

THE
TOWN OF LAFAYETTE
1970
ZONING
ORDINANCE

AMENDED: NOVEMBER 10, 2014, MAY13, 2013, SEPT. 13, 2010,
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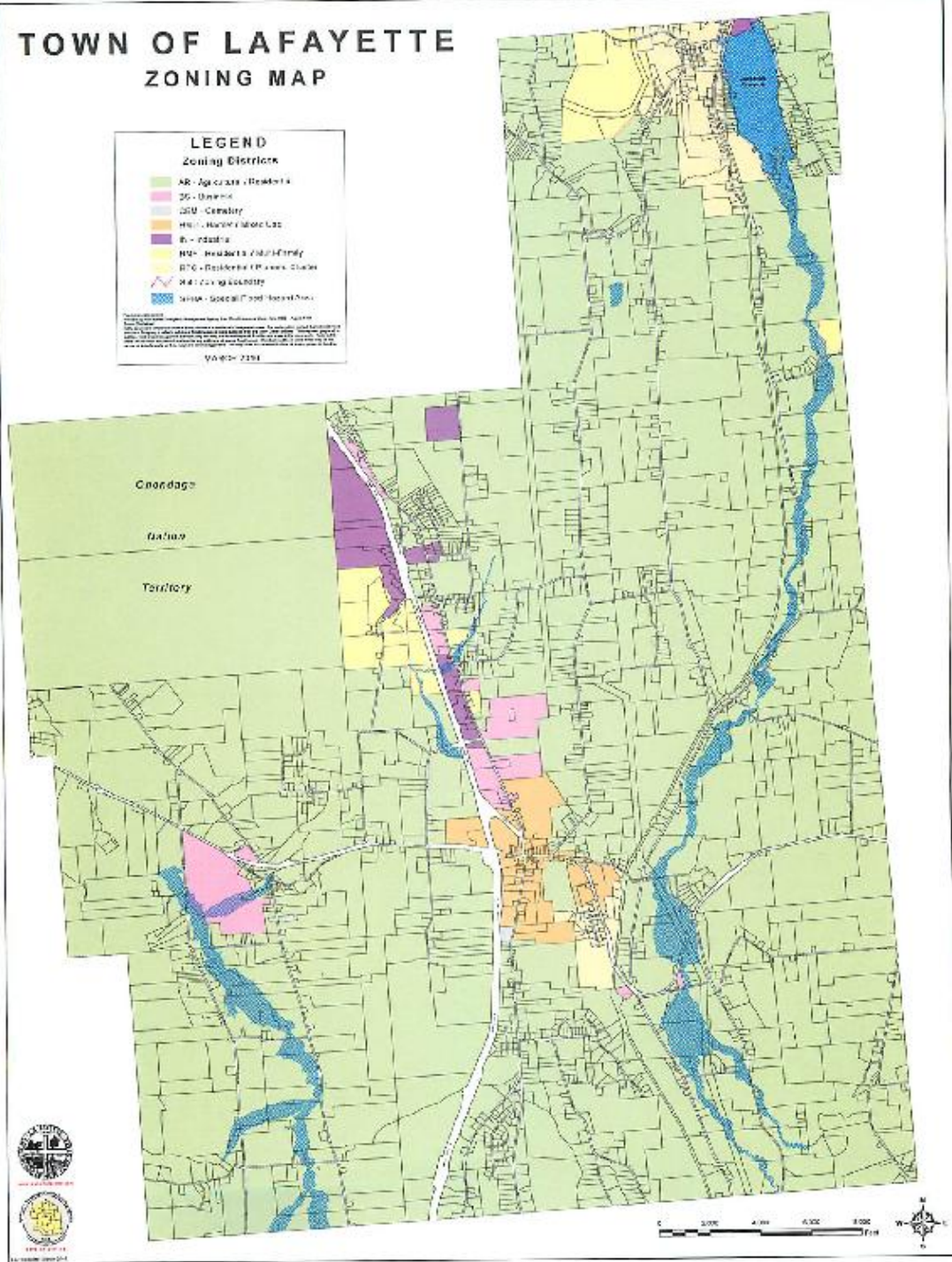
TOWN OF LAFAYETTE ZONING MAP

LEGEND
Zoning Districts

- AR - Agriculture / Row Crops
- OS - Open Space
- OD - Office
- HO - Heavy Industrial
- R - Residential
- MS - Medium Density Residential
- RTD - Residential (Rural) Single-Dwelling
- W - Waterways
- SP - Special Flood Hazard Area

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THE 1970 ZONING ORDINANCE

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Ordinance.

SECTION E. Amendments to Article II – “District Regulations” to 58
Provide a new title for said Article II of the Town of LaFayette Zoning
Ordinance and to add a new Article II, Section I.

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**1970 ZONING ORDINANCE OF THE
TOWN OF LAFAYETTE
ONONDAGA COUNTY, NEW YORK
(AS AMENDED)**

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York, the Town Board of the Town of LaFayette does hereby repeal any and all existing Ordinances and Amendments heretofore enacted by the Town Board of LaFayette pertaining specifically to zoning in the Town of LaFayette, Onondaga County, New York, and does hereby enact the following comprehensive Ordinance regulating the location and use of buildings, structures, and the lands for trade, commercial, residence, and farming and other purposes.

ARTICLE I – GENERAL

SECTION A. SHORT TITLE

This Ordinance shall be known as “The 1970 Zoning Ordinance of the Town of LaFayette”.

SECTION B. ESTABLISHMENT OF DISTRICTS

1. For the purpose of promoting the health, safety, morals and general welfare of the community, the Town of LaFayette is hereby divided into the following eight classes of Districts: (As amended 2/8/1999)

Agriculture-Residential (AR) District
Flood Plain (F) District
Residential Planned Cluster (RPC) District
Residential Multi-family (RM) District
Business (B) District
Industrial (I) District
Commercial Planned Development (CPD) District
Hamlet (H) District (As amended 2/8/1999)

SECTION C. ZONING MAP

1. The boundaries of the districts are established as shown on the map entitled “The 1970 Zoning Map of the Town of LaFayette” which is hereby made a part of this Ordinance.
2. The Town Clerk shall certify and maintain the Zoning Map on file in

her office, and any subsequent changes in district boundaries or other matter shown on such map shall be promptly made on the

Map with a notation thereon of such change, dated and signed by the Supervisor and attested by the Town Clerk.

SECTION D. INTERPRETATION OF DISTRICT BOUNDARIES

1. Uncertainty of the exact boundaries of districts as shown on the Zoning Map shall be resolved by the following rules:
 - (a) Boundaries shown as approximately following center lines of streets, plotted lot lines of subdivision or shore lines of streams, lakes and reservoirs, shall be deemed to follow such lines.
 - (b) Boundaries indicated as parallel to, or extensions of such street, to or shore lines shall be deemed parallel to or extensions of such lines;
 - I Distances not specifically set forth on the Zoning Map shall be determined by the scale of the Map.

SECTION E. LOTS IN TWO DISTRICTS

1. Should a district boundary line divide a lot, the uses and regulations of the less restricted portion of the lot may be extended into the more restricted portion, upon Specific Permit and approval of the Board of Appeals, provided the less restricted portion of the lot has frontage on a public street.

SECTION F. APPLICATION OF DISTRICT REGULATIONS

1. Except for non-conforming uses permitted under Article V, Section D, no structure or land shall hereafter be used or occupied, and no structure shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations for the district in which it is located.
2. No part of a yard, open space, parking space, loading space required for any structure or use under this Ordinance, shall be included as a part of a yard, open space, parking space or loading space required for another structure or use.
3. No yard, lot or parking space now existing shall be reduced in size below the minimum requirements of this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet its minimum requirements.
4. Within each district, the regulations established by this Ordinance

shall be minimum regulations and shall be applied uniformly to each class or kind of structure or land,

ARTICLE II. DISTRICT REGULATIONS

SECTION A. AGRICULTURAL-RESIDENTIAL (AR) DISTRICT

1. Only the following structures and uses shall be permitted in Agricultural-Residential (AR) Districts:
 - a) Farms and farming and their accessory uses, including, but not limited to, greenhouses and dog kennels, except that greenhouses and dog kennels and one or more accessory dwelling and/or mobile homes for either (1) hired farm hands unrelated to the owner of the property, or (2) persons related by blood or marriage to the owner of the property who do farm work on the property, shall require controlled site approval of the Planning Board in accordance with the standards and procedures of Article III; provided, however, that Controlled Site approval shall not be granted unless the hired farm hand(s) or other person(s) derive 50 percent or more of their total income from farm work on the property; (As amended 7/10/1995,7/26/1982)
 - b) Single family dwellings and their accessory uses except that accessory professional uses, home occupations, shall require Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III; (As amended July 9, 2001)
 - c) Upon Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III, schools, churches, and their related uses, libraries, parks, playgrounds, community centers, municipal buildings, and utility substations.
 - d) Upon Specific Permit approval of the Board of Appeals in accordance with the standards and procedures of Article IV, camps, storage trailers, private air strips, marinas, outdoor recreational uses, commercial animal crematorium (not for human remains), not exceeding 100 lbs per hour and 350 lb batch capacity". Taxidermy. In addition to the standards, criteria and requirements contained in Article IV, taxidermy uses shall meet the following special criteria and standards:
 - 1) Must be located on a parcel containing at least five (5) acres of contiguous land.

- 2) All taxidermy operations must be located within a fully enclosed structure.
- 3) Must have all required permits and licenses in place at all times and provide copies to the Town Clerk.
- 4) Must provide a detailed plan for storage of animal remains on a routine basis so as to minimize odors, vermin and other potential environmental impacts.
- 5) Must provide a written plan for waste disposal that is in accordance with all County, State and Federal laws.
- 6) Shall only be allowed as an accessory use and may not be a principal use of the subject premises. (As amended 5/10/10, 5/24/04, 7/10/1995, 4/25/1983, 7/26/1982)

“In addition to the standards, criteria and requirements contained in Article IV, commercial animal crematoriums shall meet the following special criteria and standards:

- 1) Must be located on a parcel containing at least thirty (30) acres of contiguous land.
 - 2) May not be located closer than 500 feet from the nearest residential property line.
 - 3) All incineration equipment must be located within a fully enclosed structure.
 - 4) No animal exceeding 350 lbs may be processed.
 - 5) Must have all required permits in place at all times and provide Copies to the Town Clerk.
 - 6) Due to inclusion in Agricultural-Residential use areas of the Town, operations are limited to between the hours of 7 a.m. and 11 p.m.
 - 7) Must provide a detailed plan for storage of animal remains on a routine basis and in case of system failure so as to minimize odors, vermin and other potential environmental impacts.
 - 8) Waste stream is limited to primarily animal carcasses and in no event shall include regulated medical waste, hazardous waste or any other waste stream controlled or regulated by the Federal or State government.
 - 9) Must provide a plan for ash and residue disposal that is in accordance with all County, State and Federal laws.
 - 10) Shall only be allowed as an accessory use and may not be a principal use of the subject premises. (Amended 5/24/2004).
- e) Upon Controlled Site Approval of the Planning Board in accordance with the standards and procedures of Article III, public stables, where such application shows the use of public stable will occur on not less than 20 contiguous acres

of land, provided that no building housing animals shall be within 200 feet of any lot line and no manure or dust or odor producing substances shall be stored within 200 feet of any lot line. The total number of horses, mules, and/or burros shall not exceed one (1) per two (2) acres of contiguous useable grazing land.

