Permit for Home Occupation.
- a. On the recommendation of the Code Enforcement Officer the Town Planning Board may void any Home Occupation Permit for non-compliance with the conditions set forth in approving the Permit.
 - b. A Home Occupation Permit is not transferable from the holder to another person or entity. Upon any sale of the premises where a Home Occupation Permit has been authorized, that Permit shall be void as of the date of transfer of title. The new owners may apply for a new permit.

N. INSTITUTIONAL USES, CLUBS, AND DAY-CARE CENTERS. In addition to meeting the minimum yard and lot coverage requirements, any Institutional Use, Club, or Day-care Center shall be subject to the following limitations:

1. The Town Planning Board, in addition to the site plan review criteria specified elsewhere in ARTICLE VII, shall specifically consider the following in evaluating an institutional use proposal. Evidence of such additional consideration shall be set forth in writing as part of the determination record issued by the Town Planning Board for the proposed use.
 - a. Compatibility. The use shall be of such location, size and character that will be in harmony with the appropriate and orderly development of the neighborhood in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.

- b. Effect on adjacent uses. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
2. Off-street parking shall be provided for all residents, customers and/or employees in compliance with the ARTICLE V, C. of this local law. As may be required, such uses shall make adequate provisions for any necessary off-street loading.
3. Signage shall meet the standards set forth in ARTICLE V, D of this local law.

O. JUNKYARD. The establishment, continuation, change or expansion of such use shall be according to the following:

1. A biennial operating permit shall be applied for upon the expiration of any existing license or permit; or where none has been obtained, within six months of the effective date of this part; or where the establishment of a new, changed or expanded use is involved, at the time application is made for a building/use permit.
2. Payment of such initial and renewal fee as may be established by the Town Board.
3. An application with site plan shall be made to and considered by the Town Board, which shall direct the Enforcement Officer to make such inspection and report as is deemed necessary. The Town Board shall authorize the permit to be issued or denied within 90 days from the date of application submission or within 90 days from the date of issuance of a building/use permit in the establishment of a new, changed or expanded use..
4. The Board shall determine that such use will not be detrimental to the public health, safety or welfare and, further, that such use will not detract from the visual character of the Town as viewed from any public right-of-way, from the permitted use of adjoining properties, or otherwise create a nuisance.
5. Said use shall not be located within 200 feet of the center line of any roadway, 200 feet of any lake, river or stream, or 500 feet of any residential, public, municipal or semipublic use.
6. All junkyards shall be so located that they are screened from view from the public right-of-way and completely surrounded with an approved fence of suitable construction and appearance and have a satisfactory gate which can be closed and locked except during normal working hours of said use. Such fence shall not be erected nearer than 50 feet to any lot line.
7. The junkyard and enclosure shall be so designed that all junk and disabled or dismantled vehicles or vehicle parts stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence, except during transportation of same in the reasonable course of the business.
8. The biennial operating permit, once issued, shall be valid for a period of two years from its effective date, which shall be noted thereon, 90 days prior to the expiration of which the permit holder shall make application for renewal and becomes a transferable obligation upon the event that the use/site transfers ownership.

P. KENNELS AND ANIMAL HOSPITALS. Not allowed in Shoreline (S) Districts. Requires a special permit in Residential-Agricultural (R-A) District. Kennels and animal hospitals must meet these specific regulations:

1. Adequate landscaping or fencing shall be provided to create a visual, sound and odor buffer between such facility and adjacent properties.
2. All buildings, pens, runs, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
3. Buildings and runs shall not occupy more than fifty percent (50%) of the lot.

Q. MOTORIZED VEHICLE AND EQUIPMENT SALES AND SERVICE AND COMMERCIAL FUEL OUTLETS, WITH OR WITHOUT CONVENIENCE STORE.

1. Lot requirements: same as requirements for zone in which located.
2. Entrance and exit driveways shall have an unrestricted width of not less than twenty (20) feet and shall be located not nearer than twenty (20) feet from any property line and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
3. All buildings and above ground storage tanks shall be set back from the major or secondary road line a distance of not less than seventy-five (75) feet.
4. Fuel pumps shall be located not less than forty (40) feet from the road centerline and not less than thirty (30) feet from all other property lines.
5. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designated for occupancy of more than fifty (50) persons or within five hundred (500) feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each lot.
6. The entire area of the site traveled by motor vehicle shall be hard-surfaced or graveled.
7. Motor vehicles and equipment shall be stored in a neat and orderly manner. Partially dismantled or wrecked vehicles or equipment shall be screened to avoid visual unattractiveness.
8. Any new motorized vehicle, equipment sales and service, commercial fuel outlets with or without a convenience store that will be adjacent to a residential use or residential-agricultural district shall be screened from the residential use or district line by dense natural plantings or a solid wall or fence to a point where one is not visible from the other. The separation shall not hinder visibility for traffic flow.

R. MULTIPLE-FAMILY DWELLINGS. Multiple-family dwellings must meet these specific regulations:

1. The maximum gross density shall not exceed eight (8) units per acre providing all health and State Building Code requirements are met.

2. The building lot coverage of multiple-family dwelling developments shall not exceed thirty percent (30%) of the total lot area.
3. Setback requirements:
 - a. Front setbacks shall be whatever the zone setback requirements are.
 - b. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
 - c. Minimum distance between buildings in a multiple-family dwelling development shall be eighty (80) feet.
4. Off-street parking shall be provided in the amount of two (2) spaces for each unit. Additional visitor parking of 0.25 parking spaces per dwelling unit shall be required. [One (1) additional parking space for each four (4) units.]
5. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, recreation area, landscaping, lighting and any other requirements of site plan review.

