

Lot Number: _____; Date: _____
 Applicants Name: _____
 Signature: _____

This Request is for	Check Box
Alteration or Improvement of Buildings or Structures	
Demolition of Buildings or Structures	
Construction of Buildings or Structures	

[Reference the following pages for Excerpts from the Land Use Restrictions & Controls requirements.]

Building or structure is a single family dwelling? Yes No
 Building or structure is an accessory or appurtenant structure? Yes No
 Project includes both a single family dwelling and accessory or appurtenant structures? Yes No

Documents to be provided:

Survey type map showing boundaries, distance from centerline of the road and location of all structures, parking areas, septic facilities, water supply, fuel supply and electric utilities. Map to be to scale preferably ¼ inch per foot. All structures and facilities existing and planned must be shown preferably on the same map.

Map Ref No _____; Revision No _____; Dated: _____.

Building or Structure Plans to scale showing external dimensions and detail, if the structure is a dwelling plans shall be certified by a registered architect. If local codes require approval by the local building inspector, the plans submitted must be the same as those submitted to the inspector.

Plan Ref No _____; Number of Sheets: _____ Revision No _____; Dated: _____.

Closest distance (Incl. over hang or eaves) from the new structure of any other building or structure at any point, including those on neighboring lots; [Minimum = 6 feet or per latest NYS Uniform Fire Prevention & Building Code.]

Existing = _____ ft.; Planned = _____ ft.

Closest distance to lot side lines (Incl. over hang or eaves) . [See following pages , items 5.4(a) & 6.6(a)]

Existing = _____ ft.; Planned = _____ ft.

Closest distance of any new altered or improved building or structure to the lake edge or break wall (Incl. over hang or eaves). [Ref following pages items 5.4(c), 5.10, 6.7, & 6.6(c).]

Average of the two lots on either side of this lot = _____ Planned = _____ ft.

Closest distance [Ref fwlg. Pgs. Items 5.4(b)] (Incl. over hang or eaves) of any new, altered or improved building or structure to road centerline = _____ ft.

Total lot ground area = _____ square feet. This value X 0.4 = _____ max. allowed.

Total covered area (includes all buildings and structures plus paved areas): [Ref fwlg pgs item 7.3]

Existing = _____ square feet. Planned = _____ square feet

Height of structure above grade [Ref fwlg pgs items 5.5 & 6.5]

As viewed from roadside Planned = _____ ft. ; as viewed from lakeside Planned = _____ ft

ATTACH County Health Department approval for septic and well systems. Use existing System?

New System? Type of system to be used _____.

Allegany and Cattaraugus Counties.

- (c) Lakeside: In order to preserve, to the maximum extent feasible, existing views for abutters, a new dwelling or an expansion of a dwelling shall be set back from the lakeside a distance that is the average lakeside setback distance of the closest four adjacent dwellings, two to the right and two to the left of the proposed new building or addition. However, the dwelling shall maintain a lakeside setback of a minimum of five (5) feet in all cases. For purposes of this provision, the lakeside setback distance shall be measured from the front or water side of the break-wall, or where there is no break-wall, from the normal summer shoreline.
- (d) In accordance with NYS Uniform Fire Prevention and Building Code provisions, all new structures shall be separated by a distance of six (6) feet from all other existing buildings, whether or not the existing building is located on the same or an adjacent lot. This setback requirement applies to both the residence and any accessory buildings such as garages or sheds.

Where a foregoing setback provision is the same as a provision of a New York State Code, County Code or other regulation, and the regulations change, the most restrictive regulation shall apply.

5.5 Height

- (a) The height of a dwelling unit shall not exceed two (2) stories at the roadside wall of the house. Due to the change in grade on lots, a dwelling unit could be two (2) stories at the roadside and three (3) stories measured at the lakeside wall of the house; **and**,
- (b) The height of the dwelling unit shall not exceed thirty-six (36) feet, measured from the lowest point of the building wall at the existing grade to the highest point of the roof, excluding any chimney.