In addition to the requirements of Article III any application requesting the use of public stable shall include a survey-plan depicting:

- a. gradient and topography of land;
- b. location of wells and water supply both on applicant's land and on adjacent properties;
- c. location of structures (existing and proposed);
- d. proposed septic system;
- e. survey;
- f. manure management plan;
- g. proposed hours of operation;
- h. proposed parking;
- i. lighting;
- j. location of restrooms with appropriate County Health Department approvals;
- k. proposed fencing (including location and style);
- l. proposed signage;
- m. proposed storage of all trailers and vans;

The use of public stable shall not include horse shows or charged admission for spectating.

- f) Upon Controlled Site Approval of the Planning Board in accordance with the standards and procedures of Article III, private stables, provided that no building housing animals shall be within 200 feet of any lot line and no manure or dust or odor producing substances shall be stored within 200 feet of any lot line. The total number of horses, mules, and/or burros shall not exceed one (1) per two (2) acres of contiguous useable grazing land.

In addition to the requirements of Article III any application requesting the use of private stable shall include a survey-plan depicting:

- a. gradient and topography of land;
- b. location of wells and water supply both on applicant's and on adjacent properties;
- c. location of structures (existing and proposed);
- d. proposed septic system;
- e. survey;

- f. manure management plan;
 - g. lighting;
 - h. proposed fencing (including location and style);
 - i. proposed storage of all trailers and vans;
(As amended 7/9/2001).
- g) Private stables for the keeping of not more than two (2) horses, mules and/or burros, providing that such private stable is located on a good parcel containing not less than two (2) acres of contiguous useable grazing land also providing that any accumulation of manure at such site shall not exceed one (1) cubic yard from may 1 until October 31 during each year and providing further that no building housing animals and no accumulations of manure or any other dust or odor producing substances shall be located within seventy-five (75) feet of any lot line. (Amended April 26, 2004).
- h) Upon Controlled Site Approval of the Planning board in accordance with the standards and procedures of Articles III and X, Windmills. (Amended 2/23/2009).
2. All structures and uses in Agricultural-Residential (AR) Districts, shall meet the following minimum requirements:
- a) Lot Area: 60,000 sq. ft., provided said percolation satisfies County Health standards for water and waste disposal in the absence of public water and sewer utilities; (As amended 2/8/1999, 9/14/1987)
 - b) Lot Width: 125 ft. at the building line; (As amended 9/14/1987)
 - c) Front Yard Depth: 75 ft. from highway center line and 50 ft. from front property line;
 - d) Rear yard depth: 30 ft.;
 - e) Side yard width: 25 ft.;
 - f) Maximum lot coverage; 20 %;
 - g) Road frontage: 60 ft. (As amended 9/14/1987)

SECTION B. FLOOD PLAINS (F) DISTRICT

1. Only the following structures and uses shall be permitted in Flood Plain (F) Districts.

- a) Upon Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III, and the following additional standards, the structures and uses permitted in Agricultural Residential (AR) Districts subject to the same conditions as to Controlled Site or Specific Permit approval as required for such uses in such District.
 - 1) All structures and uses shall meet the minimum area, width and yard requirements for lots in Agricultural-Residential (AR) District;
 - 2) No structure or use shall contain any basement or cellar and the first floor level shall be at least two feet above the highest elevations of land within the Flood Plain District;
- 2. All "fill" used for structural support shall be highly compacted and adequately protected by riprap or other means against water erosion.

SECTION C. RESIDENTIAL PLANNED CLUSTER (RPC) DISTRICT

- 1. Only the following structures and uses shall be permitted in Residential Planned Cluster (RPC) Districts:
 - a) The structures and uses permitted in Agricultural-Residential (AR) Districts subject to the same conditions as to Controlled Site or Specific Permit approval as required for such uses in such District.
- 2. All structures and uses in Residential-Planned Cluster (RPC) Districts shall meet the use and minimum area, width and yard requirements for lots in Agricultural-Residential (AR) Districts, or shall be served by public water and sewage utilities and shall be elements of a development plan approved by the Planning Board in accordance with the standards and procedures of Article III and the following additional requirements.
 - a) Maximum Development Density: 20,000 sq. ft. per dwelling;
 - b) Dwelling units may be distributed uniformly on separate lots throughout the development or they may be clustered in detached buildings, architecturally designed, and laid out to furnish personal and separate occupancy of land and housing for indoor and outdoor privacy for each dwelling, traffic circulation, parking, common open space and recreational facilities, utilities, landscaping and other amenities deemed by the Planning Board to be adequate

and appropriate to a durable, healthy and pleasant residential environment, compatible with neighboring land uses and zoning;

- c) Ownership and responsibility for maintenance of each separate lot and dwelling unit and all common areas and private improvements in the development shall be assured by recorded covenants to run with the land for the benefits of the residents in and neighboring to the development. (As Amended 7/26/1982)
- d) The development must meet the requirements of the Town of LaFayette Subdivision Regulations and a Final Subdivision Plan showing all physical features of the development must be approved and filed as a prerequisite to the issuance of any Building Permit for dwellings in the development.

SECTION D. RESIDENTIAL MULTI-FAMILY (RM) DISTRICT

1. Only the following structures and uses shall be permitted in Residential Multifamily (RM) Districts.
 - a) The structures and uses permitted in Agricultural-Residential (AR) Districts subject to the same conditions as to Controlled Site or Specific Permit approval as required for such uses in such District;
 - b) Two-family dwellings and their accessory uses;
 - b) Upon Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III, multiple family dwellings and mobile home parks and their accessory uses;
2. Two-family dwellings and all structures and uses permitted in Agricultural-Residential (AR) Districts shall meet the minimum area, width and yard requirements for lots in Residential Planned Cluster (RPC) Districts. Multiple family dwellings projects and mobile home parks shall require Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III and the following additional minimum requirements:
 - a) Lot area: 5 acres;
 - b) Lot width: 300 ft;

- c) Front yard depth: 100 ft. from highway center line and 75 ft. from front property line;
- d) Rear yard depth: 40 ft.;
- e) Side yard width: 50 ft.;
- f) Maximum lot coverage 30%;
- g) Maximum lot density: 6,000 sq. ft. per dwelling unit;
- h) Distance between principal buildings or mobile homes shall be not less than the height of the taller building or 20 ft. No exterior building wall containing windows opening from dwelling quarters shall be closer to another facing wall than twice the height of the other wall;
- i) Common open space: An area equal to 1000 sq. ft. for each dwelling unit shall be developed and maintained as common open space for active and passive recreation in addition to space required for parking and driveways;
- j) Multiple family dwellings projects and mobile home parks shall be architecturally designed and laid out to furnish traffic circulation, parking, common open space and recreational facilities, utilities, landscaping, and other amenities deemed by the Planning Board to be adequate and appropriate to a durable, healthy, and pleasant multi-family or mobile home residential environment, compatible with neighboring land use and zoning;
- k) Ownership and responsibility for maintenance of multiple family dwelling projects and mobile home parks and all of their required private improvements shall be assured by recorded covenants to run with the land for the benefit of tenants and neighboring residents. (As Amended 7/26/1982)

SECTION E. BUSINESS (B) DISTRICTS

1. Only the following structures and uses shall be permitted in Business (B) Districts:
 - a) The structures and uses permitted in Agricultural-Residential (AR) Districts subject to same conditions as to Controlled Site or Specific Permit approval as required for such uses in such District;

- b) Upon Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III, the following structures and uses;
- 1) Two-family and multiple family dwellings;
 - 2.) Retail stores, shops, and personal service establishments;
 - 3) Shopping centers;
 - 4) Banks and offices;
 - 5) Restaurants and taverns;
 - 6) Motels, hotels, boarding houses, tourist homes, hospitals, nursing homes, and undertaking establishments.
 - 7) Theaters and recreation centers;
 - 8) Gasoline service stations and car wash establishments;
 - 9) Nurseries and greenhouses; (As amended 7/10/1995, 7/26/1982)
 - 10) Public garages. (Amended 4/25/1983)
 - 11) Dog Kennels. (As amended 7/10/1995)
- c) Upon Specific Permit approval of the Board of Appeals in accordance with the standards and procedures of Article IV, warehouses and businesses engaged in light manufacturing. (As amended 7/26/1982)
2. All residential structures and uses shall meet the minimum area, width and yard requirements for lots in Agricultural-Residential (AR) Districts except that where public water and sewer utilities are available the regulations for such requirements in Residential Planned Cluster (RPC) Districts may apply. Multiple family dwellings shall not exceed a lot density of 6,000 sq. ft. per dwelling unit, and shall be subject to such further conditions and requirements as may be imposed by the Planning Board pursuant to its Controlled Site approval in accordance with the standards and procedures of Article III. All business uses shall meet the minimum area, width and yard requirements for lots in Residential Planned Cluster (RPC) Districts and shall be subject to such further conditions and requirements as may be imposed by the Planning

Board pursuant to its Controlled Site approval in accordance with the standards and procedures of Article III or by the Board of Appeals pursuant to its Specific Permit approval in accordance with the standards and procedures of Article IV. (As amended 7/26/1982)

SECTION F. INDUSTRIAL DISTRICTS

1. Only the following structures and uses shall be permitted in Industrial (I) Districts:
 - (a) The structures and uses permitted in Business (B) Districts subject to the same conditions as to Controlled Site or Specific Permit approval as required for such uses in such District as provided for in subparagraph (d) of this Paragraph;
 - (b) Junk yards, upon first obtaining Specific Permit and approval of the Board of Appeals in accordance with the standards and procedures of Article IV, and if the Town Board decides to issue a junk yard license required under the provisions of the Junk Yard Ordinance of the Town of LaFayette;
 - I Lumber yards; and
 - (d) Upon controlled site approval of the Planning Board in accordance with the standards and procedures of Article III, warehouses and businesses engaged in light manufacturing. (As amended 7/26/1982)
 - (e) Upon controlled site approval, **Adult Uses** meeting the requirements of Article II, Section F, Subsection 3 below. (Amended 4/9/2001)
2. All structures and uses permitted in Business (B) Districts shall be subject to the regulations and requirements for such uses in such district. All other structures and uses shall meet the minimum area, (AR) District, shall comply with the following performance standards and shall be subject to such further conditions and requirements as may be imposed by the Board of Appeals in the case of Specific Permit approval, or by the Planning board in the case of Controlled Site approval. (As amended 7/26/1982)
 - (a) No structure or use shall be permitted which emits, or would have a tendency to emit, noise, vibration, radioactivity, glare, odor, gas, air, ground, or water pollution, fire or

explosion, at a level of intensity, duration and frequency as to unreasonably endanger the health, comfort or safety of any person or cause serious damage to neighboring property.