S. RECREATIONAL FACILITIES. In addition to meeting the minimum yard and lot coverage requirements, any Recreational Facility shall be subject to the following limitations:

1. The Town Planning Board, in addition to the site plan review criteria specified elsewhere in ARTICLE VII, shall specifically consider the following in evaluating a recreational use proposal. Evidence of such additional consideration shall be set forth in writing as part of the determination record issued by the Town Planning Board for the proposed use.
 - a. Compatibility. The use shall be of such location, size and character that will be in harmony with the appropriate and orderly development of the neighborhood in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.
 - b. Effect on adjacent uses. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
2. Off-street parking shall be provided for all residents, customers and/or employees in compliance with the ARTICLE V, C. of this local law. As may be required, such uses shall make adequate provisions for any necessary off-street loading.
3. Signage shall meet the standards set forth in ARTICLE V, D of this local law.

T. SMALL RURAL BUSINESS, PLUMBING, BUILDING OR ELECTRICAL CONTRACTING OR SUPPLIERS, AND DISTRIBUTION FACILITIES. In addition to meeting the minimum yard and lot coverage requirements, any Small Rural Business, Plumbing, Building or Electrical Contracting or Supply Business or Distribution Facility shall be subject to the following limitations:

1. The Town Planning Board, in addition to the site plan review criteria specified elsewhere in Article VII, shall specifically consider the following in evaluating a small rural business proposal. Evidence of such additional consideration shall be set forth in writing as part of the determination record issued by the Town Planning Board for the proposed use.

- a. Compatibility. The use shall be of such location, size and character that will be in harmony with the appropriate and orderly development of the neighborhood in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.
 - b. Effect on Adjacent Uses. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
2. The total number of employees, including owners-employees shall not exceed ten (10) persons. The Planning Board, may, however, issue a variance allowing more employees when the applicant demonstrates that the variance would be consistent with the purposes of the Residential-Agricultural District.
 3. Businesses that will emit State-threshold levels of dust, smoke or fumes shall obtain air quality permits from the Regulatory Affairs Office of the NYS Department of Environmental Conservation prior to submitting an application.
 4. Off-street parking shall be provided for all residents, customers and/or employees in compliance with the ARTICLE V, C. of this local law. As may be required, such uses shall make adequate provisions for any necessary off-street loading.
 5. Signage shall meet the standards set forth in ARTICLE V, D of this local law.
 6. As may be applicable petroleum bulk storage permits shall be obtained from the NYS Department of Environmental Conservation prior to submitting an application for Small Rural Business.

U. TELECOMMUNICATION TOWERS. Not permitted in Shoreline (S) Districts.

1. Shared use of existing towers. At all times, shared use of existing towers or the co-location of a new telecommunication facility on an existing structure shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new tower.
 - a. An applicant proposing to share the use of an existing tower shall be required to document intent from an existing tower owner to allow shared use.
 - b. The Board shall consider a new telecommunication tower where the applicant adequately demonstrates that shared usage of an existing tower is impractical. The applicant shall be required to submit a report demonstrating good-faith efforts to secure shared use from existing towers as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.
2. Shared usage of site with new tower. Where shared usage of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsections (1.)(a.) and (b.)

- above. Any new telecommunication tower approved for an existing tower site shall be subject to the standards of Subsection (3.) through (12.) below.
3. New tower at a new location. The Board shall consider a new telecommunications tower on a site not previously developed with an existing tower. The applicant shall adequately demonstrate that shared usage of an existing tower site is impractical and shall submit a report demonstrating good-faith efforts to secure shared use from existing towers, as well as documentation of the physical and/or financial reasons why shared usage is not practical. (Written requests and responses for shared use inquiries shall be provided.) Information regarding the required need for the new telecommunications tower shall be required to the form of empirical data illustrating said need.
 4. Future shared usage of new towers. The applicant must examine the feasibility of including a telecommunication tower in his proposed plan that will accommodate future demand for reception and transmitting facilities. The scope of this analysis shall be determined by the Board. This requirement may be waived, provided the applicant demonstrates that provisions of future shared usage of the facility are not feasible and an unnecessary burden, based upon:
 - a. The number of Federal Communications Commission (FCC) licenses available for the area.
 - b. The kind of tower site and structure proposed.
 - c. The number of existing and potential licenses without tower spaces.
 - d. Available spaces on existing and approved towers.
 - e. Potential adverse visual impact by a tower designed for shared usage.
 5. Lot size and setbacks for new towers. All proposed telecommunication tower and accessory structures shall be located on a single parcel and set back from abutting residential parcels, public property, or street lines a distance sufficient to substantially contain all ice-fall or debris from tower failure on-site and to preserve the privacy of the adjoining residential properties.
 - a. Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire lot required shall be leased from a single parcel.
 - b. All tower bases shall be located at a setback from any property line a minimum distance equal to one and one half (1 ½) times the height of the tower.
 - c. Accessory structures shall comply with the minimum setback requirements in the underlying development district.
 6. Visual impact assessment. The Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modification of an existing tower. The visual impact assessment shall include:
 - a. A "Zone of Visibility Map" provided to determine location(s) where the tower may be seen from.
 - b. Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town, including but not limited to, state highways, major roads, state and local parks, and areas of aesthetic interest.
 - c. Alternative tower designs and color schemes.