5.6 No temporary residential structure, including recreational vehicles and trailers, shall be placed on a lot, except that one trailer or manufactured home may be permitted by the Cuba Lake District Board of Commissioners during the construction period for a permanent dwelling. In granting such permit the Board of Commissioners shall find that appropriate sanitary facilities and drinking-quality water are available for the temporary structure. The time period for a temporary residential permit shall not exceed the construction period for the new home, and in no case shall exceed one year.

5.7 A guest of the leaseholder and/or lot owner may reside in a recreational vehicle or trailer on the leaseholder's/ lot owner's lot for a period of up to two weeks. Residential use of such vehicles for longer than two weeks shall require a permit from the Cuba Lake District Board of Commissioners.

In addition, nothing in this section shall be construed so as to prohibit the temporary use of a tent, by children, other family members or guests of a property owner, on a lot with a dwelling unit and established sanitary facilities.

5.8 Trailers (including motor homes, campers, travel trailers and recreational vehicles) owned by a resident of the Cuba Lake District may be stored on such owner's property provided that the trailer is not used for residential or commercial purposes and provided that the trailer is parked or stored between the street right-of-way line and the residence.

5.9 Any manufactured home that is installed on a lot shall be installed on a permanent foundation, in accordance with local and state building codes. A permanent foundation may consist of either a solid perimeter foundation or tie-downs. If a manufactured home is not placed on a perimeter foundation, the home owner shall install masonry skirting that is compatible with the exterior of the home within thirty (30) days of completion of the installation of the manufactured home.

5.10 No dwelling shall extend beyond the normal summer shoreline.

SECTION 6: ACCESSORY OR APPURTENANT STRUCTURES

All new, replacement and remodeled accessory or appurtenant structures shall comply with the following restrictions. Any variances to these restrictions known at the time of application for permit; or, discovered during review of the application for permit, shall be subject to the Variance process (see Section 11, VARIANCES):

- 6.1 No fence, hedge, or shrub which impairs a neighbor's view of the lake from another lake front property shall exceed four (4) feet in height.
- 6.2 A dock shall not come closer than three feet to the normal winter shoreline, but in no case shall it be more than fifty (50) feet in length.
- 6.3 The combination of docks, slips, boatlifts, and moored boats, rafts, slides and other floating devices shall not occupy more than forty percent (40%) of any individual lot's shoreline length, or more than fifty (50) feet of shoreline, whichever is the lesser. Docks shall not be located closer than six (6) feet to an adjoining property line.
- 6.4 No structure, except fences, may be closer than three (3) feet to an adjoining property line.

6.5 Height

- (a) No accessory structure, except garages, may exceed fifteen (15) feet in height.
- (b) No detached garage may exceed twenty (20) feet in height, at the road side measured from the garage floor to the roof peak.
- (c) When reviewing applications for permits for new and remodeled structures, the Board of Commissioners shall find that the peak height of the structure is in reasonable proportion to its width at the bottom of the gable. Typically the height to width ratio as viewed from the road level shall not exceed 1.14:1. As viewed from the lake the height to width ratio shall not exceed 1.5:1. If the gable ends face the sides of the lot, the ratio of 1.14:1 shall apply to the peak height vs. the width at the bottom of the gable.
- (d) Flat roofs or non-peaked or non-gabled roofs are discouraged.

6.6 Setbacks

All accessory or appurtenant structures shall maintain the following setbacks:

- (a) Side: a minimum of three (3) feet.
- (b) Roadside: a distance sufficient, to the satisfaction of the Cuba Lake District Board of Commissioners, to allow legal off-road parking. At a minimum, without county approval to the contrary, the structure shall be setback twenty-five (25) feet from the centerline of the road, which is a requirement of both Allegany and Cattaraugus Counties.
- (c) Lakeside: Garages may not be located closer to the lakeshore than the lakeside wall of the dwelling. Sheds and other accessory structures shall be sited to minimize intrusion into a neighbor's viewshed, as determined by the Board of Commissioners.
- (d) In accordance with NYS Uniform Fire Prevention and Building Code provisions, all new buildings shall be separated by a distance of six (6) feet from all other existing buildings, whether or not the existing building is located on the same or an adjacent lot. This setback requirement applies to both the residence and any accessory buildings such as garages or sheds.

