

**ZONING ORDINANCE**

**TOWN OF CAMBRIA**

**NEW YORK**

**TOWN CLERK'S CERTIFICATION**

**COUNTY OF NIAGARA  
STATE OF NEW YORK**

**I, Lou Ann Murawski, Town Clerk of the Town of Cambria, County of Niagara, State of New York, do hereby certify that the foregoing is a true and correct copy of the Zoning Ordinance of the Town of Cambria which includes amendments through May 9, 2013.**

**I have hereunto set my hand and seal of the Town of Cambria this 12<sup>th</sup> day July 2013.**

**SEAL**

**Lou Ann Murawski  
Town Clerk**

## **TABLE OF CONTENTS**

### **Section**

#### **ARTICLE I ESTABLISHMENT OF DISTRICTS**

100	Districts Created
101	Zoning Map
102	District Boundaries
103	Purposes
104	Scope
105	Terms

#### **ARTICLE II DEFINITIONS**

#### **ARTICLE III AGRICULTURAL AND RESIDENCE DISTRICTS AR**

300	Permitted Uses of Land and Buildings and Other Structures
301	Prohibited Uses
302	Area, Yard and Height Provisions
303	Private Garages, Barns and Other Accessory Buildings
304	Location of Driveways
305	Subdivided Lots in the Agricultural-Residential Zone

#### **ARTICLE IV RESIDENCE DISTRICTS R-1**

400	Permitted Uses and Buildings and Other Structures
401	Prohibited Uses
402	Yard, Area and Height Provisions for Lots Served by Public Water and Sewers
403	Area, Yard and Height Restrictions for Lots Not Served by Public Water and Sewers
404	Private Garages and Other Accessory Buildings
405	Location of Driveways

#### **ARTICLE V LIGHT RETAIL BUSINESS DISTRICT B-1**

500	Permitted Uses and Buildings and Other Structures B-1 District
501	Prohibited Uses in B-1 District
502	Yard, Area and Height Restrictions B-1 District
503	Entrances and Exits Upon Public Streets B-1 District
504	Landscape Treatment in B-1 District
505	Site Plan Review and Approval of Business Uses

**ARTICLE VI GENERAL BUSINESS DISTRICT (B-2)**

- 600 Permitted Uses and Buildings and Other Structures in B-2 District
- 601 Prohibited Uses in B-2 District
- 602 Yard, Area and Height Restrictions in B-2 District
- 603 Entrances and Exits Upon Public Streets in B-2 District
- 604 Landscape Treatment in B-2 District
- 605 Site Plan Review and Approval

**ARTICLE VII INDUSTRIAL DISTRICTS I-1**

- 700 Permitted Uses and Buildings and Other Structures
- 701 Prohibited Uses
- 702 Yard, Area and Height Restrictions
- 703 Entrances and Exits Upon Public Streets
- 704 Site Plan Review and Approval

**ARTICLE VIII ESCARPMENT DISTRICT**

- 800 Purposes
- 801 Map and Description of District
- 802 Permitted Uses Within the Escarpment District
- 803 Prohibited Uses and Actions Within the Escarpment District
- 804 Other Provisions
- 805 Site Plan Procedures
- 806

**ARTICLE IX MEDIUM DENSITY RESIDENTIAL USE DISTRICTS**

- 900 Permitted Uses of Buildings and Other Structures
- 901 Prohibited Uses
- 902 Yard, Area and Height Provisions
- 903 Private Garages and Other Accessory Structures
- 904 Procedure for Establishment
- 905 Site Plan Review and Approval

**ARTICLE X PLANNED DEVELOPMENT DISTRICTS P-D**

- 1000 Permitted Uses and Buildings and Other Structures
- 1001 Area Provisions
- 1002 Lot Sizes for Residential Uses in Planned Development  
Districts
- 1003 Procedure for Establishment

1004 Site Plan Review and Approval

**ARTICLE X-A RECREATIONAL - CAMPGROUND DISTRICTS R-C**

**ARTICLE X-B MS4-R1**

**ARTICLE XI EXCEPTIONS AND SPECIAL PROVISIONS**

- 1100 Uses Permitted as Special Exceptions
- 1101 Conditions for the Granting of Special Permits
- 1102 Motor Courts or Motels
- 1103 Manufactured Homes
- 1104 Public Garages, Motor Vehicle Service Stations and Motor  
Vehicle Repair Stations
- 1105 Signs and Billboards
- 1106 Temporary Uses and Structures
- 1107 Nonconforming Uses, Buildings and Structures
- 1108 Required Off-street Parking and Automobile Storage Spaces
- 1109 Required Off-street Parking for Commercial Vehicles While Loading and Unloading
- 1110 Frontage on Public Street or Road
- 1111 Reductions in Lot Area Prohibited
- 1112 Obstruction of Vision and Fencing
- 1113.1 Excavation
- 1113.2 Permit for Removal of Material from Existing Ditch
- 1113.3 Storage of Excavated Material Including Rock
- 1114 Drive-in Business
- 1115 Storage of Flammable Liquids and Hazardous Materials
- 1116 Cesspools and Septic Tanks
- 1117 Swimming Pools
- 1118 Waste
- 1119 Fair, Carnival and Circus
- 1120 Supplementary Regulation Relating to Dwellings
- 1121 Hotels
- 1122 Access of a Commercial or Industrial Use
- 1123 Junkyards
- 1124 Multiple Buildings on Undivided Land
- 1125 Unsafe Buildings
- 1126 Bed and Breakfast Establishment
- 1127 Turnarounds
- 1128 Substandard Lots
- 1129 Stormwater Management & Erosion and Sediment Control

**ARTICLE XII EROSION AND SEDIMENT CONTROL - ADMINISTRATION AND ENFORCEMENT-EROSI**

- 1200 Interpretation
- 1201 Enforcement
- 1202 Building Permits and Certificates of Occupancy
- 1203 Board of Appeals, Creation, Powers and Duties
- 1204 Remedies
- 1205 Penalties
- 1206 Amendments - Referral to Niagara County Planning Board
- 1207 Fees for Variances, Special Exceptions, Rezoning etc.
- 1208 Planning Board, Creation, Powers and Duties

**ARTICLE XIII BUILDING AND FIRE CODE**

**ARTICLE XIV VALIDITY**

**ARTICLE XV REPEAL OF CONFLICTING ORDINANCES**

- 1501 Repeal of Conflicting Ordinances
- 1502 Separate Ordinances Now Included In This Zoning Ordinance

**ARTICLE XVI EFFECTIVE DATE**

**TOWN OF CAMBRIA**

**ZONING ORDINANCE**

An ordinance limiting and restricting the specified districts and regulating therein, buildings and other structures according to their construction and the nature and extent of their use and the nature and extent of the use of land, so as to promote and preserve the health, safety, character and general welfare of the Town of Cambria and providing penalties for the violation thereof.

This ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Cambria.

Pursuant to the authority and power granted by Chapter 62, Article 16 of the consolidated laws, to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of occupancy and lots and parcels of land that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and to establish zones or districts in the Town of Cambria, the Town Board does ordain:

**ARTICLE I ESTABLISHMENT OF DISTRICTS**

**SECTION 100 DISTRICTS CREATED**

For the purposes of this ordinance the Town of Cambria is hereby divided into the following ten (10) classes of districts:

Agricultural and Residence District	AR
Residence District	R-1
Light Retail Business District	B-1
General Business District	B-2
Industrial District	I-1
Escarpment District	ED
Medium Density Residential Use District	MD
Planned Development District	P-D
Recreational - Campground	R-C
Stormwater Management	MS4 - R1 (overlay)

**SECTION 101 ZONING MAP**

The boundaries of these districts are hereby established on a map entitled "Zoning Map of the Town of Cambria" by Wendel Duchscherer, Engineers, including amendments thereto, which map accompanies, and is hereby declared to be a part of this ordinance, and is on file with the Town Clerk.

## **SECTION 102 DISTRICT BOUNDARIES**

Where a district boundary line, as appearing on the zoning map, divides a lot or land in single ownership as existing at the time of this enactment, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding 35 feet. Otherwise, unless shown to the contrary on the zoning map, the boundary lines of districts are the center lines of streets and alleys, or such lines extended, railroad right-of-way lines, the center lines of creeks and waterways, the corporate limits line as it existed at the time of the enactment of this ordinance.

## **SECTION 103 PURPOSES**

The zoning regulations and districts herein set forth and as outlined upon said map are made in accordance with a comprehensive plan for the purpose of promoting and preserving the public health, safety, character, convenience, order, prosperity and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

## **SECTION 104 SCOPE**

No building, structure or land shall hereafter be used and no building, structure or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified to the district in which it is located, except as hereinbefore provided.

## **SECTION 105 TERMS**

The present tense shall include the future, the singular number shall include the plural and the plural the singular, terms such as person shall include the plural persons, as well as corporations. The word "shall" is always mandatory. The term lot shall include the terms such as plot or parcel.

## **ARTICLE II DEFINITIONS**

Certain words and terms used in this ordinance are defined for the purposes thereof, as follows:

A-FRAME A dwelling or structure wherein the floor area at a height of 7 ½ feet is less than the ground floor area of the dwelling or structure.

AGRICULTURE The production of crops or plants or vines and trees.

ANIMAL HUSBANDRY The keeping, grazing, feeding and care of animals other than household pets.

AREA, BUILDING The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LAND The terms "land area", when referring to the required area per dwelling unit, means "net land area", the area exclusive of street and other public open space.

AUTOMOBILE LAUNDRY An establishment for washing of motor vehicles as a principal use.

AUTOMOBILE SALE AREA A premises including open areas other than a street or way and showrooms enclosed within a building used for the display or sale of new or used automobiles, in operating condition and meeting current New York State Inspection requirements, trucks, cargo trailers, and boats.

AUTOMOBILE WRECKING AND/OR AUTOMOBILE GRAVEYARDS The dismantling, wrecking or burning of used automobiles or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts.

AUTOMOTIVE Pertaining to cars, as well as any motor driven vehicle.

BAR OR TAVERN An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises.

BARN Any structure designed and/or used for housing livestock, animals or fowl.

BASEMENT A story partly underground but having at least one-half of its height above the average outside ground level.

BED AND BREAKFAST HOUSE A dwelling, other than a hotel or motel, for hire or let for transient occupancy, provided such dwelling is owner-occupied.

BLOCK The length of a street between two street intersections. Where street intersections are at intervals greater than 1,200 feet, 1,200 feet shall be considered the length of a block for purposes of this ordinance.

BOARDINGHOUSE AND/OR ROOMING HOUSE A dwelling, other than a hotel or motel, wherein more than two people are regularly sheltered and/or fed for profit.

BUILDING Any structure constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs and similar structures whether stationary or movable.

BUILDING, ACCESSORY A building other than a private garage as defined hereunder, the use of which is for personal purposes and not for business purposes, which use is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the principal building. No accessory building shall be constructed which exceeds the first floor area of the principal building, exclusive of any attached garage, nor shall it be greater in height than one and one-half times the height of the principal building. Not more than one accessory building is permitted on a lot, except on a farm.

BUILDING, ALTERATION OF Any addition to a building or any change from one use classification to another, or removal of a building from one location to another.

BUILDING OR STRUCTURE, NONCONFORMING An established building or structure lawfully existing prior to and at the time of the adoption of this ordinance which, because of its inherent nature of construction, does not conform to and with the provisions of this ordinance for the district in which it is located.

BUILDING, HEIGHT OF 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 ceiling of the top story in the case of a flat roof; to the deck line of mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING, PRINCIPAL A building including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residence district, any dwelling shall be deemed the principal building on the lot on which the same is situated.

BUILDING, USED FOR ACTIVE AGRICULTURAL PURPOSES A building other than a barn used for any active agricultural purpose.

BUILDING LINE, FRONT The line of that face of a principal building nearest the street line. In the case of a corner lot any building line nearest to a street line shall be considered a front building line.

BUSINESS OR BUSINESS ESTABLISHMENT A commercial activity engaged in a single enterprise for the purpose of making a profit, including retail, services, marketing, wholesaling or distributing marketable goods, including the indoor storage of related equipment.

CAMP Any area on which are located two or more cabins, tents or tent floors, camp or travel trailers, shelters, houseboats, or other accommodations of a design or character for seasonal or other, more or less, temporary living purposes whether or not such structures are actually occupied seasonally or otherwise.

CARNIVAL An amusement show, usually traveling from place to place having side shows, ferris wheels, merry-go-rounds, etc.

CELLAR A portion of a building having more than one-half of its height below the average outside ground level.

CEMETERY Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated with and within the boundary of such cemetery.

CENTER LINE OF STREET OR ROAD A line midway between and parallel to two street or road right-of-way lines.

CHURCH OR OTHER PLACE OF WORSHIP A building for public worship, where doors are not locked and public ingress and egress is permitted and the public is allowed unrestricted entrance during occupancy so long as entrance is orderly, not crowded, and not disruptive.

CIRCUS An exhibition of wild animals, acrobatic feats, together with side shows and vending concessions.

CLINIC, DENTAL A structure designed for the practice of dentistry in which non-resident patients are treated.

CLINIC, MEDICAL A structure designed for the practice of medicine in which non-resident patients are treated.

CLUBHOUSE A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, café, or other public place.

COMMERCIAL VEHICLE: Being any vehicle used for commercial purposes including but not limited to three-axle trucks, 10 or more wheeled vehicles and tractor-trailers, but not including pick-up trucks, vans, or self-propelled recreation vehicles owned for personal use by an owner or lessee of the premises.

COURT An unoccupied open space, other than a yard. An outer court is one that extends to the street or to the front or rear yard. An inner court is any other court.

COVERAGE That percentage of the lot covered by the Building Area.

DORMITORY See Fraternity.

DRIVE-IN BUSINESS A drive-in business including drive-in outdoor theaters, refreshment stands, banks and the like where patrons enter the premises and are served or entertained in automobiles. Deposit and pick-up services shall not be considered drive-in businesses as defined herein.

DRIVEWAY Land situated on a lot used or intended to be used to provide access to it by vehicular traffic.

DUMP Land used for the disposal by abandonment, dumping, or any other means, and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING A house or other building designed or used primarily for human habitation. The word "dwelling" shall not include tourist homes, motels, hotels or other structures designed for transient residence or mobile homes as defined herein.

DWELLING, ONE-FAMILY A building having two side yards and accommodating one family.

DWELLING, MULTI-FAMILY A building having two side yards and accommodating three or four families.

DWELLING, TWO-FAMILY A building having two side yards and accommodating two families.

DWELLING, SEMI-DETACHED A detached building containing two dwelling units separated as required by the New York State Uniform Fire Prevention and Building Code each having one side yard.

DWELLING UNIT Any dwelling or portion thereof used or intended to be used by one family, and providing complete housekeeping facilities therefore.

EDUCATIONAL INSTITUTION A college or university giving general academic instruction. Included within this term are areas or structures used for (a) administration, (b) housing of students and faculty, (c) dining halls, (d) social or athletic activities, when located on the institution's land that is not detached from land where classroom facilities are maintained.

FACTORY A building or group of buildings, usually with equipment, where goods are manufactured.

FACTORY MANUFACTURED HOME A home that has the insignia of approval issued by the New York State Building Code Counsel certifying compliance with the requirements of the New York State Building Code.

FAIR An occasional or periodic competitive exhibition of farm products, livestock, usually accompanied by amusement features and for which an admission fee is charged.

FAMILY Not more than three persons unrelated by blood, marriage, or adoption living in a single dwelling unit, or any number of persons related by blood, marriage, or adoption living in a single dwelling unit.

FARM Any parcel of land containing at least five acres which is used in the raising of crops, livestock and livestock products as described in Section 301 of the NYS Agricultural and Markets Law. It excludes public stables, fishing ponds and dog kennels.

FRATERNITY HOUSE, INCLUDING SORORITY HOUSE, DORMITORY AND RESIDENCE HALL A facility used for housing, with or without dining facilities, of students attending an educational institution as defined herein and which is approved as a residence for its students by the aforementioned educational institution and by New York State Health Department.

GARAGE, PRIVATE A single story structure not exceeding twenty-four (24) feet by thirty (30) feet with a door height not exceeding ten (10) feet for personal use only which is not used as a business or used for the storage space for more than one commercial vehicle which shall be owned by a person residing on the premises.

GARAGE, PUBLIC A garage conducted as a business including the rental of storage space for passenger cars or for one or more commercial vehicles not owned by a person residing on the premises.

GRADE, ESTABLISHED The elevation of the center line of the streets as officially established by the Town, County or State Highway authorities.

GRADE, FINISHED The completed surfaces of lawns, walks and roads brought to grade as shown on official plans or designs relating thereto.

HOME OCCUPATION Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Home Occupations may be construed to include: sewing, baking, dressmaking, millinery, home-cooking, musical instruction limited to a single pupil at a time, art studios and activities of a similar nature and provided there is adequate off-street parking, no significant traffic, and no signs. Home Occupations shall not be construed to include barber shops and beauty parlors, public stables, kennels, animal hospitals, restaurants and tea rooms, musical instruction to groups, dancing instruction to groups, nursing homes, nursery schools, public garages, plumbing or electrical shops or other trades or businesses of a similar nature nor shall any customary home occupation be construed to include that which requires the presence on the property or in the home of machinery or equipment normally associated with commercial or industrial activities. Any use requiring a license or permit from a government organization shall not be considered a home occupation.

HOME, TOURIST A dwelling in which overnight accommodations are provided for not more than three (3) transient paying guests for not more than three (3) consecutive nights.

HORSES Used for riding or drawing burdens and including ponies, mules and donkeys.

HOSPITAL An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanitarium, and shall be limited to the treatment or other care of humans.

HOSPITAL, ANIMAL OR VETERINARY CLINIC An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, and shall exclude the treatment or other care of humans.

HOTEL A building or group of buildings in which there are twelve (12) or more 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 its patrons.