3. Restrictions on **Adult Uses**:

- a. No **adult use** shall be allowed or permitted in any zoning district of the Town, except an Industrial 1 District. All **adult uses** shall comply with all applicable provisions of the Zoning Ordinance including those relating to structures and uses permitted in an Industrial 1 District.
- b. No person shall construct, establish, operate, or maintain, or be issued a certificate of occupancy for, any **adult use** within the Town unless such use meets the following standards:
 1. No more than one **adult use** shall be allowed or permitted on any one lot.
 2. No **adult use** shall be allowed or permitted on a lot that is within 500 feet of: (a) any Residential District (AR, RPC, RM) or the Hamlet (H) District; (b) any property that is used, in whole or in part, for residential purposes; (c) any church or other regular place of worship, community center, library, school, nursery school, day-care center, public park, playground, recreational area or field; (d) any public buildings; and (e) any hotels or motels.
 3. Where there is a conflict between the regulations as provided in this Section (II)(F)(3) and any other ordinance, law, rule or regulation of the Town including without limitation to the Zoning Ordinance, the most restrictive law, ordinance, rule or regulation shall apply.
 4. All distances set forth herein shall be measured from the building or structure in which the adult use is located or any sign advertising same to lot line of the receptor use.
- c. No **adult use** shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening. (Amended 4/9/2001)

SECTION G. COMMERCIAL PLANNED DEVELOPMENT (CPD) DISTRICT

1. Only the structures and uses designated on the final development plan approved pursuant to the procedures and requirements of paragraph 3 of this Section shall be permitted in Commercial Planned Development (CPD) Districts.
2. The regulations for such structures and uses shall be as specified on the final development plan for the district approved pursuant to the procedures and requirements of paragraph 3 of this Section.
3. Application to create or modify a Commercial Planned Development (CPD) District shall be initiated by filing a written petition and preliminary development plan with the Town Board. Such application and plan shall disclose all property boundaries, existing structures and land use, adjoining and neighboring ownership, zoning and land use, proposed structures and land use, existing and proposed topography utilities, landscaping parking, curbing, signs and other physical features. The Town Board may deny the application or may refer it to the Planning Board for recommendation. If referred, the Planning Board shall promptly review the application for compliance with standards contained in paragraph 4 of this Section and may designate further conditions and regulations deemed necessary to permit a finding of compliance with such standards. The Planning Board may then recommend approval of the final development plan. Upon recommendation of the Planning Board and in accordance with procedures of Section 265 of the Town Law and other applicable laws, the Town Board may amend the Zoning Ordinance and Map to create or modify a Commercial Planned Development (CPD) District, the structures, uses and regulations for which shall be in strict accordance with the approved final development plan.
4. The Planning Board may approve a final development plan for a Commercial Planned Development (CPD) District upon findings that the plan:
 - a) Includes an area in excess of 5 acres;
 - b) Proposes an appropriate development of the area with respect to its natural features, location and suitability for the included structures and uses;
 - c) Proposes a combination of structures and uses in harmonious association and proportion with each other;
 - d) Proposes public utilities and highways adequate to service the included structures and uses;

- e) Proposes a development of the area harmonious with an appropriate development of neighboring areas and not unreasonably detrimental to existing structures and uses in such areas;
- f) Proposes an appropriate evolution of the comprehensive plan for the Town of LaFayette;
- g) Limits building coverage of the development are to less than 30%.

SECTION H. HAMLET (H) DISTRICT

1. Only the following structures and uses shall be permitted in the Hamlet (H) District to accommodate a range of uses traditionally found in rural hamlets, such as residential, community services and commercial, that are compatible in scale and character with a rural hamlet:
 - a) Single family dwellings and their accessory uses, except that accessory professional uses and home occupations shall require Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III;
 - b) Upon Controlled Site approval of the Planning board in accordance with the standards and procedures of Article III:
 - (1) Schools;
 - (2) Churches and places of worship, and their related uses;
 - (3) Public libraries;
 - (4) Parks;
 - (5) Community centers;
 - (6) Municipal buildings;
 - (7) Utility substations. (Amended 2/8/1999)
 - c) Upon Specific Permit approval of the Board of Appeals in accordance with the standards and procedures of Article IV:
 - (1) Two-family and multiple family dwellings, not to exceed four (4) units;

- (2) Retail stores, shops and personal service establishments;
 - (3) Banks;
 - (4) Business and professional offices;
 - (5) Restaurants and taverns serving customers only within doors;
 - (6) Boarding or nursing homes, "Bed and Breakfast" establishments;
 - (7) Funeral homes;
 - (8) Nurseries and greenhouses;
 - (9) Outdoor recreational facilities, e.g. softball fields and playgrounds. (Amended 2/8/1999)
- d) Upon Controlled Site Approval of the Planning Board in accordance with the standards and procedures of Articles III and X, Windmills. (Amended 2/23/2009)
2. All structures and uses in the Hamlet (H) District shall meet the minimum area, width and yard requirements for lots in Agricultural-Residential (AR) Districts. (As amended 2/8/1999)

ARTICLE III – CONTROLLED SITE USES

SECTION A. APPLICATION

- 1. Any structure and use designated in this Ordinance as a structure or use permitted in a particular district upon Controlled Site approval of the Planning Board, shall be regulated in such District by the standards and procedures of the Article.

SECTION B. PROCEDURE

- 1. Each application for a permit for any Controlled Site structure or use shall be made in writing to the Secretary of the Planning Board on the form(s) provided for such purpose and shall include a detailed site plan showing all property boundaries, adjoining and neighboring ownership and land use, existing and proposed structures, topography, utilities, landscaping, parking, curbing, signs and other physical features. (As amended

7/26/1982). The application fee for site plan consideration shall be determined and set from time to time by resolution of the Town Board. (As amended 6/13/2005).

2. The Planning Board shall review each application for Controlled Site approval at a Public Hearing to determine the compliance of the plans of the applicant with the requirements set forth in Section C of this Article. Notice of the application shall be given in accordance with the requirements of Article VI, Section E, by the Secretary of the Planning Board. Within sixty days after the Public Hearing, the Planning Board shall make its decision upon the application and shall deliver a written report to the Zoning Officer either denying the application, certifying that the plans submitted by the applicant comply with such requirements set forth in Section C of this Article, or specifying the changes and conditions which will result in compliance. During its consideration of the application, the Planning Board may accept amended plans in substitution for those originally filed. (As amended 7/26/1982)
3. Upon receipt of the Planning Board's report certifying compliance of the plans, or upon receipt of amended plans making the specified changes and meeting the specified conditions, the Zoning Officer shall issue a Permit for the purposed structure and/or use. (As amended 7/26/1982)
4. If the application is denied, the applicant may appeal to the Board of Appeals which shall determine the issues as to compliance with the requirements of Section C. The Appeal shall be taken and determined under the provision of Article VI, except that notice in accordance with Section E of Article VI shall also be given to the Planning Board whose representation may be heard as an interested party at the Hearing.

SECTION C. REQUIREMENTS AND REGULATIONS:

1. The Controlled Site structures and uses designated in this Ordinance shall conform to all the regulations of the districts in which they are located and to any particular regulations which apply to them under other provisions of this Ordinance. In addition, they shall be oriented in their location upon the site as to layout, coverage, screening, signs, means of access, landscaping and architecture so that:
 - a) The flow, control and safety of traffic shall not be adversely affected to an unreasonable degree;
 - b) There shall be reasonable compatibility on all respects with any structure or use in the neighborhood, actual or permitted, which may be directly and substantially affected.

- c) There shall not be any unreasonable detriment to any structure or use, actual or permitted in the neighborhood and
- d) There shall be reasonable provision for open space, yards and recreational areas appropriate to the structure and use.
- e) A Stormwater Pollution Prevention Plan ("SWPPP") consistent with the requirements of Local Law No. 5 of 2007 shall be required for Controlled Site Uses for all land development activities, as that term is defined in Local Law No. 5 of 2007. The SWPPP shall meet the performance and design criteria and standards in Local Law No. 5 of 2007. The approved Controlled Site Use shall be consistent with the provisions of Local Law No. 5 of 2007. (Adopted 9/24/2007)

ARTICLE IV. SPECIFIC PERMIT USES

SECTION A. APPLICATION

- 1. Any structure and use designated in this Ordinance as a structure or use permitted in a particular district upon Specific Permit approval of the Board of Appeals shall be regulated in such district by the standards of this Article and the procedures set forth in Article VI.

SECTION B. STANDARDS FOR SPECIFIC PERMIT APPROVAL

- 1. The Specific Permit structures uses designated in this Ordinance shall conform to all the regulations of the district in which they are located and to any particular regulations which apply to them under other provisions of the Ordinance. The Board of Appeals may impose as conditions to its Specific Permit approval such further regulations and safeguards as would permit the Board to find that the proposed structure and use is:
 - a) Appropriate for the particular lot and location;
 - b) Not unreasonably detrimental to neighboring properties, areas and districts;
 - c) Consistent with an orderly and appropriate development of neighboring properties, areas, and districts;

- d) Where adjoined by existing or permitted uses, a suitable transition between neighboring uses and or districts.
 - e) Oriented in the location and upon the site as required in Section C of Article III; and
 - f) An appropriate evolution of the comprehensive plan for the Town of LaFayette.
 - g) A Stormwater Pollution Prevention Plan (“SWPPP”) consistent with the requirements of Local Law No. 5 of 2007 shall be required for Specific Use Permits for all land development activities, as that term is defined in Local Law No. 5 of 2007. The SWPPP shall meet the performance and design criteria and standards in Local Law No. 5 of 2007. The approved Specific Use Permit shall be consistent with the provisions of Local Law No. 5 of 2007.
(Amended 9/24/2007)
2. An application for Board of Appeals approved under this Article shall be immediately referred by the Secretary of the Board of Appeals to the Planning Board which may submit such report and recommendations as it deems proper for the consideration of the Board of Appeals in its determination of the findings specified in paragraph 1 of this Section B. (Amended 7/26/1982)

The Board of Appeals shall not take final action upon the application until receiving such report and recommendation and thirty days have passed since such references.