Where a foregoing setback provision is the same as a provision of a New York State Code, County Code or other regulation, and the regulations change, the most restrictive regulation shall apply.

6.7 No accessory or appurtenant structure, excluding boathouses, boat lifts/shore stations, and docks, shall extend beyond the normal summer shoreline.

Section 8: Environmental Considerations

8.1 On-site sewage treatment systems that do not conform to the minimum standards of the applicable units of government and their agencies shall be upgraded or replaced to meet these standards whenever a permit for new construction, alteration or remodeling of the living area of a dwelling unit is issued by the Cuba Lake District Board of Commissioners.

Prior to the issuance of a Permit for such new construction, alteration or remodeling, the applicant shall present approval for the replacement system, from the appropriate County Health Department.

8.2 Development on any lot shall not result in an increase in storm water runoff on an adjacent lot.

SECTION 10: PERMIT PROCESS

10.1 Whenever a leaseholder and/or lot owner wants to undertake an action identified in Section 3, Applicability, or identified elsewhere in these regulations, as requiring a permit, he/she shall first apply to the Cuba Lake District Board of Commissioners for a permit before beginning any construction or undertaking any activity requiring a Permit. Any variances to these restrictions known at the time of application for permit; or, discovered during review of the application for permit, shall be subject to the Variance process (see Section 11, VARIANCES):

10.2 Small-scale Projects

- (a) The Cuba Lake Board of Commissioners may designate an Agent to review and approve projects involving the following activities:
 - tree removal
 - moorings
 - break-walls
 - parking areas
 - docks, boat lifts, and boat slips
 - accessory/appurtenant structures with a maximum height of 15 feet and a floor area of 120 square feet or less.

The Agent may opt to refer the application to the Board of Commissioners for its determination.

- (b) **Application Documents:** Application shall be made on a form provided by the District. The application shall include any drawings or other information needed for an adequate understanding of the project. Any required drawings shall be drawn to scale. The application shall include a copy of any necessary permits from other agencies (e.g. County Health Department, etc.). Two copies of all documents shall be submitted.
- (c) **Application Review:** Following receipt of the applicable application documents, and before making a decision on the application, the Agent shall conduct an on-site review of the project. The Agent will respond to the request for a permit within thirty (30) days of receipt of said request, assuming the request is accompanied by all the required documents.
- (d) **Standards:** In making a determination on the application, the Agent shall consider the purpose and any applicable requirements of these regulations. Upon a finding by the Agent that (1) the proposal is in conformance with the purpose of these Land Use Restrictions and Controls and (2) that the proposal complies with all applicable regulations herein, the Agent will issue a Permit.
- (e) **Reporting & Records:** Following a decision on an application, the Agent shall maintain a permanent record of the decision. The Agent will report his activities to the Cuba Lake Board of Commissioners in a manner to be determined by the Board.

10.3 Large-scale Projects

- (a) Projects involving structures classified as single family dwellings, structures of more than one story, structures with floor areas greater than 120 square feet, or any other project not listed in Section 10.1 (a) must be approved by the Board of Commissioners, as provided herein.

(b) Application Documents:

Application for a Permit shall be made to the Board of Commissioners on a form provided by the Board. Two copies of all application documents shall be submitted. Accompanying the application shall be the following documents and drawings:

- i. A detailed map or plan and elevation views of the property, drawn to scale (see NOTE below), showing the following information:
- ii. a site plan, showing existing structures and proposed structures giving the exact location on the lot and relationship to the road,
- iii. site elevation drawings showing heights of existing structures and proposed structures.
- iv. All the proposed change(s), including new paving and impervious surfaces
- v. Engineering drawings that show how runoff and the potential for erosion will be handled during and after construction.
- vi. all lot boundaries, all existing structures, and any trees that would be affected by the project
- vii. The location of all existing water supply and waste disposal systems on the lot.
- viii. Where the NYS Uniform Fire Prevention and Building Code requires that building plans, which are submitted to the Towns for a building permit, must be prepared by a licensed professional, those professional drawings shall also be submitted to the Board of Commissioners.
- ix. Any other material the Board of Commissioners deems necessary for its review.

