

# **ZONING ORDINANCE**

TOWN OF LAKE LUZERNE  
WARREN COUNTY, NEW YORK

**SEPTEMBER 13, 2010**

**TOWN OF LAKE LUZERNE**  
**ZONING CODE**

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**ARTICLE I – ENACTMENT & APPLICATION**

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**Title**

This chapter shall be known as the "Town of Lake Luzerne Zoning Code" and is hereinafter referred to as (this "Code.")

**Enactment & Authority**

Enactment of this local law by the Town is pursuant to Article 16 of the Town Law of the State of New York, and Article 27 of the Executive Law of the State of New York and pursuant to Municipal Home Rule Law and the Constitution of State of New York, and the Town Board hereby declares its legislative intent to supersede any provision of any local law rule regulation or provision of the Town Law inconsistent with this Code. The Town Law provisions intended to be superseded include those portions of Article 16 Sections 267 and 271 as they relate to seating alternates on the Planning Board and Zoning Board of Appeals and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The Courts are hereby directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this Code and superseded such inconsistent provision had the need to do so been apparent.

**Purpose & Objectives of the Chapter**

The purpose of this chapter is to broadly protect the public health, safety, and welfare of the residents of the Town of Lake Luzerne and to protect their property through the land use regulations under the authority of the New York State Town Law and in accordance with the Town of Lake Luzerne Comprehensive Plan.

It is the further purpose and objective of this chapter to support conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Town of Lake Luzerne to the benefit of the residents, visitors, and economic health of the community.

**Application of Regulations**

Except as hereinafter provided: No new building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with this Code.

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**ARTICLE II - Zoning Permit & Project Review**

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**Permits**

A. Certificate of Compliance required

No development or demolition may be commenced within the Town without a Certificate of Compliance issued by the Zoning Enforcement Officer.

(1) Permit Types

(a) Basic permit

All demolition activities and all uses designated with a "P" in the Use Table are permitted uses and require approval and a Certificate of Compliance from the Zoning Enforcement Officer.

(b) All uses designated "S" in the Use Table are subject to Site Plan Review and may be permitted with the approval of the Planning Board and a Certificate of Compliance from the Zoning Enforcement Officer. Uses designated with an "S" shall be subject to the provisions of Article VII.

(c) All uses designated "S/U" in the Use Table are subject to Special Permit Review and Site Plan Review and may be permitted with the approval of the Planning Board and a Certificate of Compliance from the Zoning Enforcement Officer. Uses designated with an "S/U" shall be subject to the provisions of Articles VII and VIII.

(d) Planned Development Districts

All Planned Development District applications shall be subject to the provisions of Article IX.

(e) Sign Permits

All signs, other than exempt signs, shall require a Building/Use Permit and Certificate of Compliance in accord with the standards and requirements of Article VI.

B. Issuance Of A Certificate Of Compliance

(1) The Zoning Enforcement Officer shall issue a Certificate of Compliance if it is determined that:

## ARTICLE II – ZONING PERMIT & PROJECT REVIEW

- (a) The development meets the use, area, bulk and height controls set forth in this Code or a variance has been granted for relief from such controls.
  - (b) The development has received Site Plan approval, if applicable, and all conditions of that approval have been met.
  - (c) The development has received Special Use Permit approval, if applicable, and all conditions of that approval have been met.
- (2) The Zoning Enforcement Officer, and such persons as may be designated by the Zoning Enforcement Officer, may conduct examinations, tests, and other inspections of the sites for which a Certificate of Compliance has been applied, as the Zoning Enforcement Officer deems necessary and appropriate for the purposes of this Code.

### C. Expiration Of Certificate Of Compliance

A Certificate of Compliance shall expire two years from issuance if the site or structure fails to meet the terms of the Certificate of Compliance. Work may not thereafter be undertaken or continued unless a new Certificate of Compliance has been applied for and issued in the same manner and subject to all provisions governing the initial application for issuance of a Certificate of Compliance, unless the terms of the Certificate of Compliance provides a different expiration date.

### D. Revocation Of Certificate Of Compliance

The Zoning Enforcement Officer may revoke a Certificate of Compliance:

- (1) When there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the Certificate of Compliance was based.
- (2) Where a Certificate of Compliance was issued in error.

## ARTICLE II – ZONING PERMIT & PROJECT REVIEW

- (3) Where the work performed under the Certificate of Compliance is not being finished in accordance with the provisions of the application, plans or specifications.

### E. Issuance Of A Certificate Of Occupancy

If a Certificate of Occupancy is required, no site or structure shall be occupied or used until the County has issued such Certificate of Occupancy and no such Certificate of Occupancy should be provided unless said sites or structures comply with the terms and conditions of the Town's Certificate of Compliance.

### F. Preexisting Violations

No new Certificate of Compliance shall be issued or additional review conducted on any parcel with an existing violation(s) relative to zoning, construction, sanitation, or subdivision regulations until all violations on that parcel are corrected.

### G. Posting Of Permits

All applicants shall display a Warren County building permit and Town of Lake Luzerne Certificate of Compliance on the subject premises. The Certificate of Compliance provided by the Town, shall be clearly visible from a public way, and shall not be removed until all of the requirements of this Code and the Sanitary and Stormwater regulations are complied with.

### H. Variances

- (1) Area variance. The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this Code. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety or welfare of the neighborhood or community of such grant.
- (2) Use variances. The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the Code. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that

## ARTICLE II – ZONING PERMIT & PROJECT REVIEW

applicable zoning regulations and restrictions have caused unnecessary hardship.

- I. Appeals. Applicants, or any officer, department, board or bureau of the Town has the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this Code to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the administrative official charged with the enforcement of this Code, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.
- J. Fees
  - (1) Permit application fees and expenses.
    - (a) Fees required by this Code shall be paid upon the submission of applications and appeals.
    - (b) The fees for applications and appeals shall be established by the Town Board from time to time. A fee schedule shall be posted in the Town Hall.
    - (c) No required fee shall be substituted for any other fee.
    - (d) The following actions may require fees or reimbursement of expenses (this list is not necessarily all-inclusive):
      - [1] Certificate of Compliance;
      - [2] Site Plan Review;
      - [3] Septic;
      - [4] Sign Permit;
      - [5] Zoning Variance Application;
      - [6] Temporary Sign Permit;
      - [7] Zoning Interpretation;
      - [8] Operating Permit;

## ARTICLE II – ZONING PERMIT & PROJECT REVIEW

[9] Expense of Neighbor Notification;

[10] Expense of Notice Publication; and

[11] Expense of Outside Professional Services.

(2) Professional assistance. The Zoning Enforcement Officer, Planning Board or Zoning Board of Appeals may engage the services of professional consultants, at the expense of the applicant in addition to the other fees provided herein. The fees charged to the applicant shall reflect the actual costs of reasonable and necessary legal and technical assistance. Professional expenses incurred by the Town shall be due from the applicant upon receipt of an invoice by the Town.

### K. Performance Bond

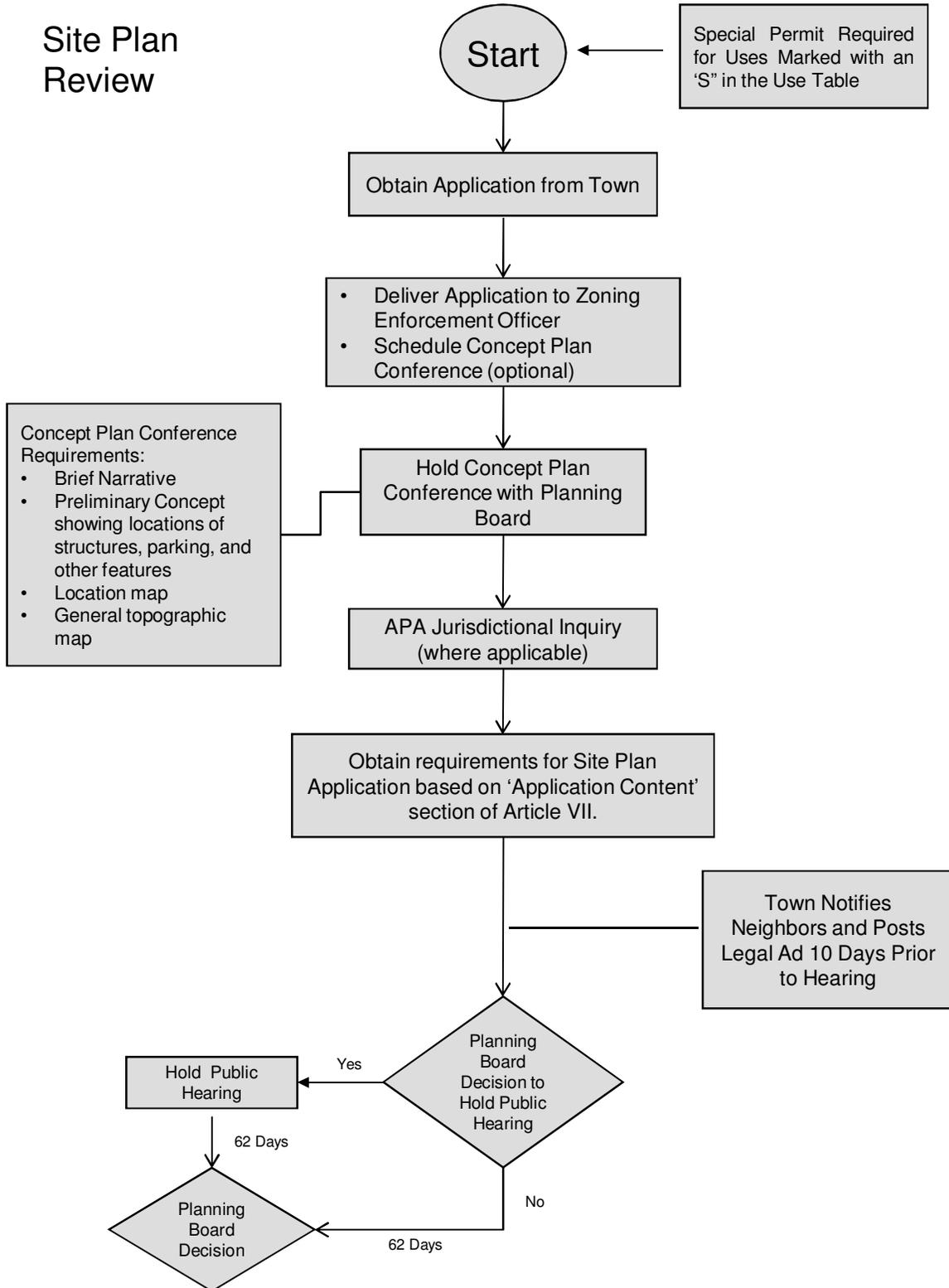
The Planning Board may require an escrow or a performance bond in lieu of the completion of required improvements. Prior to the Planning Board's final approval, the Town Board may approve an acceptable amount of security for the benefit of the Town issued by either a bonding or surety company which shall be sufficient to cover the full cost of said required improvements and their maintenance for a period of up to two (2) years after completion.

### L. SEQRA

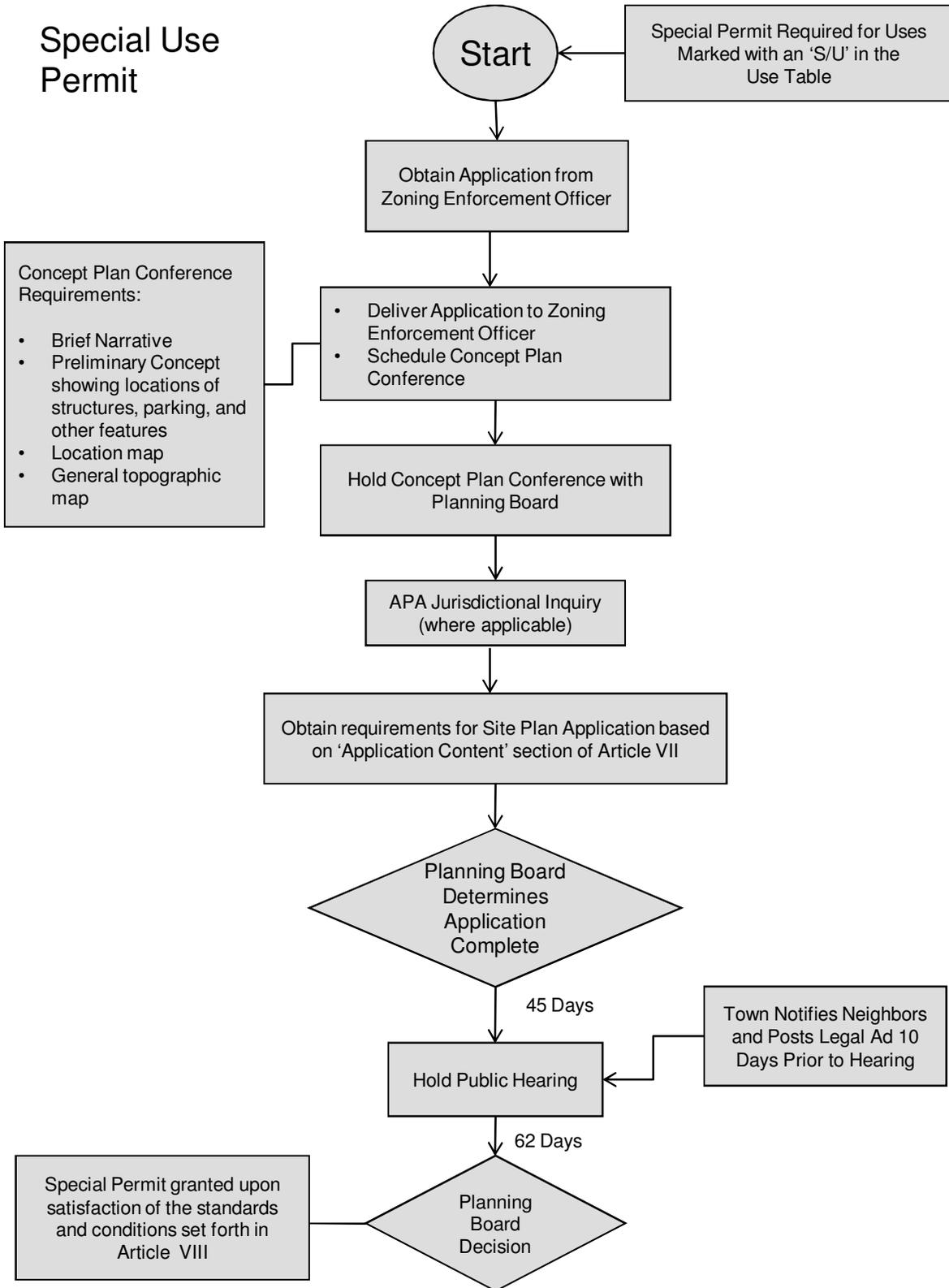
The Town shall comply with the provisions of the New York State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part Six Hundred Seventeen of the New York Codes, Rules and Regulations. Upon receipt of any complete application, the Town or any officer, department, board or bureau of the Town shall initiate the New York State Environmental Quality Review process.

ARTICLE II – ZONING PERMIT & PROJECT REVIEW

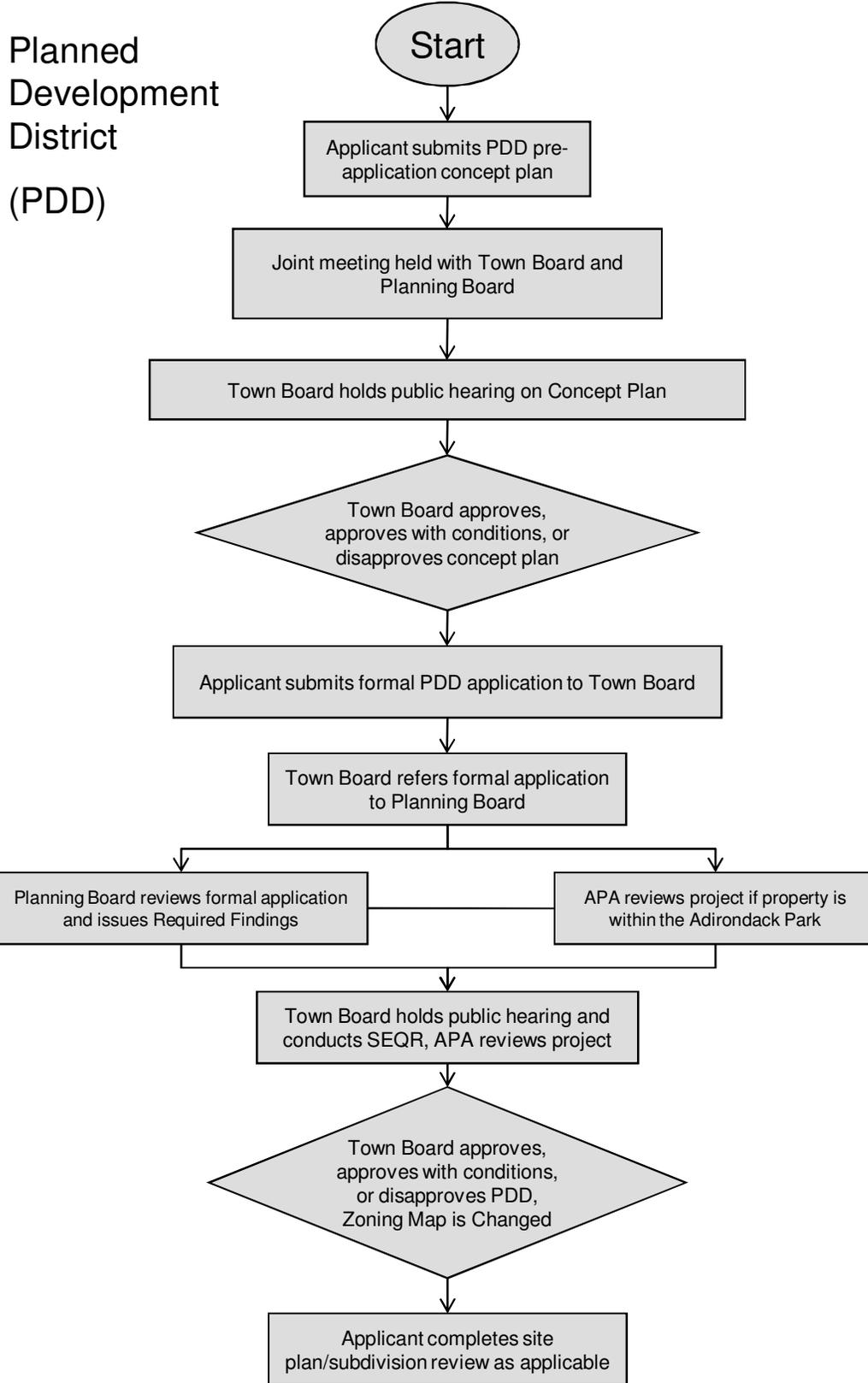
Site Plan Review



ARTICLE II – ZONING PERMIT & PROJECT REVIEW



ARTICLE II – ZONING PERMIT & PROJECT REVIEW



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**ARTICLE III – ESTABLISHMENT OF DISTRICTS & MAP**

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**Purpose**

It is the objective of this Code to define various categories of residential, resort, commercial and open space districts in such manner as to recognize the existing character and quality of land use and natural features throughout the Town in accord with the Town of Lake Luzerne Comprehensive Plan.