- d. Description of visual impact of the tower base, guy wires and foundations, accessory buildings, and overhead utility lines from abutting properties and streets.
7. If tower lighting is required by federal, state, or local regulations, a lighting technique will be used which will not interfere with the reasonable use of neighboring property. In particular, strobe lights may not be operated at nighttime with daylight intensity levels.
8. New tower design. Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:
 - a. Towers and antennas shall be designed to withstand the effects of the wind according to the standards designated by the American National Standards Institute as prepared by the engineering department of the Electronics Industry Association and the Telecommunications Industry Association.
 - b. Unless specifically required by other regulations, all towers shall have a finish compatible with the surrounding area that shall minimize the degree of visual impact.
 - c. The Board may request a review of the application by a qualified engineer for the evaluation of need for the design of any new tower.
 - d. Facilities shall maximize the use of building materials, colors and textures designed to blend with the ambient surroundings.
 - e. No portion of any tower or related structure shall be used for a sign or other advertising purpose, including, but not limited to, company name, phone numbers, banners, or streamers.
9. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential or public property, including streets, screening shall be required.
10. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private shall be made. Road construction shall, at all times minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
11. Fencing. Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately secured. A fence approved by the Board shall enclose the site unless the applicant demonstrates to the Board that such measures are unnecessary to ensure the security of the facility.
12. Health Concerns – Testing and Reporting. The tower company may be required to pay for regular inspections (annually) if such structure is located within one-thousand (1000) feet of a residence or occupied structure and provide the local governments with a copy of the inspection report to assure continued compliance with FCC emissions standards.

13. Removal. Obsolete or unused towers and related structures shall be removed from any site within one year of discontinuance of use or upon determination by the Code Officer that said structure is in danger of failure or collapse.

V. TOURIST COTTAGES. Groupings of two or more cottages or one cottage and one single family residence on a plot of land under single ownership are subject to review by the Planning Board, especially regarding adequate emergency and service access. The review shall cover the issues involved in Site Plan Review in ARTICLE VII, Section E, 1. General Considerations. The Planning Board may attach conditions to its approval as it sees fit.

W. SOLAR ENERGY SYSTEMS (FACILITIES), MINOR AND ACCESSORY SOLAR COLLECTION SYSTEMS.

1. PURPOSE AND INTENT

- a. Solar energy is a renewable and non-polluting energy resource that can prevent fuel emissions and reduce the Town of Fowler energy load. Energy generated from solar energy systems can be used to offset energy demand on the New York State power grid when excess solar power is generated.
- b. This section aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary thereof.

2. APPLICABILITY TO SOLAR ENERGY SYSTEMS

- a. The requirement of this section shall apply to solar energy systems modified or installed after the effective date of this ordinance.
- b. Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of this Local Law.
- c. All solar energy systems shall be designed, erected, and installed in accordance with all applicable federal, state, local and industry codes, regulations, and standards.
- d. Solar energy collection systems shall be permitted to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises which they erected, but nothing in this provision shall be construed to prohibit the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law or similar Federal or State statutes.
- e. Major solar collection systems, properly permitted by the Town of Fowler may be erected for the express purpose of generating electricity for sale as a commercial enterprise.

3. PERMITTING SOLAR ENERGY SYSTEMS

- a. No solar energy system or device shall be installed or operated in the Town of Fowler except in compliance with this article.
- b. To the extent practicable, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the Town Code.
 - c. Minor and accessory solar collection system.

- i. Rooftop and building-mounted solar collectors are permitted in all districts in the Town of Fowler, subject to the following conditions:
 - a. Building permits shall be required for the installation of all rooftop and building mounted solar collectors.
 - b. The installation of rooftop and building mounted solar collectors shall be a standard use in all districts, subject to building height restrictions for the district.
 - c. The installation of rooftop and building mounted solar collectors shall be standard use provided that the panels do not extend horizontally past the roofline. The installation of such systems on buildings listed on the National or New York State Register of Historic Places is prohibited.
- d. Solar thermal systems shall be standard use, subject to site plan review in all districts. The installation of such systems on buildings listed on the National or New York Register of Historic Places is prohibited.
- e. Ingress and egress in the event of fire or other emergency, for example, solar panels or collectors, may not be installed in front of a window or door.
- f. Major solar collection system.
 - i. Major solar collectors shall conform to the seismic standards of the NYS Uniform Fire Prevention and Building Code.
 - ii. Major solar collectors are permitted within the Residential-Agricultural (R-A) District, subject to site plan review and a special use permit.
 - iii. Ground-mounted and free-standing solar collectors are permitted within the Residential-Agricultural (R-A) District, subject to the following conditions:
 - a. Building permits shall be required for the installation of all ground mounted solar collectors.
 - b. The location of the solar collector meets all applicable set-back requirements.
 - c. The height of the solar collector and any mounts shall not exceed 20 feet from finished grade when oriented at maximum tilt.
 - d. Solar energy collectors and equipment shall be located in a manner to reasonably minimize view blockage for the surrounding properties and shading of properties to the north, while still adequate solar access for the collectors.
 - iv. Design standards:
 - a. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
 - b. Removal of any prime agricultural soil from the subject parcel is prohibited.
 - c. Proposed major solar collection systems shall minimize the displacement of prime soils that are in active agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land

(e.g. rotational crops, hay land, un/improved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. The site plan should include a cross section of any subsurface foundations that will be used for the solar array. In the event the array utilizes at-grade ballast footers, the underlayment should include a bed or crushed stone atop monofilament woven geotextile fabric so that the stone can be readily removed from the site when the facility is decommissioned. A plan for clearing and/or grading the site and Stormwater Pollution Prevention Plan (SWPPP) for the site must be included.