NOTE: The Board of Commissioners recommends and may require that these maps or plans be prepared by a licensed surveyor, engineer or other professional. This is recommended for applications where the proposal is close to a side lot line; where lot coverage may be an issue; or where other physical constraints are a potential issue.

The Board of Commissioners may waive the requirement to submit items that it deems are not relevant to its consideration of a particular application.

The Cuba Lake District reserves the right to require the leaseholder or lot owner to provide satisfactory evidence that the property's on-site sewage treatment system complies with accepted standards and current regulations, pursuant to Section 8.

(c) Application Review

- i. The Board of Commissioners will respond to the request for a permit within thirty (30) days of receipt of said request, assuming the request is accompanied by all the required documents.
- ii. For major structures that are close to lot lines, the Board of Commissioners may require that the building location shall be staked by a licensed professional surveyor or engineer, for the Board's review prior to any decision on the application. The Board of Commissioners and/or its designated Agent shall be able to enter the lot to view the proposed changes in relationship to the existing conditions.
- iii. The Board of Commissioners shall act to approve, to approve with conditions and/or changes to the proposal, or to deny the application. The decision of the Board shall be by a vote of a majority of the total membership of the Board of Commissioners.
- iv. Upon final action on an application, the Board of Commissioners shall send the application to New York State, with its recommendation. After notification of final approval by the State, the Board of Commissioners will issue a written Permit for the project. The Permit shall note any conditions of approval or changes to the project.
- v. The Cuba Lake District shall maintain a permanent file, containing all applications and all decisions on those applications and all permits issued.
- vi. A copy of the decision shall be sent to the person who serves as the Board of Commissioner's Agent for enforcement of these Land Use Restrictions and Controls.

(d) Standards:

In making a determination on the application, the Board of Commissioners shall consider the purpose and any applicable requirements of these regulations. Upon a finding by the Board that (1) the proposal is in conformance with the purpose of these Land Use Restrictions and Controls and (2) that the proposal complies with all applicable regulations herein, the Board will issue a Permit.

10.4 PERMITS:

- (a) No Large-Scale nor Small-Scale projects' construction or alteration may commence until the leaseholder or lot owner is in receipt of a written Permit issued by the Board of Commissioners or its designated Agent. All work shall be performed as stated in the Permit.
- (b) If the applicant makes any changes to the project during construction, the applicant shall immediately stop work and notify the Board of Commissioners or its designated Agent of such changes. The Board will evaluate whether or not the change(s) require an amendment to the Permit. All changes affected by these land use restrictions are subject to approval by the Cuba Lake District's Board of Commissioners.
- (c) During construction, the applicant shall post a copy of the Permit in a location visible to the public.

10.5 Inspection

The Board of Commissioners, or its designated Agent, may inspect the site for compliance with the Permit at any time during construction. If there is any discrepancy between the approved project and the project under construction, the Board of Commissioners, or its designated Agent, shall issue a stop work order to allow time to resolve the discrepancy. If a stop work order is issued, no further work may be performed on the site until the stop work order has been lifted. (See Section 13).

10.6 Compliance Certificate

Upon completion of all work authorized by any Permit, the Board of Commissioners, or its designated Agent, shall inspect the building and/or other authorized activity, and shall determine if the work was done substantially as stated in the Permit.

- (a) If the work was substantially completed as shown in the Permit, the Board, or its Agent, shall issue a Compliance Certificate, which shall state that work has been completed in substantial conformance with the approved plans. Three copies of the Compliance Certificate shall be issued: one to the leaseholder/lot owner, one to the Board's enforcement Agent, and one copy shall be retained as a permanent record of the District.
- (b) If the work was not completed substantially as shown in the Permit, the Board of Commissioners shall pursue abatement of the violation pursuant to Section 13.

10.7 Validity

All permits are valid for one (1) year from the date of issuance. All work included in the permit must be completed within one (1) year. The Board of Commissioners may act to extend a permit for an additional period of up to one (1) year, if circumstances so warrant.