**Districts Classification**

For the purpose of this Code, the Town of Lake Luzerne, is hereby divided into the following designated districts:

**HR – Hamlet Residential**

Residential development in a neighborhood setting. The purpose is to create a safe haven for people to live and conduct their domestic activities. A degree of privacy is expected, especially in the house and the rear yards.

**HC – Hamlet Commercial**

Commercial areas intended to provide for a diverse and vibrant mixture of commercial and residential development. This district is intended to maximize the economic development potential by encouraging infill, reuse and expansion, and by protecting and enhancing a mixture of uses compatible with the surrounding residential neighborhoods.

**HI – Hamlet Industrial**

Industrial areas that can host appropriate small scale manufacturing within the Town without compromising environmental standards related to traffic, noise, odor, health, visual impact, and are sensitive to the surrounding residential areas of Lake Luzerne.

**R-RE – Residential Resort**

Residential areas where uses are mixed to accommodate commercial uses focused on tourism in a residential neighborhood setting.

**RT – Residential Town, R-RU – Residential Rural, RC – Residential Countryside**

These residential districts are located outside the hamlet districts where the natural setting provides for the ability to develop housing in a variety of densities consistent with the area’s rural characteristics.

**OS – Open Space**

Natural areas where development is restricted to low density in order to protect the open space character or unique landscape characteristics.

**FH – Flood Hazard – Overlay**

The land area adjoining a river, stream, watercourse, or lake which is depicted as lying within the 100-year flood zone as depicted on Flood Insurance Rate Maps (FIRM) prepared under the Flood Hazard Mapping Program of the Department of Homeland Security Emergency Preparedness and Response Directorate (FEMA).

**State Lands:**

IU – Intensive Use

WF – Wild Forest

R - Reforestation

**Boundary Descriptions**

- A. The boundaries for each zoning district are the boundaries indicated on the map entitled "Town of Lake Luzerne Zoning Map" which is hereby incorporated and declared to be part of this chapter, and hereinafter referred to as the "Town Zoning Map."
- B. Interpretation of district boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
  - (2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
  - (3) Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of

ARTICLE III – ESTABLISHMENT OF DISTRICTS & MAP

change in the shoreline, shall be construed as moving with the actual shoreline.

- (4) Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.
- (5) Where district boundaries are not indicated as approximately following the items above, or are not designated on the Zoning Map, the boundary line shall be determined by the use of the scale designated on the Town Zoning Map.
- (6) Whenever any street, alley or other public way is abandoned in the manner authorized by law, the district adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-of-way and all of the area included in the abandoned right-of-way shall henceforth be subject to all regulations on the extended districts.

C. In the event that none of the above rules is applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

D. Parcels located in more than one zoning district

Where an applicant owns a parcel of land located in more than one zoning district, the total number of principal buildings allowable on such parcel pursuant the Dimensional Table herein, may be distributed amongst such districts, provided that:

- (1) No lot is created which is smaller in area than the smallest lot permitted in any zone where the land exists pursuant to Dimensional Table of this Code.
- (2) The total number of principal buildings permitted for the entire parcel as determined by Dimensional Table of this Code is not exceeded;
- (3) All the dimensional requirements in the zone where the land exists as determined by the Dimensional Table are met.

ARTICLE III – ESTABLISHMENT OF DISTRICTS & MAP

- (4) Uses prohibited in a district pursuant to Use Table of this Code are not located therein;
  - (5) Building rights are not transferred across boundaries of land use areas as shown on the Official Adirondack Park Land Use and Development Plan Map adopted pursuant to section 805 of the Adirondack Park Agency Act and incorporated into this Code pursuant to Adirondack Park Land Use and Development Plan Map; and
  - (6) Deed restrictions, scenic or conservation easements or similar devices, approved by the Town Attorney, shall be provided to implement density requirements and principal building limitations.
- E. Parcels Divided by Right-of-Way. A parcel which is divided by a public right-of-way shall be considered as two parcels with the same tax map identification number.
- F. Adirondack Park Land Use and Development Plan Map.

Where applicable, the boundaries within the Town of the land use areas established by the Official Adirondack Park Land Use and Development Plan Map, as may be from time to time amended, pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act, are indicated by the separate map entitled "Adirondack Park Land Use and Development Plan Map of the Town of Lake Luzerne" dated with the effective date of this Code, which accompanies this Code, and which is hereby adopted and declared to be part of this Code, and hereafter known as the "Park Plan Map." Any change of the boundaries within the Town of a land use area by an amendment of the Official Adirondack Park Land Use and Development Plan Map pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act shall take effect for the purposes of this Code concurrently with that amendment without further action, and the Park Plan Map shall be promptly changed in accordance with that amendment. The amendment provisions of Article XI of this Code do not apply to the Park Plan Map which is amended only pursuant to the provisions of the Adirondack Park Agency Act. Copies of the Park Plan Map which may from time to time be published and distributed are accurate only as of the date of their printing and shall bear words to that effect.

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**ARTICLE IV – Use Regulations**

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**Use regulations**

A. Permitted uses

All uses listed in the use table below shall be permitted in each zoning district in which the use is listed as a permissible use for that district, provided that all other requirements of this Code are met. All permitted uses are indicated with a "P." All permitted uses requiring Site Plan Review are indicated with an "S." All permitted uses requiring a Special Permit are indicated with an "S/U."

B. Prohibited Uses

Any use not listed in the following table is deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere by this Code, unless a use variance is granted in accordance with the provisions of this Code.

C. Permitted accessory uses

All uses permitted for each district shall be permitted as accessory uses, provided the combination of uses shall meet all of the other provisions of this Code. The larger or more restrictive of the dimensional and area regulations set forth in Article V regarding the uses will be applied in a situation where more than one use is proposed on a site.

Gen. Regs	USES	DISTRICT							
		HC	HR	HI	R-RE	RT	R-RU	RC	OS
<b>RESIDENTIAL USES</b>									
	Dwelling, Single Family	S	P		P	P	P	P	P
	Dwelling, Two Family	P	P		P	P	S		
	Dwelling, Multi-family	P	S		S	S	S		
<b>x</b>	Dwelling, Mobile Home					P	P	P	P
<b>COMMERCIAL USES</b>									
	Agricultural Use				S	P	P	P	P
	Bed & Breakfast/Inn	S	S		S	S	S	S	S
	Boarding House	S	S		S	S	S	S	S
<b>x</b>	Campground, Group Camp				S/U	S/U	S/U	S/U	S/U
	Church	S	S	S	S	S	S	S	S
	Club	S			S	S	S	S	S
<b>x</b>	Contracting Business			S	S/U	S/U	S/U	S/U	S/U
	Daycare center	S	S		S	S	S	S	S
<b>x</b>	Drive-through use	S		S	S				
	Dude ranch				S				S
	Fishing Club		S		S	S	S	S	S
<b>x</b>	Fuel Supply					S	S	S	S
	Funeral Home	S	S		S				
	Home Occupation I	P	P		P	P	P	P	P
<b>x</b>	Home Occupation II	S/U	S/U		S/U	S/U	S/U	S/U	S/U
	Hotel/Motel	S			S	S			
<b>x</b>	Hunting Club					S	S	S	S
	Indoor Recreation				S	S	S	S	
<b>x</b>	Kennel					S/U	S/U	S/U	S/U
	Nursery	S		S	S	S			

Gen. Regs	USES	DISTRICT							
		HC	HR	HI	R-RE	RT	R-RU	RC	OS
	Office	S			S	S			
	Open Space Recreation	S			S	S	S	S	S
	Outdoor Furnace					S	S	S	S
	Personal Excavation				S	S	S	P	P
	Public, Semi-public facility, Institution	S	S	S	S	S	S	S	S
	Public, Private Utility	S	S	S	S	S	S	S	S
x	Restaurant, Tavern	S/U			S/U	S/U			
	Retail Use	S			S				
x	Riding Stable				S	S	S	S	S
	Roadside Stand	S			S	S	S	S	S
	Senior Housing	S	S		S	S	S	S	
x	Self-Storage Units					S			
x	Solar Collectors	P	P	P	P	P	P	P	P
x	Telecommunications Tower	S/U	S/U	S/U	S/U	S/U	S/U	S/U	S/U
x	Tourist Attraction	S/U			S/U				
x	Vehicle Repair	S/U		S/U					
	Vehicle Sales, Rentals	S		S	S				
x	Vehicle Service	S/U		S/U	S/U				
x	Windmill	S/U	S/U	S/U	S/U	S/U	S/U	S/U	S/U
<b>INDUSTRIAL USES</b>									
x	Industrial Use			S/U					
x	Light Manufacturing			S/U					
x	Sawmill/Chipmill					S/U	S/U	S/U	S/U
x	Warehouse, Storage			S/U			S/U	S/U	S/U

## ARTICLE V - DIMENSIONAL REQUIREMENTS

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### **ARTICLE V - DIMENSIONAL REQUIREMENTS**

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#### **Density and Lot Calculation**

Minimum Lot Size Table. Regulations governing lot area are specified in this Minimum Lot Size Table and in the additional regulations of this article, and are supplemented by the regulations of other sections of this Code.

Gen. Regs	USES	DISTRICT Minimum Lot Sizes							
		HC	HR	HI	R-RE	RT	R-RU	RC	OS
<b>RESIDENTIAL USES</b>									
	Dwelling, Single Family (no public sewer or water)	20,000sf	40,000sf		1 acre	1 acre	3 acres	10 acres	32 acres
	Dwelling, Single Family (either public sewer or water)	15,000sf	20,000sf		1 acre	1 acre	3 acres	10 acres	32 acres
	Dwelling, Single Family (public sewer AND water)	10,000sf	10,000sf		1 acre	1 acre	3 acres	10 acres	32 acres
	Dwelling, Two Family (no public sewer or water)	25,000sf	50,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Two Family (either public sewer or water)	20,000sf	30,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Two Family (public sewer AND water)	15,000sf	25,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Multi-family	30,000sf	60,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Multi-family	25,000sf	45,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Multi-family	20,000sf	30,000sf		2 acres	60,000sf	4 acres		
	Dwelling, Mobile Home					1 acre	3 acres	10 acres	32 acres
<b>COMMERCIAL USES</b>									
	Agricultural Use				3 acres	3 acres	1 acre	3 acres	5 acres
	Bed & Breakfast/Inn	30,000sf	30,000sf		1 acre	60,000sf	4 acres	10 acres	32 acres
	Boarding House	20,000sf	60,000sf		1 acre	3 acres	4 acres	10 acres	32 acres
	Boarding House (either public sewer or water)	20,000sf	45,000sf		1 acre	3 acres	4 acres	10 acres	32 acres
	Boarding House (public sewer AND water)	20,000sf	30,000sf		1 acre	3 acres	4 acres	10 acres	32 acres
x	Campground, Group Camp				3 acres	5 acres	5 acres	20 acres	32 acres
	Church	30,000sf	60,000sf	1 acre	1 acre	1 acre	3 acres	10 acres	32 acres
	Club	30,000sf			1 acre	1 acre	3 acres	10 acres	32 acres
x	Contracting Business			1 acre	1 acre	1 acre	3 acres	10 acres	32 acres
	Daycare center	15,000sf	30,000sf		1 acre	1 acre	3 acres	10 acres	32 acres
x	Drive-through use	15,000sf		1 acre	1 acre				
	Dude ranch				3 acres				32 acres
	Fishing Club		1 acre		1 acre	1 acre	3 acres	10 acres	32 acres

Gen. Regs	USES	DISTRICT Minimum Lot Sizes							
		HC	HR	HI	R-RE	RT	R-RU	RC	OS
x	Fuel Supply					10 acres	10 acres	10 acres	10 acres
	Funeral Home	30,000sf	60,000sf		1 acre				
	Home Occupation I	--	--		--	--	--	--	--
x	Home Occupation II	--	--		--	--	--	--	--
	Hotel/Motel	30,000sf			2 acres	3 acres			
x	Hunting Club					25 acres	25 acres	25 acres	32 acres
	Indoor Recreation				2 acres	3 acres	5 acres	10 acres	
x	Kennel					8 acres	8 acres	8 acres	8 acres
	Nursery	30,000sf		1 acre	2 acres	1 acre			
	Office	15,000sf			1 acre	1 acre			
	Open Space Recreation				3 acres	5 acres	5 acres	10 acres	32 acres
x	Outdoor Furnace					5 acres	5 acres	10 acres	32 acres
x	Personal Excavation				3 acres	3 acres	3 acres	10 acres	32 acres
	Public, Semi-public facility, Institution	30,000sf	1 acre	1 acre	2 acres	3 acres	3 acres	10 acres	32 acres
	Public, Private Utility	30,000sf	1 acre	1 acre	2 acres	1 acre	3 acres	10 acres	32 acres
x	Restaurant, Tavern	20,000sf			1 acre	1 acre			
	Retail Use	15,000sf			1 acre				
x	Riding Stable				3 acres	5 acres	5 acres	10 acres	32 acres
	Roadside Stand	--			--	--	--	--	--
	Senior Housing	1 acre	60,000sf		2 acres	60,000sf	3 acres	10 acres	
	Senior Housing (either public sewer or water)	30,000sf	45,000sf		2 acres	60,000sf	3 acres	10 acres	
	Senior Housing (public sewer AND water)	20,000sf	30,000sf		2 acres	60,000sf	3 acres	10 acres	
x	Self-Storage Units					5 acres			
x	Telecommunications Tower	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
x	Tourist Attraction	3 acres			3 acres				
x	Vehicle Repair	1 acre		1 acre					
	Vehicle Sales, Rentals	1 acre		1 acre	2 acres				

Gen. Regs	USES	DISTRICT Minimum Lot Sizes							
		HC	HR	HI	R-RE	RT	R-RU	RC	OS
x	Vehicle Service	1 acre		1 acre	1 acre				
<b>INDUSTRIAL USES</b>									
x	Industrial Use			1 acre					
x	Light Manufacturing			1 acre					
x	Sawmill/Chipmill					5 acres	5 acres	10 acres	32 acres
x	Warehouse, Storage			1 acre			5 acres	10 acres	32 acres

A. Dimensional Table. Regulations governing lot width; front, side and rear yards; building coverage and building height are specified in this Dimensional Table and in the additional regulations of this article and are supplemented by the regulations of other sections of this Code.

<b>Zone</b>	<b>Minimum Lot Width (feet)</b>	<b>Max Coverage (%)</b>	<b>Max. Building Height</b>	<b>Min. Front Yard Setback</b>	<b>Min. Setback One Side Yard</b>	<b>Min. Setback Both Side Yards</b>	<b>Min. Rear Yard Setback</b>
<b>HC</b>	75	30	38	30	10	20	25
<b>HR</b>	100	30	38	60	10	30	25
<b>HI</b>	150	20	38	60	25	50	50
<b>R-RE</b>	200	20	38	75	25	50	50
<b>RT</b>	200	20	38	75	20	40	25
<b>R-RU</b>	200	20	38	75	20	40	25
<b>RC</b>	300	10	38	75	30	60	50
<b>OS</b>	300	5	38	100	50	100	100

B. When a lot in any district is situated between either two improved lots or an improved lot and an unimproved lot, the required front yard of the lot on which the building is to be erected shall have a minimum depth equal to the average depth of the front yards of all improved lots within two (200') feet of said lot on the same side of the street.

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**ARTICLE VI - General Regulations**

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**Accessory Buildings and Uses**

- A. On any lot accessory structures(s) or use(s) in connection with the principal building or use may be constructed and located subject to the following process:
- (1) All accessory structures or uses shall require a Building/Use Permit to be issued prior to their initiation and a Certificate of Compliance upon their completion as elsewhere required in this Code; except such minor ancillary uses as are specifically exempt.
  - (2) Where applicable, such Permit shall be issued conditional upon satisfactory completion and issuance of a Certificate of Compliance for the principal building or use to which it is accessory. If said Certificate of Compliance is not issued within one (1) year from the date of issuance of the Permit for the accessory structure or use, the conditions upon which said Permit is issued shall be deemed not to have been complied with and the accessory structure or use shall be considered in violation of these Regulations, except as application may be made to and considered by the Board of Appeals, which Board may, for due cause shown, authorize a one (1) year extension to allow for compliance with the conditions under which the Permit was issued.
- B. Accessory structure(s) or use(s) shall be governed by the following:
- (1) No more than two (2) accessory structures or uses, in addition to any private automobile garage, shall be permitted on any lot in conjunction with a Permitted Use, with the exception of agricultural structures.
  - (2) Accessory structures and uses in conjunction with a Special Permit, a Planned Development District, or any use required to be considered according to the Site Plan Review process shall be determined appropriate as to number, type and location by the Planning Board or Town Board as is appropriate in accord with their respective review functions in the above processes.