INDUSTRY An activity involving production, assembly or manufacturing of marketable goods. The term industry includes the entire range of economic activity and as applied to specifics i.e., manufacturing, wholesale, retail, services, etc., shall have the meaning set forth in the Standard Industrial Classification Manual, published by the Executive Office of the President, Bureau of the Budget - 1957.

JUNK YARD A lot, land or structure or part thereof used for collecting, storage, sale or abandonment of any material including but not limited to waste papers, lumber, scrap metal, discarded material, used building material; or for collecting, dismantling, storage, salvage, sale, abandonment, of machinery or vehicles not in operating condition or not inspected and approved by the New York State Department of Motor Vehicles. One or more abandoned, disabled or non-registered or non-inspected automobiles or motor vehicles stored outside shall constitute a junk yard.

KENNEL, PRIVATE An establishment including cages, dog runs and structures wherein between four (4) and eight (8) dogs which are over six (6) months old registered to the owner of the premises are harbored.

KENNEL, PUBLIC An establishment including cages, dog runs and structures wherein more than three (3) dogs which are over six (6) months old, and wherein at least one of the dogs is registered to someone other than the owner of premises, are harbored on a regular basis.

LAUNDRY, COIN OPERATED, DRY CLEANER A business premises equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

LIGHT ASSEMBLY Assembly or processing of material or goods which creates no objectionable odors, fumes, dirt, vibration, glare or noise beyond the site containing the use.

LOT A piece, parcel or plot of land occupied or to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this ordinance.

LOT, CORNER A lot which has an interior angle of less than 135 degrees at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at the points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135 degrees.

LOT DEPTH The horizontal distance from the street line of the lot to its opposite rear line measured along the median between the two side lot lines.

LOT, INTERIOR A lot other than a corner lot.

LOT LINES The lines that bound a lot as defined herein.

LOT OF RECORD Any lot which has been established as such by plat, survey, record or deed prior to the date of this enactment as shown on the records of the Niagara County Clerk's Office.

LOT WIDTH The distance between the side lot lines measured along the road right-of-way line.

MAJOR EXCAVATION, GRADING OR FILLING Any operation (other than in connection with foundations for a structure or highway construction) as defined and regulated by Section 1113 herein involving a volume of earth movement exceeding the average of one cubic foot per square yard of lot area, or 30 cubic yards, whichever is the lesser, other than a farm or recreational pond regulated under Section 1100(a)(20) hereunder.

MANUFACTURED HOME A structure, transportable in one or more sections, which, in traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 1000 or more square feet, and which is designed to be used as a dwelling with a continuous perimeter foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning and electrical systems contained therein.

MINING Extraction, removal and disposition of any naturally formed solid material located on or below the surface of the earth.

MOBILE/MANUFACTURED HOME A home that meets the requirements set forth in the Code of Federal Regulations of Housing and Urban Development and is designed to be towed, but does not bear the insignia of Approval issued by the New York State Building Code Council.

MOBILE HOME PARK Any lot on which two or more mobile homes are located regardless of whether or not a charge is made for such accommodations as regulated herein.

MOTEL OR MOTOR COURT Motel or motor court shall mean a public inn containing not less than eight (8) rental units with provisions for, but not limited to, (a) automobile parking space to accommodate not less than one car per unit, and (b) separate toilet facilities and hot and cold running water for each rental unit.

MOTOR FREIGHT TERMINAL Any premises used by a motor freight company regulated by the Public Service Commission of New York and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported for the purpose of storing, transferring, loading and unloading such goods.

MOTOR VEHICLE Any self-propelled, wheeled conveyance that does not run on rails, including, but not limited to, automobiles, trucks, motorcycles and all terrain vehicles.

MOTOR VEHICLE REPAIR FACILITY Any area on land, including structures thereon, that is used for painting motor vehicles by any means, body and fender work, or repairing or replacing engines and/or other automobile parts.

MOTOR VEHICLE SERVICE STATION Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

NURSERY SCHOOL OR DAY CARE CENTER A facility designed to provide daytime care or instruction for two or more children up to five years of age and operated on a regular basis, as permitted and licensed by the State of New York, including early childhood and education programs and pre-school programs.

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

OCCUPANCY The utilization of a building, structure or land.

OCCUPANCY, SEASONAL Occupancy for a period not exceeding six months during any one calendar year.

OPEN SPACE An unoccupied space open to the sky required by the terms of this ordinance.

PARKING SPACE For the purpose of computing the number of parking spaces available in a given area, the ratio of 300 square feet per parking space shall be used.

POND Excavated area containing water and having not more than one-half of an acre of surface area used for agricultural or recreational purposes.

PORCH, OPEN A porch open on three sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it, or through it shall not be considered to be an open porch.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued, or highway construction as regulated by Section 1113 hereof.

RIDING ACADEMY An establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

ROADSIDE STAND A stall or booth for business which shall be limited to the sale of farm products, which are substantially produced in the Town.

SANITARIUM, SANATORIUM A private hospital whether or not such a facility is operated for profit.

SCHOOL, ELEMENTARY Any school having regular sessions with regularly employed instructors who teach those subjects that are fundamental and essential in general education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a private corporation meeting the requirements of the State.

SCHOOL, SECONDARY Same as elementary school, except secondary education is provided.

SCHOOL, VOCATIONAL Any school having regular sessions with regularly employed instructors who, as a principal activity, provide training in a trade or vocation, and teach those subjects that are fundamental and essential in elementary or secondary education, under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the State.

SIGN Any structure or part thereof, attached thereto, or painted or represented thereon, which shall display or include any letter word, model, banner, flag, pennant, insignia, device or representation, but not including the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization on the property thereof.

SIGN, BUSINESS A sign which directs attention to a business, profession or industry located on the premises where the sign is displayed, to the type of products sold, manufactured or assembled, and/or to service or entertainment offered on said premises.

SIGN, FARM PRODUCTS A sign advertising the sale of farm products raised on the premises.

SIGN, IDENTIFICATION A sign used to identify the individual organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

SIGN, REAL ESTATE A sign advertising property on which it is located, or a building thereon, for sale, rent or lease.

SORORITY See Fraternity.

STABLE, PRIVATE An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC A building in which horses are kept for remuneration, hire or sale.

STORAGE, OPEN Land used for the keeping of goods, wares or supplies on land outside of any building or structure.

STORY Story shall mean that part of a building, included between any floor, other than a cellar floor, and the floor or roof next above.

STREET OR ROAD Any public way dedicated to public travel equal to or greater than 66 feet in width, as well as any other public way previously dedicated to public travel less than 66 feet in width.

STREET LINE A street line is the right-of-way line of a street as indicated by dedication or by deed of record.

STRUCTURE Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SWIMMING POOL The term "swimming pool" means any body of water (excluding natural bodies of water fed by rivers, streams or brooks) or receptacle for water having a depth at any point of three or more feet used or intended to be used for swimming or bathing, and constructed, installed or maintained in or on the ground .

TAVERN See Bar or Tavern.

THEATER A building or part of a building devoted to presenting entertainment on a paid admission basis.

THEATER, DRIVE-IN OUTDOOR Open land with its appurtenant facilities devoted to the showing of motion pictures to patrons seated in automobiles.

TOURIST HOME See Home, Tourist.

TRAILER, BOAT A vehicle designed exclusively for the transportation of one boat of less than 10 foot beam.

TRAILER, CAMP OR TRAVEL A vehicle or portable structure not over 150 square feet in floor area, equipped, but not regularly used for sleeping, but which may not have sanitary facilities.

TRAILER, CARGO A vehicle, not over 70 square feet in floor area, used for the hauling of cargo, also commonly described as a utility trailer.

USE The specific purpose for which land or a building is designed, arranged or intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any nonconforming use.

USE, NONCONFORMING An established use of a building or structure or use of land lawfully existing prior to and at the time of the adoption or amendment of this ordinance that does not conform with the permitted use provisions of this ordinance as they apply to the district in which the building, structure or land is located.

VEHICLE, RECREATIONAL - A recreational vehicle shall include any of the following:

1. Travel trailer, namely a portable recreational vehicle built on a chassis designed to be towed and used as a temporary dwelling for travel, recreational and vacation uses;

2. Pick-up Coach, namely a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation uses;
3. Motor Home, namely a portable, temporary dwelling to be used for travel, recreation and vacation uses, constructed as an integral part of a self propelled vehicle; or
4. Camping Trailer, namely a canvas, folding structure mounted on wheels and designed for travel, recreation and vacation use.

YARD An unoccupied space open to the sky on the same lot with a building or structure.

YARD, FRONT An open space extending across the entire width of the lot between the building line or front main wall of the principal building and the front property line (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, eaves, cornices and similar fixtures.

YARD, REAR An open space extending across the entire width of the lot behind the rear main wall of the principal building into which space there shall be no extension of principal building parts, other than steps, eaves, cornices, open porches, or similar fixtures.

YARD, SIDE An open space extending between the main side walls of the principal building and the side lot line into which space there shall be no extension of principal building parts, other than steps, eaves, cornices, open porches or similar fixtures.

## **ARTICLE III AGRICULTURAL AND RESIDENCE DISTRICTS AR**

### **Section 300 PERMITTED USES OF LAND AND BUILDINGS AND OTHER STRUCTURES**

The Agricultural and Residence Districts AR are primarily for agricultural and non-farm or suburban residential uses. No building or other structure shall be built, altered or erected to be used for any purpose other than the following:

1. Any form of agriculture, animal husbandry or horticulture including the storage, processing and sale of farm products, including signs advertising the sale thereof, a substantial amount of which must be produced on the premises except that animal husbandry is prohibited on lots smaller than five (5) acres in size. In any form of animal husbandry, the animals must be substantially supported from, and waste therefrom disposed, upon the resident farm or its associated acreage. Furthermore, sufficient land must be available to support the type of animal husbandry practiced.
2. One-family dwelling.
3. Two-family or semi-detached dwelling.
4. Accessory use buildings or structures as defined herein. No accessory use building or other structures including garages shall be constructed until the principal building is completed or under construction.
5. Keeping of not more than two (2) transient roomers or boarders.
6. Outdoor storage of not more than one (1) each of the following, provided they are owned and are for the personal use by the owner, resident or lessee of the premises: boat, boat trailer, recreational vehicle, utility trailer. The setback from the road of the parked vehicles above mentioned shall not be closer to the front property line than the front

of the dwelling. Outdoor storage of trailers used for commercial purposes or commercial vehicles as defined herein shall not be permitted, except that one (1) commercial tractor owned by the owner or lessee of the premises and parked not closer than 200 feet from the road right-of-way and 100 feet from any adjoining lot line may be stored outside.

7. Not more than one private garage per dwelling unit; open parking for operative passenger vehicles for persons visiting or residing on the premises.

8. Playhouse, toolhouse, or gardenhouse.

9. Private swimming pool not operated for gain.

10. Public park and playgrounds.

11. Temporary stands where agricultural or garden products are sold which are produced predominantly in or upon the property or in the Town of Cambria, may be erected and used by the owner of that property, provided the stand shall be located not nearer than 20 feet from the street or highway right-of-way, and further proper and adequate driveways and parking shall be maintained in connection therewith.

12. Permanent stands used for the sale of agricultural or garden products which are predominantly produced in the Town of Cambria shall be at least 70 feet from the highway right-of-way and no closer than 100 feet from any sideline. Sufficient off-road parking shall be provided.

13. Tennis Court, not operated for gain.

14. Barns and other buildings, used for active agricultural purposes.

15. Home occupations.

16. Other uses and buildings and structures as provided by Sections 1100, 1101, 1106 and 1107.

### **Section 301 PROHIBITED USES**

1. All uses not permitted in Section 300 are prohibited herein except as allowed under the Article XI provisions pertaining to Special Permits

2. Mining.

3. Any and all signs other than signs for the sale of farm products, real estate signs and temporary signs including political signs located in compliance with this ordinance.

### **Section 302 AREA, YARD AND HEIGHT PROVISIONS**

1. Area per dwelling unit and lot dimensions:

a) For a one-family dwelling unit in the Cambria Sewer District, the minimum lot dimensions per dwelling unit shall be 125 feet by 200 feet and the minimum width of the lot at the street right-of-way shall be 125 feet.

b) For a one-family dwelling unit in the Escarpment District or north of the Cambria Sewer District, the minimum lot dimensions per dwelling unit shall be 150 feet by 200 feet and the minimum width of the lot at the street right-of-way shall be 150 feet.

c) For a two-family or a pair of semi-detached dwellings in the Cambria Sewer District, the minimum dimensions shall be 200 feet by 200 feet and the minimum width of the lot at the street right-of-way shall be not less than 200 feet.

d) For a two-family or a pair of semi-detached dwellings in the Escarpment District or north of the Cambria Sewer District, the minimum lot dimensions per dwelling unit shall be 250 feet by 200 feet and the minimum width of the lot at the street right-of-way shall be 250 feet.

2. Front Yards No building or part of a building including open porches other than steps, eaves and cornices, chimneys, bay windows projecting out from the building not more than two (2) feet and similar fixtures shall extend nearer the street right-of-way of a street than the average distance of setback of the nearest main building within 150 feet on each side of said building and fronting on the same side of the street. When only one building exists on the same side of the street as the building to be erected and within 150 feet thereof, the building setback from the right-of-way of the street shall not be less than the average between the setback of the existing building and 60 feet on all roads. Where no building exists on the same side of the street with the building to be erected within 150 feet thereof measured at the road right-of-way, the minimum setback shall be 60 feet and the maximum setback shall be 125 feet from the right-of-way of all roads. However, the above shall not apply to require placing a building more than 10 feet back or forward of the front main wall of an existing adjacent building within 150 feet thereof. Building setbacks specifically established by any other action of the Town, Zoning or Planning Board or other restrictions of record in effect on any effective date of any Amendment to this Section of the Zoning Ordinance pertaining to maximum setbacks shall take precedence over the above.

3. Rear Yards There shall be a rear yard with a depth of not less than 30 feet.

4. Side Yards

a) For a single-family dwelling, there shall be two side yards, each having a minimum width of 15 feet.

b) For a two-family dwelling, there shall be two side yards with a total width of not less than 40 feet and a minimum width for each side yard of 15 feet.

c) For each semi-detached dwelling, there shall be a side yard of not less than 20 feet.

d) For a non-residential building other than a private garage or other accessory building there shall be two side yards with a total width of not less than 60 feet and the width of the narrower of the two side yards shall not be less than 1/3 of the total width of the two side yards.

5. Lots abutting more than one street. Front yard set back requirements provided in Section 302(2) shall apply to all yards abutting streets. The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 160 feet.

6. Height For each foot that a residential building or building accessory thereto exceeds 35 feet the total width of the two side yards shall be increased by 2 feet. For each foot that non-residential building or building accessory thereto exceeds 35 feet, the total width of the two side yards shall be increased by 4 feet.

7. All setbacks and lot size requirements referenced herein shall be determined upon a minimum road right-of-way of four (4) rods. (66 feet).

### **Section 303 PRIVATE GARAGES, BARNs AND OTHER ACCESSORY BUILDINGS**

1. No detached garage shall be placed closer to a side or rear property line than 15 feet, shall not be closer than the front foundation of the house or 60 feet from the street right-of-way, and in the case of a lot abutting more than one street, shall not be closer to either street than the area of the foundation closest to each street or 60 feet from each street right-of-way.

2. No accessory building as defined herein shall be placed closer to the side or rear property lines than 15 feet, shall not be closer than 25 feet to the principal dwelling, shall not be placed closer to the street line than the rear main wall of the principal dwelling, and in /the case of a lot abutting more than one street, shall not be placed closer to either street than the area of the foundation farthest from each street.

3. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same side and front yards shall be required as for a dwelling and such side yards shall be measured from the outer walls of such garage or carport.

4. No barn or building used for active farm operations, other than a building containing less than 150 square feet, shall be constructed within 100 feet of the highway right-of-way or within 25 feet of the principal dwelling, nor within 100 feet of any other property line.

### **Section 304 LOCATION OF DRIVEWAYS**

No driveway centerline shall intersect a street less than 50 feet from the intersection of any two street right-of-way lines. Driveways shall comply with all permit regulations applicable thereto. The following conditions shall apply to installation of driveways providing access for ingress and egress on Town streets and roads:

1. Culvert pipe must be sized by the Town Superintendent of Highways.
2. New corrugated metal pipe or reinforced concrete with bells and polyvinyl reinforced pipe acceptable to the Highway Superintendent shall be permitted.
3. Corrugated metal pipes will be spliced and bolted with approved corrugated metal pipe collars.
4. Pipe will be placed in the centerline of ditch.

5. The ditch will have to have sod and enough material removed to allow corrugations or bells to have proper grade for flow through the pipe.

6. No permanent concrete structures will be placed on highway right-of-way, such as headwalls, curbs, driveway markers, or driveway aprons.

7. The driveway approach grade will be the same grade as the highway shoulder so as not to allow drainage off the driveway onto the highway.

8. Any violation of the above or the actual permit will result in the instant revocation of the permit and the structure will then be removed.

9. Any blacktop placed upon Town property must be placed according to Town Specifications and will be the responsibility of the property owner should any damage result.

10. Any culvert pipe installed on the Town right-of-way must be graded to allow corrugations or bells to have proper grade for flow through the pipe, and in no event shall said pipe or cover restrict highway drainage.

11. Such drainage pipe must have a drop inlet every 100 feet.

12. Turnarounds - As required in Section 1127.

13. Driveways on other than Town streets and roads shall comply in all respects with the rules and regulations of the authority having jurisdiction over said streets and roads.

#### **Section 305 SUBDIVIDED LOTS IN THE AGRICULTURAL-RESIDENTIAL ZONE**

Residential Subdivisions approved within the Agricultural-Residential Zone shall comply with all provisions in Sections 400 through 405 except lot sizes in §402 a. and b.