ARTICLE V. PARKING, SIGNS, AND SUPPLEMENTAL REGULATIONS

SECTION A. PARKING

1. The following parking spaces shall be provided and maintained on the same lot for each structure hereafter erected, enlarged or altered for any of the following uses:

<u>Uses</u>	<u>No. of Parking Spaces</u>
Residential	Two for each dwelling unit
Church, auditoriums, stadiums,	One for each six seating at

theaters, and other places of public assembly.	maximum capacity
Motel, hotel, tourist home, and boarding house	One for each guest
Restaurant	One for each one hundred square feet of gross floor area
Office	One for each three hundred square feet of gross floor area
Store	One for each one hundred square feet of gross floor area
Institution, hospital, and nursing home	One for each 3 beds
Industrial or manufacturing	One for each four hundred square feet of manufacturing gross floor area
Warehouse	One for each employee
Bowling Alley	Eight for each alley
Other commercial enterprise	One for each three hundred square feet of gross floor area

2. The Board of Appeals may approve by Specific Permit in accordance with the standards and procedures of Article IV, the off-site location of all or part of the above spaces upon finding that such spaces are unavailable on the same lot, but are permanent, off-street, accessible, and within five hundred feet of the structure they serve.

SECTION B. SIGNS

1. General regulations: The following regulations shall apply to all signs:
 - a) No signs in any district unless attached to a building shall be located nearer to any street or road than the minimum building setback line, nor nearer to an adjacent property than the minimum side yard requirement.

- b) No sign attached to a building shall project above the height of the wall upon which it is attached. No sign shall be placed upon the roof of a building. No free standing sign shall be higher than (25) feet twenty-five above grade.
 - c) No illuminated sign shall interfere with the vision of persons on the highway, nor be unreasonably detrimental to adjoining a neighboring uses.
 - d) No sign shall be flashing, revolving, animated or otherwise in motion. All accessory advertising devices, other than signs permitted by this Ordinance, are prohibited.
 - e) An application for Specific Permit approval must be made to the Board of Appeals for all signs in excess of thirty-two (32) square feet which shall be regarded as structures within the meaning of this Ordinance, provided, however, that the application need not be referred to the Planning Board under the provisions of Article IV, Section B, paragraph 2 of this Ordinance. No structural element of non-conforming sign may be changed unless in conformity with the regulations of this Ordinance. (As amended 7/26/1982)
2. In residential districts; no sign shall be erected or used except:
- a) A single sign may be illuminated by white lights in one or two faces for the identification of the principal buildings and uses on the premises, or for the sale of agricultural products grown on premises. Such signs shall not exceed ten (10) square feet in area. (As amended 7/26/1982)
 - b) Governmental, traffic, legal and public signs, and flags, plaques and emblems of political, civic, philanthropic, educational or religious organizations or institutions.
 - c) Temporary real estate and construction signs.
3. In the Hamlet, Business and Industrial Districts, no signs shall be erected or used except:
- a) Signs permitted in residential districts;
 - b) Not more than two advertising signs which may be illuminated on one or two faces for the identification of the business or industry on the premises. Such signs may be free standing and shall have a total area not greater than twelve (12) percent of the street facade of the principal building. (Amended 2/8/1999)

SECTION C. HEIGHT LIMITATIONS

1. Except for flag poles, utility poles and towers, church spires, bell or clock towers, chimney flues, elevator bulkheads, communication antenna, support structures less than fifty feet high, or farm structures, no building or structure in the Town of LaFayette shall exceed the height of thirty-five feet except upon Controlled Site approval of the Planning Board in accordance with the standards and procedures of Article III.

SECTION D. NONCONFORMING LOTS, STRUCTURES AND USES

1. Within the districts established by this Ordinance, there exist lots, structures, and uses of land which were lawful before this Ordinance was originally passed or amended but which would be prohibited, regulated or restricted under the terms of this Ordinance or further amendment. It is the intent of this section to permit these nonconformities to continue until they are removed or abandoned; but not to encourage their survival. It is further the intent of the Town that nonconforming uses shall not be enlarged upon, expanded, extended nor that they be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
2. Except as otherwise provided herein, legal nonconforming uses and structures may continue to exist and may be maintained and repaired. A nonconforming structure that is declared unsafe by a proper official of the Town, may be strengthened or restored to a safe condition.
3. Nonconforming uses are hereby declared to be incompatible with permitted uses in the districts involved. A nonconforming use may be expanded into any portion of a building that existed as of the date of provision of this Zoning Ordinance, which would otherwise prohibit such use. In all other cases, a nonconforming use of a structure or land shall not be extended or enlarged nor shall the existence of a legal nonconforming use serve as grounds for adding structures or uses otherwise prohibited in the same zoning district.
4. A nonconforming structure or building may not be extended or enlarged unless the owner thereof shall first apply to the Zoning Board of Appeals and receive a Specific Use Permit authorizing such extension or enlargement. In granting such a Permit, the Board of Appeals must find that such proposed extension or enlargement will not be detrimental to the neighborhood.
5. A nonconforming lot shall not be further reduced in size.

6. No nonconforming use, or part thereof, if wholly or partially changed to a conforming use shall thereafter be changed back to a nonconforming use.
7. In any district, whenever a nonconforming use of land or structure on any part or portion thereof has been discontinued for a period of one (1) year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Ordinance as it may be amended. Such discontinuance of the active and continuous operation of such nonconforming use or part or portion thereof for such period of one (1) year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operation. If abandonment in fact is physically demonstrated by the removal of buildings, structures, machinery, equipment and other evidence of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to reestablish or continue such nonconforming use shall thereupon terminate, regardless of the period of time.
8. Nonconforming structures or buildings or any structure or building containing a nonconforming use may be repaired and/or restored to their former condition after damage by casualty loss or deterioration due to the elements. Such repair and/or restoration must be completed within one (1) year of the date the damage was sustained. Failure to do so shall be considered an abandonment pursuant to the foregoing paragraph (7). This period may be extended for up to one (1) additional year upon application to the Town Zoning Board of Appeals for good cause shown.(Amended 3 /8/04)

SECTION E. AREA AND WIDTH EXCEPTIONS

1. A lot which lacks the minimum required width area for the district in which it is located may be used for any permitted use in such district provided that on the effective date of this Ordinance its owner owned neither adjoining lot, or such lot was delineated on a sub-division plan approved by the Planning Board subsequent to January 1, 1960. This paragraph applies only to the lot area and width requirements of this Ordinance and is not intended to excuse compliance with any of the other requirements of this Ordinance.
(Amended 4/24/1983)

SECTION F. BUILDING LINE EXCEPTION

1. Where a front building line has been established by two or more existing principal buildings within two hundred feet of both sides of a lot, the minimum front yard depth of the lot shall be either the

2. required front yard depth of the nearest building district or the average front yard depth of the nearest building on each side, but not less than twenty feet.

SECTION G. CORNER LOTS

1. Each corner lot yard which abuts a street shall have a minimum depth equal to the lesser of the existing or permitted front yard depth of the lot it adjoins and shall be unoccupied except for fences and landscaping which shall not be higher than three feet within fifty feet of the intersection. Each other yard of a corner lot shall have a minimum width equal to the lesser of the existing or permitted depth of the side yard which it adjoins and shall be unoccupied adjacent to the boundary of the adjoining yard to such minimum width except for fences and landscaping.

SECTION H. EXCAVATION AND TOP SOIL REMOVAL

1. Except upon Specific Permit of the Board of Appeals in accordance with the standards and procedures of Article IV, no person shall strip, excavate or remove the top soil or fill for sale or for use other than on the premises from which the same shall be taken, and no excavation shall result in a slope of more than one foot vertical or two feet horizontal, unless through proper use of retaining walls and fencing, equivalent safety to person and property can be obtained, and no such excavation shall be permitted to cause erosion gullies and soil loss.

SECTION I. ROADSIDE STANDS

1. No roadside stand, structure, signs or parking space for the accessory sale of farm produce grown on the premises shall be located within the boundaries of any street or highway right of way. Off street parking shall be furnished to adequately accommodate such use.

SECTION J. STORMWATER POLLUTION PREVENTION PLAN.

A Stormwater Pollution Prevention Plan ("SWPPP") consistent with the requirements of Local Law No. 5 of 2007 shall be required for all land development activities, as that term is defined in Local Law No. 5 of 2007. The SWPPP shall meet the performance and design criteria and standards in Local Law No. 5 of 2007. (Adopted 9/24/2007)

ARTICLE VI. BOARD OF APPEALS

SECTION A. ORGANIZATION

1. The Board of Appeals shall consist of the members, all residents of the Town of LaFayette to be appointed by the Town Board for terms of five years, in staggered terms. One member shall be designated by the Town Board to serve as Chairperson. If a vacancy shall occur, the Town Board shall appoint a successor who shall serve for the unexpired portion of the term of his/her predecessor.
2. The Town Board may appoint an 'alternate' member to the Board of Appeals. Such Alternate member, if appointed, would serve when a Regular member of the board of Appeals is absent or unable to participate on an application or matter before the Board of Appeals. Such alternate member of the Board of Appeals shall be appointed for a term of one (1) year. In the event that a regular member of the Board of Appeals is absent or unable to participate on an application or matter before the board of Appeals, the Chairperson of the Board of Appeals may designate a duly appointed alternate member to substitute for a regular member of the Board. When so designated the alternate member shall possess all of the powers and responsibilities of a regular member of the Board. Such designation shall be entered into the minutes of the Board of Appeals meeting at which the substitution is made. All provisions of State Law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of a Local Law, rule, regulation or policy relating to training, continuing education, compensation and attendance, shall apply to any alternate member of the Board of Appeals appointed pursuant to this Section. (Amended 2/10/2003).

SECTION B. POWERS AND DUTIES

1. The Board of Appeals shall have all the duties and powers conferred upon it by law and this Ordinance, including the duties and powers:
 - a) To hear and decide appeals from and review any order, requirement, decisions, or determination made by the Zoning Officer and to reverse or affirm, wholly or partly, or modify such order, requirement, decision, or determination, making such order, requirement, decision or determination as ought to be made under the law and this Ordinance.
 - b) Upon such appeals where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, to vary or modify the application of any of the regulations or provisions of this Ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of this

Ordinance shall be observed, public safety and welfare secured and substantial justice done.

- c) To approve and grant permits for specific structures, conditions, and/or uses whenever approved by the Board of Appeals is required by this Ordinance, upon the findings set forth in Article IV of this Ordinance or upon other specific findings required to be made under other provisions of this Ordinance. (As amended 7/26/1982)
3. The Board of Appeals may adopt rules and regulations with respect to procedure before it, may hire such staff and professional assistance as may be deemed necessary to properly perform its duties and functions.