- (3) Accessory structures to a residential use which are not attached to a principal building may be erected in accordance with the following requirements:
  - (a) Front Yard Setback - Not to be located in any required front yard setback except as allowed for under Shoreline Requirements.
  - (b) Rear or Side Yard - at least ten (10) feet from side or rear lot line.
  - (c) No closer than ten (10) feet from a principal building or other accessory structure.
- (4) An accessory structure attached to a principal residential building or an accessory structure other than a residential use, whether attached to the principal building or not, shall comply in all respects with the requirements of this Code applicable to the principal building.
- (5) The maximum height of any accessory structure shall be one and one-half stories or eighteen (18) feet, whichever is less; except that it shall not exceed the height of the principal building.

**Campground / Group Camp Requirements**

A. Procedure

All proposed campgrounds and group camps shall be subject to, and be approved and developed under the Special Permit Review process of this Code and as set forth and according to the following requirements.

B. Existing Campgrounds and Group Camps

- (1) Existing campgrounds and group camps shall be deemed to include any lot or parcel designed or with accommodation for the seasonal or temporary situation, other than for parking or storage, of two (2) or more recreational living units; the definitions of campgrounds and group camps in Appendix "B" which is a part of this Code.

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- (2) All existing campgrounds and group camps shall be limited to the number and size of campgrounds presently accommodated on the effective date of this Code; except as they shall follow the process and meet the minimum requirements set forth herein whenever any addition, expansion or alteration of the use or operation is proposed.
- (3) All existing campgrounds and group camps shall be required to apply for an initial Operating Permit within six (6) months of the effective date of this Code and thereafter an annual operating permit as elsewhere required in this Code.
- (4) All existing campgrounds and group camps shall comply in every regard with minimum standards for health, sanitation, cleanliness and maintenance and these factors shall be governed by the Operating Permit.
- (5) Nothing in this Article shall be interpreted or applied in such manner as to prevent a campground or portion thereof given final approval prior to the effective date of this Code from being completed in accord with the prior approval.

### C. Standards

#### (1) General

Creation and expansion, extension or alteration of any campground or group camp shall be in accordance with the minimum requirements hereinafter set forth.

#### (2) Site Considerations shall be as follows:

- (a) Any campground or group camp involving lands designated as a Flood Hazard Area by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development as depicted on the Zoning Map(s) or any other land subject to repeated flooding or deemed by the Planning Board to be subject to flood hazard shall be reviewed by the Board in accord with the applicable provisions of the Site Plan Review Section of this Code.
- (b) The campground or group camp shall be located in areas where grades and soil conditions are suitable for location of

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recreational living units. The campground or group camp shall be located on a well-drained site which is properly graded to insure proper drainage and be free at all times from stagnant pools of water.

- (c) The site shall be at least five (5) acres in size or as otherwise stipulated and shall have access to a public roadway.

### (3) Unit Area

Each campground shall have defined and identifiable camping site areas. The total number of unit areas in such campground shall not exceed twelve (12) per gross acre. Each unit area shall have a total area of not less than twenty-five hundred (2,500) square feet with a minimum dimension of thirty (30) feet. Only one recreational vehicle unit, including travel trailers, shall be permitted to occupy any one camp area. Two tents may be allowed per site or one tent plus one recreational vehicle or travel trailer.

### (4) Improved Unit Area

Each designated lot shall have an improved area which will provide for the placement and removal of recreational vehicle or travel trailer and for the retention of each in a stable condition. This improved area shall be of sufficient size to accommodate the dimensions of all anticipated recreational vehicles and travel trailers, and shall be suitably graded to permit proper surface drainage.

### (5) Location of Units

A recreational vehicle or travel trailer shall be located at a minimum distance of:

- (a) Twenty (20) feet from an adjacent unit, in any direction.
- (b) Thirty-five (35) feet from an adjacent property line.
- (c) One hundred (100) feet from the edge of the pavement or improved surface area of a public roadway.

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- (d) Twenty (20) feet from the edge of any paved or improved surface area of any roadway within the campground.
- (6) Accessibility shall be as follows:
  - (a) Each campground or group camp shall be easily accessible from an existing public roadway.
  - (b) Location and number of points of entry and exit shall be approved by the Planning Board according to the terms under which the Permit is authorized. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the campgrounds, and to minimize conflicts with the movement of traffic on the public roadway. Ease of access and egress and turning movements shall be considered in the design of the roadway system.
  - (c) Each campground or group camp shall have improved roadways to provide convenient access to all camping unit areas and other important facilities within the site. In addition:
    - [1] All roadways shall be fifteen (15) feet for one-way roads, twenty (20) feet for two-way roads, with three (3) inches of rubble or gravel for drainage where necessary.
    - [2] No parking shall be allowed on any roadway and there shall be no dead-end roadways in any campground or group camp except that a cul-de-sac or Y turn-around may be provided in accord with those provisions set forth in the Subdivision Regulations for the Town of Lake Luzerne.
    - [3] Adequate access shall be provided to each improved camping site area.
- (7) Utilities and service Facilities

All waste water disposal, water and public accommodation facilities provided in any campground or group camp shall be in accordance with the regulations of the N.Y.S. Department of

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Environmental Conservation or Department of Health as is applicable. In addition, the following utilities and service facilities shall be provided in each campground:

- (a) An adequate supply of pure water for drinking and domestic purposes shall be supplied.
  - (b) Waste from all service buildings and individual lots shall be discharged into an approved public or private sewer system in compliance with the N.Y.S. Department of Environmental Conservation and N.Y.S. Department of Health, and in such a manner so as not to present a health hazard.
  - (c) If other service buildings and facilities are to be provided as deemed necessary for the normal operation of the campground or group camp, all such buildings shall be maintained in a sanitary and safe condition.
  - (d) Refuse disposal shall be the responsibility of the operator of the campground or group camp and such refuse shall be disposed of daily and in a covered can with a plastic bag liner at each site.
  - (e) Where electrical connections or services are provided, they shall be weather-proof connections and outlets which are of a type approved by the New York State Building Construction Code. Proposed electrical service shall be shown on the plan.
- (8) Recreation-Open Space Area
- Each campground or group camp shall provide common open space for the use of the occupants of such campgrounds. Such open space shall be conveniently located in the campground or group camp and shall constitute a minimum of twenty (20) percent of the total campground area, such area to be designated on the site plan in such manner as to be an integral part of any proposed campground or group camp.
- (9) Fireplaces; Campfires
- All fires in any campground or group camp shall be in a

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designated improved location with at least a stone or other fire-proof enclosure demarcating the usable area from which all vegetative growth or other flammable material which might contribute to the accidental spread of the fire shall be removed.

### (10) Landscaping shall be as follows:

- (a) Lawn and ground cover shall be provided on those areas not used for the placement of individual recreational living units and other buildings, walkways, roads and parking areas.
- (b) Plantings shall be provided to the extent needed in order to screen objectionable views, provide adequate shade and to provide suitable settings for the recreational living units and other facilities. Views which shall be screened include laundry facilities, other non-residential uses, refuse storage and collection areas, and all abutting yards of adjacent properties.
- (c) Other planting shall be provided along those areas within the campground which front upon or are visible from existing public roadways so as to substantially screen the campground from public view at all seasons of the year.

### (11) Removal of Wheels

It shall be unlawful to remove wheels from any recreational living unit or otherwise permanently affix such unit to the ground. Such removal shall be grounds for the revocation of the Operating Permit for such campground.

### (12) Length of Stay

No recreational living unit shall be permitted as an occupied unit to remain in the campground or group camp for an aggregate period of more than six (6) months in any one calendar year.

### (13) Related Requirements

Issuance of an Operating Permit hereunder for the use of the premises as a campground shall not be construed to eliminate the necessity of complying with all other applicable ordinances,

resolutions, health regulations and other regulatory authorities or measures.

(14) Storage of Recreational Living Units

May be permitted on the campground in an area that does not allow occupancy by a registered guest of the campground. This area will not have any utilities or service facilities that will allow a recreational living unit to be occupied. A unit may be stored on the premises for no longer than fifteen (15) consecutive months.

D. Administration and Enforcement

(1) Building/Use Permit

(a) Permit Required

No campground or group camp shall be established or expanded, in the Town until a Special Use Permit therefore has been approved by the Planning Board. All Building/Use Permits required under the provisions of this Code shall be considered according to the following:

- [1] For the establishment of a campground or group camp, the Permit shall be authorized by the Planning Board in accord with the Special Permit Review process of this Code; and
- [2] Any alteration or improvement of the site made shall meet the requirements of this Code.

(b) Application

Plans and information shall be as required according to the respective process called for above and set forth in Article II of this Code, and such other information as may be necessary for the Zoning Enforcement Officer or other instrument of the Town to render a determination under and provide for the administration and enforcement of this Code.

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(c) Notification of Determination

Authorization and issuance or denial of the applied for Permit shall be in accord with the established timeframe of the respective procedures set forth in this Code for consideration of a campground or group camp under Special Permit Review.

(d) Duration of Validity

A Building/Use Permit issued under this Code shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void; except as application may be made to and considered by the Board of Appeals, which Board may, for due cause shown, authorize a one (1) year extension to the validity of the Permit.

(2) Certificate of Compliance

(a) Certificate Required

No new or expanded campground or group camp hereafter located shall be used or occupied until a Certificate of Compliance shall have been issued by the Zoning Enforcement Officer.

(b) Application

Application for a Certificate of Compliance shall be made coincidental with any application for a Building/Use Permit. Such Certificate of Compliance application shall be valid only for the duration of the validity of the Building/Use Permit.

(c) Notification of Determination

The Zoning Enforcement Officer shall make, or cause to have made, an inspection of each campground or group camp for which a Certificate of Compliance is required before issuing such certificate. A Certificate of Compliance shall be issued only if the campground or group camp conforms to the provisions of this Code and to the

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application based on which the Building/Use Permit was issued. Issuance of the Certificate or written notification of refusal to issue the same, and the reasons therefore, are to be accomplished within ten (10) days from the date of notification of project completion.

### (3) Operating Permit

#### (a) Permit Required

All campgrounds and group camps existing on the effective date of this Code shall be required to apply for and obtain an Operating Permit and the owner or operator thereof will be notified of the need to apply for such Operating Permit within sixty (60) days from the effective date of this Code.

#### (b) Application

An application for an Operating Permit shall be made within six (6) months of the effective date of this Code. Such application shall include a map and drawings of the existing layout including individual lots or unit areas, utilities and such additional information as may be necessary for the Zoning Enforcement Officer or other instrument of the Town to render a determination under and provide for the administration and enforcement of this Code. The Zoning Enforcement Officer shall advise the applicant of any additional information required to constitute a complete and sufficient application within ten (10) days of receipt of the application.

#### (c) Notification of Determination

Upon application of an Operating Permit, the Zoning Enforcement Officer shall inspect the premises and report the findings to the Town Board which shall, within sixty (60) days of the date of application, authorize the Zoning Enforcement Officer to issue or deny the Permit in accord with the requirements set forth following.

E. Requirements

Existing campgrounds and group camps shall meet the minimum requirements of this Code pertaining to water supply and sewage disposal of the campgrounds. In any instance where the minimum requirements for sanitation or maintenance are not met, the applicant will be notified of those minimum acceptable improvements, the completion of which improvements shall be a prerequisite to the issuance of an Operating Permit. Any such required improvements shall be made and verified to within one (1) calendar year from the original date of application or the responsible party shall be considered in violation of this Code and shall be notified of same in accord with the process hereinafter set forth.

F. Duration of Validity

All initial and subsequent Operating Permits shall be valid for a one (1) year period from their date of issuance. The revocation of any such Operating Permit, for due cause and after public hearing by the Town Board, shall stipulate that the use be improved in accord with the requirements of this Code within thirty (30) days or thereafter be subject to penalties for the violation thereof.

**Contracting Business**

- A. Diesel/gas vehicles shall not idle for more than 5 consecutive minutes before 6:00 am.
- B. No heavy equipment or construction materials shall be stored within the front-yard setback.
- C. All storage areas and vehicle and equipment parking areas shall be adequately screened, so as to not be visible from the public right-of-way.

**Drive-Through Use**

No more than 2 drive-through uses shall be allowed on a single lot.

**Fences, Walls, and Retaining Walls**

- A. Installation of fences and construction of all walls shall require a Certificate of Compliance. During Site Plan Review, if required, the Planning Board may modify the following standards. Other applicants

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who wish to modify these standards who are not subject to site plan review must receive a variance from the Zoning Board of Appeals.

- B. Fences shall be permitted without a principle use and may be located in front, side and rear yard setback areas. Fences shall be allowed on any property line provided they comply with all other regulations set forth herein.
- C. The height of fences and all walls for all uses other than industrial uses shall not exceed six (6) feet in side yards, and six (6) feet in rear yards. The height of fences and all walls shall not exceed four (4) feet in front yards, and shall not obstruct vehicle sight lines or interfere in any way with the view corridor from public roadways.
- D. The height of fences and walls installed within 10 feet of the mean high water mark shall be measured from the mean high water mark.
- E. The finished side of the fence shall face neighboring properties or the street.
- F. Fences and all walls shall not encroach on any public right-of-way. Fences shall be set back a minimum of 2 feet from any sidewalk.
- G. The owner of the fence or wall must maintain both sides of the fence or wall in good condition.
- H. Fences and retaining walls along streams, rivers and water bodies may have to meet other regulatory review requirements.

### **Fuel Supply**

All fuel tanks shall be adequately screened so as to not be visible from the public right-of-way.

### **Home Occupation**

- A. Home occupations are permitted as shown on the Use Table, in existing and new homes, in outbuildings and in garages, subject to the following criteria and standards.
  - (1) All home occupations shall:
    - (a) Be conducted by a resident of the lot;
    - (b) Be compatible with the other uses allowed in the district;
    - (c) Maintain the character of the neighborhood;

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- (d) Ensure the peace, privacy, quiet, and dignity of the area;  
and
  - (e) Avoid excessive noise, traffic, nuisance, fire hazard, and  
other adverse effects of business uses.
- (2) Home Occupation Level One
- (a) Home occupations shall be conducted in a manner which  
does not give the outward appearance of a business.
  - (b) Home occupations shall be conducted within the home or  
accessory structure. Such use shall not alter the external  
appearance from a residential character.
  - (c) Home occupations shall not generate automobile or truck  
traffic that would exceed the volume of traffic that would  
otherwise be generated by typical residential use.
  - (d) Home occupations shall have no external storage of  
materials, equipment, containers, finished products or  
associated vehicles outside the home, outbuilding or  
garage other than that which is normally associated with  
residential use.
  - (e) Home occupations shall be incidental and secondary to the  
use of a dwelling unit for residential purposes. The space  
occupied by the home occupation itself does not  
necessarily have to be in the habitable area.
  - (f) Home occupations shall be limited to one (1) per lot and  
shall not have any non-resident employees.
  - (g) Home occupations shall display no sign or other indicia of  
the home occupation.
  - (h) Home occupations shall not provide any additional off-  
street parking above and beyond the parking already  
required.
  - (i) Home occupations that require the storage of heavy  
equipment or tractor trailer parking shall be considered  
Level Two home occupations.

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- (3) Home Occupation Level Two
  - (a) Home occupations shall be limited to two (2) per lot.
  - (b) Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
  - (c) Each home occupation shall have only one sign which shall not exceed two (2) square feet.
  - (d) Home occupations shall allow no more than two (2) non-resident assistants, interns, or employees at any one time per home occupation.
  - (e) Home occupations shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling above and beyond the parking already required.

### **Industrial Use**

- A. Materials stored outside shall be screened and buffered so as to not be visible from the public right-of-way.
- B. No activities that will become noxious or offensive due to the emission of noise, smoke, dust, odors, gas or light shall be conducted without Site Plan Review or Special Permit approval by the Planning Board.

### **Kennel**

- A. For all outdoor kennel uses, vegetative or architectural screening shall be provided to screen the parking from the public Right-of-Way and/or neighboring residential uses.
- B. All animal and medical wastes shall be disposed of in a sanitary and environmentally safe manner, consistent in all respects with all state and federal requirements
- C. Shall not be less than 200 ft from centerline of any roadway, 100 ft from any side or rear lot line. A 200 ft setback shall be required from any existing occupied structure on an adjoining parcel.

**Lighting Standards**

A. Purpose

It is the intent of these regulations to minimize glare, prevent or reduce light pollution, and provide the minimum light levels necessary for safe use of property.

B. Applicability

These regulations shall apply to all outdoor light fixtures.

C. Light levels

The minimum light level necessary to promote safe use of property shall be used. The trespass of light across property lines is prohibited except where it can be demonstrated that it is necessary for safety or security purposes.

- (1) Light levels at the boundaries of commercial lots that abut or adjoin lots with residential uses shall not exceed 0.1 foot-candles.
- (2) Light trespass between commercial lots is permitted in situations in which visibility between lots is necessary to promote safety, such as shared parking areas.
- (3) The light levels at commercial lot lines shall not exceed those found elsewhere on the lot.

D. Light Direction

- (1) No light shall be emitted from light fixtures in an upward direction.
- (2) Fixtures shall be shielded and have cut-offs to direct light toward the ground or a structure to avoid light pollution.
- (3) The light source within the fixture shall not be visible.

E. Light Poles

- (1) On commercial lots, public spaces and sidewalks shall feature pedestrian-scaled lighting. Poles shall be no higher than 14’.
- (2) Parking lot light poles shall be no higher than 20’ or the height of the primary structure, whichever is less.