### **ARTICLE IV RESIDENCE DISTRICTS R-1**

The residence District R-1 are established to provide for the development of residential neighborhoods occupied by all types of residential structures. It is contemplated that all residences in these districts shall be served by public water supply and public sewage disposal facilities.

#### **Section 400 PERMITTED USES AND BUILDINGS AND OTHER STRUCTURES**

In Residence Districts R-1, no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected for any purpose other than of:

1. One-family, two-family dwellings.
2. Accessory buildings or structures as defined herein. No accessory use building or other structures including garages shall be constructed until the principal building is completed or under construction.
3. Keeping of not more than two (2) transient roomers and boarders.
4. Outdoor storage of not more than one each of the following, provided they are owned for personal use by the owner, resident or lessee of the premises: boat, boat trailer, recreational vehicle, utility trailer. Setback of parked vehicle aforementioned shall not be closer to the front property line than the front of dwelling.
5. Not more than one private garage per dwelling unit; open parking for operative passenger vehicles of persons visiting or residing on the premises.
6. Playhouse, tool house or garden house.
7. Private swimming pool not operated for gain.
8. Agriculture as defined in Article II, except as prohibited in Section 401 herein.
9. Other uses and other buildings and structures as provided by Sections 1100, 1101, 1106 and 1107.

**Section 401 PROHIBITED USES**

1. All uses and structures not permitted in Sections 300 and 400.
2. Animal husbandry.
3. Commercial greenhouses.
4. Roadside stands or other structures for the sale of farm products.
5. The storage of a commercial vehicle or vehicles as defined herein.
6. Barns.
7. Major Excavation and Mining.
8. Any and all business and farming, other than above permitted uses.
9. Any and all signs other than real estate signs and political signs located in compliance with this ordinance.

**Section 402 YARD, AREA AND HEIGHT PROVISIONS FOR LOTS SERVED BY PUBLIC WATER AND SEWERS**

1. Area per dwelling unit and lot dimensions

- a. For a single-family dwelling, the minimum dimensions shall be 100 feet by 150 feet and the minimum width of the lot at the street right-of-way shall not be less than 100 feet.

b. For a two-family dwelling or a pair of semi-detached dwellings, the minimum dimensions shall be 200 feet by 150 feet and the minimum width of the lot at the street right-of-way shall be not less than 200 feet.

2. Front yards No building or part of a building including open porches other than steps, eaves and cornices, and similar fixtures shall extend nearer the right-of-way of a street than the average distance of setback of the nearest main building within 100 feet on each side of said building and fronting on the same side of the street. When only one building exists on the same side of the building to be erected and within 100 feet thereof the building setback from the right-of-way of the street shall not be less than the average between the setback of the existing building and 60 feet from the road right-of-way. Where no building exists on the same side of the street with the building to be erected and within 100 feet thereof the minimum setback shall be 60 feet and the maximum setback shall be 100 feet from the actual right-of-way of all roads and no road shall be considered less than 4 rods in computing this setback requirement. However, the above shall not apply to require placing of a building more than 10 feet back of the front main wall of an existing adjacent building within 100 feet thereof. Building setbacks specifically established by any other action of the Town, Zoning or Planning Board or other restrictions of record in effect on any effective date of any Amendment to this Section of the Zoning Ordinance pertaining to maximum setbacks shall take precedence over the above.

3. Rear yards There shall be a rear yard with a depth of not less than 25 feet. When a building or property extends through a block from street to street, the front yard requirements shall be observed on both streets.

4. Side yards

a. For single-family dwellings, two-family dwellings and semi-detached dwellings, there shall be two side yards each with a total width of at least 15 feet.

b. For a nonresidential building other than a garage or other accessory building, there shall be two side yards with a total width of not less than 60 feet. The width of the narrower of the two side yards shall not be less than one-third (1/3) of the total width of the two side yards.

5. Lots abutting more than one street. Front yard setback requirements provided in section 402(2) shall apply to all yards abutting streets. The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 150 feet.

6. Height The height of dwellings shall not exceed two (2) stories being 22 feet, at the eaves.

7. All setbacks and lot size requirements referenced herein shall be determined upon a minimum road right-of-way of four (4) rods (66 feet).

**Section 403 AREA, YARD AND HEIGHT RESTRICTIONS FOR LOTS NOT SERVED BY PUBLIC WATER AND SEWERS**

1. In the case of lots in Residence Districts R-1 not served by public sewers, the area, and height restrictions shall be as provided for Agricultural and Residence Districts AR by Section 302.

#### **Section 404 PRIVATE GARAGES AND OTHER ACCESSORY BUILDINGS**

1. No detached private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, and for each foot the height of such building exceeds 15 feet, the offset from the rear and side property lines shall be increased by one foot.

2. No detached garage shall be placed closer to the street line than the front foundation of the house, and in the case of a corner lot, shall not be closer to either street than the area of the foundation closest to each street or 60 feet from each street right-of-way.

3. No accessory building shall be placed closer to the street line than the rear main wall of the principal dwelling, and, in the case of a corner lot, shall not be closer to either street than the area of the foundation farthest from each street.

4. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same side and front yards shall be required as for a dwelling and such side yards shall be measured from the outer walls of such garage or carport. An attached garage or carport may extend into a rear yard.

#### **Section 405 LOCATION OF DRIVEWAYS**

As in Section 304.

### **ARTICLE V LIGHT RETAIL BUSINESS DISTRICT (B-1)**

The Light Retail Business District is established to accommodate businesses involving light retail trade.

#### **Section 500 PERMITTED USES AND BUILDINGS AND OTHER STRUCTURES IN B-1 DISTRICT**

1. Antique, beauty and barber shops.
2. Bowling alley or similar recreational establishment entirely enclosed within a building.
3. Financial establishments including banks, credit agencies other than banks, security and commodity brokers, dealers and services.
4. Hardware stores, food stores, apparel and accessory stores, and furniture and home furnishing stores.
5. Insurance carriers, agents, brokers and services.
6. Ice storage and vending (three tons or less capacity).
7. Laundry, coin operated, dry cleaner.
8. Motel or motor court, conforming to the provisions of Section 1102.

9. Motion picture theaters, amusements and recreation services, medical and other health services and legal services.
10. Motor Vehicle Service station, conforming to the provisions of Section 1104.
11. Offices
12. Real estate establishments.
13. Retail trade including building materials and hardware, general merchandise, food stores, apparel and accessory stores, furniture, home furnishing and eating and drinking places including bars and restaurants.
14. Accessory uses and buildings customarily incidental to the above permitted uses, including signs up to 32 square feet per Business Establishment located upon private property and off of the road right-of-way and otherwise permitted pursuant to a site plan approval hereunder.
15. Any use permitted in Sections 300 and 400, except as are prohibited in Section 501 herein.
16. Other uses as provided by Sections 1100, 1101, 1106 and 1107.

#### **Section 501 PROHIBITED USES IN B-1 DISTRICT**

1. All uses and structures not permitted in Section 300, 400 and 500 and including but not limited to the following:
  - a. Automobile wrecking graveyards or disassembly plants.
  - b. Bakery employing more than five (5) persons.
  - c. Bottling works.
  - d. Coal yards.
  - e. Commercial warehouse.
  - f. Crude oil, gasoline or any of its volatile products or other highly flammable liquid storage in above ground tanks in an amount greater than 550 gallons.
  - g. Dumps
  - h. Electric welding other than that incidental to building construction.
  - i. Flea markets and auction barns.
  - j. Farms
  - k. Junk yards; secondhand material yards and the storage, baling and/or treatment of junk, old iron, rags, bottles or scrap paper; sludge processing or storage of sludge or similar waste material; recycling; storage or depositing in any manner of toxic waste or hazardous waste as defined by the New York State Department of Environmental Conservation.
  - l. Laundries other than laundromats and similar self-service establishments and dyeing and cleaning works, using power machinery or employing more than 5 persons.
  - m. Live animal or poultry sales.
  - n. Major Excavation and Mining.
  - o. Manufacturing
  - p. Meat smoking and processing meat for animal foods whether or not incidental to a retail business conducted on the premises.
  - q. Milk distribution plants.
  - r. Motor freight terminal.
  - s. Motor vehicle repair station.

- t. Outdoor storage of commercial tractors and trailers.
- u. Rendering lard and other fats.
- v. Residential dwellings.
- w. Slaughtering poultry and animals.
- x. Warehouse.
- y. Wholesale business.

**Section 502 YARD, AREA AND HEIGHT RESTRICTIONS IN B-1 DISTRICT**

In addition to the specific restrictions established in connection with permitted uses listed in Section 500 and the requirements listed in Article XI, the following regulations apply to all other uses permitted in B-1 and B-2 districts:

1. Area and lot dimensions The minimum net land area per business establishment shall be 40,000 square feet and the minimum width of a lot at the front right-of-way line shall be 150 feet. However, it shall be allowable to construct a group of establishments in accordance with an integrated site and architectural plan approved by the Planning Board and the minimum land area for such a group shall be five acres with a minimum width of 400 feet at the front building line.

2. Front Yards There shall be a minimum yard of 80 feet from any road right of way into which space there shall be no encroachment of structures other than a fence, wall, or sign not larger than 32 square feet, and no encroachment of commercial usage other than parking space for customer or employee cars. There shall be a suitably landscaped buffer zone between road right of way and parking area of a minimum of 10 feet. In addition there shall be no outside storage permitted in B-1 District.

3. Side Yards No building shall be placed closer to a side property line than 30 feet. No automobile parking space shall extend nearer to a side property line than 15 feet if the adjacent property is zoned AR or R-1.

4. Rear Yards No building shall be placed closer to a rear property line than 50 feet if the adjacent property is in Agricultural and Residence District AR or a Residence District R-1, or closer to a rear property line than 20 feet if the adjacent property is in any other class of district.

5. Height The height of buildings and structures shall not exceed two (2) stories being 22 feet, at the eaves.

6. Setbacks All setbacks and lot size requirements referenced herein shall be determined upon a minimum road right-of-way of four (4) rods (66 feet).

**Section 503 ENTRANCES AND EXITS UPON PUBLIC STREETS IN B-1 DISTRICT**

There shall not be more than one entrance and one exit per establishment on any individual public street and the distance between the entrances and exits center lines, if separate, shall not be less than 100 feet in any instance.

The center line of any such entrance or exit shall not intersect any street line less than 50 feet from the intersection of any two street lines. No entrances or exits shall be permitted on less than a 4 rod (66 feet) road.

#### **Section 504 LANDSCAPE TREATMENT IN B-1 DISTRICT**

All properties shall be appropriately landscaped, particularly at the front. Properties abutting Agricultural and Residence Districts AR and Residence District R-1 shall be planted with trees and shrubs and/or suitably landscaped to a width of at least 15 feet on all property lines abutting such districts.

#### **Section 505 SITE PLAN REVIEW AND APPROVAL OF BUSINESS USES**

Site Plans for business uses of premises, in any Business, Industrial or Campground District and for all business uses permitted in the A-R and R-1 Districts by variance or special permit, or for the erection, construction or placing of any structure or building above or below ground, including advertising signs of every kind, and including the installation or construction of all streets, parking lots, parks, parkways, public ways, exits and entrances (all of which shall be suitably located to accommodate prospective traffic) and all water, sewage, drainage, fire, electric and all facilities of every kind and nature shall be reviewed, regulated and approved in the form of a site plan approval by the Planning Board of the Town of Cambria and shall be installed all in accordance with standard specifications and procedure acceptable or required by the appropriate Town, County or State Departments. At a minimum, all such structures or buildings shall be placed upon a continuous perimeter concrete foundation below the frost line. Any area used for parking vehicles, entrances and exits, or upon which vehicles traverse, shall be finished as may be required by the Planning Board. Reasonable regulations with respect to said use may also be imposed by the Planning Board, including limitations with respect to days and hours of operation, outside storage, signs, odor, dust, noise, etc. Site Plan Approvals and Agreements containing conditions agreeable to the applicant, the owner of the property if different than the applicant, and the Planning Board are encouraged hereunder. No business use of premises in the B-1 District shall be permitted without first obtaining site plan approval from the Planning Board hereunder. Use of premises thusly without site plan approval shall constitute a violation of this Zoning Ordinance punishable in accordance with Section 1205 hereof.

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of this ordinance shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in this ordinance. The approved Site Plan shall be consistent with the provisions of this ordinance.

### **ARTICLE VI GENERAL BUSINESS DISTRICT (B-2)**

The General Business District is established to accommodate general retail trade and business uses including uses oriented to the automotive trade, together with any business use permitted in the Light Retail Business District.

#### **Section 600 PERMITTED USES AND BUILDINGS AND OTHER STRUCTURES IN B-2 DISTRICT**

1. Automobile laundry.
2. Automobile sales area.
3. Boat, boat trailer and marine accessory sales and rental.
4. Building material sales including lumber yards.
5. Company trailers, sales and rentals.
6. Hotels conforming to the provisions of Section 1121.
7. Ice or roller skating rinks.
8. Mobile home sales lots.
9. Motor vehicle service station, conforming to the provisions of Section 1104.
10. Public garages, conforming to the provisions of Section 1104.

11. Salesroom or shop of a builder, or artisan. No equipment, materials or supplies shall be stored out-of-doors, unless expressly permitted by the Planning Board in its site plan approval provided the principal building used by said builder or artisan is already constructed, and provided further that the area used for outside storage is suitably fenced.

12. Saleroom or shop of a contractor, provided no equipment, materials or supplies are stored out of doors.

13. Theaters other than drive-ins.

14. Accessory uses and building customarily incidental to above permitted uses, including signs up to 32 square feet per Business Establishment located upon private property and off of the road right-of-way and otherwise permitted pursuant to a site plan approval hereunder.

15. Other uses as provided in Section 1100, 1101, 1106 and 1107.

16. Any use permitted in Sections 300, 400 and 500, except as may be prohibited in Section 601.

#### **Section 601 PROHIBITED USES IN B-2 DISTRICT**

1. All uses not permitted in Sections 300, 400, 500 and 600.
2. All uses prohibited in Section 501, except those permitted in Section 600.

#### **Section 602 YARD, AREA AND HEIGHT RESTRICTIONS IN B-2 DISTRICT**

As in Section 502.

#### **Section 603 ENTRANCES AND EXIT UPON PUBLIC STREETS IN B-2 DISTRICT**

As in Section 503.

#### **Section 604 LANDSCAPE TREATMENT IN B-2 DISTRICT**

As in Section 504.

#### **Section 605 SITE PLAN REVIEW AND APPROVAL**

As in Section 505.

Stormwater Pollution Prevention Plan ó A Stormwater Pollution Prevention Plan consistent with the requirements of this ordinance shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in this ordinance. The approved Site Plan shall be consistent with the provisions of this ordinance.

## **ARTICLE VII INDUSTRIAL DISTRICTS I-1**

These districts are primarily for heavy commercial and light industrial uses whose activities do not constitute a fire hazard or emit smoke, glare, noise, odor or dust or in other ways constitute a nuisance or be detrimental to neighboring properties.

### **Section 700 PERMITTED USES AND BUILDINGS AND OTHER STRUCTURES**

1. All those permitted in any other class of district except as provided in Section 701.
2. Mining, Quarry, Sand Pit, Topsoil stripping.
3. Outdoor storage of commercial tractors and trailers.
4. Light Assembly. Assembly, packaging, storage, transfer, and distribution conducted wholly within permanent buildings in compliance with provisions of § 702, 703, 704 and 705, unless prohibited in §701.
5. All other structures and uses shall require a special permit and approval of the Zoning Board of Appeals as provided in Article XI hereof, unless prohibited by Section 701 herein.

### **Section 701 PROHIBITED USES**

1. Dwellings.
2. Churches.
3. Any process of assembly, manufacture or treatment including, but not limited to such things as: the manufacture and storage of fireworks and explosives and explosive or poisonous gases except as may be necessary and incidental to a permitted industrial process; the manufacture of illuminating gas and the storage of illuminating gas.
4. Dumps.
5. Schools.
6. Storage, baling or treatment of junk, rags, bottles or scrap papers, except entirely within a building.
7. Sludge processing or storage of sludge or similar waste material; recycling, storage or depositing in any manner of toxic waste or hazardous waste as defined by the New York State Department of Environmental Conservation.

8. Storage or processing of scrap metal; automotive wrecking, graveyards or disassembly plants; junk yards and the storage of secondhand building materials.

### **Section 702 YARD, AREA AND HEIGHT RESTRICTIONS**

In addition to the specific restrictions established in connection with permitted uses listed in Sections 500 through 505, which are hereby made applicable to the Industrial District, and the requirements listed in Article XI, the following regulations apply to all other uses permitted in the Industrial District:

1. Area and lot dimensions The minimum net land area per business establishment shall be 40,000 square feet and the minimum width of a lot at the front building line shall be 150 feet. However, it shall be allowable to construct a group of establishments in accordance with an integrated site and architectural plan approved by the Planning Board and the minimum land area for such a group shall be five acres with a minimum width of 400 feet at the front building line.

2. Front Yards There shall be a minimum yard of 80 feet from any road right of way into which space there shall be no encroachment of structures other than a fence, wall, or sign not larger than 32 square feet, and no encroachment of commercial usage other than parking space for customer or employee cars. There shall be a suitably landscaped buffer zone between road right of way and parking area of a minimum of 10 feet. In addition there shall be no outside storage permitted in the Industrial District.

3. Side Yards No building shall be placed closer to a side property line than 30 feet, and no automobile parking space shall extend nearer to a side property line than 15 feet.

4. Rear Yards No building shall be placed closer to a rear property line than 50 feet if the adjacent district is an Agricultural and Residence District AR or a Residence District R-1, or closer to a rear property line than 20 feet if the adjacent district is any other class of district.

5. Height There shall be no limit on the height of buildings except for each foot the height of a building exceeds 35 feet, the offset from the side and rear property lines shall be increased by two feet.