SECTION C. THE LIMITATION ON APPLICATION FOR PERMIT OR VARIANCE

1. Application to the Zoning Officer for any Building Permit or Certificate of Occupancy, authorized by resolution of the Board of Appeals or Planning Board under which a variance, Specific Permit or Controlled Site approval has been granted, shall be made within ninety (90) days from the date the resolution is filed with the Town Clerk, unless otherwise expressly provided by the resolution. (As amended 7/26/1982)

SECTION D. PROCEDURE

1. The Board of Appeals shall comply with the requirements of the law and this Ordinance as the hearings, notice and procedure. Each appeal or application made to the Board shall be in writing to the Secretary of the Board of Appeals on the form(s) provided for such purpose and shall refer to the specific provision of this Ordinance which is involved, setting forth exactly the interpretation that is claimed, the use for which the Variance or Specific Permit is sought, the details of the Variance or Specific Permit that is applied for, and the grounds upon which the application is based. (As amended 7/26/1982) The application fee for interpretation, Specific Permit and variance shall be determined and set from time to time by resolution of the Town Board. (As amended 6/13/2005).
2. Every decision of the Board of Appeals shall be by resolution, which shall set forth the findings of the Board in the particular case. Each such resolution, together with all documents pertaining thereto, shall be filed in the office of the Town Clerk under one of the following headings "Interpretations", "Variance", "Permits". The Board of Appeals shall notify the Zoning Officer of each permit and

each Variance granted and of each interpretation made under the provision of the Ordinance.

SECTION E. NOTICE

1. In addition to the notice required by statute, the Secretary of the Board of Appeals shall give notice of any application made under the provisions of this Article by mailing, at least five days prior to the Hearing upon such application, written notice of the substance of the application and the date, time and place of the Hearing to all the owners of land which immediately adjoins the premises and to all the owners of land within a distance of three hundred feet, exclusive of street right-of-ways, of the exterior boundaries of the said premises, as the names and addresses of said owners appear in the latest completed assessment roll of the Town. (As amended 7/26/1982) Failure to comply with this section shall not invalidate any action taken by the Board of Appeals.
2. The notice shall state that if neither the applicant nor any representative of the applicant will be able to appear at the specified time, the hearing upon the application will be postponed. The applicant shall notify the Board of Appeals or the Planning Board, as the case may be, at least forty-eight hours in advance of the applicant's inability to appear. If such notification is not given, the application will be deemed denied and the applicant will be required to submit a new application. (As amended 7/26/1982)

ARTICLE VII – ADMINISTRATION

SECTION A. ZONING OFFICER

1. This Ordinance shall be enforced by the Zoning Officer of the Town of LaFayette, who shall be appointed by and serve at the pleasure of the Town Board.
2. The Zoning Officer shall have the following duties and responsibilities:
 - (a) To make a record of all non-conforming uses and structures at the time of the adoption of this Ordinance, or at the time of the adoption of any amendment to this Ordinance; (As amended 7/26/1982)
 - (b) To review all applications for Building Permits and Certifications of Occupancy, to approve such applications only upon compliance with all provisions and requirements of this Ordinance, and to otherwise reject such applications in writing with a statement of the reasons for such rejection;

- c) To investigate complaints and make inspections and upon becoming aware of any apparent violation of the provisions of this Ordinance, to serve notice thereof upon the violator and/or the record owner of the premises upon which the violation occurs, such notice of violation to be served personally or by registered or certified mail, and if the violation has not ceased within the specified reasonable time and a new Certificate of Occupancy issued, to institute such further action as may be necessary to terminate the violation; (Amended 4/25/1983)
- d) To maintain complete records of all Permits and Certificates of Occupancy issued or withheld, violations noted and the status of their correction, and to submit monthly reports of such matters to the Supervisor and the Chairmen of the Planning and the Board of Appeals;
- e) To periodically review properties for which a Variance, Specific Permit or Controlled Site approval has been granted, either annually or at such other interval as may be specified in the resolution granting the Variance, Specific Permit or Controlled Site approval, in order to determine whether there has been compliance with the terms and conditions of the resolution; (As amended 7/26/1982)
- f) To issue appearance tickets to the extent authorized by state and local law. Appearance tickets shall in all cases be served by personal service upon the violator and/or the record owner of the premises upon which the violation occurs. (Amended 4/25/1983)

SECTION B. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

1. No structure shall be erected or altered unless a Building Permit has been issued for it, and no Building Permit shall be issued, except upon written order of the Board of Appeals, for any construction, alteration, or use in violation of any provision of this Ordinance.
2. No structure hereafter erected or altered shall be used and no land shall be hereafter used or changed in use, except upon written order of the Board of Appeals, without a Certificate of Occupancy certifying compliance of such construction, alteration, or use with the provisions of this Ordinance.
3. Attention is directed to the application of other statutes, ordinances and regulations in addition to this Ordinance affecting

land use in the Town of LaFayette, compliance with which may be prerequisite to the issuance of a Building Permit or Certificate of Occupancy, including but not limited to the control and regulation of land subdivision, use of access to highways, water supply, sewage disposal, drainage, air, water and ground pollution junk accumulation, and building construction.

4. Application for Building Permits and Certificates of Occupancy shall be made upon such forms and shall include such plans, information and certificates, including a certified survey by a licensed land surveyor, as shall be prescribed by Zoning Officer to determine compliance of the proposed construction, alteration or use with the provisions of this Ordinance.
5. Any Building Permit not exercised within one year from its issuance shall become null and void.
6. Building Permits and Certificate of Occupancy shall not be required for construction or alteration of customary accessory farm structures, appurtenant or necessary to an existing farm operation, not used for dwelling purposes and having a value of less than \$5,000.00, provided that such accessory structures comply with the provisions of this Ordinance and other requirements of law applicable thereto. (As Amended)
7. Building Permits for in-ground swimming pools shall require as a condition of the Permit that fencing be placed around all sides of the pool adequate in size and design to control access to the pool. Such fencing also shall be required at the entrances to all rampways leading to above-ground swimming pools. (As amended 7/26/1982)

SECTION C. VIOLATIONS AND PENALTIES

1. A violation of this Ordinance shall be an offense punishable by a fine not to exceed \$250.00, or by imprisonment for a period not to exceed 10 days, or both. (As amended 7/26/1982) Each week's continued violation shall constitute a separate, additional violation. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this Ordinance.

SECTION D. RELATION TO OTHER LAWS

1. In their interpretation and application the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety and general welfare.

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, statutes, or ordinances, the most restrictive thereof, or those imposing the higher standards, shall govern.

SECTION E. AMENDMENTS

1. The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this Ordinance in accordance with the applicable provisions of law.

SECTION F. REPEAL OF PRIOR ORDINANCE

1. The Zoning Ordinance of the Town of LaFayette 1958, and all the amendments thereto shall be, and hereby are, repealed on and as of the date of this Ordinance takes effect.
2. The adoption of this Ordinance shall not affect or impair any permit granted, and act done, offense committed, or right accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time this Ordinance takes effect, under any prior Zoning Ordinance of the Town of LaFayette; but the same may be enjoyed, ascertained, enforced, prosecuted, or inflicted as fully, and to the same extent, as of this Ordinance had not been adopted; and all actions and proceedings commenced under or by virtue of such prior Ordinance and pending at the time of this Ordinance takes effect, may be prosecuted and defended to final effect, in the same manner as they might have been if this Ordinance had not been adopted.

SECTION G. SAVING CLAUSE

1. The invalidity of any section or provision of this Ordinance shall not invalidate any other section, provision, or part of it.

SECTION H. EFFECTIVE DATE

1. This Ordinance shall take effect in accordance with the provisions of Section 264 of the Town Law.

ARTICLE VIII. DEFINITION

SECTION A. RULES OF INTERPRETATION

1. Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in

the present tense include the future tense; the singular includes the plural; the word “lot” includes the word “plot” or “parcel”; the word “shall” is intended to be mandatory; the words “occupied” or “used” as applied to any land or structure shall be construed to include the words “intended”, “arranged or designed to be used or occupied”; the word “person” includes a corporation as well as an individual.

SECTION B. PARTICULAR DEFINITION

1. The following words and terms as used in this Ordinance as defined as follows:

ACCESSORY BUILDING OR USE: A building or use customarily incidental and subordinate to the principal use or building and located in the same lot with such principal use or building.

ADULT ARCADE – an establishment where, for any form of consideration, one or more still or motion picture projectors, slides projectors, or similar machines, or other image producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities. (Amended 4/9/2001)

ADULT BOOKSTORE OR VIDEO STORE – A business which (i) derives twenty-five percent (25%) or more of its gross income from the sale, or rental of, or (ii) utilizes twenty-five percent (25%) or more of its retail selling area for, or (iii) has stock comprised of twenty-five percent (25%) or more of, any of the following: Books, magazines, periodicals, films, motion pictures, video cassettes, DVDs, slides, compact discs and/or computer generation or their visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. (Amended 4/9/2001)

ADULT CABARET – A nightclub, bar, restaurant, bottle club, juice bar, club or similar commercial establishment, whether or not alcoholic beverages are served, which features:

- A. Persons who appear nude or in a state of nudity or semi-nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical activities or by specified sexual activities;

- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities. (Amended 4/9/2001)

ADULT LIVE ENTERTAINMENT – A business where an adult male or female exposes parts of their body identified in specified anatomical activities. (Amended 4/9/2001)

ADULT MOTEL – A hotel, motel or similar business which:

- A. Offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical activities and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television or;
- B. Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- C. Allows a tenant or occupant to sub-rent the sleeping room for a period of time less than ten (10) hours. (Amended 4/9/2001)

ADULT MOTION PICTURE THEATER – An enclosed or unenclosed building or structure or portion of a building or structure or driver-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities for observations by patrons therein. (Amended 4/9/2001)

ADULT NOVELTY STORE – A business which (i) derives a twenty-five (25%) or more of its gross income from the sale, or rental of, or (ii) utilizes twenty-five percent (25%) or more of its retail selling area for (iii) has stock comprised of twenty-five percent (25%) or more of, any of the following: instruments, devices, or paraphernalia which are designed

for use or marketed primarily for stimulation of human genital organs or for sadomachistic use or abuse of themselves or others. (Amended 4/9/2001)

ADULT USE: Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting describing or relating to specified sexual activities or specified anatomical activities, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motels, adult motion picture theaters, adult novelty stores, and massage establishments. (Amended 4/9/2001)

Specified anatomical activities include any of the following:

- A) Less than the completely and opaquely covered human genitals, pubic region, pubic hair or buttocks or female breast or breasts below a point immediately above the top of the areola.
- B) Human male genitals in a discernible turgid state even if completely and opaquely covered. (Amended 4/9/2001)

Specified sexual activities include any of the following:

- A) Human genitals in a state of sexual stimulation or arousal.
- B) Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.
- C) Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- D) Excretory functions as part of or in connection with any of the activities set forth in subdivisions A through C of this subsection. (Amended 4/9/2001)

ALTERATION: A rearrangement, enlargement or relocation of a building or structure involving a change in the structural parts or exits.