**Livestock**

- A. The purpose of this section is to protect the health, safety and general welfare of the citizens of the Town, as well as to provide for the safety and health of horses and livestock other than household pets.
- B. No swine, cows, horses, sheep, goats, poultry, or similar livestock other than a domestic household pet will be kept, harbored, boarded or confined for any period of time within the Hamlet Residential (HR), Hamlet Commercial (HC), or Hamlet Industrial (HI) zoning districts.
- C. In any zone in the Town wherein the keeping of livestock is allowed, the following regulations shall be complied with:
  - (1) A lot or parcel of at least one (1) acre shall be required for the keeping of horses, ponies or other livestock.
  - (2) Within the pasture or field there must be provided a barn or similar three-sided lean-to with a roof to provide shelter for the horses, ponies or other livestock. Such structure shall be sized to accommodate the type and number of proposed animals.
- D. Location
  - (1) All barns, stables and/or similar three-sided lean-tos with roofs for the purpose of sheltering horses, ponies or similar livestock shall be located a minimum of 100 ft from the road centerline or shoreline, or any neighboring dwelling.
  - (2) Pasture or field fencing may be placed at any point up to the property line. Said fencing shall be a minimum of fifty feet (50') from a neighboring dwelling.
- E. All pasture or field fences shall be constructed of such material and in such a manner as to prevent and preclude an escape of livestock.
- F. All fences, barns, three-sided lean-tos or similar structures must be maintained in a state of repair.
- G. Stables and similar enclosures must be built and maintained to avoid the creation of offensive odors, fly breeding or other nuisances.

**Mobile Homes**

- A. Purpose. The purpose of this section is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Lake Luzerne and of its inhabitants by establishing specific requirements and regulations governing the installation of mobile homes.
- B. The installation of the manufactured home shall conform to the requirements of the NYS Building Code and the United States Department of Housing and Urban Development.
  - (1) All mobile homes within the Town of Lake Luzerne shall be installed on a permanent foundation with the wheel and tongue removed.
  - (2) The mobile home shall have an approved metal, wood, or other suitable skirting or framing, properly ventilated and attached, which shall enclose the area from the bottom of the floor line of the mobile home to the ground, and which shall be installed within thirty (30) days of the installation of the mobile home.

**Off-Street Parking and Loading**

- A. Off-street parking.

Off-street parking spaces shall be required for all buildings constructed, expanded or engaged in new use after the effective date of this Code, except building alterations or additions that will not increase the gross floor area of the existing structure within any two year period by more than 5000 square feet or 25%, whichever is less.

  - (1) Parking spaces required in all districts shall be located in the side or rear yard on the same lot as the principal use unless otherwise permitted by the Planning Board.
  - (2) All square footage requirements refer to the gross floor area of the building or portion thereof dedicated to the use in question.
  - (3) Screening
    - (a) Off-street parking areas for all non-residential uses and apartment buildings located within 50 feet of single family,

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two family or multifamily building dwellings shall be shielded by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.

- (b) Parking lots shall be screened from all street or rights-of-way in such a manner as to facilitate adequate site distance at points of egress.
- (4) Parking spaces in residential districts shall be used only for parking directly related to a permitted use in such district and shall not be located in any required front yard.
- (5) Parking or storage in any residential district of recreational vehicles or boats out-of-doors shall be confined to the rear or side yard and not within ten (10) feet of any lot line. No unlicensed, inoperable motor vehicle shall be parked or stored out-of-doors or other than in a fully enclosed structure in any residential district for a period to exceed six (6) months.
- (6) Parking lot landscaping requirements.
  - (a) Buffer planting shall be installed between the parking lot and adjacent properties.
  - (b) Buffer planting shall be installed between the parking lot and the street.
  - (c) If existing trees and vegetation are left on the site, these may be used in lieu of new plantings.
- (7) Parking lots with more than 40 (Forty) cars shall be designed in accordance with the following:
  - (a) One tree planted on the perimeter of the parking lot for every 10 cars or fraction thereof.
  - (b) One tree planted in the interior of a parking lot (on traffic islands) for every 10 cars or fraction thereof.
  - (c) Internal traffic islands including one for every 20 cars or part thereof to reduce the impact of the parking area and provide safety for vehicles moving within the area.

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- (8) New plantings shall comply with the following sizes:
  - (a) Major tree 3-1/2" caliper
  - (b) Flowering tree 2-1/2" caliper
  - (c) Evergreen tree 4-6' height
  - (d) Shrub 2-3' height or spread
- (9) Parking space size.
  - (a) Perpendicular parking (90°)
    - [1] Each parking space shall be a minimum of nine feet by eighteen feet (9' x 18').
    - [2] The minimum aisle width shall be twenty-four feet (24') for two-way traffic.
    - [3] The minimum aisle width shall be twenty-two feet (22') for one-way traffic.
  - (b) Angled parking (60°)
    - [1] Each parking space shall be nine feet by twenty-two feet (9'x 22').
    - [2] The minimum aisle width shall be twenty-three feet (23') for two-way traffic.
    - [3] The minimum aisle width shall be eighteen feet (18') for one-way traffic.

B. Off-Street Parking Schedule

Off-Street Parking Table Notes:

- a. Where the following table indicates that parking is required for uses which are not permitted in certain Districts per the Use Table, such requirements shall be ignored, as the use remains prohibited.
- b. GFA = Gross Floor Area

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USES	DISTRICT		
	HC,HR, HI	R-RE, RT, R-RU	RC, OS
<b>RESIDENTIAL USES</b>			
Dwelling, Single Family	1/unit		
Dwelling, Two Family	1/unit	1/unit	
Dwelling, Multi-family	1.5/unit	1.5 /unit	
<b>COMMERCIAL USES</b>			
Agricultural Use		None	
Bed & Breakfast, Inn	1.5 per guest room		
Boarding House	1.5 per guest room		
Campground / Group Camp		Per SPR	
Church	1 per 8 seating spaces in main assembly room		
Club	Per SPR		
Contracting Business	Per SPR		
Daycare center	1 per 5 clients + 1 per employee		
Drive-through use	n/a		
Dude ranch		Per SPR	
Fishing Club	1 per 10 members at max. membership	1 per 5 members at max. membership	
Fuel Supply		Per SPR	
Funeral Home	1 per 1000sf GFA		
Home Occupation I	none		
Home Occupation II	1 per employee		
Hotel/Motel	1 per room plus 1 per every 2 employees		
Hunting Club		Per SPR	
Indoor Recreation Facilities		Per SPR	
Kennel		Per SPR	
Nursery	Per SPR		
Office	1 per 400 sf GFA		
Open Space Recreation		Per SPR	
Personal Excavation	n/a		
Public, Semi-public facility, Institution	Per SPR		
Public, Private Utility	Per SPR		
Restaurant, Tavern	Per SPR	1 per 200 sf GFA	
Retail Use	1 per 300sf GFA	1 per 300sf GFA	
Riding Stable		Per SPR	
Roadside Stand	Per SPR		
Self-Storage Units		Per SPR	
Senior Housing	1 per unit		
Telecommunications Tower	n/a		
Tourist Attraction	Per SPR		
Vehicle Repair	Per SPR		
Vehicle Sales, Rentals	Per SPR		
Vehicle Service	Per SPR		
<b>INDUSTRIAL USES</b>			
Industrial Use	1 per employee, plus 2		
Light Manufacturing	1 per employee, plus 2		
Sawmills/Chipmills		Per SPR	
Warehouse, Storage	1.5 per 1000 GFA		

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### C. Stacked and tandem parking restrictions

- (1) Except as otherwise provided herein, parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle.
- (2) Stacked or valet parking may be allowed at the discretion of the Planning Board if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the Town ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces continue to apply for stacked parking.
- (3) Tandem Parking is allowed for single-family detached dwelling units and two-family dwelling units.

### D. Waivers

- (1) The total number of parking spaces required by this Code may be reduced by the Planning Board to the extent that the applicant can demonstrate that the regulation is unnecessarily stringent for reasons of:
  - (a) Unique use times;
  - (b) Shared or dual use;
- (2) Waiver Limits  
During Site Plan Review, the Planning Board may waive up to fifty percent (50%) of the required spaces. If no Site Plan Review is required a Variance must be received from the Zoning Board of Appeals.

### E. Off-Street Loading

- (1) At least one off-street loading space shall be provided for each commercial or industrial establishment hereafter erected and/or substantially altered to have a gross floor area in excess of 10,000 square feet. Space for off-street loading shall be in addition to space for off-street parking. The Planning Board may require an off-street loading space for commercial or industrial

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uses that are less than 10,000 square feet or additional off-street loading spaces during review if it determines that such space is needed by the commercial or industrial use.

- (2) Each off-street loading space shall be subject to the following minimum requirements:
  - (a) Each berth shall be not less than 12 feet wide, 40 feet long and 14 feet in height when covered.
  - (b) Off-street loading space (or spaces) located within 50 feet of residential property shall be shielded by wall, fencing, or other suitable material which shall serve to screen noise and uncontrolled entrance.

### **Outdoor Furnaces**

#### A. General Standards

- (1) Permitted Fuel – Only firewood and untreated lumber or other EPA fuel sources are permitted to be burned in any Outdoor Furnace. Burning of any and all other materials in an Outdoor Furnace is prohibited.
- (2) Setbacks – Outdoor Furnaces shall be set back not less than 200 feet from the nearest lot line.
- (3) Compliance – Outdoor Furnaces shall be located no closer than 10 feet to any structure, and shall comply with the Warren County Department of Fire Prevention and Building Code Enforcement regulations.
- (4) Spark Arrestors – All Outdoor Furnaces shall be equipped with properly functioning spark arrestors.

- B. A Certificate of Compliance issued pursuant to this Code may be suspended as the Fire Chief may determine to be necessary in order to protect the public health, safety and welfare of the residents of the Town of Lake Luzerne. A suspended Certificate of Compliance may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a Certificate of Compliance shall be considered a violation.

**Pre-Existing Manufactured Home Parks**

- A. The following regulations shall apply to the improvement, alteration or addition of any pre-existing manufactured home park.
- B. No manufactured home park, as herein defined, shall be extended or expanded, nor shall any site for such use be cleared, altered or improved other than as necessary to gain access to and survey; nor shall construction or installation of any facility proceed, until the process outlined hereunder is complied with, including all requisite approvals and issuance of any required Permit or Certificate.

C. Location and Density

No manufactured home park shall exceed the density guidelines for the zoning district or districts from which the Planned Development District was created as set forth in the Town Plan and this Code and based upon the size of the parcel or tract of land designated as the manufactured home park and the total number of individual manufactured home units to be accommodated within the park, as well as any other principal structures thereon.

D. Existing Manufactured Home Parks

- (1) Existing manufactured home parks shall be deemed to include any lot or parcel on which are situated two (2) or more manufactured homes other than in compliance with the minimum lot area and width requirements for an individual use under the previous Town Zoning Ordinance; the definition of manufactured home and manufactured home park in Appendix B of this Code.
- (2) All existing manufactured home parks shall be required to make application for an initial Operating Permit within six (6) months of the effective date of this Code and thereafter an annual Operating Permit as elsewhere required in this Code.
- (3) All existing parks shall comply in every regard with minimum standards for health, sanitation, cleanliness and maintenance, and these factors shall be governed by the Operating Permit.
- (4) Nothing in this Section shall be interpreted or applied in such manner as to prevent a manufactured home park or portion thereof

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given final approval prior to the effective date of this Code from being completed in accord with the prior approval.

### E. Standards

#### (1) General

Expansion, extension or alteration of any manufactured home park shall be in accord with the minimum requirements hereinafter set forth. The alteration or improvement, including the relocation of any structure within an existing manufactured home park, shall be subject to the approval of the Town Board.

#### (2) Water Supply

An adequate, safe and potable supply of water shall be provided in each manufactured home park for all occupants thereof. Where a satisfactory supply of public water is available, connection shall be made thereto wherever lawful. Any individual or community water supply system and all water storage and distribution facilities shall be in accord with those standards set forth by the N.Y.S.

Department of Health and be acceptable to the Town. The water supply, storage and distribution system shall be approved by the N.Y.S. Department of Health before any initial Building/Use Permit or Operating Permit is issued.

#### (3) Sewage Disposal

An adequate and sanitary sewerage system shall be provided in each manufactured home park of sufficient capacity and so designed and maintained to effectively dispose of sanitary wastes without creating a health hazard or nuisance resulting in obnoxious odors or unsightliness; and further, such wastes shall not be discharged into or on the ground or waterway except as approved by the N.Y.S. Department of Health or the N.Y.S. Department of Environmental Conservation, as is applicable. All sewage disposal facilities shall be approved by the N.Y.S. Department of Environmental Conservation or Department of Health before any initial Building/Use or Operating Permit is issued.

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### (4) Flooding, drainage and soil cover shall be considered as follows:

- (a) Any manufactured home park involving lands designated a Flood Hazard area by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development as depicted on the Zoning Map(s) and any other land subject to repeated flooding or deemed by the Planning Board or Town Board to be subject to flood Hazard shall be reviewed in accord with the applicable provisions of the Site Plan Review Section of this Code.
- (b) Soil, water table, drainage and topographic conditions shall not create hazards to the property or the health or safety of the occupants and no site shall be approved where seasonal or prolonged wetness, flooding or erosion will be detrimental to the proposed use of the site.
- (c) Exposed ground in all parts of every manufactured home park shall be seeded or protected with a vegetative growth that is capable of preventing soil erosion and objectionable dust while preserving water absorption qualities.
- (d) The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, attractive manner. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds or pools. Storm drainage shall be conveyed to an adequate and approved system of storm water disposal where available. Storm drains shall not discharge onto the sidewalk, street or adjacent property in such a manner as to create a nuisance or hazard. Final plans will indicate the existing and resulting volume of surface runoff and the manner in which it is to be accommodated.

### (5) Refuse Disposal

Adequate and sanitary facilities shall be used for the storage, collection, handling and disposal of garbage and refuse. Location, number and type of receptacles and method of storage and collection shall be approved under the terms of the Permit. In all

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cases, that person or persons to whom the initial and any subsequent Operating Permit is issued shall be responsible for arranging for the timely, sanitary and convenient disposal of garbage, refuse and solid waste materials for all occupants of the manufactured home park.

### (6) Ground Maintenance and Pest Control

- (a) Required yards, open space areas and drives shall be kept free of physical hazards, including heavy undergrowth and accumulations of plant growth which are unsightly, noxious or detrimental to health.
- (b) Walks, drives, service, parking and similar areas shall be maintained so as to afford safe passage under normal conditions.
- (c) Fences, service buildings, other minor construction and all landscaping shall be maintained in a safe and satisfactory condition.
- (d) Grounds, buildings and structures shall be maintained free of insect, rodent or other pest harborage or infestation. Methods used to control or exterminate such pests shall not create a danger or nuisance to the occupants of the park or any adjoining property owners.
- (e) No abandoned or dilapidated manufactured home, no longer in condition for human occupancy, shall remain in any manufactured home park for a period longer than thirty (30) days and the removal of such unit shall be the responsibility of the manufactured home park operator.

### (7) Utility and Fuel Installations

- (a) All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the New York State Building Construction Code and the local utility company. Each manufactured home lot shall be provided with weather-proof electric service connections and outlets.

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- (b) Power, telephone and other utility lines shall be placed below ground in conformity with standards set forth by the Public Service Commission and as approved by the local utility company and the Town.
  - (c) Liquefied petroleum gas or fuel oil, where used, shall be placed at the rear of the manufactured home and at a distance at least five (5) feet from any exit and shall have a safety shut-off at the tank. No more than two (2) tanks (active and reserve) shall be permitted for any manufactured home.
  - (d) All such fuel tanks shall be screened from view. It is further recommended that they be placed below ground and that a centralized fuel supply system be encouraged wherever possible.
- (8) Fire Protection
- (a) The manufactured home park shall be kept free of refuse, rubbish or any other undesirable and potentially flammable materials.
  - (b) Fire hydrant location and size and other fire fighting devices shall be located and in accord with the applicable standards of the Insurance Services Organization of New York, Town and fire district requirements and as approved by the Town Board.
- (9) Roadways
- (a) No individual manufactured home, within a manufactured home park, shall have direct access to an existing public roadway.
  - (b) Internal roadways within a manufactured home park shall have a minimum designated and improved right-of-way of thirty-eight (38) feet and a minimum improved travel course of eighteen (18) feet and shall be constructed in accordance with those standards of the Subdivision Regulations for the Town of Lake Luzerne.

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- (c) There shall be no dead-end streets in any park although a cul-de-sac or Y turn-around may be provided in accord with those provisions set forth in the Subdivision Regulations.
  - (d) Location and number of points of entry and exit shall be approved according to the terms under which the Permit is authorized. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the manufactured home park and to minimize conflicts with the movement of traffic on the public highway.
  - (e) There shall be a system of internal walkways to provide safe, convenient pedestrian access of adequate width to common facilities, service areas and open space areas.
- (10) Off-street Parking
- Two (2) off-street parking spaces shall be provided for each manufactured home lot in the manufactured home park outside the designated street right-of-way and shall otherwise comply with off-street parking requirements as set forth in this Code. Such required parking spaces shall be appropriately located so as to be both functional and attractive and shall be specifically approved according to the terms under which the Permit is authorized.
- (11) Where a proposed school or other public use shown in the Comprehensive Plan, or desirable for use as same, is located in whole or in part in a proposed manufactured home park, such area shall either be dedicated to the proper public agency or it shall be reserved for acquisition by such agency within a specified period by purchase or other means, and an agreement shall be entered into between the applicant and the public agency regarding the time and method of acquisition, and the cost thereof. In lieu of such offer of dedication or sale, the Town may require such monetary contribution to the appropriate public agency as is consistent with the purposes of this provision, to reflect and offset initial capital costs directly associated with such project.

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### (12) Recreation - Open Space Area

Suitable and appropriate recreation and open space area(s) shall be provided and shall constitute a minimum of twenty (20) percent of the total park area, such area to be designated on the site plan in such a manner as to be an integral part of any proposed manufactured home park.

### (13) Service and Accessory Structures

(a) A Building/Use Permit shall be required for any accessory or service building or structure built or placed within a manufactured home park.

(b) Such buildings shall be so designed and located as not to detract from the overall appearance of the park or its ability to function.

(c) The manufactured home park operator shall be responsible for notifying the occupants of the park concerning these requirements relative to the placement or construction of such a structure.

### (14) Other Improvements

(a) Sidewalks, lighting and landscaping shall be in keeping with surrounding development, the unique features of the site and the health and safety of the occupants of the manufactured home park as determined by the Town according to the terms under which the Permit is authorized. Attractive site development and landscaping shall be a consideration in determining the adequacy of the proposed manufactured home park.