6. Setbacks All setbacks and lot size requirements referenced herein shall be determined upon a minimum road right-of-way of four (4) rods (66 feet).

### **Section 703 ENTRANCES AND EXITS UPON PUBLIC STREETS**

There shall not be more than one entrance and one exit per establishment on any individual public street and the distance between the entrances and exits center lines, if separate, shall not be less than 100 feet in any instance. The center line of any such entrance or exit shall not intersect any street line less than 40 feet from the intersection of any two street lines. No entrances or exits shall be permitted on less than a 4 rod road (a road with a width of less than 66 feet).

**Section 704 SITE PLAN REVIEW AND APPROVAL**

As in Section 505.

Stormwater Pollution Prevention Plan ó A Stormwater Pollution Prevention Plan consistent with the requirements of this ordinance shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in this ordinance. The approved Site Plan shall be consistent with the provisions of this ordinance.

**ARTICLE VIII ESCARPMENT DISTRICT**

**Section 800 PURPOSES**

It is hereby declared to be the policy of the Town of Cambria that a district be created encompassing certain unique escarpment areas within the Town in order to provide for the orderly planning and land use of the areas and to preserve the natural beauty, protect wildlife, minimize pollution and to insure the community and land owners that this land be properly developed.

**Section 801 MAP AND DESCRIPTION OF DISTRICT**

There shall be created a protective use district hereinafter referred to as the Escarpment District encompassing and including those lands which are described below, which district shall extend north and south of the escarpment shelves, and as described and located on the Zoning Map of the Town of Cambria by Wendel Duchscherer, Engineers, including amendments thereto, which map is on file with the Town Clerk of the Town of Cambria and is incorporated by reference herein.

Said District is and was described generally as follows referencing owners of the properties as noted on said map:

BEGINNING at a point 300 feet north of the intersection of Upper Mountain and Lockport Junction Roads and thence westerly parallel with the Upper Mountain Road to a point on the northwest corner of land owned by D. Meyer and thence continuing westerly to a point 1,360 feet south of the Lower Mountain Road on the Blackman Road; thence continuing westerly to a point 2,000 feet south of the Lower Mountain Road on the Cambria-Wilson Road and thence continuing westerly to the intersection of the Upper Mountain Road and Shawnee Road and thence westerly along the center line of the Upper Mountain Road to its intersection with the center line of the Cambria Lewiston Townline Road; traveling thence northerly along the center line of the Cambria Lewiston Townline Road to its intersection with the center line of the Lower Mountain Road; thence easterly along the center line of the Lower Mountain Road to the southeast corner of property owned by W. S. Schnell which is also 1700 feet west of the Baer Road; thence southeasterly to a point on the Baer Road which is 2,444 feet south of the Lower Mountain Road; thence easterly to a point from the center line of the Shawnee Road which is 3,400 feet south of the Lower Mountain Road; thence continuing easterly to a point on the Cambria Road which is 562 feet south of the center line of the Lower Mountain Road; thence northerly 562 feet to the center line of the Lower Mountain Road; thence easterly along the center line of the Lower Mountain Road to its intersection with the Thrall Road; thence continuing easterly along the center line of the Thrall Road to a point on the

northwest corner of lands owned by R. D. Berry; thence continuing easterly to a point on the Lockport Junction Road which is 3,000 feet north from its intersection with the Upper Mountain Road; thence southerly to the point or place of beginning.

## **Section 802 PERMITTED USES WITHIN THE ESCARPMENT DISTRICT**

The following uses shall be permitted within the escarpment district:

1. Grading of existing lanes or driveways by owners for farm or personal use.
2. Tapping of maple trees.
3. Planting of open land for agricultural or landscaping purposes.
4. Construction of farm ponds subject to Section 1100(1)(a)(20) herein. Due to the unique nature of the Escarpment, any application for a building permit for a farm pond shall be accompanied by a geotechnical report prepared by a New York State licensed professional engineer in such detail and with such other information as may be required by the Town, which shall review the application and accompanying documentation to determine whether or not the application is complete. Said report shall adequately address subsoil conditions, identify and assess the impact of the proposed pond upon natural water springs and ground water patterns and provide recommendations for mitigating negative impacts, if any, upon surrounding properties. The Town shall consult with the Town Engineer as needed in its review of the foregoing.
5. Reforestation.
6. Grazing of livestock for agricultural purposes only.
7. Building of homes or structures is permitted in the escarpment district. However, no home or structure shall be constructed, nor shall there be permitted storage of equipment, vehicles, machinery or debris of any kind, less than 80 feet from the south edge of the escarpment shelf (defined as the southerly boundary of steep rock land within the Escarpment District as described in the Niagara County Soils survey report published by the U. S. Agriculture Soils Conservation Service as having a slope of more than 15 percent) nor less than 80 feet from the northerly edge of the escarpment base (defined as the northerly boundary of steep rock land within the Escarpment District as described in the Niagara County Soils survey report published by the U. S. Agriculture Soils Conservation Service as having a slope of more than 15 percent).
9. Home Occupations

## **Section 803 PROHIBITED USES AND ACTIONS WITHIN THE ESCARPMENT DISTRICT**

1. General clearing of wooded areas, the intentional destruction of living trees and top cutting (cutting off the top portion of a living tree) is prohibited in this district. However, selective clearing of heavily wooded areas shall be permitted, as hereinafter stated. The Building Inspector of the Town of Cambria may issue a permit for selective clearing of such areas, when in the opinion of the Building Inspector, such clearing is necessary for an aesthetic or some other legitimate purpose, and upon the payment to the Town of Cambria of a fee of twenty dollars (\$20.00). Any permit granted pursuant to this section shall specifically enumerate or otherwise describe by tree diameter which living trees may be removed by applicant. Nothing hereunder shall be construed to prohibit the removal of fallen dead trees in the escarpment district, for which no permit hereunder shall be required.

2. Relocation, filling or piping of natural drainage ways for the purpose of constructing homes, structures or septic systems is prohibited.

4. Any use except as permitted herein shall be prohibited.

#### **Section 804 OTHER PROVISIONS**

1. All requirements of the AR district not inconsistent with the provisions of this Article shall apply to the Escarpment District with the following additional restrictions:

a. The minimum square footage of a single-family residence in the escarpment district shall be 1,800 square feet.

b. No construction of any kind shall be permitted within the escarpment district until the prospective builder has obtained a permit. The Building Inspector shall be furnished with drawings and/or information indicating the location, design and size of the construction, and that the proposed construction complies in all respects with the provisions of this Article. Submittals to the Building Inspector shall include the following:

1) Topographic plan locating existing land features, including, but not limited to, location of trees, drainage ways, natural springs, existing structures, ponds and existing ground elevations shown in a maximum of two (2) foot elevation contours.

2) Site plan indicating the location, design and size of the construction in relationship to existing land features, together with proposed site grading plan. In the event that a proposed site grading plan requires excavation or fill within the drip line of existing trees, the plan shall be accompanied by a report from a certified nursery stating what measures will be taken to avoid detrimental effects on the trees.

#### **Section 805**

The site plan described in Section 804 shall be processed as a minor subdivision of the Town of Cambria as set forth in the Subdivision Regulations of the Town. No building permit shall be issued by the Town Building Inspector until this process is complete and approval given by the Planning Board, which may require in its discretion, a geotechnical report prepared by a New York State licensed professional engineer. The report shall address subsoil conditions, underground water sources as impacted by the proposed construction and make recommendations for mitigation of negative impacts which may occur.

### **ARTICLE IX MEDIUM DENSITY RESIDENTIAL USE DISTRICTS**

The Medium Density Residential Use Districts are designed to establish areas specifically designated as such by the Town Board, in which single and multi-family dwellings shall be permitted as provided herein. The provisions

of Article IX shall not be applied in portions of the Town of Cambria wherein public sewers are not available. No building or structure shall be erected and/or occupied in a district established pursuant to the terms of Article IX unless such building or structure is served by a public sewer.

#### **Section 900 PERMITTED USES OF BUILDINGS AND OTHER STRUCTURES**

In Medium Density Residential Use Districts no building or other structure or land shall be used and no building or other structure shall be built for any purpose other than:

1. A use permitted in Residence Districts (see Article IV).
2. Multi-family dwellings, which are defined as buildings having two side yards and accommodating three or four families.

#### **Section 901 PROHIBITED USES**

1. All uses not specifically permitted in Section 900.

#### **Section 902 YARD, AREA AND HEIGHT PROVISIONS**

1. Lot dimensions:

- a. For a single family dwelling, the minimum lot size shall be ninety (90) feet in width and one hundred fifty (150) feet in depth. In the case of a corner lot, both yards abutting streets shall be determined as provided in Section 402(2).

- b. For a two-family dwelling, the minimum lot size shall be one hundred sixty (160) feet in width and one hundred fifty (150) feet in depth. In the case of a corner lot, both yards abutting streets shall be determined as provided in Section 402(2).

- c. For a three-family dwelling, the minimum lot size shall be two hundred twenty-five (225) feet in width and one hundred fifty (150) feet in depth. In the case of a corner lot, both yards abutting streets shall be determined as provided in Section 402(2).

- d. For a four-family dwelling, the minimum lot size shall be two hundred fifty (250) feet in width and one hundred fifty (150) feet in depth. In the case of a corner lot, both yards abutting streets shall be determined as provided in Section 402(2).

2. Front yards

Front yards shall be as determined by Section 402(2). In the case of corner lots, both yards abutting streets shall be considered front yards and be determined as provided in Section 402(2).

2. Rear yards

There shall be a rear yard with a depth of not less than thirty-five (35) feet on each lot, and a rear lot setback of not less than ten (10) feet for an accessory building or a similar structure, the erection of which shall be subject to approval by the Building Inspector. When a property extends through a block from street to street or road to road, the set back requirements provided herein shall be observed on all streets and roads. On a corner lot, or on property bordering upon an existing or proposed road, an accessory building or a similar structure shall be located as near as practicable to the corner of the lot that is not adjacent to either road so as to avoid placement near an adjoining property owner's front yard.

4. Side yards

a. For a single family residence on an interior lot, there shall be two side yards with a total width of not less than twenty-five (25) feet. In the case of a corner lot, yards abutting streets shall be considered front yards and be determined as provided in Section 402(2). In any case the minimum width of one of the side yards shall be not less than fifteen (15) feet, and the minimum width of the other side yard shall be not less than ten (10) feet.

b. For a two-family dwelling on an interior lot, there shall be two side yards with a total width of not less than thirty (30) feet. In the case of corner lots, yards abutting streets shall be considered front yards and be determined as provided in Section 402(2). In any case, the minimum width of any one side yard shall be not less than fifteen (15) feet.

c. For dwellings containing of three (3) or four (4) dwelling units, situated on interior lots, there shall be two side yards with a total width of not less than forty (40) feet. The width of the narrower of the two side yards shall be not less than fifteen (15) feet. In the case of corner lots, the total width of the yards shall be as for interior lots above and their distribution shall be as for interior lots above; except that the total width of the two yards shall be increased by an amount necessary to insure that any yard abutting a street shall not be less than that required by Section 402(2).

5. Height The height of structures shall be as determined by Section 402(6).

**Section 903 PRIVATE GARAGES AND OTHER ACCESSORY STRUCTURES**

1. Private garages and other necessary structures shall be governed by the provisions of Section 404.

**Section 904 PROCEDURE FOR ESTABLISHMENT**

1. Application for establishment of a Medium Density Residential Use District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration.

2. The Planning Board shall require the applicant to furnish such preliminary plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its recommendation on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

3. The Planning Board shall recommend approval, approval with modifications or disapproval of such application, and shall report its recommendation to the Town Board.

4. The Town Board shall hold a public hearing on the proposal, with public notice as provided by law in the case of an amendment to the Zoning Ordinance.

5. The Town Board may then amend the Zoning Ordinance so as to define the boundaries of the Medium Density Residential Use District, but such action shall have the effect only of granting permission for development of such final site plan as may be reviewed and approved pursuant to Section 905.

#### **Section 905 SITE PLAN REVIEW AND APPROVAL**

1. Application for site plan review and approval of a use in a Medium Density Residential Use District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration.

2. In all medium density residential use districts of the Town of Cambria site plans for the use of any of said premises, or for the erection, construction or placing of any structure or building above or below ground, including advertising signs of every kind, and including the installation or construction of all streets, adequate parking lots and turnarounds, parkways, any proposed green areas that will be maintained by applicant, public ways, exits and entrances (all of which shall be suitably located to accommodate prospective traffic) and all water, sewage, drainage, fire, electric and all facilities of every kind and nature shall be reviewed by the Planning Board and reviewed, regulated and approved by the Town Board of the Town of Cambria pursuant to this Section and shall be installed all in accordance with standard specifications and procedure acceptable or required by the appropriate Town, County or State Departments. At a minimum, all such structures or buildings shall be placed upon a continuous concrete foundation below the frost line.

3. The Planning Board shall require the applicant to furnish such complete and adequate site plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its recommendation on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

4. The Planning Board shall recommend final approval, approval with modifications or disapproval of such application, and shall report its recommendation to the Town Board.

5. The Town Board shall then review the Planning Board's recommendation, said site plan, and such other submittals as it may require and issue an approval, approval with modifications or disapproval of the site plan without the necessity of a public hearing.

## **ARTICLE X PLANNED DEVELOPMENT DISTRICTS P-D**

### **Section 1000 PERMITTED USES AND BUILDINGS AND OTHER STRUCTURES**

Provision for Planned Development Districts is included herein to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development. In Planned Development Districts land and buildings may be used for any lawful purposes as determined by the Town Board subject to the following limitations and procedures.

### **Section 1001 AREA PROVISIONS**

Planned Development Districts shall comprise not less than five acres.

### **Section 1002 LOT SIZES FOR RESIDENTIAL USES IN PLANNED DEVELOPMENT DISTRICTS**

Any residential development either single, two or multi-family proposed at a greater density (smaller lot size) than 25,000 square feet per dwelling unit shall be required to be serviced by a public sewer or contain a sewerage septic system approved by the Niagara County Health Department. In the event that residential development is a sewerage area, yard and height provisions shall be reviewed and approved pursuant to Sections 1003 and 1004 herein.

### **Section 1003 PROCEDURE FOR ESTABLISHMENT**

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

2. The Planning Board shall require the applicant to furnish such preliminary plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its recommendation on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

3. The Planning Board shall recommend approval, approval with modifications or disapproval of such application, and shall report its decision to the Town Board.

4. The Town Board shall hold a public hearing on the proposal, with public notice as provided by law in the case of an amendment to the Zoning Ordinance.

5. The Town Board may then amend the Zoning Ordinance so as to define the boundaries of the Planned Development District, but such action shall have the effect only of granting permission for development of such final site plan as may be reviewed and approved pursuant to Section 1004.

#### **Section 1004 SITE PLAN REVIEW AND APPROVAL**

1. Application for site plan review and approval of a use in a Planned Development District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration.

2. In all planned development districts of the Town of Cambria site plans for the use of any of said premises, or for the erection, construction or placing of any structure or building above or below ground, including advertising signs of every kind, and including the installation or construction of all streets, adequate parking lots and turnarounds, parkways, any proposed green areas that will be maintained by applicant, public ways, exits and entrances (all of which shall be suitably located to accommodate prospective traffic) and all water, sewage, drainage, fire, electric and all facilities of every kind and nature shall be reviewed by the Planning Board and reviewed, regulated and approved by the Town Board of the Town of Cambria pursuant to this Section and shall be installed all in accordance with standard specifications and procedure acceptable or required by the appropriate Town, County or State Departments. At a minimum, all such structures or buildings shall be placed upon a continuous concrete foundation below the frost line.

3. The Planning Board shall require the applicant to furnish such complete and adequate site plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its recommendation on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

4. The Planning Board shall recommend final approval, approval with modifications or disapproval of such application, and shall report its recommendation to the Town Board.

5. The Town Board shall then review the Planning Board's recommendation, said site plan, and such other submittals as it may require and issue an approval, approval with modifications or disapproval of the site plan without the necessity of a public hearing.

#### **ARTICLE X-A RECREATIONAL - CAMPGROUND DISTRICTS R-C**

The Recreational-Campground Districts R-C are established to provide for development of areas to be used for recreational and campground purposes as regulated and governed by the Ordinance Regulating Recreation Vehicle Park and Camping Grounds, and any subsequent amendments thereto.

#### **ARTICLE X (B) – MS4 – R1**

The Zoning Map of the Town of Cambria is hereby amended by adding a new District entitled, MS4 - R1 District as follows:

**Section 1.**

Regulations in MS4 - R1 District shall be as set forth in Sections 400, 401, 402, 403, 404 and 405 of the Zoning Ordinance of the Town of Cambria.

**Section 2.**

The provisions for Stormwater Management and Erosion & Sediment Control as set forth in this ordinance shall be solely applicable to the new Zoning Map classification MS4 - R1, as amended.

**Section 3.**

The boundary of Zoning Map classification MS4 -R1 shall be as established under Section 101 and 102 of Article 1 of the Zoning Ordinance of the Town of Cambria.

**ARTICLE XI EXCEPTIONS AND SPECIAL PROVISIONS**

**Section 1100 USES PERMITTED AS SPECIAL EXCEPTIONS**

As provided by §274-b of the Town Law of the State of New York and authorized by the Town Board, the Zoning Board of Appeals shall consider requests for Special Permits (special provisions, special exceptions, special uses). Requests for Special Permits in the Agricultural-Residential, Residential and Escarpment Districts may be considered without the necessity of a report or recommendation from the Planning Board, except the Zoning Board of Appeals, in its sole discretion, may refer any such request for a Special Permit to the Planning Board for its report and recommendation. Requests for Special Permits in the Light Retail Business, General Business and Industrial Districts shall be referred to the Planning Board for a report or recommendation. After the Planning Board report or recommendation is made, the Zoning Board shall consider the request. Consideration of all requests hereunder by the Zoning Board shall be made after public notice and public hearing under conditions set forth in this Article.