BUILDING: Any structure covered by a roof supported by columns or walls and intended for shelter, housing, or enclosure of persons, animals or chattels.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof,
BUSINESS – Any commercial enterprise, establishment, association or arrangement for profit. (As amended 4/9/2001)

COMMUNITY CENTER: A building or structure for community use.

COURT: An unoccupied open space other than a yard, created by two or more buildings or wings.

DISSEMINATION – The transfer of possession, custody, control or ownership of or the exhibition of presentation of any performance to a person, customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities. (As amended 4/9/2001)

DOG KENNEL: The harboring of dog(s) for commercial purposes, including but not limited to the breeding of dogs for sale and the boarding of dogs for a fee. (As amended 7/10/1995, 7/26/1982)

DWELLING: Building used exclusively as living quarters for one or more families not including casual or temporary shelters such as tents, trailers, or other shelters designed to be readily removable from premises.

DWELLING, SINGLE FAMILY: A detached dwelling designed for and occupied exclusively by one (1) family.

DWELLING, TWO-FAMILY: A building designed for and occupied exclusively by two (2) families living independently of each other.

DWELLING, MULTIPLE: Three or more attached dwelling units for three (3) or more families, living independently of each other, including apartment houses, apartment hotels, condominiums, flats, town houses and row houses.

FAMILY: One (1) or more persons occupying the premises and living as a single house-keeping unit, as distinguished

from a group occupying a boarding house, lodging house, club, fraternity or hotel

FARM: A parcel of land in excess of 40 acres devoted to agricultural use, exclusive of industrial-agricultural enterprises.

GARAGE, PRIVATE: An enclosed area for the storage of one or more motor vehicles within which no business activity or industry is conducted other than the rental space for not more than two vehicles.

GARAGE, PUBLIC: Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, sale, greasing, washing, servicing, adjusting, or equipping of motor vehicles.

GASOLINE SERVICE STATION: A building or premises used for the retail sale of fuel for motor vehicles, including facilities for greasing, cleaning, minor repairing and servicing and motor vehicles.

GREENHOUSE: A building designed and occupied for the commercial cultivation and/or production of plants, vegetables or similar agricultural products. (As amended 7/10/1995)

HOME OCCUPATION: An occupation or profession which:

- a) Is conducted wholly within a dwelling;
- b) Is carried on by a member(s) of the family residing in the dwelling and no more than two additional outside employees.
- c) Is clearly incidental and secondary to the use of the dwelling for residential purposes, and which conforms to the following additional conditions:
 - (1) Does not require additional construction.
 - (2) Does not utilize more than 50% of the ground floor.
 - (3) Studios for instruction in vocal or instrumental music or dancing shall be equipped and used so that sounds therefrom shall not be heard on nearby premises.

- (4) There shall be no exterior display or display in windows or through windows of any activities or attributes of home occupation visible from outside, no exterior sign except a small announcement or professional sign, no exterior storage of materials and no exterior or interior indication of the home occupation or variation from the residential character of the principal building.
 - (5) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced in excess of the intensity of such noise, vibration, smoke, odors, heat or glare commonly created by purely residential occupancy.
- d) A home occupation shall include, but is not limited to art studio; dressmaking; professional office of a physician, dentist, lawyer, engineer, architect, or accountant; beauty parlor/barber shop/hair styling by appointment only; or musical instruction limited to a single pupil at a time. A home occupation shall not be interpreted to include barber shop, commercial stable or kennel, automobile or recreation vehicle repair, or restaurant.
- e) All home occupations are subject to Controlled Site approval as set forth in article III of this Ordinance conducted within a dwelling by a resident of the dwelling incidental and secondary to the use of the dwelling for residential purposes, with no more than two paid employees or assistants. (As amended 6/24/1996)
- f) Notwithstanding the foregoing, Home Occupations which meet all of the following criteria shall not be subject to Controlled Site approval:
- (1) No employees other than the homeowner and relatives residing in the dwelling;
 - (2) No customers, pickups, or deliveries for the business at the residence;
 - (3) No signage or outside displays of Merchandise product or commodity;
 - (4) No more than 10% of the total floor area of the dwelling is used for such home occupation;

- (5) No merchandise, product or commodity is sold on the premises;
- (6) No modification to premises for such home occupation;
- (7) No outside storage of anything connected to the home occupation;
- (8) No impact on neighbors;
- (9) No advertising disclosing physical location of the home occupation; and
- (10) No increased traffic caused by the home occupation. (Amended 8/11/08)

JUNK: An accumulation of old, wrecked or worn out materials and products, either discarded or for salvage or fill resale. (As amended 9/14/1987, 9/13/1982)

1, JUNKED MOTOR VEHICLE: Any dismantled, wrecked, scrapped or abandoned motor vehicle. (Amended 9/13/1982)

JUNK YARD: An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, junked motor vehicles.

LOT: A single parcel of land, occupied or to be occupied by one or more uses or buildings, united by a common interest, containing such area, width and open space as required by this Ordinance for a lot in the district in which the parcel is situated, and having sufficient public access as required by law.

LOT COVERAGE: That percentage of total lot area covered by all structures, including accessory structures but excluding driveways, parking spaces and landscaping.

LOT WIDTH: The mean width of a lot measured at right angles to its depth.

MARINA: Premises where boats are leased, stored or services, including facilities for food, supplies and accessories associated with such use.

MASSAGE – A method of treating the external part of the human body by rubbing, stroking, kneading or vibrating with the hand or any instrument or any other treatment or manipulation of the human body which occurs as part of or in connection with specified sexual activities or where any person providing such treatment, manipulation or service related thereto, exposes his or her specified anatomical areas. (Amended 4/9/2001)

MASSAGE ESTABLISHMENT – Any business where body rubs, body shampoos, massages (as defined above) or similar services are administered. This definition shall not include persons licensed or authorized pursuant to Article 155 of the Education Law, or specifically exempt from Article 155 of the Education Law See, Education Law Sections 7800 et seq.) (Amended 4/9/2001)

MOBILE HOME: A portable vehicle or structure consisting of one or more sections constructed off the premises and transported to the premises on its own wheels (or the wheels of another vehicle) that is used, designed or intended to be used, or capable of being used as permanent living quarters either in whole or in part which contain sleeping accommodations, kitchen facilities, flush toilet, tub or shower, and/or sewage, plumbing or electrical connections or attachment to outside systems, whether empty or actually occupied, and whether used in whole or in part for another purpose(s) besides living or sleeping purposes. A mobile home includes a so-called “double wide” mobile home. The term “mobile home” excludes recreational vehicles and trailers which are normally towed by registered passenger vehicles or move under their own power and which are not used for permanent living quarters. The term “mobile home” also excludes pre-fabricated homes commonly known as modular homes, and storage trailers as defined in Article VIII, Section B(l) (ii) of this Ordinance. A mobile home shall not be deemed a dwelling as defined in Article VIII, Section B (l) (h) of this Ordinance. (As amended 9/14/1987, 4/25/1983)

MOBILE HOME PARK: Any lot on which two or more mobile homes are located.

MODULAR HOME: A factory manufactured home fabricated in a manufacturing facility in accordance with the requirements of the New York State Uniform Fire Prevention & Building Code which is transported to a permanent building site and which bears an insignia of approval issued by the State Fire Prevention & Building

Code Council. (As amended 9/14/1987)

MOTEL: A building or group of buildings providing rental sleeping rooms and which may also include dining rooms, kitchens, serving rooms, ballrooms, and other facilities, and services intended primarily for the accommodation of the personal needs of the motoring public.

NONCONFORMING STRUCTURE OR LOT: A structure or lot that does not conform to a dimensional regulation prescribed by this ordinance for the district in which it is located or to regulations for signs, off-street parking, loading or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.”(Amended 3/8/04)

NONCONFORMING USE: A use of a building or lot that does not conform to use regulations prescribed by this Ordinance for the district in which it is located , but which was in existence at the effective date of this Ordinance and was lawful at the time it was established. (Amended 3/8/04).

NURSERY: Land and/or building improved and occupied for the commercial raising, storage and/or retail sale of ornamental plants, household garden supplies and equipment. (As amended 7/10/1995)

NURSING HOME: Any establishment where persons are housed or lodged and furnished with meals and nursing care for hire.

PERSON – Any individual, firm, partnership, corporation, association, limited liability company, business entity or legal representative, acting individually or jointly. (Amended 4/9/2001)

SHOPPING CENTER: A lot or plot used for two or more retail business units, attached, detached or unattached.

STABLES:

- (1) Private: buildings and land on which one or more horses, mules or burros belonging to the owner of said building and land or his (her) immediate family or the resident/tenant of the building or his/her immediate family, are kept; access to the private stables is limited to his/her immediate family and nonpaying guests. (Amended 7/9/2001, 2/8/1999)

- (2) Public: a commercial operation consisting of building(s) and land within which one (1) or more horses, mules or burros are kept for sale, rent, riding or boarding purposes. (Amended 7/9/2001).

STORAGE TRAILER: A portable vehicle or structure constructed off the premises and transported to the premises on its own wheels (or the wheels of another vehicle) that is used, or designed or intended to be used, solely for the purpose of storing goods and chattels. (Amended 4/25/1983)

STRUCTURE: Anything constructed or erected with fixed location on the ground, or attached to something having a fixed location on the ground, or attached to something having a fixed location on the ground.

TAXIDERMY: The art or operation of preparing, stuffing and mounting the skins of dead animals for exhibition in a lifelike state.(Amended 5/10/10)

TOWER HEIGHT – The heights measured from the ground to the top of the tower (excluding blade length). (Amended 2/23/2009)

TOWN – The Town of LaFayette. (Amended 4/9/2001)

YARD, FRONT: The ground space on a lot extending the full width of the lot between the street line and the nearest point of the principal building or use, and in residential districts, open and unoccupied except for fences and other decorative or landscaping uses. Covered porches whether enclosed or unenclosed shall be considered as part of the main building and shall not project into a required front yard.

YARD REAR: The ground space on a lot existing the full width of the lot between the rear line and the nearest point of the principal building or use. (Amended February 24, 2003)

YARD, SIDE: The ground space on a lot between the nearest point of the principal building or use and the side line of the lot and extending from the front yard to the rear yard, unoccupied and adjacent to such side line to the width required for side yards in the district except for fences and/or other decorative or landscaping uses.