(b) Each manufactured home owner/tenant shall be required to enclose the bottom portion of the manufactured home with a metal, wood, or other suitable skirt, properly ventilated and painted or otherwise suitably finished, within thirty (30) days after location in the manufactured home park. Notification of each occupant of such requirement shall be the responsibility of the manufactured home park operator.

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- (c) Every manufactured home park will be safely and attractively lighted as may be determined necessary by the Town. A satisfactory plan for such lighting shall accompany the final plans submitted for any proposed manufactured home park.
- (d) Adequate, safe and attractive fencing shall be provided where topography, natural hazard or other considerations dictate, and the type and location of such fencing shall be submitted as part of the final plans for any proposed manufactured home park.
- (e) Screen-planting shall be provided along those areas within the park which front upon or are visible from public highways and streets and neighboring properties to substantially screen the park from public view at all seasons of the year.
- (f) Storage facilities for the manufactured home park operation and for individual manufactured homes will be identified and shall be approved according to the terms under which the Permit is authorized.

### F. Manufactured Home Sales

- (1) The sale or lease of manufactured homes in conjunction with the operation of a manufactured home park, other than where such manufactured home is located on an individual lot within the park, shall be permitted only in those commercial districts, as provided for in this Code.
- (2) Where such sale or lease of manufactured homes is proposed, a designated area for the same will be shown on the plan. Such area shall be located and improved relative to the remainder of the park and the highway frontage in a manner approved by the Town according to the terms under which the Permit is authorized.

### G. Administration and Enforcement

- (1) Building/Use Permit
  - (a) Building/Use Permit Required

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No manufactured home park shall be expanded, nor any individual mobile home hereafter located in any established manufactured home park in the Town until a Building/Use Permit therefore has been issued by the Zoning Enforcement Officer. All Building/Use Permits required under the provisions of this Code shall be considered according to the following:

- [1] For the location of an individual manufactured home in an established manufactured home park where provision for such individual manufactured home has been authorized under the terms of the required Operating Permit, the Permit shall be issued by the Zoning Enforcement Officer according to the process hereinafter set forth.
- [2] Any alteration or improvement of the site made shall meet the requirements.

(b) Application

Plans and information shall be required according to the respective process called for above and as set forth in Article II – Zoning Permit and Project Review, and such other information as may be necessary for the Zoning Enforcement Officer or other instrument of the Town to render a determination under and provide for the administration and enforcement of this Code.

(c) Notification of Determination

Authorization and issuance or denial of the applied-for Permit for any individual manufactured home within an established manufactured home park shall be made within ten (10) days of the date of submission of a complete application.

(d) Duration of Validity

A Building/Use Permit issued under this Code shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void; except as

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application may be made to and considered by the Board of Appeals, which Board may, for due cause shown, authorize a one (1) year extension to the validity of the Permit.

### (2) Certificate of Compliance

#### (a) Certificate Required

No expanded manufactured home park and no individual manufactured home hereafter located within a manufactured home park shall be used or occupied until a Certificate of Compliance shall have been issued by the Zoning Enforcement Officer.

#### (b) Application

Application for a Certificate of Compliance shall be made coincidental with any application for a Building/Use Permit. Such application shall be valid for the duration of the validity of the Permit.

#### (c) Notification of Determination

The Zoning Enforcement Officer shall make or cause to have made an inspection of each manufactured home park or individual manufactured home for which a Certificate of Compliance is required before issuing such Certificate. A Certificate of Compliance shall be issued only if the park or manufactured home conforms to the provisions of this Code and to the application based on which the Building/Use Permit was issued. Issuance of the Certificate or written notification of refusal to issue the same and the reasons therefore are to be accomplished within ten (10) days from the date of notification of project completion.

### (3) Operating Permit

#### (a) Permit Required

All manufactured home parks existing on the effective date of this Code shall be required to apply for and obtain an Operating Permit and the owner or operator thereof will be

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notified of the need to apply for such Operating Permit within sixty (60) days from the effective date of this Code.

(b) Application

An application for an Operating Permit shall be made within six (6) months of the effective date of this Code. Such application shall include a map and drawings of the existing layout including individual lots or unit areas, utilities and such additional information as may be necessary for the Zoning Enforcement Officer or other instrument of the Town to render a determination under and provide for the administration and enforcement of this Code. The Zoning Enforcement Officer shall advise the applicant of any additional information required to constitute a complete and sufficient application within ten (10) days of receipt of the application.

(c) Notification of Determination

Upon application for an Operating Permit, the Zoning Enforcement Officer shall inspect the premises and report the findings to the Town Board which shall within sixty (60) days of the date of application authorize the Zoning Enforcement Officer to issue or deny the Permit in accord with the requirements set forth following.

(d) Requirements

Existing manufactured home parks shall meet the minimum requirements of this Code pertaining to water supply and sewage disposal for the park. In any instance where the minimum requirements for sanitation or maintenance are not met, the applicant will be notified of those minimum acceptable improvements, the completion of which shall be a prerequisite to the issuance of an Operating Permit. Any such required improvements shall be made and verified to within one (1) calendar year from the original date of application or the responsible party shall be considered in violation of this Code and shall be

notified of same in accord with the process hereinafter set forth.

(e) Duration of Validity

All initial and subsequent Operating Permits shall be valid for a one year period from their date of issuance. The revocation of any such Operating Permit, for due cause and after public hearing by the Town Board, shall stipulate that the use be improved in accord with the requirements of this Code within thirty (30) days or thereafter be subject to penalties for the violation thereof.

**Private Extraction**

The following provisions apply to private extraction:

A. Excavation

- (1) Slopes caused by the excavation shall not exceed 30%.
- (2) Depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually.
- (3) Stockpiled material shall not exceed 35 feet in height.
- (4) The entry into the excavated area shall be curved so as to prevent a direct view from the public right-of-way.

B. Buffer Zones

- (1) A one hundred-foot no cut buffer zone shall surround the excavation within the limits of the property.
- (2) A one hundred-foot no cut buffer zone shall separate the excavation from any stream bed.

**Restaurant/Tavern**

- A. Ground-mounted utilities and dumpsters shall be screened with solid fencing and/or landscaping consistent with the architectural style of the structure. The use of enclosed structures for trash storage that complements the project architecture is encouraged.
- B. Dumpsters shall not be located within 20' of any property lines.

**Sawmills/Chipmills**

There shall be a minimum setback of 400 feet from any existing dwelling unit.

**Self-Storage Units**

When located adjacent to a residential dwelling unit the side yard setback shall be 100 feet.

**Shoreline Requirements**

In addition to all other requirements of this Code, the following shall apply to any navigable stream, river, lake or pond and to all property fronting on or having access to such body of water in the Adirondack Park.

A. Lot Width

The minimum lot width along the shoreline shall be measured according to the Adirondack Park Land Use and Development Plan as follows:

Category	Lot Width
Hamlet	Fifty (50) feet
Moderate Intensity Use	One hundred (100) feet
Low Intensity Use	One hundred twenty-five (125) ft.
Rural Use	One hundred fifty (150) feet
Resource Management	Two hundred (200) feet
Residential Rural (R-RU)	One hundred (100) feet

B. Setback

The minimum setback of all principal and accessory buildings or structures in excess of one hundred (100) square feet, other than docks, boat houses or swimming floats hereinafter regulated, shall be a minimum distance from the mean high-water mark as follows for the respective classifications of the Adirondack Park Land Use and Development Plan:

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Category	Setback
Hamlet Residential Rural (R-RU) Moderate Intensity Use	Fifty (50) feet
Low Intensity Rural Use	Seventy-five (75) feet
Resource Management	One hundred (100) feet

C. Cutting Restrictions on Shoreline Lots

- (1) Within 35 feet of the mean high water mark, no vegetation may be removed, except that up to a maximum of 30% of the trees in excess of six inches in diameter at 4 1/2 feet above ground elevation existing at any time may be cut over any ten-year period.
- (2) Within 6 feet of the mean high water mark no vegetation may be removed, except up to a maximum of 30% of the shorefront may be cleared of vegetation on any individual lot.
- (3) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.
- (4) There shall be neither removal of vegetation nor any grading within 10 feet from the top of the slope of any stream bed or drainage way.

**Sign Requirements**

A. Applicability

The location, placement, painting, alteration, extension, installation or other erection of any sign other than an exempt sign as hereinafter defined shall require a Building/Use Permit and Certificate of Compliance in accord with the standards and requirements as set forth hereunder. A permit is not required for maintenance, repair or repainting of a legal, existing sign so long as the size, configuration, location and message content are not altered.

B. General Provisions

(1) Construction

- (a) All signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated or in a state of disrepair.
- (b) The back or reverse side of a single-face sign visible from any public right-of-way shall be finished.

(2) Location

- (a) Signs, other than an official traffic sign and those attached to building facades, shall not be erected within the public right-of-way nor project more than four (4) feet beyond property lines when attached to a facade.
- (b) No sign shall be located within ten (10) feet of any side or rear lot line, except where such sign is attached to and does not project more than eighteen (18) inches from the face of the building.
- (c) No sign shall be so located, erected or attached in a manner that obstructs either partially or wholly, the vehicular sight area which shall be maintained free from visual obstructions for a distance of twenty-five (25) feet in both directions from a street corner and a distance of ten (10) feet in both directions from a curb cut along a public right-of-way, so as to provide safe sight distance for both vehicles and pedestrians.
- (d) No sign shall be placed upon or be supported by any tree, rock or other natural object other than the ground; except for a "no trespass" or "posted" sign.
- (e) Fences, outbuildings and appurtenant structures shall not be considered in the tabulation of lineal feet of the principal building and such structures shall not be made part of any sign.

C. Temporary Signs Not Requiring a Certificate of Compliance

- (1) Temporary commercial signs for special events may be displayed

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for no more than 14 days before such event and must be removed within 24 hours after such event.

- (2) Temporary commercial signs including, "Grand Opening," "End of Season," "Closeout," and "Going Out of Business" or signs with similar messages, provided that they are no more than fifteen 15 square feet with no single dimension greater than five feet, shall be permitted for no more than 14 consecutive days within any thirty (30) day time period.
- (3) Temporary Commercial Directional and Informational Signs
  - (a) Shall be removed within 24 hours after the event or purpose for which they were displayed has been terminated.
  - (b) Such signs shall not attach to trees, utility poles or the like, or be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.
  - (c) Each business property site is allowed only three (3) such signs at a time.
- (4) Temporary municipal signs indicating a public event.

### D. Temporary Signs Requiring a Certificate of Compliance

All other temporary signs require a Certificate of Compliance and must comply with the following regulations:

- (1) Each Certificate of Compliance shall not exceed 30 days.
- (2) The sign shall be no more than 24 square feet with no single dimension greater than six feet.
- (3) Such signs shall not project more than 15 inches from the face of the building wall nor extend beyond the outer edge of the wall to which it is attached.
- (4) Such signs shall not be attached to trees, utility poles or the like, or be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

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- (5) Placement of temporary signs shall not hinder pedestrian traffic.
- (6) Each business property site is allowed only one such sign at a time. Each such sign shall be located on the property designated in the permit application.

### E. Signs Not Requiring a Certificate of Compliance

The following signs do not require a Certificate of Compliance from the Town:

- (1) Any sign required by New York State Law.
- (2) Directional Signs
  - (a) Directional signs of a public or quasi-public nature identifying or locating a town, hospital, public building, parking lot, church, college, service or civic club, educational, cultural or public recreational building.
  - (b) In any district, a directional sign designating the location of an institution of public or quasi-public nature or the location of a community or a community facility , or similar signs may be erected, provided that such directional or informational sign(s) shall not exceed six (6) square feet in area and shall not extend over any property line or over any public road or public or private right of way.
- (3) Commercial Incidental Signs

A commercial incidental sign such as a single name plate indicating professional services, the accessory use of a dwelling for a home occupation or permitted use such as a restaurant in a club, institution or other non-residential building, may be erected without a Certificate of Compliance, provided that such sign shall not exceed two (2) square feet.
- (4) Real Estate Signs
  - (a) Not more than one (1) sign twelve (12) square feet in area located on the individual lot and/or building and/or buildings being offered for sale or lease thereof.
  - (b) Real estate signs advertising property for sale shall be removed within thirty (30) days of the sale of the property.

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- (5) Signs advertising yard or garage sales, etc. may be displayed only on the days of such sale and may not be displayed for more than three (3) consecutive days.
- (6) "Warning," "Private Drive," "Posted" or "No Trespassing" signs, not to exceed two square feet.
- (7) Historical tablets, memorial plaques or emblems installed by governmental agencies or religious or legally recognized not-for-profit.
- (8) During construction, repair or renovation, a single non-illuminated project sign denoting the developer, architect, engineer, subcontractors or contractor on the premises or a sign advertising the sale or development of a tract of land is permitted. The size of the sign shall not exceed 32 square feet. Such sign shall be 25 feet from the edge of pavement or improved travel surface of the roadway. Such sign shall be removed promptly upon completion of the work.
- (9) Signs designating credit cards accepted may be displayed, but such signs shall not occupy more than two square feet of the building façade.
- (10) Portable signs. One portable sign (sandwich board), one or two sided; not exceeding ten square feet per side in area may be displayed, per store front. Such signs must be placed so as not to interfere with pedestrian or vehicular traffic and must be removed during non-business hours.

### F. Signs Requiring a Certificate of Compliance

The following signs require a Certificate of Compliance subject to the limitations provided below.

- (1) Interior signs. No sign, or combination of signs, erected or maintained in the window of a building and visible from any public or private street or highway, shall occupy more than 35% of the window area.
- (2) Wall signs  
Total wall signage shall not exceed one and one-half (1.5)

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square feet per linear foot of building frontage, ten percent (10%) of the total area of the building façade, or twenty-five (25) square feet, whichever is less.

### (3) Projecting Signs

#### (a) Size

The maximum size of any projecting sign shall be no more than five square feet.

#### (b) Lighting

Projecting signs may be externally illuminated and may not be internally illuminated.

#### (c) Attachment

Signs shall be perpendicular to and attached to the building face of the premises which they advertise.

#### (d) Projection

Signs shall have a minimum projection of six inches and a maximum projection of three feet, six inches from the building face.

#### (e) Clearance

Signs shall have a minimum clearance of eight feet and a maximum clearance of 10 feet from the ground. All measurements of clearance are from the ground to the bottom of the sign.

#### (f) Encroachment

No sign shall be permitted to overhang the vehicular travel way of any highway, street or other vehicular public right-of-way.

### (4) Awning and Canopy Signs

Awning lettering may contain names, numbers, and graphics limited to the business name or building name upon which the awning is located.

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### (5) Free-Standing Signs

- (a) Free-standing signs shall not be permitted in a front or side yard where the building in that yard is set back less than ten (10) feet from the property line.
- (b) Free-standing signs larger than eight (8) square feet are subject to the side and rear setback yard provisions in the dimensional table of this code.
- (c) No free-standing sign shall be erected or maintained where any part of the sign is closer than five feet to any existing building.
- (d) No free-standing sign shall have a display area exceeding 32 square feet with a maximum dimension of 10 linear feet on any one side, height or width.
- (e) No free-standing sign or its support shall exceed a height of 16 feet.

### (6) Illuminated Signs

- (a) Any illuminated sign or lighting device shall employ only lights of constant intensity and no sign shall be illuminated by or contain flashing, intermittent or moving light or lights. The provisions of this section shall not be applied so as to prohibit a sign changing to show time and/or temperature.
- (b) All exterior lighting shall be downward facing with the light source shielded.
- (c) In no event shall an illuminated sign or lighting device be placed or directed as to illuminate a public street, highway, sidewalk or adjacent premises as to cause glare or reflection or light trespass that may constitute a traffic hazard or nuisance.
- (d) No lights or string of lights will be used for the purpose of advertising, displaying or otherwise attracting attention to the premises when not part of a sign or approved street or

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outdoor lighting. This shall not be interpreted to include season or holiday decorations temporarily displayed.

- (e) No internally illuminated signs are permitted, except
  - [1] Neon product signs displayed in a window inside a building and
  - [2] Neon “No Vacancy” signs with the illuminated lettering limited in size to no more than two square feet.

### (7) Off-Premise Signs

- (a) Off-Premise Signs shall be subject to special permit approval by the Planning Board
- (b) Such use must be in conjunction with a business whose access does not abut a state or county highway.
- (c) Any such business will be limited to one off-premise sign, no larger than 16 square feet in area.
- (d) Off-premise signs are prohibited in hamlet-residential districts.
- (e) An off-premises sign shall not be located closer than 75 feet from any other business sign on the same side of the highway.
- (f) No more than one off-premises sign may be located on any individual lot.
- (g) A home occupation would not be allowed any off-premises sign other than those which are permitted by N.Y.S. D.O.T.

### G. Placement and Number of Permitted Signs

#### (1) Placement and Number

- (a) Businesses may be granted a Certificate of Compliance for two signs, one free-standing double-faced sign and one sign attached to a building, or two signs attached to a building (wall or projecting).
- (b) Businesses where the principal building is located with frontage on more than one street or public highway will be

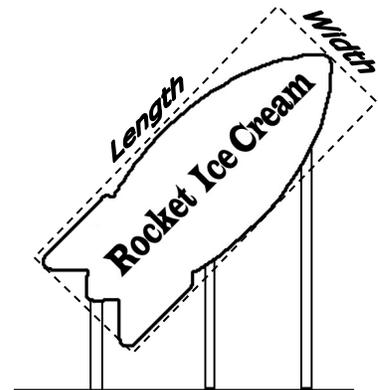
## ARTICLE VI – GENERAL REGULATIONS

permitted one wall sign or one projecting sign facing each street and one freestanding sign.

- (c) In addition to the above, a Certificate of Compliance may be granted for an externally illuminated identification sign on a navigable waterway, provided that such sign does not exceed 15 square feet in area and the sign shall state only the name of the business, the phone number and/or property address.
- (d) In the review of any proposed sign or signs for a building, group of buildings or lot under single ownership or management containing more than one separate and distinct business, the Planning Board may consider an application that would provide for an alternate arrangement than that provided for above with respect to the number and size, provided that the total number and size of such signing shall not exceed the combination to which each single business would be otherwise entitled.