**1. IN AN AGRICULTURAL AND RESIDENCE DISTRICT AR (ARTICLE III)**

a. Uses which may be considered:

- 1) Air landing field, only if operated privately, and not for profit.
- 2) Animal Hospital.
- 3) Animal Husbandry on parcels under five (5) acres, upon a finding that applicant has sufficient land upon which to engage in the type of animal husbandry requested hereunder .
- 4) Bed and Breakfast.
- 5) Boarding house or rooming house.
- 6) Bus passenger shelter.

- 7) Business in an existing or proposed structure.
- 8) Carnival - subject to the provisions of Section 1119.
- 9) Cemetery.
- 10) Churches, places of assembly, and parish houses.
- 11) Circus - subject to the provisions of Section 1119.
- 12) Commercial greenhouses and plant nurseries including offices and sales yards.
- 13) Crematorium.
- 14) Clubhouse, as herein defined, without facilities likely to occasion a nuisance in a residential neighborhood by reason of noise or other objectionable features.
- 15) Dental clinic.
- 16) Drive-in outdoor theater subject to the requirements of Section 916.
- 17) Educational and day care institutions.
- 18) Electric substation, gas district governor station, telephone exchange, or other public utility building, structure, or use, a business office, storage yard, repair shop or facility for the manufacturing or storage of illuminating gas, or related use, to the extent that a use hereunder is not superseded and thereby regulated by Local Law No. 2 for the year 2002 regulating Personal Wireless Telecommunications Service and Towers, which law may be amended from time to time by the Town Board.
- 19) Fair - subject to the provisions of Section 1119.
- 20) Farm pond - not larger than one-half (½) acre. The Zoning Board may grant such permit upon a finding of no environmental damage and a finding that the construction or alteration of said pond will not adversely affect drainage in the area. A satisfactory report from the Niagara County Soil and Water Conservation District shall also be submitted with an application for a Special Permit for a pond hereunder. Such permit may be granted pursuant to the provisions authorizing the granting of special permits herein and shall not be subject to any other laws regarding excavations. Once a permit for a pond is granted, the requirement of renewal pursuant to Section 1101(1)(h) is not applicable. Filling in or otherwise altering an existing pond shall also require a Special Permit hereunder.
- 21) Golf courses.
- 22) Hospital.
- 23) Kennel, private, provided that any structures or area used for such purposes, including pens or exercise runnings, shall be at least 100 feet from any other property line.
- 24) Medical clinic.
- 25) Manufactured home park.
- 26) Motel or motor courts in accordance with the terms of Section 1102.
- 27) Municipal, county, state or federal use.
- 28) Nursery School or Day Care Center.
- 29) Nursing home.
- 30) Picnic grounds.
- 31) Private athletic field, private swimming pool or other private recreation facility operated by a not-for-profit organization.
- 32) Private commercial automobile parking lot on land directly abutting a General and Highway Business District or an Industrial District at the side or rear provided no part of such lot extends more than 400 feet beyond the boundary line of such Business or Industrial District or extends into a front yard or extends closer to the side

line of residential lot than 50 feet; and provided that where ever abutting upon other than industrial or commercial property, the parking lot is to be densely planted with trees and shrubbery for a depth of not less than 25 feet.

33) Public building.

34) Public parks and non-commercial recreation facilities.

35) Radio or television transmission facilities and their customary appurtenances.

36) Riding academy.

37) Sanitarium.

38) School, primary or secondary.

39) School, vocational.

40) Stable, public or private.

41) Temporary residence for a period of up to one year during construction of a permanent residence upon the same parcel of real property. Such a permit is not renewable. The temporary residence must comply with all New York State health and building codes.

42) Tourist house.

**b) Limitations**

No use authorized for consideration by this subsection shall be permitted in any other district unless specifically authorized for such district.

**2. IN A RESIDENCE DISTRICT R-1 (ARTICLE IV)**

a. Uses which may be considered:

1) Boarding house or rooming house.

2) Bus passenger shelter.

3) Churches, places of assembly and parish houses.

4) Education institution.

5) Public Utility buildings and/or structures which are essential to the R-1 District which cannot be located elsewhere in the Town, to the extent that a use hereunder is not superseded and thereby regulated by Local Law No. 2 for the year 2002 regulating Personal Wireless Telecommunications Service and Towers, which law may be amended from time to time by the Town Board.

6) Home occupations.

7) Municipal, county, state or federal use.

8) Public buildings.

9) Public parks and non-commercial recreational facilities.

10) School, primary or secondary.

b. Limitations. As in Section 1100(1)(b).

**3. IN THE LIGHT RETAIL BUSINESS DISTRICT B1 (ARTICLE V)**

a. Uses which may be considered:

1) Animal hospital, veterinary clinic or public kennel; provided that any structures or area used for such purposes, including pens or exercise runnings, shall be at least 100 feet distance from any Agricultural and Residence District AR, Residence District R-1 or any other property line.

2) Drive-in businesses including drive-in outdoor theaters subject to the requirements of Section 1114.

3) Light Assembly

b. Limitations - As in Section 1100(1)(b).

4. **IN THE GENERAL BUSINESS DISTRICT B-2 (ARTICLE VI)**

a. Uses which may be considered:

1) Light assembly

2) Motor vehicle repair station, conforming to the provisions of Section 1104

b. Limitations (as in Section 1100(l)(b))

5. **IN THE INDUSTRIAL DISTRICT**

a. Uses which may be considered:

1) Any use not specifically permitted or prohibited in the Industrial District.

b. Limitations. As in Section 1100(1)(b).

**Section 1101 CONDITIONS FOR THE GRANTING OF SPECIAL PERMITS**

1. Such special permits may be authorized by the Board of Appeals initially for one year only upon satisfaction in each instance of such conditions as to the general character, height and use of structure or structures; as to the provisions of surrounding open space and the treatment of grounds; as to the general fitness of the structure or use to its proposed location; as to the provision for automobile parking or storage; and as to street capacity and use as, in the opinion of the board, may be necessary to safeguard public health, comfort, convenience, and as may be required for the preservation of the general character of the neighborhood in which such building and/or structure is to be placed or such use is to be conducted. In granting Special Permits, the Board of Appeals shall consider whether the requested use meets the following conditions:

a. No change in character of neighborhood.

- b. No depreciation of property values.
- c. No excessive noise or disturbance of neighborhood.
- d. No appreciable change in traffic.
- e. Adequate parking arrangements.
- f. Plan must be approved with appropriate landscaping.
- g. No outside storage of materials.
- h. In the discretion of the Board of Appeals the permit may be reviewed upon its expiration and extended for an additional one year period or for such other period of time not to exceed five years which may be established by the Board of Appeals if conditions of area have not changed. Special permits are renewable without the necessity of a public hearing.

2. The entire report of the Planning Board, if required or requested, shall be considered at the meeting at which the request for the special permit is considered by the Board of Appeals.

3. To assist the Board of Appeals in its determination, an application for a permit under this section shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become a part of the record.

#### **Section 1102 MOTOR COURTS OR MOTELS**

Motor courts or motels, where allowable under this ordinance, shall conform to the following requirements:

1. Each rental structure shall contain at least eight (8) rental units.
2. In Agricultural and Residence Districts AR, no rental structure or part thereof shall be placed closer to any street or road line than 100 feet, or closer to any other property line than 50 feet.
3. Automobile parking space to accommodate not less than one car for each rental unit plus one additional place for every person regularly employed on the premises shall be provided on the premises and in Agricultural and Residence Districts AR, no part of such parking space shall be closer to any street line than 50 feet.
4. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All such fixtures shall be properly connected to the Town water and sewer system (or other equivalent method of water supply and sewage disposal properly installed). Sanitary facilities shall be approved by the New York State Health Department.

#### **Section 1103 MANUFACTURED HOMES**

The following shall apply in addition to all other regulations of the Town pertaining to manufactured homes. (References in this Zoning Ordinance and in the Mobile Home Ordinance and any amendments thereto to mobile home parks and mobile home courts are deemed to be references to "manufactured" homes, parks and courts for all purposes herein and in the Mobile Home Ordinance.)

No manufactured home shall be parked and occupied in any district outside an approved manufactured home court.

**Section 1104 PUBLIC GARAGES, MOTOR VEHICLE SERVICE STATIONS AND MOTOR VEHICLE REPAIR STATIONS**

1. No public garage, motor vehicle service station, motor vehicle repair station, or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurements shall be taken as the shortest distance between such entrances across the street if the entrances are on opposite sides of the street, and along the street frontage if both entrances are on the same side of the street or within the same square block.

2. All motor vehicle service stations and motor vehicle repair stations shall be so arranged as to require all servicing or repair on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property line than 50 feet, or closer to any street line than 80 feet.

3. No inoperative motor vehicle shall be kept on the premises of a motor vehicle service station or a motor vehicle repair station for periods longer than the following:

- a. Motor vehicle service station - three days;
- b. Motor vehicle repair station - two weeks.

6. All waste material will be stored within a structure or suitably enclosed within fencing so as not to be visible from off the property.

5. On any streets which provide access to gasoline pumps, all repair facilities shall be at least 15 feet further from the street line than the side of the gasoline pumps furthest from the street line, in no case less than 80 feet from highway right-of-way.

6. Not more than six (6) cars or vehicles shall be parked, stored or left standing outside of a building on said premises at any one time. All parts shall be stored within a building and on said premises, or suitably enclosed within fencing so as not to be visible from off the property.

7. Except when actually engaged in servicing, said cars or vehicles shall not be parked, stored or left standing less than 150 feet from any highway or street right-of-way or less than 25 feet from any other lot line.

8. The premises shall be kept in a clean, neat, sanitary and sightly condition, and shall be subject to the reasonable inspection and recommendation by the Building Inspector of the Town of Cambria.

9. All provisions contained in Section 1108 herein relating to parking shall apply.

**Section 1105 SIGNS AND BILLBOARDS**

1. a) One sign shall be permitted on a single parcel of land in the A-R or R-1 Zoning district with a separate S.B.L. number which shall not exceed 12 square feet. Any additional sign shall be subject to approval by the Town Planning Board by Special Permit pursuant to Section 1101 of this Ordinance.

b) Size, location and construction of a sign which applicant proposes to be located in a Business or Industrial District or as part of a Subdivision submittal shall be reviewed by the Planning Board as part of its site plan or subdivision approval without the necessity of Zoning Board of Appeals approval. A sign in the business district attached to the sidewall of a building may not extend beyond or project from the building. No sign will hereinafter be erected pursuant to this Section which exceeds 32 square feet per business upon said premises, unless the Planning Board has expressly approved the use of a larger sign pursuant to its Site Plan Approval. Approval of a sign exceeding 32 square feet can be made by the Planning Board upon a finding that the applicant's business requires a larger sign, and that a sign limited to 32 square feet is not sufficient to meet the demonstrated needs of the applicant.

c) Any freestanding sign larger than eight square feet shall have at least three feet of open space at the bottom, extending its entire length.

d) Mobile signs are not permitted in any use district.

e) Flashing signs are not permitted in any use district.

f) The Building Inspector may grant temporary sign permits for no longer than three months after which the sign must be removed.

## 2. NONCONFORMING SIGNS TO BE REMOVED

### a) Nonstructural signs

1) Any nonconforming sign which is portable in nature (i.e. banners, pennants, spinners, portable signs, etc.) shall be removed within 90 days of the effective date of this ordinance.

2) Any nonconforming sign painted, pasted or otherwise applied to a fence, wall or facade of a building shall not be repainted, restored or replaced.

### b) Structural signs

1) Any nonconforming sign that is a structure or a removable part of a structure existing in a Residence District at the time of the adoption of this ordinance or an amendment thereto shall be discontinued within three (3) years from the date of such adoption or amendment.

## 3. POLITICAL SIGNS

No person, firm or corporation shall affix, paint, post, hang or shall cause or allow any of his or their or its subordinates or employees to affix, paint, post, hang or otherwise attach any political signs, banners, posters, placards or political advertising of any type whatsoever, to any lamp posts, telegraph or telephone poles, trees, hydrants, or boxes covering same, street signs, signal posts, wires, cables, buildings, fences, structures of any kind, sidewalks, pavements,

walls, refuse and litter containers, monuments, statues, arbors, parking meters, bridges, railings, shelter houses, comfort stations, stairways, apparatus, pieces of equipment, or on any other conceivable object or item, thing or place situated in or upon any of the public roads, streets, avenues, lanes, alleys or public places of the Town of Cambria, New York; or upon any structures or buildings within the right-of-way of any of the roads, streets, avenues, lanes, alleys or public places of the Town of Cambria, New York. All political signs shall be removed within seventy-two (72) hours of the closing of the polls.

#### **Section 1106 TEMPORARY USES AND STRUCTURES**

Temporary permits may be issued by the Building Inspector for a period not exceeding one year, for nonconforming uses incident to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit and such other conditions as the Building Inspector in his sole discretion may deem reasonable and necessary. Such permits may be renewed upon application to the Building Inspector for an additional period of one year.

#### **Section 1107 NONCONFORMING USES, BUILDINGS AND STRUCTURES**

1. Continuation of nonconforming use. Except as provided in subsection 2 and 3 of this section, any use of land or a building or structure or part thereof, existing at the time that this ordinance or any amendment hereto becomes effective, may be continued subject to the provisions of subsection 4, 5 and 6 of this section, although such building or structure or use does not conform to the provisions of the district in which it is situated.
2. Discontinuance of use. When a nonconforming use under this or any former Zoning Ordinance has been discontinued for a period of not less than one year, it shall not thereafter be re-established, and the future use shall be in conformity with the provisions of this ordinance.
3. Automobile wrecking yards. Notwithstanding any other provision of this ordinance, any nonconforming automobile wrecking yard, in existence at the time of the adoption of this ordinance or an amendment thereto shall be discontinued within one year from the date of such adoption or amendment.
4. Change of nonconforming use. No nonconforming use shall be changed to other than a conforming use for the district in which it is situated.
5. Maintenance of a nonconforming use. Any continuation of a nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public.

6. Any building or structure containing a nonconforming use or any structure consisting of a nonconforming use, which is damaged by fire, flood, wind or other act of God or man to the extent of 50 per cent or more of its fair sales value immediately prior to damage shall not be reoccupied, reused and/or reconstructed except in conformity with the provisions of this ordinance. In the event that the Building Inspector's estimate of the extent of damage or fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the extent of damage or fair sales value shall be determined by a Board of three arbitrators, one of whom shall be named by the Planning Board, one by the applicant for the building permit, and one by the first two arbitrators named.

In the event the first two arbitrators named cannot agree upon a third member within five days, the third arbitrator shall be named by the Town Board. A decision in which at least two of the arbitrators concur shall be deemed the official decision of this Board.

7. Any nonconforming building or structure which is damaged by fire, flood, wind or other act of God or man to the extent of 50 per cent or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this ordinance. In the event of dispute, the extent of damage or fair sales value shall be determined in the same manner as set forth in Section 1107, subsection 6 above.

8. Any building or structure containing a nonconforming use, or any structure constituting a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of more than 25 per cent but less than 50 per cent of its fair value immediately prior to damage shall not be repaired or constructed except in conformity with this ordinance unless such reconstruction is completed within 12 months of the damage. In the event of a dispute, the extent of the damage or the fair sales value will be determined in the manner as set forth in Section 1107, subsection 6.

9. No building or structure designed for or intended to be utilized for a nonconforming use shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway at the time of the enactment or subsequent amendment of this ordinance and is being diligently pursued so that such building or structure will be completed within 18 months from the time of the enactment or subsequent amendment of this ordinance. Not more than 30 days after the enactment of this ordinance a permit shall be obtained from the Building Inspector for each building or structure under construction as of the date of enactment of this ordinance. Irrespective of whether such construction conforms with the terms of this ordinance, any structure so permitted shall be allowed to be completed in accordance with plans filed at the time of the application for the permit. After filing of plans with the Building Inspector, alteration or additions to such plans except as may be in conformity with the terms of this ordinance shall not be permitted. Construction of buildings or structures under construction at the time of the enactment of this ordinance for which permits are not obtained as provided above, shall be stopped 30 days after the enactment of this ordinance and thereafter be permitted to continue only in accordance with the terms of this ordinance after the securing of a building permit as hereinafter provided.

10. The above limitations shall not apply to a building or other structure utilized as a dwelling which is nonconforming only in respect to yard space or area per dwelling and nonconforming to the district in which it is located except further into a already deficient amount of land area per dwelling.

## **Section 1108 REQUIRED OFF-STREET PARKING AND AUTOMOBILE STORAGE SPACES**

### **1. General Provisions:**

a) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the erection of any building or structure, at the time any building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front yard or portion thereof in any residential district shall be utilized to provide parking space required in this ordinance.

b) If the vehicle storage space or standing space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Appeals may permit such space to be provided on other off-street property provided such space lies within 400 feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

c) Vehicle parking or storage space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this ordinance shall be continued and may not be counted as serving a new building, structure, addition or land use; nor shall any required parking space be substituted for an off-street loading and unloading space, nor any required loading and unloading space be substituted for parking space.

d) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that one-half of those parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on a Sunday, may be assigned to a use which will be closed at night or on Sunday.

e) No off-street automobile parking or storage space shall be used or designed, arranged, or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property.

f) The parking spaces provided along with their necessary driveways and passageways shall be surfaced or finished in a manner adequate to eliminate dust and mud problems. Plans for such parking spaces are to be included with the plans for the construction of buildings and other structures and are to be presented to the Building Inspector at the time application for building permits are to be filed. Such parking areas are to be kept free of obstructions and unsightly objects. Intersections of parking areas with sidewalks or street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.

2. Amusement Facilities. One parking space for every three customers computed on the basis of maximum servicing capacity at any one time plus one additional space for each of the maximum number of employees who may be working at any particular time.