- d. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of sixteen (16) feet. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
 - e. All on-site utility and transmission lines shall, to the extent feasible, be placed underground. Any above ground transmission lines that are used to accommodate the facility shall require utility poles that are tall enough and installed at widths able to accommodate farm machinery and equipment. The installation of guy wires to utility poles is discouraged.
 - f. Solar collectors and other facilities shall be designed and located in order to minimize reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads.
 - g. All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six (6)-foot-high fence with a self-locking gate.
 - h. Major systems or solar farms shall be constructed in a fashion so as to not obstruct solar access to adjacent properties.
 - i. Any exterior lighting installed within the facility shall be downcast and dark sky compliant with recessed bulbs and full cut off shields.
 - j. Property Operations and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc. Any such plan shall propose that the property maintain a neat and orderly appearance consistent with surrounding properties. The property shall always be maintained in a manner consistent with all properties within the Town of Fowler.
- v. Abandonment and Removal:
- a. A Major Solar Collection System shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period.

- b. Upon cessation of operations of a Major Solar Collection System for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan. Within one hundred eighty (180) days of notice being served, the owner and/or operator can either restore operation equal to eighty percent (80%) of approved capacity or implement the Decommissioning Plan.
- c. In the event that construction of the Major Solar Collection System has been started but is not completed and functioning within eighteen (18) months of the issuance of the final Site Plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within three hundred sixty-five (365) days. If the owner and/or operator fails to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan. The Decommissioning Plan must be completed within one hundred eighty (180) days of notification by the Town to implement the Decommissioning Plan.
- d. Applications for extensions of the time periods set forth in this subsection of no greater than one hundred eighty (180) days shall be reviewed by the Town Board.
- e. Upon recommendation of the Building Inspector/Code Enforcement Officer, the Town Board may waive or defer the requirement that a Major Solar Collection System be removed if it determines that retention of such facility is in the best interest of the Town.
- f. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use the financial surety posted by the owner and/or operator to decommission the site, or it may proceed with decommissioning at its own expense and recover all expenses incurred for such activities from the defaulted owner and/or operator. Any costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interested by the same officer and in the same manner as other taxes.

4. SAFETY

- a. All solar collector installations shall be performed by a qualified solar installer.
- b. Prior to operation, electrical connections must be inspected and approved by a qualified third-party electrical inspector as determined by the Code Enforcement Officer.
- c. Any connection to the public utility grid must be inspected and approved by the appropriate public utility.
- d. Rooftop and building mounted solar collectors shall meet the requirements of New York State's Uniform Fire Prevention and Building Code.
- e. If a solar collector ceases to perform its originally intended function or purpose for more than twelve (12) consecutive months, the property owner shall remove the collector, mounts and all associated equipment and return the site or building

to its original condition, no later than ninety (90) days after the end of the twelve (12) month period.

5. DECOMMISSIONING

Prior to the removal of a Major Solar Collection System, a demolition permit for removal activities shall be obtained from the Town of Fowler.

a. Decommissioning Bond:

i. Prior to issuance of a building permit for a Major Solar Collection System, the owner or operator of the Solar Energy System shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the Major Solar Collection System is abandoned. The amount of the surety required under this section shall be one hundred twenty-five percent (125%) of the projected cost of removal of the Solar Energy System and restoration of the property with an escalator of two percent (2%) annually for the life of the Solar Energy System. Acceptable forms shall include, in order of preference: cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the Major Solar Collection System should the system be abandoned. In such case, the Town Building Inspector/Code Enforcement Officer shall then provide written notice to the owner or operator to remove the Major Solar Collection System, and the owner or operator shall have one (1) year from written notice to remove the Solar Energy System including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, operator applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Board, all costs of the Town incurred to enforce or comply with this condition shall be paid using the surety provided by the applicant.

b. Decommissioning Plan. An application for a Major Solar Collection System shall include a Decommissioning Plan. Removal of a Major Solar Collection System must be completed in accordance with the Decommissioning Plan. The Decommissioning Plan shall:

i. Specify that after the Major Solar Collection System will no longer be used, it shall be removed by the owner and/or operator or any subsequent owner/operator and shall include a signed statement from the applicant acknowledging such responsibility. The application shall disclose the lease start date, length of the original lease, and number of options and timeframes if the lease is renewed.

ii. Demonstrate how the removal of all infrastructures (including but not limited to above ground and below ground equipment, structures and foundations) and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. In areas where agricultural production will resume, re-vegetation shall include native plants and seed mixes and exclude any invasive species. The reclamation of land when the training facility is decommissioned shall include the removal of rock,

- construction materials and debris to a depth of four (4) feet, the decompaction of soils to a depth of eighteen (18) to twenty-four (24) inches, regrading and reseeding the site to its original condition prior to the project construction.
- iii. Include photographs or archival color images of the proposed site plan area for Major Solar Collection System. Such information must, in aggregate, adequately portray the entire property for the purpose of future reference when soil and vegetation remediation of the property occurs.
 - iv. State that disposal of all solid and hazardous waste shall be in accordance with local, state and federal waste disposal regulations.
 - v. Provide an expected timeline for decommissioning within the three-hundred-sixty-five-day (365) period set forth below.
 - vi. Provide a cost estimate detailing the projected cost of executing the Decommissioning Plan, subject to third party verification at the developer's expense, if required by the Town.