### H. Measurement of Sign Display Area

In measuring the square foot area of signs permitted under this Code, the entire face of the sign and, in the case of any open sign made up of individual boards, letters, figures or designs shall be measured as one sign. Signs that have a structure that is integral to the message shall be measured as part of the display area. However, if the multiple faces of any sign are separated in any manner other than by being mounted on common posts, they shall be considered as separate signs. Only one (1) side of double faced signs shall be measured when determining the area.



### I. Sign Removal

- (1) Any new sign, or temporary sign which does not comply with the regulations established for the issuance of a Certificate of Compliance pursuant to this Code or which Certificate of Compliance is revoked or which is deemed to be an abandoned

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sign; or which is not maintained in good and complete condition with lettering and graphics clean, legible, in true alignment and finishes in good repair, is prohibited and shall be brought into compliance.

- (2) The business, property and/or sign owner of any non-complying sign shall be in violation until such sign(s) is removed or repaired.
- (3) In the case of an unsafe sign which, in the opinion of the Code Enforcement Officer, is an immediate peril to persons or property, the Code Enforcement Officer may order and arrange for the removal of such sign, without notice to the owner thereof.

### J. Amortization of Non-Conforming Signs

Non-conforming signs existing either by variance previously granted or by conformance with the regulations existing when the original permit was granted, shall be removed or brought into compliance with the provisions herein no later than five (5) years after the adoption of this Code.

### **Site Improvements and Screening**

- A. Fencing and Screen-Planting may be required according to the following:
  - (1) Any use required by this Code to be fenced or screened from view shall provide a fence and/or structural or planting screen sufficient to enclose or so as to preclude entry or effectively screen such uses from view from abutting properties and the public right-of-way as is considered appropriate.
  - (2) Plans and site design for the installation of such fencing or screening as are required by this Code shall be reviewed and approved by the Planning Board prior to authorization of a Permit.
  - (3) Any fencing or screening installed in accordance with this Code shall be maintained in good order. Failure to maintain required fencing and screening shall be considered a violation of this Code.

**Solar Collectors**

- A. Solar collectors which are not located on the roof or walls of a building, (i.e. free-standing solar collectors) shall be considered accessory structures and shall abide by the dimensional requirements for the zone in which it is located.
- B. Free-standing solar collectors shall be screened from the view of the public right-of-way and shall not obstruct or otherwise impede the views from existing buildings on neighboring properties.

**Swimming Pools**

- A. Swimming pools may be erected in all districts provided they conform to all state laws and regulations and the following provisions:
  - (1) Pools may be installed only as accessory to a residence for the private use of the owners or occupants of such residence and their families and guests, or as an accessory use to a primary lodging use.
  - (2) Subject to approval  
No work shall be commenced on the construction or installation of any swimming pool, including any excavation or removal of sand, gravel, topsoil or other materials, until and unless the plans and specifications have been approved and a Certificate of Compliance has been issued by the Zoning Enforcement Officer.
  - (3) Pools and pool equipment shall be installed in compliance with the setbacks of this Code.
  - (4) Pools shall be completely surrounded by a substantial fence constructed of natural or artificial materials. Such fence shall be in conformity with all New York State and Local rules and regulations.
  - (5) No such pool shall adversely affect the character of any residential neighborhood and all lighting or other appurtenances shall be so arranged as not to interfere with neighboring uses.
  - (6) Provisions for drainage from the pool will be adequate and will consider the capacity of any public storm water drainage system into which it is to flow.

- (7) A swimming pool to be constructed or installed as an accessory use to a motel, tourist or like accommodation or as part of any commercial or club facility shall be permitted after application to, and issuance of a Permit therefore by the Zoning Enforcement Officer. Such swimming pool shall be so located as not to cause a hazard to public safety or nuisance to adjoining uses and shall be designed and located in accord with acceptable engineering standards and any applicable County or State requirements.

**Telecommunications Towers**

A. Siting

Where technically feasible, new telecommunications facilities should be sited on existing telecommunications towers or utility distribution lines or properties of the Town of Lake Luzerne designated for such use in order to preserve the aesthetic and scenic value of the Town.

B. Additional Special Use Permit Requirements

Applicants for a special permit to place, construct or modify telecommunications facilities within the Town of Lake Luzerne shall submit the following additional information to the Planning Board for its referral to a professional engineer or consultant for review and recommendation:

- (1) Visual Environmental Assessment Form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines and proposed elevations.
- (2) Preliminary report prepared by a licensed professional engineer describing:
  - (a) Feasibility of co-location on existing structures and telecommunications towers.
  - (b) Applicant's full map and grid coverage in the Town of Lake Luzerne and adjoining towns.
  - (c) Surrounding topography and relation to line of sight transmission.

## ARTICLE VI – GENERAL REGULATIONS

- (d) Available road access, electric power and land-based telephone lines and/or microwave link capability.
  - (e) Required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Lake Luzerne.
  - (f) Identity of location, ownership and usage of currently existing telecommunications facilities within the Town of Lake Luzerne and adjoining towns.
  - (g) Plans for construction of telecommunications accessory equipment building or structure and landscaping plan.
  - (h) Proposed mitigation measures for visual impacts.
  - (i) Proposed safety measures.
  - (j) Compatibility with existing telecommunications networks, and public safety.
  - (k) Emergency networks, such as fire, ambulance, police and 911.
- (3) In the case of an application for a telecommunications tower, additional information shall be provided describing the telecommunications tower height and design, foundation, including a cross section of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.
- (4) Demonstration of need for proposed telecommunications facility showing the impracticality of upgrading or expanding an existing site within the Town of Lake Luzerne and adjoining towns.
- (5) Demonstration that the proposed site is the most appropriate available site, based on technological feasibility, for the location of the telecommunications facility.
- (6) Inventory of existing telecommunications facilities within the Town of Lake Luzerne and adjoining towns outlining opportunities for shared use as an alternative to the proposed

## ARTICLE VI – GENERAL REGULATIONS

use. The applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility within the Town of Lake Luzerne and adjoining towns.

- (7) Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
- (8) A map showing the location of the premises for which the permit is sought and a sketch plan showing all features of the facility necessary for providing road access, electrical service, land-based telephone line connection and/or microwave link capability within the property boundaries of the proposed location.
- (9) In the case of an application for a telecommunications antenna or tower to be located on lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be provided to the Planning Board.
- (10) Such other information as may be required by the Planning Board or its engineer.

### C. General Requirements.

#### (1) Separation distance

Telecommunications towers shall be separated from all residential dwellings and building sites by a distance of 500 feet or 1 1/2 times the height of the tower, whichever is greater.

- (2) All telecommunications accessory structures shall comply with zoning setback regulations in the affected zone. In any event, a telecommunications tower shall be set back a distance at least equal to its height. Additional setbacks may be required by the Planning Board in order to provide for the public safety.

#### (3) Minimal visual impacts

All telecommunications towers and telecommunications antennas shall be sited and surrounded by wooded areas so as to have the least possible practical visual effect on the environment.

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(4) Lighting

Telecommunications towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.

(5) Material and paint

Telecommunications towers and telecommunications antennas shall be of a galvanized finish, or painted gray above the surrounding tree line and gray or green below the tree line; the mountings of telecommunications antennas shall be non-reflective and of the appropriate color to blend with their background.

(6) Screening

(a) Vegetative screening

The following vegetative screening shall be provided: one row of native evergreen shrubs or trees capable of forming a continuous hedge at least eight feet in height within two years of planting shall be provided to effectively screen the telecommunications tower base and accessory facilities. Additional screening may be required by the Planning Board to screen portions of the telecommunications tower from nearby residential property of important views.

(b) Architectural screening

Creative design measures, to camouflage facilities by integrating them with existing buildings and among other existing uses, are preferred.

(7) Height

The size of telecommunications sites shall be limited to the minimum required to provide the proposed area telecommunications services.

(8) Access road

Existing roadways shall be used for access to the site whenever possible.

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(9) Telecommunications accessory structures

Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.

(10) Telecommunications antennas

Due to their high visibility, dish and parabolic telecommunications antennas shall not be used when overland connections are possible. If dish and parabolic antennas are required, they should be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridgeline wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction wherever possible.

(11) Utility service

Electrical and land-based telephone utilities extended to service telecommunications sites shall be underground.

(12) Security provisions

Each site shall have a security program, including physical features such as fencing, anti-climbing devices or elevating ladders on the telecommunications towers.

(13) Safe zone

Telecommunications towers shall be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent property.

(14) Noise

Noise producing equipment and towers shall be sited, constructed and/or insulated to minimize noise impacts on adjacent properties.

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### (15) Annual inspection and report

Telecommunications towers over 100 feet in height, including towers existing on the effective date hereof, shall be inspected annually by a licensed professional engineer, or at any other time upon a determination by the Zoning Enforcement Officer that the telecommunications tower may have sustained structural damage, and a copy of the inspection report shall be submitted to the Zoning Enforcement Officer.

### (16) Removal

All telecommunications facilities, including but not limited to antennas, towers and accessory structures, shall be dismantled and removed from the site when they have been inoperative or abandoned for one year. Applicants shall post a bond or other suitable undertaking as a condition of the use permit in order to guarantee removal of abandoned structures.

### (17) Post-installation field report

A post-installation field report identifying the facility's coverage area, the telecommunications tower's maximum capacity, committed capacity and unused capacity, if any, and co-located users of the telecommunications tower shall be submitted to the Town.

### D. Proof of insurance

The applicant and the owner of the property where the telecommunications tower and/or antenna are to be located shall provide the Town Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.

### E. Special permit term

Special permits granted pursuant to this section shall be issued for a term of 10 years or the period of time requested by the applicant, whichever is less.

**Temporary Structures**

A building, mobile home, trailer or other structure, accessory to a construction project for office, storage or related construction use may be permitted upon issuance of a Permit by the Zoning Enforcement Officer, such installation to be temporary and continued only for the duration of the construction project to which it is accessory. Such facility shall not be designed or used for living accommodations except for the non-permanent accommodation of a clerk-of-the-works or night watchman, and shall be promptly removed upon completion of the construction project or part thereof to which it is accessory, such date to be determined by the Zoning Enforcement Officer. Upon notice from the Zoning Enforcement Officer, the Permit shall expire and the rights and privileges there-under shall be vacated. Failure to remove such installation in a prompt manner after notice by the Zoning Enforcement Officer shall be considered a violation of this Code.

**Vehicle Repair**

- A. No more than one unlicensed vehicle not being serviced shall be stored on the property at any given time.
- B. Minimum setback of 200 feet from a residential district or any existing residential use.
- C. Any autowash, in addition to meeting the off-street parking requirements, shall provide four stacking spaces per bay on the lot to prevent the waiting of automobiles in the public right-of-way.

**Vehicle Service**

- A. No more than one unlicensed vehicle not being serviced shall be stored on the property at any given time.
- B. Minimum setback of 200 feet from a residential district or any existing residential use.
- C. Any autowash in addition to meeting the off-street parking requirements shall provide four stacking spaces per bay on the lot to prevent the waiting of automobiles in the public right-of-way.

**Windmills**

- A. Review and Approval

## ARTICLE VI – GENERAL REGULATIONS

- (1) Windmills shall require a special use permit prior to their erection or use on any property within the Town of Lake Luzerne.
- (2) In addition to the requirements for special use permits outlined in this code, Windmills shall also be subject to the following requirements.

### B. Application Materials

- (1) Location of tower and tower height, including blades.
- (2) Property lines and physical dimensions of the tax parcel.
- (3) Underground utility lines within a radius equal to the proposed tower height, including the blades.
- (4) Dimensional representation of the various structural components of the tower construction, including the base and footings.
- (5) A Full Environmental Assessment Form ("EAF") and a Visual EAF Addendum Form prepared in accordance with the State Environmental Quality Review Act.
- (6) Location, approximate dimensions and types of major existing structures and all uses on tax parcel. Design data indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions.
- (7) Certification by a registered professional engineer or manufacturer's certification that the tower designs is sufficient to withstand wind load requirements for structures as established by the New York State Uniform Fire Prevention and Building Code.
- (8) Provide the zoning designations of the immediate and adjacent sites and the locations of any buildings or improvements that are within the "fall zone" of a proposed tower.
- (9) Proof of Liability Insurance at a sum to be determined by Town Attorney.

C. General Conditions

- (1) Number – No more than two Windmills may be located on a single parcel of property.
- (2) Visual Impact
  - (a) No windmill shall be installed in a location where it is determined by the Board to have a significant detrimental impact on the neighborhood character.
  - (b) Windmills shall not be installed in any location that would substantially detract from or block the view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Lake Luzerne.
  - (c) All power transmission lines from or to the wind generation and electricity generation equipment shall be located underground.
- (3) Broadcast Interference
  - (a) Windmills shall not be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link’s operation.
  - (b) Windmills shall not be installed in any location where their proximity to existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone will create interference with signal transmission or reception.
- (4) Tower Access
  - (a) The tower-climbing apparatus shall be located no closer than 12 feet from the ground; or
  - (b) A locked anti-climb device installed on the tower; or
  - (c) The tower shall be completely enclosed by a locked, protective fence at least six feet high.

D. Dimensional Conditions

- (1) The maximum height of the windmill shall be determined by the Planning Board during the Special Use Permit process.
- (2) No windmill shall be erected in any location where its overall height, including blades, is greater than one and one half the distance from its base to any property line.
- (3) Guy wires and anchors for towers shall not be located closer than 10 feet to any property line.
- (4) No windmill shall be erected less than 100 feet from the centerline of any public road.
- (5) These setback requirements may be waived where the applicant submits a signed waiver from the owner(s) of the neighboring property, overhead utility lines, or other structures in relation to which the applicant does not meet the setback requirements set forth above.
- (6) Where an applicant proposes to locate one or more Windmills on a site consisting of multiple contiguous parcels owned or leased by the applicant, the term "property lines" shall mean the exterior boundaries of the contiguous parcels, which adjoin parcels not owned or leased by the applicant.

E. Safety

- (1) Each Windmill shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a New York State registered professional engineer certifying that the rotor and over-speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices.
- (2) The engineer shall also certify the structural compatibility of possible towers with available rotors. This certification would normally be supplied by the manufacturer and include the distance and trajectory of the thrown blade from an exploding turbine or propeller according to the Loss of Blade Theory.

## ARTICLE VI – GENERAL REGULATIONS

- (3) The minimum distance between the ground and any protruding blades shall not be less than 15 feet as measured at the lowest point of the arc of the blades.

### F. Removal and Restoration

- (1) The Windmill shall be removed if it is not used to generate electricity for one continuous year. The property shall be restored within 18 months after the one year period.
- (2) A Removal/Restoration Bond in an amount no less than 125% of the estimated cost of the removal of the tower and restoration of the site shall be provided to the Town.
- (3) The applicant shall include the following information regarding decommissioning and restoring the site:
  - a) The anticipated life of the project;
  - b) The estimated decommissioning costs in current dollars;
  - c) The method and schedule for updating the costs of decommissioning and restoration;
  - d) The method of ensuring that funds will be available for decommissioning and restoration; and
  - e) The anticipated manner in which the project will be decommissioned and the site restored.
- (4) The Town Board shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the Windmill. Proof of this bond shall be provided upon request.
- (5) The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

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**ARTICLE VII - Site Plan Review**

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**Purpose of Article**

The purpose of this article is to allow the proper integration of uses into the community. Because of their characteristics, or the special characteristics of the area in which they are to be located, these uses require special consideration so that they may be properly located and planned with respect to:

- (1) The objectives of this Code.
- (2) Their effect on surrounding properties.
- (3) The ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of health, safety and welfare of the Town and its citizens.
- (4) The objectives of the Comprehensive Plan.

**Applicability of Article**

- A. The following shall not be undertaken unless and until the Planning Board has approved, or approved with conditions, such use, and the Zoning Enforcement Officer has issued a Certificate of Compliance for such use or development pursuant to the terms of this Code:
- (1) Any development as defined by the code which requires site plan review;
  - (2) Any development as defined by the code as a special use.
  - (3) All applications shall be referred to the APA for review concurrent with the Site Plan review process.
  - (4) All projects exceeding Type I thresholds of Part 617 of the New York State Environmental Quality Review Act (SEQRA) shall be subject to Site Plan Review and referred to the APA for regional project review concurrent with the Site Plan review process.

**Site Plan Review Procedure**

- A. Application shall be made to the Planning Board using forms supplied by the Town Clerk and delivered to the Zoning Enforcement Officer.

## ARTICLE VII - SITE PLAN REVIEW

- B. Prior to formal submission of a detailed site plan, applicants may schedule a Concept Plan conference with the Planning Board.
- C. The purpose of the concept plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required for the site plan application. In order to accomplish these objectives, the applicant must provide the following:
  - (1) A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.
  - (2) A drawing or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
  - (3) A topographic or contour map of adequate scale and detail to show site topography.
- D. If the Planning Board determines that the information submitted for the concept plan is sufficient, it may, at its discretion, conduct site plan review at the concept plan meeting without requiring additional information or scheduling a separate site plan meeting.
- E. If additional information is requested by the Planning Board after the concept plan conference, a complete application shall be submitted to the Zoning Enforcement Officer. The Zoning Enforcement Officer shall notify the Planning Board and the Adirondack Park Agency, where applicable, within 10 days and shall provide a copy to each interested body.

### **Application Content**

- A. The Zoning Enforcement Officer or the Planning Board may request additional information including any of the items listed below. The Zoning Enforcement Officer and the Planning Board are not limited to this list and may request such additional information as it deems reasonably necessary or appropriate to adequately review the proposed application. In determining the amount of information required, the Zoning Enforcement Officer or the Planning Board will

## ARTICLE VII - SITE PLAN REVIEW

consider the type of use, its location, and the size and potential impact of the project on the community.