3. Apartment Houses. Two spaces for each apartment.

4. Auditorium. One parking space for every three seats occupied at maximum capacity.

5. Boarding House. One parking space for each sleeping room occupied by roomers or boarders plus one parking space for each dwelling unit on the premises, plus one additional space for each of the maximum number of employees who may be working at any particular time.

6. Bowling Alleys. As in subsection 2.

7. Churches. As in subsection 4.

8. Civic Centers. Parking or storage space for all vehicles used directly in the operation of such establishment plus four parking spaces for the first 1,000 square feet or total floor area and an additional parking space for every additional 150 square feet of floor area.

9. Clubhouses and Permanent Meeting Places of Veterans, Business, Civic, Fraternal, Labor and Other Similar Organizations. One parking space for every 40 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building plus one additional space for each of the maximum number of employees who may be working at any particular time.

10. Colleges (Educational Institutions). One parking space for every three seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the campus. If the institution has no assembly hall, auditorium or gymnasium, one parking space shall be provided for each person regularly employed at such institution plus five additional spaces for each classroom.

11. Dental Clinics. Three parking spaces for each doctor or dentist plus one additional space for each of the maximum number of employees who may be working at any particular time.

12. Dormitories. One parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements as set forth in subsection 10.

13. Eating Establishments. One parking space for every 50 square feet of total floor area plus one additional space for each of the maximum number of employees who may be working at any particular time.

14. Electric Shops. Parking or storage space for all vehicles used directly in the conduct of the business plus one additional space for each of the maximum number of employees who may be working at any particular time.

15. Fraternity Houses. As in subsection 12.

16. Freight Terminals. Parking or storage space for all vehicles used directly in the conduct of the business plus one additional space for each of the maximum number of employees who may be working at any particular time.

17. Funeral Homes. Parking or storage space for all vehicles used directly in the conduct of the business plus one parking space for each person regularly employed on the premises and one space for every six seats in the auditorium or chapel of such establishment. If the establishment does not have a chapel or auditorium, the additional parking to be required for funeral visitors shall be determined by the Planning Board upon site plan review based on the number of funerals that can be handled at one time, the size of the facilities and other relevant factors.

18. Hospitals. One parking space for every two beds intended for patients, excluding bassinets plus one additional space for each of the maximum number of employees who may be working at any particular time.

19. Hotels. One parking space for each sleeping room offered for tourist accommodations, one additional space for each dwelling unit on the premises, plus one additional space for each of the maximum number of employees who may be working at any particular time.

20. Indoor Retail Business. Parking or storage space for all vehicles used directly in the conduct of such business plus four parking spaces for the first 1,000 square feet of total floor area and one additional space for every additional 150 square feet of floor area, plus one additional space for each of the maximum number of employees who may be working at any particular time.

21. Industrial Plants and Facilities. Parking or storage space for all vehicles used directly in the conduct of such industrial use plus one additional space for each of the maximum number of employees who may be working at any particular time.

22. Junior High Schools (Secondary). One parking space for every five seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, one parking space shall be provided for each person regularly employed at such school plus two additional spaces for each classroom.

23. Libraries. As in subsection 8.

24. Medical Clinics. As in subsection 11.

25. Manufactured Homes. Two parking spaces for each manufactured home.

26. Manufactured Home Parks. Two parking spaces for each manufactured home.

27. Motels. As in Section 1102.

28. Museums. As in subsection 8.

29. Nursing Home. One parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements for hospitals set forth in subsection 18.

30. Offices. One parking space for every 200 square feet of office space.

31. Outdoor Retail Business. Parking or storage space for all vehicles used directly in the conduct of such business plus one parking space for every person employed on the premises in maximum seasonal employment and such additional space as may be required by the Planning Board based on the nature of the business and other relevant factors.

32. Plumbing Shops. As in subsection 14.

33. Post Offices. As in subsection 8.

34. Private Schools. One parking space for each person regularly employed at such school plus one additional space for each classroom.

35. Public Assembly. As in subsection 4.

36. Public School (Elementary). As in subsection 34.

37. Public Garage. Indoor or outdoor parking or storage space for all vehicles renting or leasing such space, one parking space for each vehicle used directly in the conduct of such business plus one additional space for each of the maximum number of employees who may be working at any particular time.

38. Recreation Centers and Facilities. As in subsection 2.

39. Repair Shops, Motor Vehicle Service Stations and Motor Vehicle Repair Facilities. Indoor or outdoor parking or storage space for all vehicles being repaired or serviced, one parking space for each vehicle used directly in the conduct of such business, plus one additional space for each of the maximum number of employees who may be working at any particular time.

40. Residences. Two parking spaces for each dwelling unit.

41. Restaurants. As in subsection 13.

42. Roofing Shops. As in subsection . 39.

43. Rooming Houses. As in subsection 5.

44. Self-Service Laundries and Dry Cleaning Self-Service Plants. One parking space for every two washing machines and/or dry cleaning machines.

45. Senior High School (Secondary). As in subsection 22.

46. Service Establishment. As in subsection 39.

47. Service Station - Motor Vehicle. Parking or storage space for all vehicles used directly in the conduct of the business plus one parking space for each gas pump, three spaces for each grease rack and one space for every two persons employed on the premises at maximum employment on a single shift.

48. Skating Rinks. As in subsection 2.

49. Sorority Houses. As in subsection 12.

50. Stadium. As in subsection 4.

51. Swimming Pools. As in subsection 2.
52. Tavern. One parking space for each occupant based upon maximum capacity or one parking space for each 25 square feet of the tavern used by the public, whichever is greater, plus one space for each of the maximum number of employees who may be working at any particular time.
53. Theaters. As in subsection 4.
54. Tourist Courts. As in subsection 19.
55. Tourist Homes. As in subsection 19.
56. Transportation Terminals. One parking space for every 100 square feet of waiting room space plus one additional space for every two persons regularly employed on the premises.
57. Trucking Terminals. As in subsection 16.
58. Undertaking Establishments. As in subsection 17.
59. Universities. As in subsection 10.
60. Warehouse. As in subsection 16.
61. Wholesale Business. Parking or storage space for all vehicles used directly in the conduct of such business plus one parking space for each two persons employed on the premises based on maximum seasonal employment.

**Section 1109 REQUIRED OFF-STREET PARKING FOR COMMERCIAL VEHICLES WHILE LOADING AND UNLOADING**

1. On the same premises, with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained, as permitted in a Site Plan Approval by the Planning Board, adequate space for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley, or if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity as permitted in a Site Plan Approval by the Planning Board.

2. Freight Terminals. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 5,000 square feet of total floor area.
3. Hotels. One off-street loading and unloading space at least 12 feet by 35 feet by 14 feet high.
4. Hospital. As in subsection 3.
5. Indoor Markets. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 7,500 square feet or less of total floor area.
6. Industrial Plants. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 10,000 square feet of total floor area or as required by the Planning Board in its site plan review and approval.
7. Retail Business. As in subsection 3.
8. Service Establishments. As in subsection 3.
9. Trucking Terminals. As in subsection 2.
10. Warehouses. As in subsection 5.
11. Wholesale Storage Facilities. As in subsection 5.

#### **Section 1110 FRONTAGE ON PUBLIC STREET OR ROAD**

1. Unless authorized pursuant to an approved Subdivision, no dwelling or other structure shall be erected on a lot which does not abut on at least one dedicated street for a distance of at least the required minimum frontage for such a structure in the applicable district, which frontage shall be continuous. Access for ingress and egress with respect to said lot shall be through said frontage.

2. No detached building to the rear of a main building on the same lot may be used for residential purposes. The requirements of this Section shall not apply to premises zoned Medium Density or Planned Unit Development.

#### **Section 1111 REDUCTIONS IN LOT AREA PROHIBITED**

1. No lot, although it may consist of one or more adjacent lots of record, shall be reduced in area to the extent that yards, lot area per family, lot width, building area or other requirements of this ordinance, are not maintained. This subsection shall not apply when a portion of a lot is required for a public purpose.

2. No space applied or necessary under this ordinance to satisfy the yard or other open space requirements in relation to any building or area, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other building.

#### **Section 1112 OBSTRUCTION OF VISION AND FENCING**

1. In all districts, on a corner lot within the triangular area formed by the center lines of streets from the intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of three and one-half feet and the height of 10 feet above the average grade of each street on the center line thereof. The requirements of this section shall not be deemed to prohibit the construction of any necessary retaining wall.

SIGHT DISTANCE FOR VARIOUS SIGHT WIDTHS

STREET RIGHT-OF-WAY	DISTANCE FROM INTERSECTION
50 feet or more-----	90 feet
40-49 feet-----	80 feet
30-39 feet-----	70 feet

2. Except as provided in Section 1112 (1) the requirements of this ordinance shall not be deemed to prohibit any otherwise lawful fence or wall, except that in any Agricultural-Residential or Residential District, no privacy fence or wall shall exceed six (6) feet in height. A privacy fence that is finished on one side only shall have the side in good or finished condition facing toward the adjoining property. All privacy fences shall be constructed in a manner which is aesthetically pleasing so as not to adversely affect the character of the neighborhood. An application for a Building Permit for a privacy fence shall be accompanied by descriptions and/or drawings sufficient in detail to allow the Code Enforcement Officer to determine whether or not the proposed fence complies with the requirements of this Section.

3. No building permit for a residence or other structure in any use district shall be issued by the Code Enforcement Officer unless sight lines at the intersection of the road and proposed driveway are sufficiently clear in both directions, to allow safe ingress and egress.

4. Any difference of opinion between the Code Enforcement Officer and the applicant as to what constitutes a safe site line shall be referred to the Town Planning Board for resolution.

**Section 1113.1 EXCAVATION**

No person, firm or corporation shall strip, excavate, or otherwise remove in any use district, top soil, gravel, fill or other material from the premises for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises, and excavation and/or grading incidental thereto, as well as excavation in the Industrial District, in which district no excavation shall be made or maintained within 250 feet of any highway or street right-of-way line, public utility easement and/or railroad right-of-way or within 40 feet of any lot line.

a. The slope of any pit excavation shall be at an incline of at least two horizontal feet to one vertical foot.

b. No excavation shall be made less than two feet above the maximum ground water level at the site, nor shall the natural level of the water table be changed or altered in any respect by said excavation or by drains or any other means whatsoever.

c. No junk, waste, rubbish or toxic waste or materials shall be placed or permitted to be placed in any excavation.

d. No excavation shall be permitted in any use district in the Town, except for farm use, without a special permit issued pursuant to Section 1101 of this Ordinance. Such excavation shall not be permitted on premises less than five acres in size, nor closer than 100 feet from any street right of way or property line.

### **Section 1113.2 PERMIT FOR REMOVAL OF MATERIAL FROM EXISTING DITCH**

The Building Inspector of the Town of Cambria may issue a permit for the removal from premises of material excavated from existing drainage ditches within any District of the Town or new drainage ditches in any District approved by the Niagara County Soil Conservation Service, or other agency acceptable to the Town Board of the Town of Cambria, when in the opinion of the Building Inspector, such ditching is necessary for drainage and upon the payment to the Town of Cambria of a fee of twenty dollars (\$20.00). The Town Board may revoke any permit issued hereunder if it shall find that the proposed excavation or removal of earth is being performed in violation of any of the provisions herein. Any person receiving a permit pursuant to Section 1113.2 herein for the removal or excavation of fill, gravel, top soil, stone or other substance shall use all reasonable means in connection with such excavation and removal so as to reduce and minimize dust and dirt which might arise from such operation.

### **Section 1113.3 STORAGE OF EXCAVATED MATERIAL INCLUDING ROCK**

Notwithstanding any other provision herein, no excavated material including rocks shall be stored within 500 feet of any road right-of-way or lot line. No topsoil shall be removed from premises and such topsoil shall be preserved and maintained as topsoil and not buried under subsoil.

### **Section 1114 DRIVE-IN BUSINESS**

Plans for the erection or structural alteration of a drive-in business establishment, as herein defined, shall be submitted to the Planning Board for its review and decision. The Planning Board may impose such changes therein in relation to yards, driveways, driveway entrances and exists, and the location and height of buildings, and enclosures as it may deem best suited to insure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties.

### **Section 1115 STORAGE OF FLAMMABLE LIQUIDS AND HAZARDOUS MATERIALS**

1. The storage of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid in above ground tanks in an amount greater than 1100 gallons shall be prohibited in all districts unless such tanks up to and in-

cluding 10,000 gallons capacity are placed not less than 50 feet from all property lines and unless all such tanks of more than 10,000 gallons capacity are placed not less than 100 feet from all property lines. Any such storage having a capacity greater than 1100 gallons shall be properly diked with earthen dikes having a capacity not less than one and one-half times the capacity of the tank or tanks surrounded, the plans for which shall be reviewed and approved by the Town Engineer. Such storage shall in any event comply with Article 40 of the New York State Environmental Conservation Law currently entitled "Hazardous Substances Bulk Storage Act."

#### **Section 1116 CESSPOOLS AND SEPTIC TANKS**

1. No cesspool or drilled sink dry well shall be permitted.

2. Where a public sanitary sewer is not reasonably accessible, individual subsurface sewage disposal systems may be installed to serve lots of not less than 25,000 square feet in area, or on lots less than 25,000 square feet which for any reason are considered legal building lots hereunder by reason of their being in compliance with minimum building lot requirements formerly in effect, by reason of the granting of a variance, by reason of the granting of a subdivision approval, etc. All individual subsurface sewage disposal system installations shall conform to the requirements of the Niagara County Health Department.

a) No such septic tank shall be permitted in low, swampy areas with a high water table (permanent, fluctuating or seasonal), areas with ledge rock, or areas that are subject to flooding.

b) All individual subsurface sewage disposal system installations shall conform to the requirements of the Niagara County Health Department.

#### **Section 1117 SWIMMING POOLS**

1. Swimming pools are hereby declared to be a permitted accessory use structure in any use district provided the pool meets the requirements of this Ordinance and a Building Permit is obtained before it is erected or constructed.

2. Swimming pools, including decks, must comply with all setback, side yard and rear yard requirements of the Town's Ordinance applicable to buildings or structures except that swimming pools shall be permitted in the rear yard area providing it is not less than fifteen (15) feet from the side and rear lot lines. No swimming pool shall be constructed between the rear line of the foundation of the house as extended to the side lot lines and the road right-of-way.

3. In-ground type pools shall be completely enclosed by a security fence of not less than four (4) feet in height with all gates or doors opening through such enclosure equipped with self-latching and self-closing devices capable of keeping such gates or doors securely closed at all times when not in actual use, of a type approved by the Building Inspector.

4. A pool with any part of its side extending more than three (3) feet above ground must alternately be equipped with folding or removable steps or other means of denying access to small children which must be approved by the Building Inspector. Such folding or removable steps shall be removed or raised and locked in place when the pool is not in use.

5. a) The pool shall have adequate source of water supply and filtration shall meet County Health Department standards and shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupants of any neighboring property and such filter shall in no case be closer than fifteen (15) feet to any lot line.

b) A request for installation of a pool shall be accompanied by a statement of proposed method of draining said pool indicating to the satisfaction of the Building Inspector that such drainage shall not interfere with the enjoyment of neighboring properties.

c) A ground fault interrupter or no fault breaker shall be installed within the electrical system to prevent shock or serious injury to persons using the pool.

6. Retroactivity. Paragraphs 3, 4 and 5 a-c shall apply to all existing pools and the owner of such existing pools shall have six months from the effective date of this Ordinance to comply with said paragraphs.

7. Such pool must also meet all requirements of the New York State Fire and Building Code as amended.

**Section 1118 WASTE**

The dumping or placing of septic tank effluent or waste of any kind in, under or upon the soil, except by means of a subsurface disposal system approved by the Niagara County Health Department, shall not be permitted in any use district. The placing of animal wastes upon soil for agricultural purposes is exempt in AR Districts.

**Section 1119 FAIR, CARNIVAL AND CIRCUS**

In an Agricultural and Residence District AR or on the premises of a building occupied by a church, civic organization or similar non-profit group in any district, a permit may be issued under the terms of Section 1100 for a fair, carnival or circus for a period not to exceed three days in any calendar year. The permit may be issued by the Planning Board upon completion of a Site Plan Review.

**Section 1120 SUPPLEMENTARY REGULATION RELATING TO DWELLINGS**

1. Except as provided in Section 804, no permit for the erection of a one or two or multi-family dwelling will hereafter be granted in the Town of Cambria unless the minimum ground floor space per dwelling unit excluding open or enclosed porches, basements, garages and carports is as follows:

One story dwelling	1,000 square feet
One & one-half story building or dwelling/other type of architecture not defined herein	1,200 square feet
Two-story dwelling	750 square feet - 1st floor 750 square feet - 2nd floor

A-frame	1,000 square feet ó at minimum height of 7 ½ feet above the floor level
Two-family & Multi-family Units	1,000 square feet per unit

2. Any building used as a dwelling shall have a continuous perimeter foundation of masonry or wood construction below the frost line.

3. Cellar Occupancy Prohibited. It shall be unlawful to occupy all or any part of a cellar for sleeping purposes.

4. Basement Occupancy. Any basement area used for sleeping purposes shall comply with the New York State Uniform Fire Prevention and Building Code and shall have not less than two means of egress, at least one of which shall be a door giving access to an open area whose service is at least eight inches below the level of the basement floor. Each basement room used for living purposes shall have a window area, opening to the outside, equal to not less than one-tenth of the floor area of such room.

5. Slope of Yards. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building be more than one foot above the established grade of the sidewalk. Where a sidewalk grade has not been established the surface grade of the front at the front wall of the dwelling shall not be less than one foot above the center line of the street measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Building Inspector may accept a substitute gradient providing that no minus gradient is established within 15 feet of the front wall or within six feet of either side wall or of the dwelling.