X. BATTERY ENERGY STORAGE SYSTEM

1. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure, meeting the requirement of New York State's Uniform Fire Prevention and Building Code, when in use and when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Fowler and all applicable federal, state, county and/or regional laws and/or regulations. A building permit shall be required for installation of all battery energy storage systems.
 - a. Issuance of permits and approvals by the Planning Board shall include review pursuant to the state Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ""SEQRA"].
 - b. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a batter energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulation, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Fowler Code.
 - c. Permitting requirements: Tier 1 Battery Energy Storage Systems shall be permitted as an accessory use in all zoning districts when they are enclosed in a building and are used to store energy for a principal use on the property. These systems shall be subject to the Uniform Code and are exempt from Planning Board review. Examples include: a batter bank installed in a residential garage to store energy collected from a dwelling's solar panel; and a batter bank installed in the basement of an institutional, government or office building (e.g. library, hospital, government offices).

Tier 2 Battery Energy Storage Systems shall be permitted in the R-A and Shoreline Districts, subject to the Uniform Code and special use permit application requirements set forth in this law.

- Y. DOCKS. Docks shall have a setback minimum of five (5) feet from neighboring property lines.
1. Docks should be constructed of permissible materials as determined by DEC standards.
 2. Docks shall have a minimum width of four (4) feet, and maximum length of fifty (50) feet for lakes and fifteen (15) feet for rivers and creeks, any longer and an area variance will be required.
 3. Docks should be built in a manner extending 90 degrees from shoreline as determined by the Code Enforcement Officer.
 4. Docks should not extend into the waterway any farther than is necessary, as determined by the Code Enforcement Officer, so as not to pose a hazard to water traffic.
 5. Any alterations to an existing dock that changes the dimensions will be considered an addition.
 6. Docks that have canopies should not interfere with a neighbor's view of the waterways.
 7. The Code Enforcement Officer shall determine from the guidelines and by definitions from this law, whether or not to grant permissions to extend all/any dock past the permissible length.
 8. Any complaint to the Code Enforcement Officer shall be in writing, signed, and a Point of Contact will be given, along with the Name and location of the violator. A copy of the complaint shall be given to the Planning Board.
 9. The number of docks permitted: One dock is allowed for up to fifty (50) lineal feet of shoreline. An additional dock is allowed for each additional fifty (50) lineal feet of shoreline, so long as each dock can be placed in compliance with the requirements of this regulation. *Example: A shoreline with sixty (60) feet of shoreline is allowed one dock.*

ARTICLE VII – Site Plan Review and Special Permits

A. **SITE PLAN REVIEW.** The intent of this section is to set forth general standards applying to the review of certain land uses and activities. The nature of these uses and activities requires special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this local law and the Town Plan.

B. **USES REQUIRING SITE PLAN AND/OR SPECIAL PERMIT APPROVAL.** Uses requiring site plan approval are listed for each zone in Article IV. All uses requiring a special permit also require site plan approval.

C. **PRE-APPLICATION CONFERENCE.** A pre-application conference may be held between the Planning Board and applicant to review the basic site design concept and generally determining what additional information (if any) to be required on the site plan including landscaping materials, if any.

D. **PLANNING BOARD SITE PLAN AND/OR SPECIAL PERMIT REVIEW. (APPLICATION CRITERIA).** An application for site plan and/or special permit approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist. The authority to conduct development reviews shall rest with the Town Planning Board. The Planning Board may require additional information if necessary to complete its review.

1. Plan checklist for all site plans.
 - a. Title of drawing, including the name and address of the owner, the applicant and the person responsible for preparation of such drawing; it shall also include the Tax Map Number.
 - b. North arrow, scale and date.
 - c. Boundaries of property plotted to scale.
 - d. Existing water course and bodies of water and designated wetlands.
 - e. A United States Geographic Survey (USGS) map or equivalent of the area shall be provided.
 - f. Proposed grading and drainage and storm water management system, if any.
 - g. Location, proposed use and height of all buildings and site improvements, including culverts, drains, retaining walls and fences.
 - h. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
 - i. Location of outdoor storage, if any.
 - j. Description of the method of sewage disposal and location of the facilities.
 - k. Identification of water source; if a well, locate it.
 - l. Location and size of all proposed signs.
 - m. Location and proposed development of all buffer areas including landscaping materials, if any.

- n. Location and design of outdoor lighting facilities.
 - o. Location of essential services.
 - p. General Landscaping plan.
 - q. When a project affects farmland located in an agricultural district, a completed Agricultural Data statement.
2. In some cases, the Planning Board may require the following:
- a. Provision for pedestrian access.
 - b. Location of fire lanes and hydrants.
 - c. Designation of the amount of building area proposed for retail sales or similar commercial activity.
 - d. Other elements integral to the proposed development as considered necessary by the Planning Board.

E. REVIEW BY PLANNING BOARD.

Coordination with the State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.

The Planning Board's review of the site plan and/or special permit may include, as appropriate, the following:

1. General Considerations.
- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - c. Location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
 - d. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - e. Adequacy of storm water and drainage facilities.
 - f. Adequacy of water supply and sewage disposal facilities.
 - g. Adequacy, type and arrangement of trees, shrubs and other landscaping, constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
 - h. Protection of adjacent or neighboring properties against noise, glare, unsightliness or noxious condition. The Planning Board may require "dark sky" compliant lighting.
 - i. In cases of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

- j. Adequacy of fire lanes and other emergency zones and the provision for fire hydrants, where feasible.
 - k. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- 2. Special Permit Conditions. Any uses subject to additional considerations pursuant to other requirements of this local law related to the nature of the intended use must also demonstrate compliance with those regulations during the review process.
- 3. Consultant review. The Planning Board may consult with the Town Code Enforcement Officer, Fire Department, Highway Department, County Planning Office and other local county officials, in addition to representatives of federal and state agencies, including but not limited to, the Soil Conservation Service, the State Department of Transportation and the Department of Environmental Conservation or other professional consultants as needed. Expenditures for professional consultations require the prior approval of the Town Board.
- 4. All decisions shall be made by at least a majority of the full membership of the Town Planning Board. In those cases of a referral recommended for approval or approval with conditions, disapproved or approved with conditions by the County Planning Board, a majority plus one shall be required to override the County Planning Board decisions.
- 5. The Town Planning Board may either approve, approve with conditions or deny the site plan and/or special permits. The Board shall make a factual record of its proceedings regarding the review process and the record shall contain the reasons for its decision.