- B. After the Concept Plan Review with the Planning Board and in accordance with the published submittal schedule, the applicant shall provide 12 copies of the application for site plan review to the Zoning Enforcement Officer.
- C. The proposed site plan shall show the information requested by the Zoning Enforcement Officer and the Planning Board on maps that are scaled appropriately to illustrate the information requested.
- D. Site plan checklist:
  - (1) Existing conditions.
    - (a) Legal data.
      - [1] Name and address of applicant and authorization of owner, if different from applicant.
      - [2] Name and address of owner(s) of record, if different from applicant.
      - [3] Name and address of person or firm preparing the plan and map.
      - [4] Ownership intentions, such as purchase options.
      - [5] Current zoning classification of property, including exact zoning boundary if in more than one district.
      - [6] Property boundary line plotted to scale. Distances, angles and area should be shown.
      - [7] North arrow, scale and date.
      - [8] Locations, widths, elevations and names of existing and proposed adjacent streets.
      - [9] Property lines and names of owners of adjoining parcels.
      - [10] Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.

ARTICLE VII - SITE PLAN REVIEW

[11] The current deed and all existing deed restrictions or covenants applying to the property.

[12] The identification of any state or county permits required for execution of the project.

(b) Natural features.

[1] Geological features, such as depth to bedrock and the location of rock outcrops.

[2] Topographic features, including a map showing existing slope at two-foot contour intervals.

[3] Vegetative cover, including existing wooded areas, significant isolated trees and similar features.

[4] Soil characteristics, such as load bearing capacity and drainage capacity.

[5] Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.

(c) Existing development and infrastructure.

[1] Location and dimensions of major buildings and structures and their use.

[2] Location and width of roads and paths, including site access.

[3] Location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown.

[4] Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

(2) Proposed Development New Conditions

(a) Grading and drainage plan showing proposed topography at appropriate contour intervals, following best management practices as outlined by the New York State Department of Environmental Conservation Standards for

## ARTICLE VII - SITE PLAN REVIEW

Urban Sediment and Erosion Control (the "Blue Book").

This information shall be combined as an overlay with the map of existing topography.

- (b) Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
- (c) Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
- (d) Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross sections of roadways and sidewalks showing grades, widths and location and size of utility lines.
- (e) Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
- (f) Location, design and construction materials of all energy systems, including oil, electric, gas, solar and other alternative systems.
- (g) Location and design of outdoor lighting fixtures and a lighting plan.
- (h) Location, size and design and construction materials of all outdoor signs.
- (i) General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.
- (j) Estimated project construction schedule with possible phasing plan for large projects.
- (k) Additional specifications for materials and colors.

## ARTICLE VII - SITE PLAN REVIEW

- (l) Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval, if required.
- (m) Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- (n) Environmental Review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form EAF or a draft EIS, as required by SEQRA.

### **Planning Board**

- A. Following receipt of an application, the Zoning Enforcement Officer shall notify the Planning Board and the Planning Board shall determine its completeness. Where applicable, the Zoning Enforcement Officer shall notify the Adirondack Park Agency of such receipt as required, and furnish to the Agency such pertinent information as the Agency may deem necessary.
- B. Notices. Applications which meet the criteria of 239-l and 239-m of the General Municipal Law must be sent to the Warren County Planning Board prior to the Planning Board decision. Applications that meet the criteria of 239-nn shall notify neighboring municipalities.
- C. The Planning Board shall comply with the State Environmental Quality Review Act (SEQRA).
- D. Public Hearings
  - (1) Within 45 days following the determination of a complete application by the Planning Board, the Planning Board may hold a public hearing if a public hearing is deemed necessary.
  - (2) In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval.
  - (3) Applicants may request a public hearing.
  - (4) No site plan review project may be disapproved without a public hearing.

E. Public Hearing Notice

The Planning Board shall advertise notice of the public hearing in the town's official newspaper and at Town Hall at least five and not more than 30 days before the hearing. The Planning Board shall also post said notice in the Town Hall and send notice of the hearing to all owners of record within 500' of a property line of a property affected by the application.

F. Professional assistance

If the Town determines that review of the application requires professional assistance to make informed decisions, the Planning Board or the Zoning Enforcement Officer may engage the services of professional consultants during site plan review, at the expense of the applicant. The cost of assistance is separate and apart from any other fees or costs associated with SEQRA review.

G. Planning Board decision

Within 62 days after a required public hearing or within 62 days after the receipt of a complete application by the Planning Board where no public hearing is required, the Planning Board shall render a decision, unless the period is extended by mutual agreement between the applicant and the Planning Board. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on the criteria of this Code.

H. Waiver of requirements

The Planning Board may, when reasonable, waive any requirements for site plans submitted for approval. Any such waiver may only be exercised when such a waiver is consistent with the Comprehensive Plan, the purposes of the district where the project is located, where it will not damage the integrity of this Code, and is found to be requisite in the interest of the public health, safety and general welfare of the residents of the Town of Lake Luzerne.

I. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar

## ARTICLE VII - SITE PLAN REVIEW

appropriate means, to ensure that guidelines as to intensity of development as provided in this Code shall be respected. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this Code. In addition, the Planning Board may require that the Zoning Enforcement Officer incorporate any such requirements and conditions in any Certificate of Compliance issued with regard to such site plan review project.

### J. Filing of decision

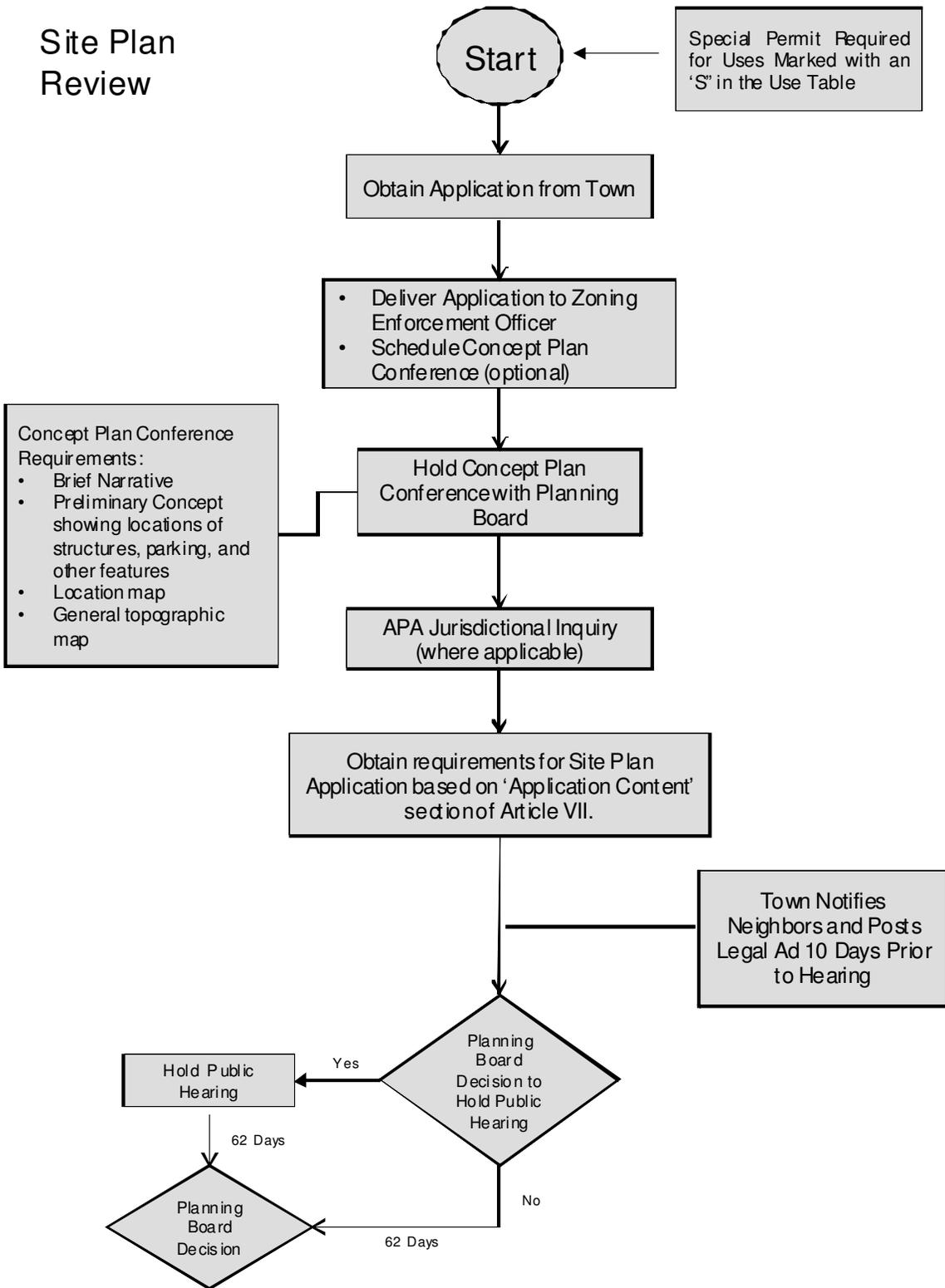
The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. The decision shall contain such findings of fact and conditions as are required by this Code.

### **Criteria for Site Plan Review**

- A. In considering the approval of the site plan, the Planning Board shall consider if the project complies with the following:
- (1) A positive relationship to adjacent and nearby land uses both public and private.
  - (2) A suitable location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  - (3) Visual compatibility with surroundings.
  - (4) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - (5) Acceptable location, arrangement, appearance and sufficiency of off-street parking and loading.
  - (6) The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
  - (7) The adequacy of stormwater and drainage facilities.

## ARTICLE VII - SITE PLAN REVIEW

- (8) The adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.
- (9) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (10) The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (11) The project's impact on the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- (12) The adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. Effect on air and water quality standards applicable primarily to industrial site development plans.
- (13) Effect on energy consumption and conservation.



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**ARTICLE VIII - Special Use Permit Review**

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**Special Use Permit Review Process**

A. Intent

The intent of this Article is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this Code and their effect on the surrounding properties and community character.

The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Town.

B. Application Content

All special use permit review and approval shall occur as a part of any applicable Site Plan review. Applicants shall refer to Article VII - Site Plan Review, for application content.

C. Criteria

The Planning Board shall consider the following criteria when making a determination for a special use permit:

- (1) Compatibility of the proposed use with the principles of the district, the purposes set forth in this Code, and the goals of the Comprehensive Plan.
- (2) Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.
- (3) Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, and its accessibility to fire, police, and emergency vehicles.
- (4) The overall impact on the site and its surroundings considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.

## ARTICLE VIII – SPECIAL USE PERMIT REVIEW

- (5) Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town.
- (6) Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the viability of the hamlets and Town.
- (7) Compatibility with the historic character and use of the structure or structures and the historic character of the site and in the surrounding area, if applicable.

### D. Site Plan approval

Site plan approval is required in the consideration of all special use permits. Such site plan review shall be carried out either in conjunction with or after these special use permit procedures.

- (1) In cases where special use permits involve the conversion of an existing structure from one use to another with no exterior physical changes to the site or structure Site Plan Review shall not be required.

### E. Public Hearing on Special Use Permit.

- (1) The Planning Board will schedule a public hearing within forty-five (45) days of the date of the meeting at which the application was considered complete by the Planning Board.
- (2) The Planning Board shall advertise notice of the public hearing in the town's official newspaper and at Town Hall at least five and not more than 30 days before the hearing. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one advertisement notice is needed.
- (3) Such notice of hearing shall also be mailed directly by the Town to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one notice is required to be sent to each parcel owner.

## ARTICLE VIII – SPECIAL USE PERMIT REVIEW

- (4) After the conclusion of a public hearing for a special use permit, including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions, the special use permit within sixty-two (62) days.

### F. Planning Board Action

The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.

- G. The decision of the Planning Board shall be filed in the office of the Planning Board Clerk, and a copy thereof mailed to the applicant.

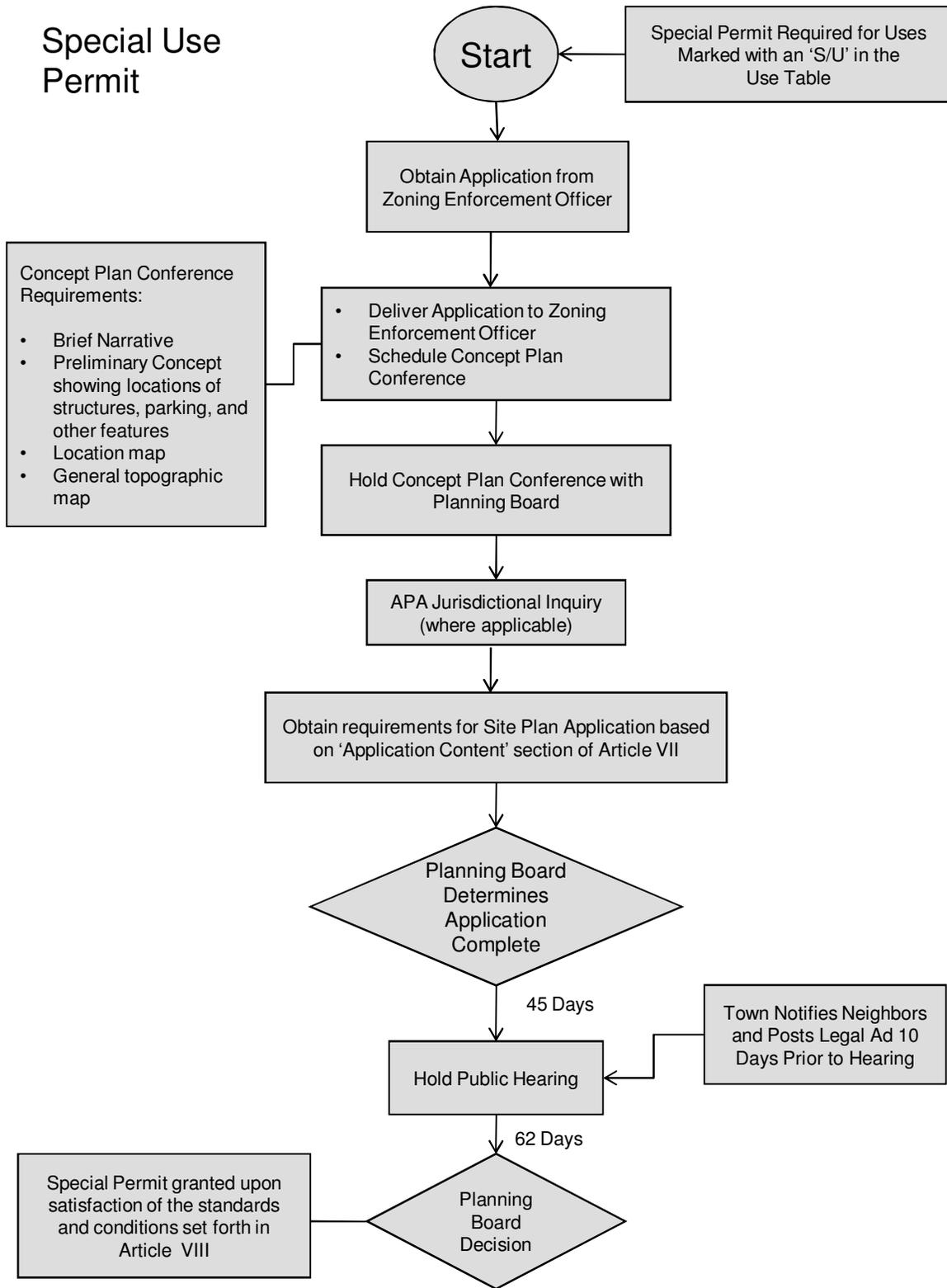
### H. Special Use Permit expiration, revocation and enforcement.

- (1) A conditional special use permit approval shall expire at the end of six months if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of up to six additional months.
- (2) A special use permit shall be deemed to authorize only the particular special use or uses specified therein.
- (3) A special use permit may be issued as:
  - (a) Permanent, except where the permitted use is discontinued for any reason for a period of two (2) years or more.
  - (b) Temporary, to cease on a specified date and not to be renewable.
  - (c) Renewable within a specified period of time set by the Planning Board.

## ARTICLE VIII – SPECIAL USE PERMIT REVIEW

- (4) A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.
- (5) Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this Code shall be deemed a violation of this Code and shall be subject to enforcement action as provided herein.
- (6) All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

ARTICLE VIII – SPECIAL USE PERMIT REVIEW



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**Article IX - Planned Development District (PDD) Provision**

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**Statement of Purpose & Objectives**

A. Purpose

The purpose of the Planned Development District regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economic provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage, in compatibility with the goals and objectives of the Comprehensive Land Use Plan, large scale residential and/or commercial developments that are planned, designed and developed to function as integral units independent of adjacent building sites.

B. Objectives

In order to realize the purpose of this section, a Planned Development District (PDD) shall achieve the following objectives:

- (1) A development pattern which preserves outstanding natural topography and geological features, scenic vistas, trees, and prevents the disruption of natural drainage patterns.
- (2) An efficient use of land resulting in smaller networks of utilities and streets.
- (3) A development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.
- (4) The preservation, renovation and/or adaptive reuse of existing structures of historic and/or local significance.
- (5) A creative use of land and related physical development which allows an orderly transition of land from rural to urban character and uses.
- (6) A more desirable environment than would be possible through the strict application of other articles of this chapter.

ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (7) A maximum choice in housing environment and type, occupancy tenure (e.g., cooperatives, individual ownership, condominium, leasing), lot sizes and common facilities.
- (8) More usable open space and recreation areas and, if permitted as part of a project, more convenience in location of commercial and service uses.
- (9) The maintenance and creation of commercial services at varying scales and intensities essential to the recreation-commercial economy of Lake Luzerne.
- (10) A symbiotic relationship with residential units, both integral with and adjoining the project, creating a mutually beneficial functional interchange.

**General Requirements for Planned Development Districts (PDD)**

A. Minimum project area

The project area of a Planned Development District shall consist of land undivided by roads, utility rights of ways or similar barriers. The minimum acreage and maximum % coverage for a Planned Development District in each Zoning District are as follows:

Zoning District	Minimum Acreage	Maximum Coverage
HR, HC, HI	2 acres	40%
R-RE, RT, R-RU	5 acres	25%
RC, OS	10 acres	10%

The Town Board and the Planning Board during their joint meeting described below may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this section.