**Section 1121 HOTELS**

Hotels, where allowable under this ordinance, shall conform to the following requirements:

1. Area The minimum land area per establishment shall be five acres. For each rental room in excess of 12, this land area shall be increased by not less than 2,500 square feet.

2. Frontage The minimum frontage per establishment shall be 400 feet.

3. Front Yards There shall be a minimum front yard of 150 feet into which there shall be no encroachment of commercial usage, automobile parking and of structures other than a fence, wall or sign approved by the Planning Board in accordance with Section 1105 hereof.

4. Side and Rear Yards No structure shall be placed closer to a side or rear property line than 50 feet and no automobile parking shall be placed closer to a side or rear property line than 25 feet. For every story the height of the structures exceeds two, the off-set from the side and rear property lines shall be increased by 10 feet.

**Section 1122 ACCESS OF A COMMERCIAL OR INDUSTRIAL USE**

No driveway or other means of access for vehicles other than a public street shall be maintained or used in any residence district for the servicing of any use located in a Commercial or Industrial District.

**Section 1123 JUNKYARDS**

No junkyards, dumping grounds, or rendering works shall be permitted in any use district in the Town of Cambria. A lot, land or structure or part thereof used for collecting, storage, sale or abandonment of any material including but not limited to waste papers, lumber, scrap metal, discarded material, used building material; or for collecting, dismantling, storage, salvage, sale, abandonment, of machinery or vehicles not in operating condition or not inspected and approved by the New York State Department of Motor Vehicles, shall be deemed a junkyard. One or more abandoned, disabled, dismantled or non-registered or non-inspected automobiles, trucks, trailers, buses or other motor vehicles accumulated outside, including those used for storage purposes, shall constitute a junkyard.

**Section 1124 MULTIPLE BUILDINGS ON UNDIVIDED LAND**

Where two or more buildings are to be erected on undivided land, they shall in no instance be erected nearer to each other than would be permitted if the land were divided, the division line being equal distance from the two buildings which must meet current setback requirements. This section shall not apply to barns and buildings used for active agricultural purposes which otherwise comply with the provisions of this Zoning Ordinance.

**Section 1125 UNSAFE BUILDINGS**

The purpose of this section is to provide for the removal or repair of buildings in the Town of Cambria that from any cause may now be or shall hereinafter become dangerous or unsafe to the public.

1. Any complaint of an unsafe building or collapsed structure shall be inspected and reported to the Town of Cambria Building Inspector.

2. Upon the Building Inspector's determination that the building is unsafe or in a collapsed condition, notice of same shall be served upon the owner of said building or structure, or on the owner's executor, legal representatives, agents, lessees, or any other person having a vested or contingent interest in the same, either personally or by registered mail, addressed to the last known address, if any, of the owner, or on the owner's executors, legal representatives, agents, lessees, or other persons having a vested or contingent in the same, as shown by the records of the Receiver of Taxes and/or in the Office of the County Clerk or County Registrar containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous, and an order requiring same to be made safe and secure, or removed.

3. If said service be made by registered mail, a copy of such notice shall be posted on the premises.

4. The owner or the owner's executors, legal representatives, agents, lessees, or any other person having a vested or contingent interest in said property, shall commence the satisfactory repair or removal of the building or structure within ten (10) days after service of the notice and complete same within twenty (20) days after service.

5. If the owner refuses or neglects to repair or remove the said structure within the time prescribed by paragraph 4 herein, the Building Inspector shall file a copy of the notice served on the owner or his representative in the Office of the County Clerk of Niagara County, which shall be filed by such clerk in the same manner as a notice of pendency pursuant to Article Sixty-five of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this paragraph. The notice so filed shall be effective for a period of one year from the date of filing, provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the town attorney. The Clerk of Niagara County shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.

6. In the event the owner or his representative shall not complete the required work within the time provided in paragraph 4 herein, the Town Board shall call a public hearing upon notice of the time and place, the purpose of which is to require repair or demolition of the building or structure. The same notice shall be served upon the owner and such persons having an interest in the property or structure as determined by the Building Inspector of the Town. The service shall be as provided in paragraph 2 herein.

7. After said public hearing, the Town Board may order removal of the building or structure by the town in the event the owner fails or refuses to repair or remove the same within a time period provided by the Town Board.

8. The Town Board shall assess all costs and expenses incurred by the Town in connection with the proceedings, including legal fees, to remove or secure the building or structure which shall include the cost of actually removing said building or structure and said assessment shall be against the land on which the building or structure is located and shall be assessed on the next assessment roll to be filed by the Town Assessor.

9. The ordinance entitled the "Unsafe Building Ordinance" is hereby repealed due to the inclusion of this Section in the Zoning Ordinance.

## **Section 1126 BED AND BREAKFAST ESTABLISHMENT**

### **1. Permits.**

a. No person, firm, corporation, association, partnership or any other entity or business shall operate a Bed and Breakfast establishment without first having obtained a Special Permit from the Zoning Board of Appeals, site plan approval from the Planning Board and a building permit from the office of the Building Inspector of the Town of Cambria. No Bed and Breakfast establishment shall exceed at any time its maximum occupancy as established herein. No Bed and Breakfast establishment shall operate at any time in violation of the provisions of this Ordinance.

b. The form of the permit and application therefore shall be prescribed by a resolution of the Town Board. The application shall state the information required thereby together with:

- 1) a drawing of the building floor plan (to scale);
- 2) the drawing shall designate rooms for use by guests; and
- 3) the drawing shall designate exits and access to exits.

c. The application shall be signed by the owner of the premises and shall contain at least the following:

- 1) the name and address of the owner;
- 2) the street address of the premises for which the permit is sought.

## 2. Requirements.

a. Before a permit may be issued, the following requirements shall be fulfilled:

1) the premises shall be inspected by the Building inspector. The Building Inspector shall notify the local Fire Chief of the pending inspection;

2) each dwelling shall have exits clearly marked;

3) each dwelling shall have adequate exits (number, location and size) for the maximum number of guests which can be housed, pursuant to this Local Law, in the dwelling;

4) each guest room shall have a functioning smoke detector;

5) each guest room shall have written information, clearly posted, showing location of all means of exiting building in event of emergency;

6) each establishment shall have available for use by a guest one (1) audio-visual type smoke detector and the availability of the same shall be clearly posted in a conspicuous place;

7) each establishment shall have a minimum of one (1) fire extinguisher (2A-10BC rated) on each floor with sleeping quarters and may be, in the discretion of the Building Inspector, required to have additional such fire extinguishers available;

8) the required fee shall be paid to the office of the Building Inspector; and

9) the premises shall meet the New York State Fire and Building Code;

10) a minimum of one (1) off street parking space must be available for each guest.

11) In any event, applicant shall in all respects comply with the New York State Uniform Fire Prevention and Building Code.

b. Additional Requirements:

1) maximum guest occupancy for each establishment shall be limited to six (6) guest persons for each full guest bathroom available in the dwelling, up to a maximum of nine (9) guest persons per dwelling;

2) occupancy shall not exceed two adults per guest room except a "bunk room" may be permitted provided (a) the number will not exceed the permitted maximum occupancy as measured by one full bathroom for each six (6) persons to occupy dwelling; (b) there is a regulation sized single bed or bunk available to each person to occupy such "bunk room"; (c) there are adequate emergency exits available for the occupants of each such room;

- 3) each permit shall be renewed annually;
- 4) a separate permit is required for each Bed and Breakfast establishment;
- 5) the permit issued by the Building Inspector shall be posted in a conspicuous place at all times;
- 6) the Building Inspector shall keep a directory setting forth a current listing of all premises for which a permit has been issued; and
- 7) the issuance of a permit under this Ordinance shall in no way excuse or waive compliance with all provisions of the Town of Cambria Zoning Ordinance or relieve the owner or operator from fully complying with all provisions of the Town of Cambria Zoning Ordinance and shall not be evidence of compliance with the provisions of the Town of Cambria Zoning Ordinance.

### 3. Fees.

The fee for the permit hereby required shall be established periodically by the Town Board by resolution.

### 4. Remedies and Penalties.

Any person, corporation, business, association, firm, partnership or Bed and Breakfast establishment found to be operating in violation of any provision of this Ordinance shall be guilty of a violation and shall be subject to a fine not exceeding \$250.00 or imprisonment not exceeding 15 days, or both such fines and imprisonment. Each day a violation exists shall be considered a separate violation.

## **Section 1127 TURNAROUNDS**

In all new construction in all Zoning Districts, turnarounds, or other similar areas allowing motor vehicles to be turned around to face the street for egress, shall be required.

## **Section 1128 SUBSTANDARD LOTS**

In the case of a Lot of Record existing on the effective date of this section of the ordinance which did conform to the Zoning Ordinance provisions which were in effect prior to the adoption of this section of the Zoning Ordinance and continuously thereafter in ownership separate from that of any adjacent land, and notwithstanding that such lot does not conform to the requirements of this ordinance regarding minimum lot area, minimum lot width, and/or minimum lot depth, the Board of Appeals may approve as a special exception the construction of an otherwise permitted building under such conditions as said Board may establish, including a reduction in the required front, side or rear yards or required frontage. This provision shall not approve nor authorize a self-violation or otherwise created subsequent violation of this ordinance as to lot area or possible consequent use thereof. Except as above-provided, no building shall be constructed on any lot which does not conform to all the requirements of this ordinance. The foregoing shall not apply to require a Special exception to permit construction upon a subdivided lot which was previously duly approved by the Planning Board.

## **Section 1129 STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL**

## **Section 1. Findings of Fact**

It is hereby determined that:

- 1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

## **Section 2. Purpose**

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the jurisdiction and to address the findings of fact in Section 1 hereof. This ordinance seeks to meet those purposes by achieving the following objectives:

- 2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges From Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.
- 2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- 2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- 2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during the following development to the maximum extent practicable; and

- 2.6 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

### **Section 3. Statutory Authority**

The Town Board of the Town of Cambria has the authority to enact ordinances for the purpose of promoting the health, safety or general welfare of the Town of Cambria and for the protection and enhancement of its physical environment. The Town Board of the Town of Cambria may include in any such ordinance provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such ordinance.

### **Section 4. Applicability**

- 4.1 This ordinance shall be applicable to all land development activities as defined in this ordinance, Section 6.
- 4.2 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plan to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Cambria, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- 4.3 All land development activities subject to review and approval by the Town Board of the Town of Cambria under (subdivision, site plan, and/or special permit) regulations located within the Town of Cambria shall be reviewed subject to the standards contained in this ordinance.
- 4.4 All land development activities not subject to review as stated in section 4.3 located within the Town of Cambria shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

### **Section 5. Exemptions**

The following activities may be exempt from review under this ordinance:

- 5.1 Agricultural activity as defined in this ordinance.
- 5.2 Silvicultural activity except that landing areas and log haul roads are subject to this law.
- 5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 5.4 Repairs to any stormwater management facility deemed necessary by the Stormwater Management Officer.
- 5.5 Land development activities for which a building permit has been approved on or before the effective date of this law.
- 5.6 Cemetery graves.
- 5.7 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.8 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.9 Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- 5.10 Landscaping and horticultural activities in connection with an existing structure.

### **Section 6. Definitions**

The terms used in this ordinance or in documents prepared or reviewed under this ordinance shall have the meaning as set forth in this section.

**Agricultural Activity** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**Applicant** - a property owner or agent of a property owner who has filed an application for a land development activity.

**Building** - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**Channel** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**Clearing** - any activity that removes the vegetative surface cover.

**Dedication** – the deliberate appropriation of property by its owner for general public use.

**Department** – the New York State Department of Environmental Conservation.

**Design Manual** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

**Developer** - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book."

**Grading** - excavation or fill material, including the resulting conditions thereof.

**Impervious Cover** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.)

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Land Development Activity** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**Project** - land development activity.

**Recharge** - the replenishment of underground water reserves.

**Sediment Control** - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02** - A permit under New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**Stabilization** - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

**Stormwater** - rainwater, surface runoff, snowmelt and drainage.

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility** - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Officer** - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

**Stormwater Management Practices (SMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff** - flow on the surface of the ground, resulting from precipitation.

**Surface Waters of the State of New York** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definitions are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Watercourse** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**Waterway** - a channel that directs surface runoff to a watercourse or to the public storm drain.

## **Section 7. Stormwater Pollution Prevention Plans**

### **7.1 Stormwater Pollution Prevention Plan Requirement**

No application for approval of a land development activity shall be approved until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this ordinance.

### **7.2 Contents of Stormwater Pollution Prevention Plans**

7.2.1 All SWPPPs shall provide the following background information for erosion and sediment controls:

1. Background information about the scope of the project, including location, type and size of the project;
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s);
3. Description of the soil(s) present at the site;
4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;
15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
16. Any existing data that describes the stormwater runoff at the site.

7.2.2 Land development activities as defined in Section 1 of this Article and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 7.2.3 below as applicable:

**Condition A** - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

**Condition B** - Stormwater runoff from land development activities disturbing five (5) or more acres.

**Condition C** - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

7.2.3 SWPPP Requirements for Condition A, B and C:

1. All information in Section 7.2.1 of this ordinance.
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;

7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with the transfer of title to the property;
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this ordinance.
10. For condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements of this ordinance.

### **7.3 Other Environmental Permits**

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

### **7.4 Contractor Certification**

7.4.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

“I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”

7.4.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

7.4.3 The certification statement(s) shall become part of the SWPPP for land development activity.

- 7.5 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

## **Section 8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control**

All land development activities shall be subject to the following performance and design criteria:

### **8.1 Technical Standards**

For the purpose of this ordinance, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

8.1.1 The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

8.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

- 8.1.3 Equivalence to Technical Standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalency to the technical standards set forth herein.

## **8.2 Equivalence to Technical Standards**

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 8.1 and the SWPPP shall be prepared by a licensed professional.

## **8.3 Water Quality Standards**

- 8.3.1 Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

## **Section 9. Maintenance, Inspection and Repair of Stormwater Facilities**

### **9.1 Maintenance During Construction**

- 9.1.1 The applicant or developer or representative of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this ordinance. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 9.1.2 For land development activities as defined in Section 6 of this article and meeting Condition A, B, C in Section 7.2.2, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven (7) days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.
- 9.1.3 The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

### **9.2 Maintenance Easement(s)**

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Cambria to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easements shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Cambria.

### **9.3 Maintenance After Construction**

The owner or operator of permanent stormwater management practices installed in accordance with this ordinance shall ensure they are operated and maintained to achieve the goals of this ordinance. Proper operation and maintenance also includes as a minimum, the following:

- 9.3.1 A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this ordinance;
- 9.3.2 Written procedures for operation and maintenance and training new maintenance personnel;

9.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 8.3.

#### **9.4 Maintenance Agreements**

The Town of Cambria shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule A of this ordinance entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Cambria, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easements or otherwise, for inspection and regular maintenance.

### **ARTICLE XII EROSION & SEDIMENT CONTROL LAW/ADMINISTRATION AND ENFORCEMENT**

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Sections 1 through 9 of this ordinance shall be required. The SWPPP shall meet the performance and design criteria and standards in Sections 6 through 9 of this ordinance. The approved erosion control permit shall be consistent with the provisions of this ordinance.

#### **Section 1200 INTERPRETATION**

In interpreting and applying the provisions of this ordinance they shall be held to the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare for the Town of Cambria.

#### **Section 1201 ENFORCEMENT**

1. Enforcing Officer The provisions of this ordinance shall be administered and enforced by the Code Enforcement Officer (also referenced herein upon occasion as the "Building Inspector"), who shall be appointed by the Town Board. The Code Enforcement Officer shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

2. Duties It shall be the duty of the Building Inspector to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his office and shall be available for use of the Town and other officials. The Building Inspector shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other ordinances of the Town of Cambria.

3. Construction Inspection

#### **1.1 Erosion and Sediment Control Inspection**

The Town of Cambria Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Cambria enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping
- 1.1.8 Successful establishment of landscaping in public areas

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

## **1.2 Stormwater Management Practice Inspections**

The Town of Cambria Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit a plan for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

## **1.3 Inspection of Stormwater Facilities After Project Completion**

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

## **1.4 Submission of Reports**

The Town of Cambria Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

## **1.5 Right-of-Entry for Inspection**

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Cambria the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

## **Section 2. Performance Guarantee**

### **2.1 Construction Completion Guarantee**

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Cambria in its approval of the Stormwater Pollution Prevention Plan, the Town of Cambria may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Cambria as the beneficiary. The security shall be in an amount to be determined by the Town of Cambria based on the submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Cambria, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Cambria. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

### **2.2 Maintenance Guarantee**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Cambria with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Cambria may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

### **2.3 Record Keeping**

The Town of Cambria may require entities subject to this law to maintain records demonstrating compliance with this law.

## **Section 3. Enforcement and Penalties**

### **3.1 Notice of Violation**

When the Town of Cambria determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- 3.1.1 the name and address of the landowner, developer or applicant;
- 3.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation;
- 3.1.4 a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 3.1.5 a statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 s statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

### **3.2 Stop Work Orders**

The Town of Cambria may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Cambria confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

### **3.3 Violations**

Any land development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

### **3.4 Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this ordinance shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **3.5 Withholding of Certificate of Occupancy**

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

### **3.6 Restoration of Lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Cambria may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

## **Section 4. Fees for Services**

The Town of Cambria may require any person undertaking land development activities regulated by this ordinance to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Cambria or performed by a third party for the Town of Cambria.

**Schedule A**

**SAMPLE STORMWATER CONTROL FACILITY  
MAINTENANCE AGREEMENT**

Whereas, the Town of Cambria (ðTownö) and the \_\_\_\_\_ (ðfacility ownerö) want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Town for the below named project; and

Whereas, the Town and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Town and the facility owner agree as follows:

1. This agreement binds the Town and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among the parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five (5) year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within thirty (30) days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Town within thirty (30) days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).
8. This agreement shall be recorded in the Office of the County Clerk, County of Niagara together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to this plan.
9. If ever the Town determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town or by the inspecting engineer, the Town is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective \_\_\_\_\_.