F. PUBLIC HEARING AND DECISION ON SITE PLANS/SPECIAL PERMITS. In the event a public hearing is required by ordinance or local law adopted by the Town Board or called for by vote of the Planning Board, the Planning Board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. The Planning Board shall mail notice of said hearing to the applicant at the address given by applicant at least ten (10) days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof and shall make a decision on the application within sixty-two (62) days after such hearing, or after the day the application is received if no hearing has been held. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and such board. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

ARTICLE VIII – Administration

A. CODE ENFORCEMENT OFFICER

1. Creation. The Town Board has previously established the Office of Code Enforcement Officer in the Town of Fowler. This Local Law ratifies the continuance of this Office. The Code Enforcement Officer shall be appointed by the Supervisor with the approval of the Town Board and be compensated at a rate to be fixed by said Board. In the absence of the Code Enforcement Officer, or in the case of the inability of the Code Enforcement Officer to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in this capacity.
2. Duties and Powers. The Code Enforcement Officer shall perform all of the functions identified in this Local Law and shall otherwise assist the Town Board in the administration and enforcement of this and other local laws. The Code Enforcement Officer shall obtain the required State certification for the position and attend training workshops and courses, as they become available.
3. Stop Work Order.
 - a. Authority. Whenever the Code Enforcement Officer finds any work-regulated by this law being performed in a manner contrary to the provisions of this law or in a dangerous or unsafe manner, the Code Enforcement Officer is authorized to issue a Stop Work Order.
 - b. Issuance. A Stop Work Order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a Stop Work Order, the cited work shall immediately cease. The Stop Work Order shall state the reason for the Order and the conditions under which the cited work is authorized to resume.
 - c. Emergencies. Where an emergency exists, the Code Enforcement Officer shall not be required to give a written notice prior to stopping the work.
 - d. Failure to Comply. Any person who shall continue any work after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
4. Unauthorized Tampering. Signs, tags or seals posted or affixed by the Code Enforcement Officer shall not be mutilated, destroyed or tampered with, or removed, without authorization from the Code Enforcement Officer.
5. Violation Penalties. Persons who violate a provision of this law or fail to comply with any of the requirements thereof, or who erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Code Enforcement Officer, or of a permit or certificate used under any provision of this law, shall be guilty of a violation, punishable by a fine of not more than \$350.00 or by imprisonment not exceeding 3 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served in accordance with these provisions shall be deemed a separate offense.

B. PLANNING BOARD

1. Creation. The Town of Fowler Planning Board, pursuant to Section 271 of New York State Town Law, shall consist of five (5) members, each of whom shall reside in the Town of Fowler. Appointments shall be made by the Town Board. The Town Board shall designate the Chairman of the Planning Board. At least one (1) member shall be a person engaged in agricultural pursuits as defined in Town Law #271, Subsection 2. Member's terms shall be staggered such that at least one (1) will expire at the end of each calendar year commencing at the end of the current such year and continuing in the succeeding four (4) years until the entire original membership have completed their initial terms. Thereafter, the terms for members of the Planning Board shall be five (5) years. No person who is a member of the Town Board shall be eligible for membership on the Planning Board or Development Board of Appeals.
2. Voting Requirements. The concurring vote of a majority of the full membership of the Planning Board shall be required to constitute an official action by the Planning Board.
3. Duties and Powers. The Planning Board shall have the following duties:
 - a. Develop its official procedures and maintain records of its actions.
 - b. Review and comment on all proposed amendments to the Land Use Law and Regulations for the Town of Fowler.
 - c. Review subdivision plats and approve, approve with conditions, or disapprove them.
 - d. Review special permits where applicable and approve, approve with conditions, or disapprove them.
 - e. Review site plans and approve, approve with conditions, or disapprove them.
 - f. Render assistance to the Development, Town or other Board upon request.
 - g. Conduct studies, planning or surveys as needed to further the purposes of this Local Law.
 - h. Research and report on any matter referred to it by the Town Board.
 - i. In order to conduct official business three members of the Planning Board must be present to constitute a quorum.
4. Compensation. Compensation of Planning Board members for expenses associated with their duties may be fixed, from time to time, by resolution of the Fowler Town Board.
5. Conflict of Interest and Absences. The Town Board shall have the authority to establish alternate Planning Board member positions for purposes of substituting for a member in the event such a member is unable to participate because of a conflict of interest or in the case of planned absences by members of the Planning Board. This section supersedes NYS Law 271 as it pertains to the use of alternates at the call of the Chair of the Planning Board. Alternate

members of the Planning Board shall be appointed by resolution of the Town Board for terms established by them.

The Chair of the Planning Board may designate an alternate member to substitute for a member when such a member is unable to participate because of a conflict of interest on an application or matter before the board or because of an absence. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.

6. Removal. A Planning Board member may have his or her appointment terminated for cause by a resolution of the Fowler Town Board after a public hearing. No member of the Planning Board shall hold simultaneous membership on the Development or Town Board.