SECTION 11: VARIANCES

When approving a permit pursuant to the regulations of these restrictions; or, when a potential violation of these Land Use Restrictions and Controls has been reported to the Board of Commissioners, the Cuba Lake District Board of Commissioners shall have the authority to allow variances from the strict provisions of these regulations. However, the Board shall not have the authority to grant a variance that allows the subdivision of a lakefront lot that is in existence at the time of adoption of these regulations.

In granting a variance the Board of Commissioners shall consider the following:

- (a) Whether the strict interpretation of these regulations would impose an unfair hardship on a particular property.
- (b) Whether the regulation to be varied applies only to a small number of properties.
- (c) Whether granting the request will change the essential character of the neighborhood or impose a hardship on a near-by property.

Before deciding on a variance, the Board of Commissioners shall hold a hearing, to which the leaseholder and/or lot owner of the lot in question and the leaseholders and/or lot owners of the lots adjoining the lot in question are given notice, permitted to attend and present evidence.

The minutes of the Board of Commissioners shall contain a full description of the Board's reasoning on each particular application, and prior decisions shall be referred to by subsequent Boards of Commissioners.

SECTION 12: NONCONFORMING USES, BUILDINGS AND LOTS

Any lawfully established use of a building or land existing at the time of adoption of these regulations may be continued, even though such use does not conform with the provisions of these regulations, subject to the following conditions:

- (a) No use shall be expanded or enlarged, except in conformity with these provisions. However, normal repair and maintenance is permitted and encouraged.
- (b) When a building containing a nonconforming use is damaged by fire, flood, or other Act of God, to the extent of more than 50% of its assessed value at the time the damage occurred, it shall be restored within twelve (12) months of the date of damage. If it is not restored within this time period, the nonconforming use may not be restored except in conformity with these regulations.
- (c) If the nonconforming use of any building or lot is discontinued for a period of twelve (12) months, any further use of the building or premises shall conform to the provisions of these regulations.

SECTION 13: ABATEMENT POWERS

13.1 Non-compliance

Non-compliance with any of the provisions and/or requirements of these Land Use Restrictions and Controls shall authorize the Cuba Lake Commission to take action to abate the non-compliance. The broad classifications of such violations include:

- (a) Initiation of construction without obtaining a required permit;
- (b) Construction not consistent with a permit granted.
- (c) Failure to abide by requirements or standards provided for in these Land Use Restrictions and Controls not related to construction

13.2 Abatement

The Cuba Lake District shall have the power to take actions to abate violations of these Land Use Restrictions and Controls using such powers, rights and remedies as provided in this document or as otherwise may be provided at law or in equity. This includes, without limitation, the following powers:

- (i) To order compliance including the removal of non-complying structures at the owners expense.
- (ii) To take any action permitted by the underlying lease of leased lands
- (iii) To order and accept payment of reasonable monetary penalties for non-compliance in such established amounts as may be from time to time be approved by the Cuba Lake Commissioner by resolution; and/or
- (iv) To initiate judicial actions or proceeding to prevent or to enjoin such violations and/or to prevent the occupancy or use of structure or land not permitted by these Land Use Restrictions and Controls

13.3 Variance &/or Stop Work Order

When the Board of Commissioners, or its designee, becomes aware of construction or other activity that is occurring or has occurred without a valid permit issued by the Board of Commissioners, or work that is occurring that is not in conformance with a Permit that has been issued, the Board shall issue an order to stop work occurring on a lot. The Stop Work Order shall be issued and delivered to the Lot owner/lessee or to the contractor performing the work.

Upon receipt of the Stop Work Order, the leaseholder/lot owner shall apply to the Board of Commissioners for a Permit, or upon approval of the Board or its designated Agent shall commence work in accordance with a permit that has been issued.

Failure to comply with a Stop Work Order or an order as determined through the variance process is a violation of these land use restrictions and controls.

SECTION 14: GRANDFATHER CLAUSE

Any lawfully established structures existing prior to the adoption of this document, or which existed prior to any amendments to this document, shall not be subject to the requirements of this document except upon replacement or remodeling of the structure for any reason.

Note that living, maintainable "structures" such as hedges shall not be grandfathered at heights not in accordance with these restrictions.