Dated: \_\_\_\_\_

Town of Cambria

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Owner

By: \_\_\_\_\_

**Section 1202 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

1. Building Permit

a) Requirement - It shall be unlawful to commence the excavation for or the construction of any building or structure including accessory buildings, or to commence the moving or alteration of any building or structure, including accessory buildings, until the Building Inspector has issued a permit for such work.

b) Issuance - In applying to the Building Inspector for a building permit, the applicant shall submit specifications and a dimensioned plan to scale indicating the shape, size, height and location in exact relation to all property lines and to street or road lines of all buildings or structures to be erected, altered, or moved, and of any building or structure already on the lot. This plan shall be accompanied by a written statement from a qualified engineer or other satisfactory evidence to the effect that the line of the bounding street or road has been accurately located and staked on the ground. The applicant shall also state the existing or intended occupancy and use of all such buildings and land and supply other information as may be required by the Building Inspector to insure that the provisions of this ordinance are being observed. If the proposed excavations or construction, or alterations or moving as set forth in the application is in conformity with the provisions of this ordinance, and other ordinances of the Town then in force, the Building Inspector shall issue a permit for such excavation, construction, alteration or moving.

c) Refusal - If a building permit is refused, the Building Inspector shall state such refusal in writing, with the cause, and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.

d) Effect - The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

e) Term - A building permit shall become void six months from the date of issuance unless substantial progress has been made since the date on the project described therein provided, however, that the building permit may be renewed for an additional six months upon application therefore without the payment of an additional fee.

2. Certificate of Occupancy

a) Requirement - No land, building, mobile home or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Building Inspector shall have issued a certificate of occupancy stating that such land, building structure or part thereof, and the proposed occupancy or use thereof are found to be in conformity with the provisions of this ordinance including the New York State Uniform Fire Prevention and Building Code.

b) Issuance - Within five days after notification that a building or structure on premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform with the provisions of this ordinance.

c) Refusal - If the Building Inspector after such final inspection refused to issue a certificate of occupancy, he shall state such refusal in writing with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

### **Section 1203 BOARD OF APPEALS, CREATION, POWERS AND DUTIES**

#### **1. Creation, Composition and Appointment**

a) Creation - A Board of Appeals (also referenced herein upon occasion as the "Zoning Board of Appeals") is hereby established in accordance with Section 267 of the Town Law.

b) Composition - The Board of Appeals shall consist of five members.

c) Appointment - The Town Board shall appoint the members of the Board of Appeals and shall designate its chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment; provided, however, that such Town Board may by resolution increase the number of the members of the Board to seven and, thereafter such additional members shall be first appointed for the terms of two and four years respectively. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five years from and after the expiration of the term of their predecessors in office. All members shall participate in the required training as determined by the Town Board. Pursuant to Local Law No. 1, 1999, alternate members to the Zoning Board of Appeals may be appointed by the Town Board.

d) Removal - The Town Board shall have the power to remove any member of the Board for cause after public hearing.

e) Vacancies - Vacancies shall be filled by the Town Board. If a vacancy shall occur otherwise than by the expiration of term, it shall be filled by appointment for the unexpired term.

f) Compensation - The Town Board may provide for compensation to be paid to Board members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

#### **2. General Procedures**

a) Meetings - All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public.

b) Oaths - The Chairman, or in his absence, the Acting or Vice Chairman, may administer oaths and compel the attendance of witnesses.

c) Minutes - The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order,

requirement, decision or determination of the Board shall be filed in the office of the Town Clerk and shall be a public record.

3. Powers The Board of Appeals shall have the following powers:

a) Administrative Review - To hear and decide the appeals from and review any order, requirement, decision or determination made by the Building Inspector or other administrative officer in carrying out or enforcing any provision of this ordinance. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance.

b) Special Exceptions - To hear and decide applications for special exceptions as specified in Section 1100 of this ordinance pursuant to New York State Town Law Section 274-b and to authorize issuance of special permits as specifically provided therein.

c) Variance - To hear applications for use and area variances from the terms of this ordinance pursuant to New York State Town Law Section 267-b.

d) Reference to Niagara County Planning Board In accordance with the policy and procedures provided for by Chapter 24, Article 12B, Section 239-1 and Section 239-m of the General Municipal Law any proposed special permit or variance affecting real property within five hundred (500) feet of the boundary of the Town of Cambria or from the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway road or highway or from the existing or proposed right-of-way of any stream, or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any state owned land on which a public building or institution is situated shall be referred to the Niagara County Planning Board, unless the necessity for such referral has been dispensed with pursuant to an agreement authorized between the Town of Cambria and the Niagara County Planning Board. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Niagara County adopted pursuant to Section 239-d(2) of the General Municipal Law or adopted as and a Official Map of Niagara County pursuant to Section 239-g of the General Municipal Law. If the Niagara County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Niagara County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reason for the contrary action.

4. Special Procedures Relative to Appeal for Administrative Review, Variance or Application for a Special Permit

a) Who may appeal - An appeal to the Board of Appeals for administrative review, variance or application for a special permit, may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds

thereof. The Building Inspector shall forthwith transmit all papers constituting the record upon which the action appealed from was taken to the Board of Appeals.

b) Time of Appeal - Said notice of appeal shall be filed within 60 days from the date upon which the notice of refusal of building permit or refusal of certificate of occupancy is mailed by the Building Inspector, and failure to file notice of appeal within 60 days shall constitute a waiver of the right to appeal.

c) Stay of Proceedings - An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector from whom the appeal is taken certified to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate of a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.

#### 5. Hearing, Notice, Public Notice to Property, Owner and Costs

a) Hearing - The Board of Appeals shall fix a reasonable time for the hearing of any application for variance, the hearing of and a appeal for administrative review, or the hearing of and a application for a special permit.

b) Notice - The Board of Appeals shall give public notice of any application for a variance, for the hearing of appeal, for administrative review or for the hearing of any application for a special permit by the publication in the official paper of a notice of such hearing at least five days prior to the date thereof, and shall at least five days before such hearing, mail notices thereof to the parties, and to the Regional State Park Commission having jurisdiction over any state park or parkways within 500 feet of the property affected by such appeal.

c) Decision. Upon the hearing, any party may appear in person or by agent or by attorney, and the Board of Appeals shall decide the application for variance, or appeal for administrative review, or the application for a special permit within 60 days after the final hearing as provided by Town Law, Section 267(5).

#### 6. Provisions of appeal

If the variance is granted or the issuance of a permit is finally approved or other action by the appellant or applicant is authorized, the necessary permits shall be subject to the terms of Section 1202(1). Should the appellant or applicant fail to comply with these provisions within six (6) months, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and such permissions, variances and permits to him granted shall be deemed automatically rescinded by the Board of Appeals.

#### 7. Scope

In exercising the above-mentioned powers, such Board of Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement decision or determination as in its opinion ought to be made in premises and that end shall have the powers of the officer from whom the appeal is taken. Notice of such decision shall be given forthwith to all parties in interest.

#### 8. Recourse

a) Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, of any officer, department, board or bureau of the Town, may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules, and:

1) It must be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

2) The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact, and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter; and

3) The court at special term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.

#### **Section 1204 REMEDIES**

In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained; or any building, structure or land is used in violation of this ordinance, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate actions or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

#### **Section 1205 PENALTIES**

1. Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be guilty of a violation and upon conviction thereof shall be subject to a fine of not more than \$250.00 or imprisonment for a period of not more than six months or both so fined and imprisoned for each offense.

2. Each week a violation is continued shall be deemed a separate offense.

3. Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with provisions of this Ordinance shall be subject to a civil penalty or fine as shall be established from time to time by resolution of the Cambria Town Board. Such penalties or fines shall be subject to the rules and procedures as established by the Uniform Justice Court Act of the State of New York.

#### **Section 1206 AMENDMENTS - REFERRAL TO NIAGARA COUNTY PLANNING BOARD**

The regulations, restrictions and boundaries established by this ordinance may from time to time be amended, supplemented, changed or modified or repealed by ordinance in accordance with the procedures provided by Section 264 and 265 of the Town Law. However, all amendments to this ordinance which would change the district classification or the regulations applying to real property lying within a distance of five hundred (500) feet from the boundary of the Town of Cambria, or the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the right-of-way of any existing or proposed stream or drainage channel owned by the county for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; shall be referred to the Niagara County Planning Board as required by Section 239-m of the General Municipal Law. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Niagara County adopted pursuant to Section 239-d(2) of the General Municipal Law or adopted as and a Official Map of Niagara County pursuant to Section 239-g of the General Municipal Law. If the Niagara County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred matter, the Town Board of Cambria may act without such report. If the Niagara County Planning Board disapproves of the proposed amendment, supplement, change or modification, or recommends modification of the proposal of the Town of Cambria, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary act. As per New York State Town Law Section 264, the following constitute the procedures adopted by the Town of Cambria for an application to amend boundaries of zoning districts in the Town of Cambria:

1. An application for a Zoning change shall be made by the property owner. The Applicant shall submit to the Code Enforcement Officer of the Town of Cambria the following documents in duplicate:

- a) Application for rezoning;
- b) Name and address of applicant (owner);
- c) Legal description of the property for which rezoning is requested;
- d) Survey of the property to be rezoned;
- e) A statement as to the proposed use of the area to be rezoned; and
- f) A statement as to the reasons for the requested rezoning.

2. A copy of the foregoing papers shall be submitted by the Code Enforcement Officer to the Town Board at the next regular meeting of the Town Board. The Town Board will declare itself lead agent pursuant to the New York State Environmental Quality Review Act (SEQRA) for purposes of the SEQRA review, and/or refer the matter to the appropriate agents of the Town to determine whether the application is complete and if a SEQRA cost agreement is necessary. If thusly referred and then found complete, the Town Board may declare itself lead agent under SEQRA. After reviewing the appropriate papers, the Town Board will advise the applicant to submit either a Full Environmental Assessment Form (EAF) or a short EAF, or if otherwise required or indicated, an Environmental Impact Statement (EIS). The complete application and accompanying documents shall then be referred to the Planning Board for review and recommendation.

3. Upon receiving the recommendation of the Planning Board, the Town Board will then determine whether or not to call a Public Hearing for the proposed rezoning.

4. If the Town Board decides to continue action on the rezoning request, it shall direct the Town Attorney to publish a legal notice calling for a Public Hearing. This Notice shall be published not less than ten (10) days prior to the Public Hearing.

5. After the Public Hearing, the Town Board shall determine whether or not to rezone the premises. If it determines to rezone the premises, the Board shall pass a Resolution to that effect which shall be published and posted pursuant to law. Upon publication and posting of the Resolution concerning the rezoning, the premises shall be considered rezoned pursuant to applicable law.

6. The Town Board shall in all other respects comply with the requirements of the Town Law, including sections 264 and 265, with respect to all applications for rezoning.

**Section 1207 FEES FOR VARIANCES SPECIAL EXCEPTIONS, REZONING ETC.**

1. The following fees must be paid to the Town before any application will be accepted for variances, special permits or other related zoning matters by the Town:

- a) Use and area variances-----\$200.00
- b) Special permit or exceptions as provided in Article XI of the Zoning Ordinance-----\$200.00
- c) Any other change in zoning or permit for existing zoning-----\$200.00

2. Unless otherwise specified, fees for inspections by the Code Enforcement Officer required by the Zoning Ordinance or at the request of others shall be payable at the rate of \$25.00 per hour, with \$25.00 constituting the minimum inspection fee. Any inspection required hereunder shall not be considered satisfactory unless the fee required hereunder has been paid in full.

3. Arrangements for payment of the actual costs for engineering and Attorney's fees on behalf of the Town to review the application including costs relative to SEQRA shall be paid by the applicant prior to the scheduling of all applicable public hearings required with respect to the application.

4. The foregoing schedule of fees may be amended by the Town Board from time to time without the necessity of amending this Zoning Ordinance.

**Section 1208 PLANNING BOARD, CREATION, POWERS AND DUTIES**

1. Creation, Composition and Appointment

a) Creation - A Planning Board is hereby established in accordance with Section 271 of the Town Law.

b) Composition - The Planning Board shall consist of five members.

c) Appointment - The Town Board shall appoint the members of the Planning Board and shall designate its chairman. No person who is a member of the Town Board shall be eligible for membership on such Planning Board. Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five years from and after the expiration of the term of their predecessors in office. All members shall participate in the required training as determined by the Town Board. Pursuant to Local Law No. 1, 1999, alternate members to the Zoning Board of Appeals may be appointed by the Town Board.

d) Removal - The Town Board shall have the power to remove any member of the Board for cause after public hearing.

e) Vacancies - Vacancies shall be filled by the Town Board. If a vacancy shall occur otherwise than by the expiration of term, it shall be filled by appointment for the unexpired term.

f) Compensation - The Town Board may provide for compensation to be paid to Board members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

## 2. General Procedures

a) Meetings - All meetings of the Planning Board shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public.

b) Oaths - The Chairman, or in his absence, the Acting or Vice Chairman, may administer oaths and compel the attendance of witnesses.

c) Minutes - The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk and shall be a public record.

3. Powers - The Planning Board shall have those powers granted to it pursuant to this Zoning Ordinance as well as those powers mandated by the Town Law of the State of New York, including, but not limited to, Site Plan Reviews pursuant to Section 274-a of the Town Law of the State of New York and Subdivision Reviews pursuant to Sections 276, etc. of the Town Law of the State of New York.

## **ARTICLE XIII BUILDING AND FIRE CODE**

### **Section 1300**

All New York State Codes relating to Building Construction or Fire Prevention, as amended, shall be incorporated by reference and made a part of this Zoning Ordinance and shall supplement the Cambria Building Code; where there is a variance between the State Code, as amended, and the Cambria Code, as amended, the State Code shall be controlling.

### **Section 1301**

Any permit hereafter issued for the construction addition to, alteration, or repair of any building or structure shall be valid provided work is started thereon and completed within one year from the date of same, and may upon application to the Building Inspector be renewed for additional six-month periods, provided however, that no such renewal shall be granted of any permit when the work thereon has been abandoned for a period of three months prior to the expiration date.

### **Section 1302**

All applications hereafter made for permits to build shall be made by the owner of the property or his duly authorized agent to the Building Inspector on forms to be supplied by him. No excavation or construction shall be commenced until such application has been approved and a permit issued by such officer.

### **Section 1303**

This Ordinance, known as the Building Code of the Town of Cambria, shall take effect immediately upon the date of adoption by the Town Board of the Town of Cambria and compliance with the provisions of the Town Law with respect thereto.

### **Section 1304**

The following fees for building permits payable to the Town of Cambria Building Inspector are hereby established:

1. Single family dwelling - \$130.00.
2. Multi-family dwelling - \$200.00 plus an additional \$65.00 for each apartment in excess of two.
3. Business, industrial, institution building or structure: Up to 5,000 sq. ft. - \$.25/sq ft; over 5,000 sq. ft. - \$.10/ sq ft.
4. Business, industrial, institutional warehouse: Up to 5,000 sq ft-\$.10/ sq. ft.; over 5,000 sq ft-\$.05/sq ft
5. Above ground swimming pools and accessory buildings under 125 square feet - \$25.00.
6. Any and all other construction requiring a building permit including but not limited to barns, garages, accessory buildings, 125 square feet or larger, in-ground swimming pools and greenhouses - \$65.00.
7. Driveway Culvert Permit - A driveway culvert permit shall be obtained from the Highway Department having jurisdiction before any building permits shall be issued. Culverts must be a minimum of twenty (20) feet in length subject to permit regulations applicable thereto. The fee for a Town of Cambria Driveway Culvert Permit shall be \$250.00.
8. The foregoing fees may be amended from time to time by separate resolution of the Town Board without the necessity of amending this Zoning Ordinance.
9. For business, industrial or institution structures: 0 ó 1,000 square feet-\$250.00; 1,000 to 5,000 square feet ó add \$0.25/square foot; over 5,000 square feet ó add \$0.05/square foot.

10. For business, industrial or institution alteration, repair, removal, etc. - \$0.10/square foot.

#### **Section 1305**

Any construction company, contractor, individual carpenter or labor used or employed to construct or erect a building or structure thereafter in the Town of Cambria, shall be held liable and subject to the full penalties of this code along with the property owners. The cost of required permits for all construction shall be increased by 50% if not obtained in accordance with this Ordinance.

#### **Section 1306**

No building permit for new construction shall be issued under any of the provisions of this Ordinance until the Building Inspector is satisfied that the applicant therefore has installed on premises to abut upon any road, street or highway, a culvert meeting the requirements of the Highway Department having jurisdiction of said road, street or highway upon which the premises affected by the applicant for the building permit abut.

#### **Section 1307**

Any accessory building, barn or structure not specifically governed by the provisions hereof shall meet generally accepted construction standards as specified in the New York State Uniform Fire Prevention and Building Code.

#### **Section 1308**

The Building Inspector shall have the power to take any appropriate action for removal or repair in the event that the requirements of the New York State Uniform Fire Prevention and Building Code are not met.

### **ARTICLE XIV VALIDITY**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect its remaining portions. The Town Board hereby declares it would have passed this ordinance and each section and subsection there irrespective of the fact that any one or more of its sections, subsections, clauses or phrases may be found by court action to be unconstitutional or otherwise invalid.

### **ARTICLE XV REPEAL OF CONFLICTING ORDINANCES**

All ordinances and parts of ordinances of the Town of Cambria inconsistent herewith are hereby expressly repealed.

Any ordinances previously adopted as separate ordinances which are now specifically included herein are also repealed since the Town Board's intention by including such provisions herein is to incorporate such separately adopted ordinances herein without the necessity of the Town of Cambria having multiple ordinances relating to zoning matters.

**ARTICLE XVI EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage, publication and posting as provided by Town Law.