C. DEVELOPMENT BOARD OF APPEALS

1. Creation. The Town Board authorizes the appointment of a five member Development Board of Appeals as more fully described in NYS Town Law 267. The Town Board shall designate the Chairman of the Development Board of Appeals. The first appointments of members thereto shall be for terms so fixed that at least one (1) will expire at the end of each calendar year commencing at the end of the current such year and continuing in the succeeding four (4) years until the entire original membership have completed their terms. Thereafter, the terms for members of the Development Board of Appeals shall be five (5) years. No person who is a member of the Town Board shall be eligible for membership on the Planning Board or Development Board of Appeals. The Development Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under these regulations. In particular the board shall conduct itself according to the following:
 - a. Meetings. All meetings of the Development Board of Appeals shall be at the call of the chairman and at such other times as a majority of the members of the full board may determine. All meetings of the Development Board of Appeals shall be open to the public.
 - b. Records. The Development Board of Appeals shall keep minutes of its proceedings, including its examinations, findings and official actions and shall record the vote of each member on every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Development Board of Appeals shall be recorded in the minutes, which shall fully set forth the reasons on which the decision was based. An appropriate record of every official determination of the Development Board of Appeals shall be on file in the office of the town clerk.
 - c. Voting Requirements. The concurring vote of a majority of the full membership of the Development Board of Appeals shall be required to constitute an official action by the Development Board of Appeals. If an affirmative vote of a majority of the full membership of the Board is not

- attained to grant a variance, or to revise an order, requirement, decision or determination of the Code Enforcement Officer, the appeal is denied. The Board may amend a failed motion or resolution and vote on an amended motion or resolution within sixty-two (62) days of a public hearing without being subject to a rehearing process.
- d. Eligible Applicant or Appellant. An application or appeal to the Development Board of Appeals may be initiated by any person or party aggrieved under, or with a legitimate interest in these regulations including the town and its officials. An appeal for an interpretation or variance may be made only after a determination or notification of action taken by the Code Enforcement Officer or other body of original jurisdiction, except where such appeal is instituted by an official of the Town.
 - e. Rehearing. A motion to hold a rehearing to review any order, decision or determination by the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board present is required for such rehearing to occur. A rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original decision upon the unanimous vote of all members present, provided the Board finds no action had been taken by persons affected by the Board's original decision.
 - f. Quorum. In order to conduct official business, three members of the ZBA must be present to constitute a quorum.
2. Duties and Powers. The Development Board of Appeals shall have all the powers and duties prescribed by law and by these regulations. In particular, the powers the Development Board of Appeals are as follows:
- a. Interpretation. To decide any question involving the interpretation of any provision of these regulations, including exact location of any development district boundary or any other determination made in the administration or application of the regulations. Such interpretation shall be considered and rendered by the Development Board of Appeals only upon application or appeal following a determination made by the Code Enforcement Officer.
 - b. Variance. The Development Board of Appeals may vary or adapt the strict application of any of the requirements of these regulations where strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. In making its determination, the Development Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to health, safety and welfare of the neighborhood or community. Such variance shall be considered and rendered by the Development Board of

Appeals only upon appeal following a determination made by the Code Enforcement Officer.

i. Area Variance. In making such determination the board shall consider:

- a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance;
- b) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;
- c.) whether the requested area variance is substantial;
- d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- e) whether the alleged difficulty was self-created, which consideration shall be relevant to the discussion of the Development Board of Appeals, but shall not necessarily preclude the granting of an area variance.

Additional Considerations for Variances to Minimum Lot Size. In addition to the legal tests for a variance, the Development Board of Appeals must consider the following requirements when considering a variance for minimum lot size:

- a. the general purposes of the Land Use Law and Regulations,
- b. the issues and procedures in site plan review,
- c. and the health and sanitation issues involved when wells and septic systems are too close together.

ii. Use Variance. No use variance shall be granted without a showing by the applicant that the development regulations have caused unnecessary hardship. In order to prove such hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the development regulations for the particular district where the property is located:

- a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d) that the alleged hardship has not been self-created.

The Development Board of Appeals, in the granting of variances, shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

3. Compensation. Compensation of Development Board of Appeals members for expenses associated with their duties may be fixed, from time to time, by resolution of the Fowler Town Board.
4. Conflict of Interest. The Town Board shall have the authority to establish alternate Development Board of Appeals member positions for purposes of substituting for a member in the event such a member is unable to participate because of a conflict of interest. Alternate members of the Development Board of Appeals shall be appointed by resolution of the Town Board, for the terms they established.

The Chair of the Development Board of Appeals may designate an alternate member to substitute for a member when such a member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial Development Board of Appeals meeting at which the substitution is made.

5. Removal. A Development Board of Appeals member may have his or her appointment terminated for cause by a resolution of the Fowler Town Board after a public hearing. No member of the Development Board of Appeals shall hold simultaneous membership on the Planning Board.
6. Procedure. The Development Board of Appeals shall act in strict accordance with the procedures specified by law and by these Regulations and shall be in accord with the following:
 - a. Application. All appeals and applications made to the Development Board of Appeals shall be in writing, in the form prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Law and Regulations involved and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted. Such appeal shall be taken within sixty (60) days of the date of notification of the determination that is being appealed. The Code Enforcement Officer shall transmit to the Board all of the records concerning the case which is being appealed.
 - b. Referrals. Where any appeal for variance involves lands within the 500 foot thresholds of Section 239-m of New York State General Municipal Law it shall be referred to the St. Lawrence County Planning Board and acted upon in accord with ARTICLE II, Section C. 2 of this Local Law.
 - c. Notification and Public Hearing. The Development Board of Appeals shall fix a reasonable time for any public hearing in connection with an appeal

or application and shall give public notice thereof, by publication in an official paper of a notice of such public hearing at least five (5) days prior to that date; and shall, at least five (5) days before such public hearing, provide notice thereof to the applicant or appellant.