WINDMILL: A machine that runs on wind energy consisting of a wheel containing revolving blades, rotated by the wind

for purposes of converting wind energy into electricity.
 (Amended 2/23/2009)

ARTICLE IX – FAMILY ACCESSORY UNITS

SECTION A. PURPOSE AND INTENT

1. It is the purpose and intent of this Article to provide an opportunity for the creation of family accessory units within or physically attached to the existing structure of an owner-occupied single-family dwelling designed to meet the special housing needs of the families living within the Town of LaFayette. It is also the purpose and intent of this article to preserve and protect the efficient use of the Town’s housing, to protect property values and to maintain the character of the town’s residential neighborhoods.
2. In the case of a conflict between the provisions of this Article and other regulations contained in this zoning Ordinance, the provisions of this Article shall apply. However, nothing in this Article shall impair or supercede the authority of the Town or its officers and employees from applying and enforcing other provisions of local, state and federal laws, ordinances, rules and regulations.

SECTION B. MINIMUM REQUIREMENTS FOR FAMILY ACCESSORY UNITS

1. A ‘family accessory unit’ shall mean a separate living area maintained as an accessory use to an owner-occupied single-family dwelling, which living area contains a bathroom, kitchen, and other living areas and is occupied by the father, mother, aunt, uncle, grandparent, grandchild, son or daughter by blood, marriage or legal adoption of the owner of the single-family dwelling. A family accessory unit may not be rented to or occupied by any person other than those designated in this Section.
2. “2. A maximum of one family accessory unit shall be allowed on any one lot and shall be attached to the principal dwelling.”
3. All other provisions of Article IX of the 1970 Zoning Ordinance, as previously amended, shall remain in full force and effect, _____ unchanged.
4. Effective Date. This Amendment to the 1970 Zoning Ordinance of the Town of LaFayette, as previously amended, shall take effect as provided in Section 265 of the Town Law.

The question of the adoption of the foregoing order was duly put to a vote and upon roll call, the vote was as follows: 5-0 (As Amended 11/10/14)

5. The family accessory unit shall be subordinate in area to the principal unit. The family accessory unit shall contain a maximum of fifteen hundred (1500) square feet, but in no event shall the family accessory unit exceed fifty percent (50%) of the existing principal unit and the family accessory unit shall contain a maximum of two (2) bedrooms.
8. The dwelling shall maintain the outward appearance of a single-family dwelling. Both the principal unit and the family accessory unit shall share utility meters.
9. The family accessory unit shall comply in all other respects with the provisions of this Zoning Ordinance and local, state and federal laws, ordinance, rule and regulations, specifically including the new York State Uniform Fire Prevention and Building Code.

SECTION C. SPECIFIC PERMIT APPROVAL REQUIRED FOR FAMILY ACCESSORY UNITS

1. A family accessory unit shall be allowed upon the issuance of a specific permit as set forth in Article IV of this Zoning Ordinance. In reviewing any such application, the Zoning Board of Appeals shall take into account water and septic issues.
2. Any specific permit issued for a family accessory unit shall remain in effect until the earlier of the following:
 - a) Five (5) years from the date the specific permit is issued;
or
 - b) Until such time as the family accessory unit is no longer occupied as set forth in Section B above; or
 - c) Transfer of title ownership of the property.
3. Prior to the expiration of the specific permit as set forth in Paragraph (2) (a) of this Section, the owner of the single-family dwelling may apply for an extension of the specific permit on a 5-year basis. Such application for an extension shall be submitted to the Codes Enforcement Officer and shall contain an affidavit of the property owner specifying the residents of the dwelling and the family accessory unit. Such renewal application shall be granted for a period of five (5) years provided that the family accessory unit

is occupied and maintained in accordance with the restrictions set forth in this Article.

SECTION D. PENALTIES

1. It shall be unlawful for any owner to construct or allow the occupancy of a family accessory unit without complying with the requirements of this Article.
2. Violations of this Article shall be an offense punishable as set forth in Article VII, Section C of the Zoning Ordinance. (As Amended 7/11/2005).

ARTICLE X – WINDMILLS

SECTION A. PURPOSE AND INTENT

The Town recognizes the increased demand for alternative generating facilities. At the same time, the town Recognizes the valid concerns and interests its residents have in the aesthetic enjoyment of their homes and properties. The purpose of these regulations is to protect the community's interest in properly allowing private providers to meet their power generating objectives. Moreover, the further purpose of these regulations is to provide for the health, safety and welfare of the residents of the Town and to balance the sometimes competing needs of such uses and their neighbors while at the same time accommodating the public interest in and demand for such facilities. In addition, the purpose of these regulations is to provide standards for private windmills designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of these regulations is to regulate the development of windmills and to protect the public health, safety, and community welfare.

SECTION B. MINIMUM REQUIREMENTS FOR WINDMILLS

1. APPROVAL REQUIRED. All windmills in the Town of LaFayette are subject to Controlled Site Approval by the Town of LaFayette Planning Board.
 - a) Such Controlled Site Approval shall be made in accordance with the standards and procedures of Article III as well as the standards and procedures set forth in this Article X.
 - b) In the case of a conflict between the provisions of this Article and other regulations contained in this Zoning Ordinance, the provisions of this Article shall apply.

2. APPLICATIONS: Applicants for windmills shall fill out a Controlled Site Application and include the following information:
- a) All Controlled Site Plan application requirements as set forth in Article III of the Zoning Ordinance.
 - b) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - c) Sufficient information demonstrating that the system will be used primarily to reduce electricity cost at that location.
 - d) Manufacturer information for the proposed windmill, including, but not limited to, the system specifications and any available photographs of the proposed system.
 - e) A short EAF SEQR form and Visual EAF
 - f) Any other information requested by the Town of LaFayette Planning Board
3. STANDARDS: Windmills shall comply with all the requirements of the Town of LaFayette Zoning Ordinance that are not in conflict with the requirements contained in this Article. In addition, all windmills shall comply with the following standards:
- a) Number of systems.
 - (1) Only one windmill per legal lot shall be allowed. In addition, such legal lot must include a structure and may not be vacant land.
 - (2) Notwithstanding the forgoing, up to three (3) windmills shall be allowed on any farm actively used for agricultural purposes.
 - b) Setback requirements. A windmill shall comply with all setbacks within the affected zoning. In addition windmills shall be set back a distance equal to one- hundred ten (110%) percent of the Tower Height from all property lines, public road rights of ways and power lines.
 - c) The Tower Height of any windmill may not exceed one hundred twenty-five (125) feet. The allowed Tower Height shall be reduced if necessary to comply with applicable

Federal Aviation Requirements.

- d) Exterior lighting on any structure associated with the tower shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- e) Windmills may be designed as either a monopole or lattice structure.
- f) Noise: The level of noise produced during operation of a windmill shall not exceed 50 Dba, as measured at the property lines owned by anyone other than the site owner, as those boundaries exist at the time of the controlled site application. The applicant will be required to submit technical data proving such performance standard to the satisfaction of the Planning Board as to this requirement.
- g) All power lines from the windmill to on-site interconnection equipment shall be located underground.
- h) Windmills shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.
- i) Windmills shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone.
- j) The windmill shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- k) No windmill shall be permitted which lacks automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.
- l) Windmills shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - (1) Tower- climbing apparatus located no closer than 12 feet from the ground; or

- (2) A locked anti-climb device installed on the windmill; or
 - (3) A locked protective fence at least six feet in height that encloses the windmill.
- m) Anchor points for any guy wires for the windmill shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires to the anchor points shall be sheathed in a bright color from three to eight feet above ground.
 - n) All windmills shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 - o) Windmills shall be constructed so that windmill blades shall maintain a minimum of twenty-five (25) feet clearance from the ground surface.
4. In granting the Controlled Site Use for a windmill, the Planning Board may impose reasonable conditions to the extent that such Board concludes that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties.

SECTION C. MAINTENANCE AND INSPECTION

- 1. Maintenance: All windmills shall be maintained in good condition and in accordance with all requirements of this section.
- 2. Inspection: The Zoning Officer and/or Town Engineer shall have the right at any reasonable time to enter, upon notice to the owner, the premises on which a windmill is being constructed, and on a routine administrative basis thereafter once every five (5) years, upon notice to the owner, to inspect all parts of said windmill installation and require that repairs or alterations be made if in the judgment of said Officer or Engineer there exists a deficiency in the operation or the structural stability of the system. If necessary, The Zoning Officer or Town Engineer may order that the system be secured or otherwise cease operation. It shall not be required that the owner or agent be notified in advance in the event of an emergency situation involving danger to life, limb or property for the Zoning Officer or his designee to enter the premises for purposes of inspecting such system.
- 3. The Town is located astride a major north-south bird and bat

migration corridor. Small wind turbines are not currently known to have significant adverse impact on wildlife. However, the Town wants to learn about any potential adverse impacts and therefore the windmill owner agrees to permit periodic access to windmill sites by scientists or professionals, if requested, to conduct low-profile studies or assessments of short duration (hours or days) for the purposes of studying such impacts. Such research projects, if conducted, must be done by qualified professionals, or scientists from recognized institutions. Permission to enter the Owner's premises in order to conduct a study must be requested beforehand and results made available to the windmill owner. Results may also be published in technical journals. If such a study request is made by a qualified individual, the windmill owner shall grant it, including reasonable parameters for the conduct of data collection. A copy of any study results will be delivered to the Town.

4. Abandonment of use: A windmill that is not used for six successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the controlled site approval by the Town. In addition, failure to remove an obsolete or unused tower in accordance with this section shall be a violation of this section. If said abandoned windmill is not dismantled and removed within three months of abandonment, the Town may dismantle and remove said windmill and the cost of removing the windmill shall be a lien on the property and added to the property owner's tax bill.” (Amended 2/23/2009)

ARTICLE XI – NATURAL GAS AND/OR PETROLEUM EXTRACTION & EXPLORATION OR PRODUCTION

AN ORDINANCE AMENDING “THE 1970 ZONING ORDINANCE OF THE TOWN OF LAFAYETTE, AS AMENDED BY ADDING CERTAIN NEW DEFINITIONS; AMENDING CERTAIN DEFINITIONS; CONFIRMING AND CLARIFYING THAT ANY USES NOT EXPRESSLY OR SPECIFICALLY PERMITTED ARE PROHIBITED; ARTICULATING CERTAIN PROHIBITED USES AND ESTABLISHING A SEVERABILITY CLAUSE

BE IT ORDAINED, by the Town of LaFayette acting through its duly constituted Town Board and pursuant to the authority conferred by Section 265 of the Town Law, that “The 1970 Zoning Ordinance of the Town of LaFayette, as Amended”

(hereinafter the “Town of LaFayette Zoning Ordinance”) is hereby further amended, as follows:

Article I. General Provisions

Section 1.1. Authority for Adoption

The Town Board hereby adopts this Ordinance pursuant to the authority described at Section 1. of Appendix A attached hereto, which **Appendix A** is hereby incorporated and made a part of this Ordinance for all purposes by this reference.

Section 1.2. Findings of Facts

The Town Board has heretofore made certain findings, determinations, and declarations relative to the matters set forth in this Ordinance, and a copy of the text of such findings, determinations and declarations is set forth at Section 2. of **Appendix A** attached hereto.

Section 1.3. Purpose & Intent

The Purposes and Legislative Intent underlying the Town Board’s passage of this Ordinance are set forth at Section 3. of **Appendix A** attached hereto.

Section 1.4. Interpretation

The statements of purpose, intent and findings are legislatively adopted along with the formal text of the amendments to the Town of LaFayette Zoning Ordinance affected by this Ordinance. They are intended as a legal guide to the administration and interpretation of this Ordinance and shall be treated as legislative history.

Article II. Amendments to Article VII – ‘Definitions’, Section B- “Particular Definitions”, of the Town of LaFayette Zoning Ordinance.

Section 1. Article VII – ‘Definitions’, Section B- “Particular Definitions”, of the Town of LaFayette Zoning Ordinance shall be amended so as to add the following terms, which terms shall have the meanings respectively set forth below, as follows:

“BELOW –REGULATORY CONCERN --- Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase that is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Town.

GATHERING LINE, or PRODUCTION LINE --- Any system of pipelines (and other equipment such as drip station, vent stations, pigging facilities, value box, transfer pump station, measuring and regulating

equipment, yard and station piping, and cathodic protection equipment), used to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).

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

LAND APPLICATION FACILITY---A site where any Natural Gas Exploration And/Or Petroleum Production Wastes are applied to the soil surface or injected into the upper layer of the soil.

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

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

NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES---The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES ---Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and whether or not such substance are generally characterized as waste: (a) below-regulatory concern radioactive materials, or any radioactive material

which is not below concern, but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Town, whether naturally occurring or otherwise, in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils frac fluids , produced water, brine flowback, sediment and/or any liquid or semi-liquid material); (e) any chemical waste oil, waste emulsified oil, mud or sediment that was used or produced in the drilling development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing, or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes: under 40 C.F.R. §261.4(b). The definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by Agriculture Use.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY---Any of the following; (a) tanks of any construction (metal, fiberglass, concrete, etc); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DUMP --- Land upon which Natural Gas And/Or Petroleum Extraction, Exploration or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

NATURAL GAS AND OR PETROLEUM ACTIVITIES --- Shall mean and be any one or more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas And/Or Petroleum Extraction, Exploration or Production Wastes Disposal/Storage Facility; (d) Natural Gas And/Or Petroleum Exploration or Production Wastes Dump; (e) Land Application Facility; (f) Non-Regulated Pipelines; (g) Underground Injection; or (h) Underground Natural Gas Storage.

NATURAL GAS COMPRESSION FACILITY---Those facilities or combination of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

NATURAL GAS PROCESSING FACILITY---Those facilities that separate and recover natural gas liquids (NGLs) and /or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO₂ separated from natural gas streams.

NON-REGULATED PIPELINES---Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

PIPELINE---All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move in transportation (including pipes, valves and other equipment and appurtenances attached to pipes and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), whether or not laid in public or private easement or private right of way within the Town. This includes, without limitation gathering lines, production lines, and transmission lines.

RADIOACTIVE MATERIAL --- Material in any form that emits radiation, but only if such material has been moved from its naturally occurring location through an industrial process. Such material is “radioactive material” for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

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

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

TOWN BOARD---The Town Board of the Town.

TRANSMISSION LINE---A pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by: (a) the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

UNDERGROUND INJECTION---Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration or Production Wastes by or into an Injection Well.

UNDERGROUND NATURAL GAS STORAGE---Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities, and pipelines.

Section 2. Article VII – “Definitions”, Section B – “Particulate Definitions”, of the Town of LaFayette Zoning Ordinance is hereby further amended so as to delete the present definition of the term “Accessory Building or Use” in its entirety, so as to add the following terms which terms shall have the meanings set forth below, as follows.

“ACCESSORY STRUCTURE”---A structure detached from and subordinate to a principal building on the same lot, with less than one – half of the floor space of the principal building, and which is used for the purposes subordinate and customarily incidental to those of the principal building or use, including parking, storage and recreation. Structures used for agriculture, whether or not used for housing animals, shall not be subject to the aforesaid ‘one-half of the floor space of the principal building’ limitation.

ACCESSORY USE---A use customarily incidental and subordinate to the principal use located on the same lot with such principal use. A use shall not qualify for treatment as an accessory use if it dominates the ‘principal’ use in area, extent, or purpose”

Section 3. Article VIII- “Definitions”, Section B- “Particular Definitions”, of the Town of LaFayette Zoning Ordinance is hereby further amended so as to delete the present definition of the term “PERSON” in its entirety, and substitute the following text therefor:

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

Section 4. Article VII- Article VIII- “Definitions”, Section B- “Particular Definitions”, of the Town of LaFayette Zoning Ordinance is hereby further amended so as to delete the present definition of the “TOWN” in its entirety, and substitute the following text therefor:

“TOWN”--- The Town of LaFayette, Onondaga County, New York.”

Section 5. Article VII- Article VIII- “Definitions”, Section B- “Particular Definitions”, of the Town of LaFayette Zoning Ordinance is hereby further amended so as to add the following text to the present definition of “GASOLINE SERVICE STATION”, said text to be inserted immediately following the end of the present sentence that begins “A building or premises used...”.

“Furthermore, in no event shall “GASOLINE SERVICE STATION” be construed to mean, be, or include any Explicitly Prohibited Uses as set forth in Article II.A. of this Ordinance.”

Article III. Amendments to Article VII- “Administration”, Section G – “Savings Clause” of the Town of LaFayette Zoning Ordinance.

Article VII “Administration”, Section G – “Savings Clause” of the Town of LaFayette Zoning Ordinance is hereby amended to delete the present Section G – “Savings Clause” in its entirety and replace it with the following text therefor:

“Section G. Severability.

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

Article IV. Amendments to Article I – “General”, Section F – “Application of District Regulations” of the Town of LaFayette Zoning Ordinance.

Article I – “General”, Section F – “Application of District Regulations” of the Town of LaFayette Zoning Ordinance is hereby amended: (i) so as to replace the

present title of such Section F (“Application of District Regulations”) with words “Application of District Regulations; Any Use Not Specifically Permitted is Prohibited”; and (ii) so as to delete the entirety of the (present) text of Clause 1. thereof (beginning “Except for non-conforming uses permitted...”), and replace the deleted text with the following:

“1. Except for non-conforming uses permitted under Article V, Section D, any use not specifically set forth as a permitted use in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.”

Article V. Amendments to Article II – “District Regulations: to provide a new title for said Article II of the Town of LaFayette Zoning Ordinance and to add a new Article II, Section I.

Section 1. Article II – “District Regulations” of the Town of LaFayette Zoning Ordinance is hereby amended so as to replace the present title of such Article II as follows:

“Article II. District Regulations and Explicitly Prohibited Uses.”

Section 2. The Town of LaFayette Zoning Ordinance is further amended to add the following new Article II, Section I to read as follows.

“Section I. Explicitly Prohibited Uses; Prohibition Against Natural Gas And/ Or Petroleum Extraction, Exploration or Production Wastes.

1. Explicitly Prohibited Uses. The following uses and activities (being respectively defined in Article VIII, Section B of this Ordinance) are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered, erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

- (a) Land Application Facility;
- (b) Natural Gas And/Or Petroleum Exploration Activities;
- (c) Natural Gas And/Or Petroleum Extraction Activities;
- (d) Natural Gas And/ Or Petroleum Extraction, Exploration, or Production Wastes Disposal/ Storage Facility;
- (e) Natural Gas And/Or Petroleum Extraction, Exploration or Production Wastes Dump;
- (f) Natural Gas Compression Facility;
- (g) Natural Gas Processing Facility;

- (i) Non-regulated pipelines;
- (j) Underground Injection; and
- (j) Underground Natural Gas Storage.

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

2. Prohibition Against Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes. The Town of LaFayette hereby exercises its authority and right under NY ECL § 27-0711 to adopt local legislation that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Article complies “with at least the minimum applicable requirements” set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

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

3. No Application to Customary Local Distribution Lines, Etc. The prohibitions set forth above in this Article are not intended, and shall not be construed, to (a) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (b) prevent or prohibit transmission lines or the transmission or natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supply natural gas to residents of or buildings located in the Town; or (c) prevent or prohibit the incident or normal sale, storage, or use of lubricating oil, heating oil gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town.

4. Pre-Existing, Legal Non-Conforming Natural Gas And/Or Petroleum Extraction Activities.

(a) Notwithstanding any provision of the Town of LaFayette Zoning Ordinance to the contrary, any Natural Gas And/ Or Petroleum Activities that are being conducted in the Town as of the effective date of this amendatory Ordinance shall be subject to the following:

i. If, as of the effective date of this amendatory Ordinance, substantive Natural Gas And/Or Petroleum Activities are occurring in the Town, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, included without limitation all valid permits required to be issued by the New York State Department of Environmental Conservation (“DEC”) and all other regulating agencies for such activities, then and only then such Activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however to the provisions of clauses (b) and (c) of this Subsection 4.

ii. Natural Gas And/ Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this amendatory Ordinance and which do not qualify for treatment under the preceding clause (a)(i) of this Subsection 4 shall not be grandfathered, and shall in all respects be prohibited as contemplated by Subsection 1 of this Section I.

(b) Upon the depletion of any well which is allowed to remain in operation after the effective date of this amendatory Ordinance by virtue of clause (a)(i) of this Subsection 4, or upon any other substantive cessation of Natural Gas And/Or Petroleum Activities (otherwise grandfathered by virtue of clause (a)(i) of this Subsection 4 for a period of more than twelve (12) months, then and in such event the non-conforming use status of such Activity shall terminate, and thereafter such Natural Gas And/Or Petroleum Extraction Activities shall in all respects be prohibited as contemplated by Subsection 1 of this Section I.

(c) Notwithstanding any provisions hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by clause (a)(i) of this Subsection 4 is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this amendatory Ordinance. Any expansion or attempted or purported expansion shall not be grandfathered under clause (a)(i) of this Subsection 4, and instead shall in all respects be prohibited as contemplated by Subsection 1 of this Section I.”

Article VI. Severability

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

or the remainder thereof, even if, as to particular provisions and person of circumstances, a portion hereof is severed or declared invalid or unenforceable.

Article VII. Effective Date of this Ordinance

This Amendment to the 1970 Zoning Ordinance of the Town of LaFayette, as amended, shall take effect as provided in Section 265 of the Town Law.