- d. Decision and Notification. Within sixty-two (62) days from the date of any public hearing, the Board shall render a determination on any appeal and notify the applicant in writing within five (5) working days of the date of determination. Every decision of the Development Board of Appeals shall be by resolution. The Development Board of Appeals shall notify the Code Enforcement Officer, Town Clerk, and Planning Board of the action taken on any application before the Development Board of Appeals with respect to an interpretation or variance.

D. AMENDMENTS.

1. The Town Board may on its own motion, on a petition, or on recommendation of the Planning Board, amend these Laws and Regulations pursuant to the applicable requirements of law. In the event that the proposed amendments change the district classification of real property within the thresholds set forth in Section 239-m of New York State General Municipal Law, the Town Board must refer such amendments to the St. Lawrence County Planning Board pursuant to Article II, Section C. 2 of this Local Law.
2. All proposed amendments shall be referred to the Planning Board for a report and a recommendation. The Planning board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute their recommendation for approval of the proposed amendment.
3. Before any amendment, there shall be a public notice and hearing thereon as provided by law. Notice of the hearing shall be published in a paper of general circulation at least five (5) days prior to the hearing.
4. After the public hearing, a majority vote of the members of the Town Board shall be required to amend these Laws and Regulations.

E. JUDICIAL/COURT REVIEW. Any person or persons, jointly or separately aggrieved by any decision of the Planning Board, Development Board of Appeals, Town Board, or any official instrument of the Town in the administration of this Local Law, may apply to have the decision reviewed in the manner provided by Article 78 of the Civil Practice Law and Rules, provided the proceedings are commenced within 30 days after the filing of the decision in the office of the Town Clerk. Costs shall not be allowed against the Town unless it appears to the Court that the Town or its representative acted with gross negligence, in bad faith, or with malice in making the appealed decision.

F. PUBLIC HEARINGS. Any public hearing held under the provision of this Local Law shall be advertised by a notice of public hearing, to be published once in the official newspaper of the Town at least five (5) days prior to the date of the hearing. Any hearing may be recessed by the

Planning Board or the Development Board of Appeals in order to obtain additional information or to serve further notice upon property owners or other persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

G. PENALTIES AND REMEDIES.

1. The Code Enforcement officer is hereby authorized pursuant to Criminal Procedure Law 150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the municipal justice.
2. Civil Penalties: In addition to those penalties proscribed by State law, any person who violates any provision of this local law, the Uniform Code, the Energy Code, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not less than \$100 and not more than \$350 for each day from the issuance of the order or notice to the date of resolution or part thereof during which such violation continues, and/or up to fifteen (15) days in jail. Repeat offenders shall be liable to a civil penalty of not less than \$350 and not more than \$500 for each day from the issuance of the order or notice to the date of resolution or part thereof during which such subsequent violations continue, and/or up to fifteen (15) days in jail. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town, including but not limited to a tax levy against said property in violation.
3. The municipal board may also maintain an action or proceeding in the name of the municipality in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.
4. Unless a violation creates imminent danger to human life, safety, or welfare, the person cited shall have thirty (30) days to comply with the citation before being in violation. Any violation which the Code Enforcement Officer cites as creating an imminent danger to human life, safety, or welfare must be resolved immediately on notice and is immediately in violation of this law.
5. Stop-work orders; penalties for offenses.
 - a. Stop-work orders. A stop-work order may be issued by the Code Enforcement Officer to preclude the continued and further violation of this chapter or to protect the public's health or safety. Such stop-work order shall stay all activity in conjunction with any violation of this law. Any stop-work order will stipulate that within thirty (30) days a permit or certificate shall be obtained noting compliance with this chapter. If such permit or certificate is not obtained by the responsible party or the work continues in violation of the stop-work order, action by the Town will be initiated to compel compliance, using such penalties or remedies as hereafter provided for.
 - b. Misdemeanors. Violations of this law or failure to comply with any of its requirements, including violations of any conditions and safeguards established

in connection with the granting of variances, site plan approvals or establishment of planned development districts, shall constitute a misdemeanor, punishable by a fine and/or imprisonment as established in *J. PENALTIES AND REMEDIES*, Section 2. above.

6. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Section A(3) Stop Work Orders of this Local Law, in any other section of this Local Law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Section A(3) Stop Work Orders of this local law, in any other section of this Local Law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of Section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section 381 of the Executive Law.

H. REPEALER. The following law shall be repealed upon the filing of this Local Law with the New York Secretary of State: Local Law No. 1 for the Year 1996, Local Law No. 1 for the Year 2019, Local Law No. 1 for the year 2020, Local Law No. 3 for the Year 2021, Local Law No. 4 for the Year 2021, and any and all other local laws deemed inconsistent with the provisions of this Local Law.

I. EFFECTIVE DATE. This Local Law shall take effect immediately upon filing with the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law, and upon publication of an abstract in the official newspaper of the Town of Fowler.

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

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

I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of 2023 of the Town of Fowler was duly passed by the Town Board on December, 2023, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

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

(Name of Legislative Body)

(Elective Chief Executive Officer*)

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

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

(Name of Legislative Body)

(Elective Chief Executive Officer*)

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

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

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

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

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

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

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

(Seal)

Clerk of the County legislative body, City, Town or Village
Clerk or officer designated by local legislative body.
Tami Gale, Clerk
Date: December , 2023

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

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

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

Henry J. Leader, Esq.
Town Attorney
Town of Fowler
Date: December , 2023