B. Project ownership

The project land may be owned, leased or controlled either by a single person, or corporation, or by a group of individuals or corporations. Such ownership may be a public or private corporation. The approved project plan shall be binding on the project land and owner(s).

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

### C. Location of Planned Development Districts

The PDD District shall be available in all zones, where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this Code and the objectives of the Comprehensive Plan.

### D. In no case shall a PDD be approved if, in the judgment of the Town Board, the objectives of this section are not realized in the PDD design.

### E. In no case shall a PDD be approved unless a common water supply and sanitary sewer system are available to serve the development.

### F. Permitted uses

All uses within a PDD District shall be determined by the following provisions:

- (1) Residences may be of a variety of types, such as single-family dwellings, multi-family dwellings, townhouses and timeshares.
- (2) In developing a balanced community, the use of housing types and densities shall comply with the purpose and objectives of this Article. The developer must also demonstrate that he/she is reaching as broad an economic market as possible.
- (3) Commercial uses.
  - (a) Commercial uses may be a variety of scales, types and orientation from commercial recreation to general retail business to commercial retail services to wholesale commercial uses, except that the highway "strip" orientation of such uses shall be discouraged by the town.
  - (b) The height all buildings in a PDD shall not exceed three stories or 38 feet.
- (4) Land use intensity considerations.
  - (a) The overall intensity of a project within the Adirondack Park cannot exceed the amount of available development potential of the individual APA-LUDP Land Use Intensity Zone(s) within which the proposed PDD is located or the underlying zoning district(s).

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (b) The overall intensity of a project cannot exceed the number of units allowed in the underlying minimum acreage requirements for that zone.
- (5) Common property in Planned Development Districts. Common open space totaling not less than 35% of the total Planned Development District shall be provided in perpetuity. This land shall be configured so as to achieve the intended open space or conservation objectives, and shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports and other features. A property owners' association or similar mechanism for the long-term ownership and maintenance of this common open space shall be provided, subject to the approval of the Town Board, and the grant of a Conservation Easement to further ensure the protection of this open space may be required.

### **Planned Development District Application Procedure and Approval Process**

#### A. General

Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Development District in accordance with the following procedures.

#### B. Pre-Application Review

- (1) Prior to the formal filing of an application or the preparation of a preliminary plat, the applicant shall submit to the Town Clerk, with copies to the Planning Board and the Adirondack Park Agency, a sketch plan of the proposed development, together with a key map and topographic and development data.
  - (a) Such sketch plan shall be to scale and shall clearly show the following information:
    - [1] The location of the various uses and their areas (in acres).

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- [2] The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
  - [3] Delineation of the various residential areas indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit types and general description of the intended market structure; plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for each such area.
  - [4] Open space.
  - [5] The overall system for drainage and stormwater management on the site.
  - [6] A topographic map showing pre and post contour intervals appropriate for the size of the project as determined by the Planning Board, with an overlay showing the proposed grading concept.
  - [7] Principal ties to the community at large with respect to transportation, water supply, and sewage disposal.
  - [8] General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
  - [9] A location map showing uses and ownership of abutting lands.
- (b) In addition, the following documentation shall accompany the sketch plan:
- [1] Evidence of how the developer's particular mix of land uses meets existing community demands to include area-wide as well as local considerations.

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- [2] Evidence that the proposal is compatible with the goals of local and area-wide Plans.
  - [3] General statement as to how common open space is to be owned and maintained.
  - [4] If the development is to be phased, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the entire project.
  - [5] Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.
- (c) The Planning Board shall determine the sufficiency and completeness of the application materials and if satisfactory shall forward it to the Town Board. If the application is incomplete the Planning Board shall identify the deficiencies.
- (2) Joint Meeting of the Planning Board and the Town Board. The Planning Board and Town Board shall meet to discuss the proposed PDD, its relationship to the Town Plan(s) and other aspects of the proposal, including proposed public common open and recreation space such as:
- (a) The proposal conforms to the Comprehensive Plan.
  - (b) The proposal meets the intent and objectives and general requirements of this section.
  - (c) The proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.
  - (d) There are adequate services and utilities available or proposed to be made available in the construction of the development.

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (e) Following the joint meeting, the Planning Board shall issue a report within 45 days as to whether the sketch plan, as submitted or as modified, meets the planning objectives of the town.
  - (f) An unfavorable report shall state clearly the reason therefore and, if appropriate, point out to the applicant what might be accomplished in order to receive a favorable report.
- (3) Within 45 days of receipt of a favorable report the Town Board shall conduct a duly advertised public hearing on the proposed PDD. Comments from the Planning Board shall be read as public testimony at the public hearing.
  - (4) Within 45 days from the date of the close of the public hearing, the Town Board shall take action to approve, with or without modifications, or disapprove the proposed PDD sketch plan.
  - (5) If approved or approved with modifications and accepted, the applicant may proceed to preliminary PDD plat application.
- C. Formal Application for the PDD
- (1) After Sketch Plan review is complete a formal application for establishment of a Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the Environmental Conservation Law. The Town Board shall refer the application to the Planning Board within 30 days of the date of application.
  - (2) The Formal Application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section. However, fully engineered plans and construction details are not required at this stage in the process. The following information is required; however, the level of detail shall be sufficient to provide the

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

Planning Board with enough information to understand the proposed PDD:

General:

- (a) The desirability of the proposed land use in the proposed location;
- (b) The existing character of the neighborhood;
- (c) Existing State, County or Town highways that provide access to the area;
- (d) Compatibility with Comprehensive Plan;
- (e) Phasing program if phases are proposed;
- (f) Permitted uses, conditional and accessory uses;
- (g) Maximum development intensity of residential uses;
- (h) A proposed amendment to the Zoning Code including at a minimum, a metes and bounds description of the property and standards for development;

Site Plan -- Circulation:

- (a) Access, circulation, parking, and transportation management;
- (b) Proposed location, type and size of signs and driveways;
- (c) Vehicular traffic circulation features, including proposed highways and roadways within the PDD;
- (d) Mobility (bikes, pedestrians, etc.) through the district.
- (e) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas;

Site Plan – Structures:

- (a) The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity;
- (b) The conceptual footprint, height and bulk of buildings and the intended use for such buildings;

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (c) Floor area ratio for non-residential uses;
- (d) Lot coverage;
- (e) Build-to distances from public and private ways;
- (f) Setbacks for structures and parking areas;
- (g) Minimum lot size;
- (h) Minimum lot frontages and building massing;
- (i) Preservation of historic structure(s);
- (j) Design standards and guidelines;
- (k) Other site improvements;

### Site Plan – Landscaping:

- (a) General landscaping concept and features;
- (b) Preservation of open space and natural areas including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection;
- (c) Design standards and guidelines;

### Site Plan – Engineering and Environmental:

- (a) Infrastructure improvement preliminary plans including water supply source and delivery, drainage and energy;
- (b) The general plan for the collection and disposal of sanitary wastes for the PDD;
- (c) The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general
- (d) All material and data necessary to conduct review under the State Environmental Quality Review Act.

### D. Planning Board Action

- (1) The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, to protect the

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.

- (2) Applicant may submit to the Planning Board revised preliminary plans incorporating the changes required. Also, in order to incorporate changes of his own making, the applicant may withdraw from the Planning Board the preliminary plans referred to said Board by the Town Board and submit in their stead revised preliminary plans. Such resubmission shall be made within such time as may be allowed by the Planning Board after the notification by the Planning Board or the voluntary withdrawal by the applicant, as the case may be. If such resubmission is not so made, the application shall be deemed abandoned.
- (3) The Planning Board shall make the Required Findings outlined below and recommend approval, approval with modifications or disapproval to the Town Board of such PDD application, unless said application is abandoned, and shall report its findings to the Town Board within 62 days following the date of referral from the Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.
- (4) Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

### E. Required Findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

- (1) That the PDD is consistent with the purpose and intent of this Code including, where applicable, the development program and standards of this Code;

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (2) That adequate community facilities and services exist and/or are to be accommodated as part of this planned development;
- (3) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
- (4) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
- (5) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
- (6) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
- (7) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust are secured to ensure their continued long-term protection.

### F. Town Board Action.

- (1) PDDs are considered a Class A Regional Project and shall be referred to the Adirondack Park Agency for review if proposed within the boundary of the Adirondack Park.
- (2) Upon receipt of the Planning Board's findings and recommendation, and Adirondack Park Agency's findings and recommendation where applicable, the Town Board may then consider the legal establishment of the Planned Development District.
- (3) The Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (4) The Planned Development District will be created by the Town Board through an official amendment to the Zoning District Map.

### **Site Plan Review of Building Projects within an Established PDD**

- A. Application for approval of a building project within an established planned development district shall be made in writing to the Planning Board. Application shall be made by the owner(s) or developer(s) of the area to be occupied by the building project.
- B. The applicant shall furnish necessary data, including maps and plans showing topography, building types and layout, setback, off-street parking and loading, ingress and egress, signs, existing and proposed amenities such as screening, planting and ornamental features and such other data and plans as may be required for an understanding of the proposed development.
- C. The data, maps and plans submitted with the application shall be prepared in sufficient detail that the Planning Board will be able to determine, among other things, the following:
  - (1) The specific location of principal and accessory buildings on the site in relation to one another and to other structures in the vicinity;
  - (2) The location and size of playgrounds and recreational areas proposed for the site and the location of such facilities in respect to the proposed buildings to be erected on the site;
  - (3) Existing state, county or town highways which provide access to the site;
  - (4) The vehicular traffic circulation features within the site, including proposed highways to be dedicated to the town, proposed roadways and driveways; and the number, size and location of automobile parking areas and loading areas and the access to such areas;
  - (5) The height, bulk and general architectural style of buildings and the intended use for such buildings;
  - (6) The pedestrian circulation and open space in relation to structures;

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (7) The location, type and size of display signs, driveways and landscape features;
  - (8) The safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general;
  - (9) The water supply system, the stormwater management system and the sanitary waste collection and disposal system to be installed in the development.
- D. The Planning Board may require that changes be made in the submitted plans that are found necessary or desirable to meet the requirements of this Code and to conform to such other existing regulations of the Town concerning the approval of developments in general. Where a conflict between the PDD and the other land use laws exist the site specific PDD legislation shall prevail.
- E. No permit shall be issued for any project within a PDD until the Planning Board determines that the proposed project is consistent with Site Plan Review and the approved PDD.
- (1) The PDD approved by the Town Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.
  - (2) A building project within a planned development district shall conform in all respects to the approved plans.
  - (3) The Planning Board, as appropriate, shall document that the following requirements have been met prior to approval of a development project within a PDD:
    - (a) The project is in conformance with the approved development program and the design standards.
    - (b) The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project;
    - (c) All other zoning requirements of the district, except those modified or specifically deemed not applicable by the Zoning Enforcement Officer, shall be met;

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

- (d) The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.
- (4) The Planning Board shall hold a public hearing on any such proposed building project as finally submitted for approval.
- (5) After the public hearing, the Planning Board, may approve, approve with modifications, or disapprove the application.

### **Subdivision Review**

Applications for subdivision in a Planned Development District shall be made to the planning board in accordance with the Subdivision Regulations of the Town of Lake Luzerne. In the event of a conflict between such Subdivision Regulations and this Article or any requirement imposed hereunder, the provisions of this Article shall apply.

### **Consultant Review Fees**

The Planning Board may require an applicant for any review, permit or approval to deposit in escrow an amount established by the Planning Board to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by such engineer, consultant or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within forty-five (45) days of final action on the application.

### **Conditions to Run With Land**

All conditions imposed by the Town and Planning Boards, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

### **Existing Rights Preserved**

Any use lawfully occurring in any Planned Development, or PUD district in existence on the effective date of this Code shall be permitted to continue

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

and any buildings, appurtenant structures or facilities accommodating such uses may be renovated, repaired and maintained without being subject to the provisions of this Article, provided that any change in use or new or additional building project shall be subject to the Site Plan Review provisions of this Article. Applications pending on the effective date hereto for a building project in an existing or proposed Planned Development district shall continue to be reviewed and acted upon by the administrative board conducting such review and final action of such board shall be deemed to be a recommendation to the Town Board hereunder.

### **PDD Amendment Procedure**

#### A. Application

- (1) An application for amendment of an established Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the Environmental Conservation Law. The Town Board shall refer the application to the Planning Board within 30 days of the date of application.
- (2) The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

#### B. Planning Board Action

- (1) The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.
- (2) The Planning Board shall make the Required Findings outlined below and recommend approval, approval with modifications or disapproval to the Town Board of such PDD application, unless said application is abandoned, and shall report its findings to the Town Board within 62 days following the date of referral from

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

the Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.

- (3) Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

### C. Required Findings

- (1) The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:
  - (a) That the PDD is still consistent with the purpose and intent of this ordinance including, where applicable, the development program and standards of this Code;
  - (b) That adequate community facilities and services exist and/or are to be accommodated as part of this planned development;
  - (c) That the PDD is still compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
  - (d) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
  - (e) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
  - (f) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
  - (g) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and

## ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust are in place to ensure their continued long-term protection.

### D. Town Board Action.

- (1) Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal modification of the Planned Development District. The Town Board shall hold a public hearing thereon upon such notice as is required by this Code for a zoning amendment and applicable provisions of the Town Law of the State of New York.

### **Other Provisions**

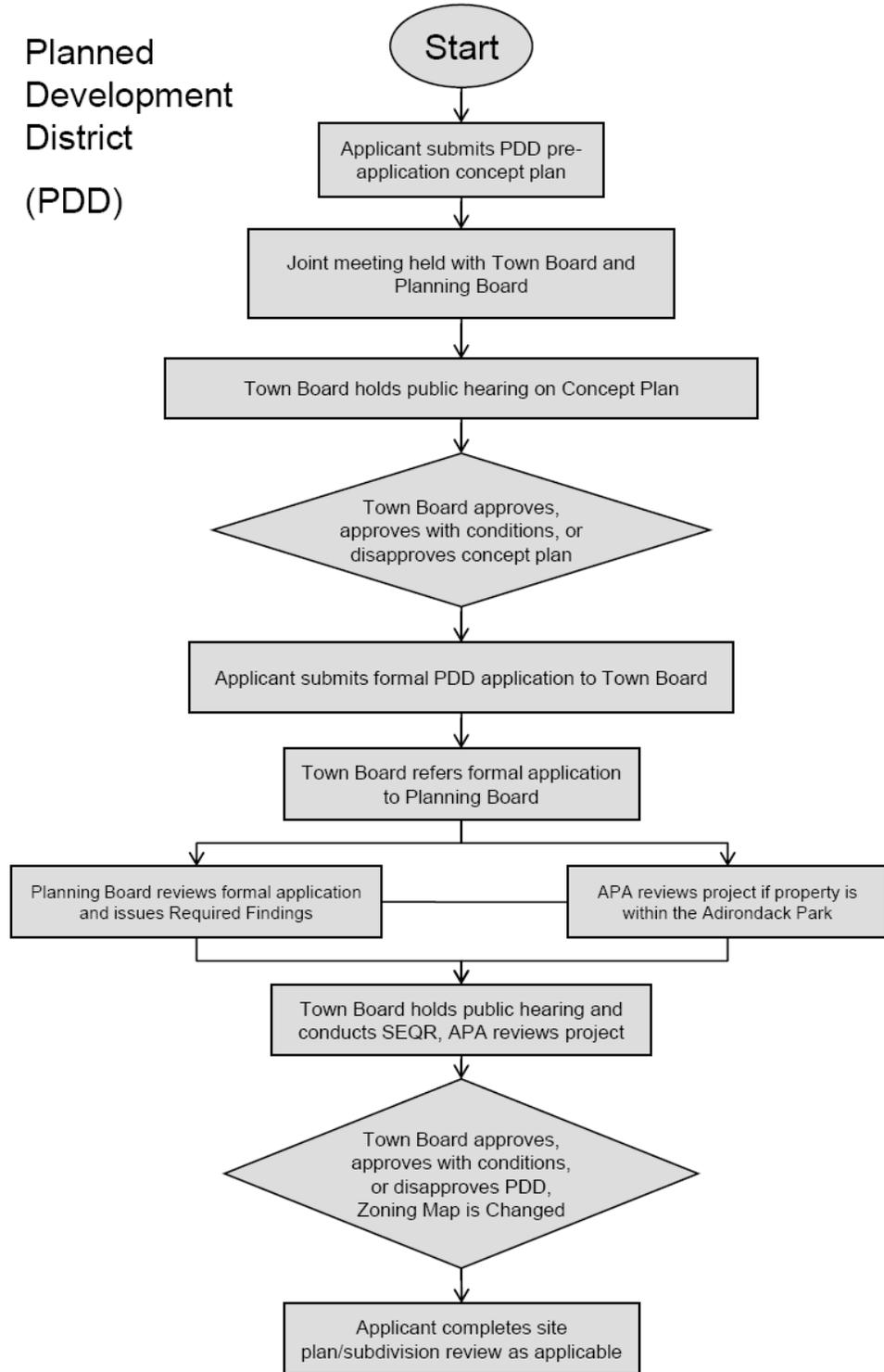
PDD Legislation Repealer. The Town Board shall act to return the property to its prior zoning district classification if it finds that:

- A. Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
- B. The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Town Board, which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.
- C. If a Planned Development District expires, any buildings constructed or used may continue as a non-conforming use and such shall continue to be bound by the previous PDD approval.
- D. Existing PDD's Grandfathered

Any planned development district legally created prior to the adoption of this provision shall remain in full force and effect subject to the conditions and requirements expressed in its approval by the Town Board.

# ARTICLE IX - PLANNED DEVELOPMENT DISTRICT (PDD) PROVISION

Planned  
Development  
District  
(PDD)



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**ARTICLE X - CONSERVATION SUBDIVISIONS**

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**Purpose and Applicability**

- A. To allow for greater flexibility and creativity in the design of residential developments;
- B. To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, in a manner that is consistent with the Town of Lake Luzerne Comprehensive Plan;
- C. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
- D. To minimize the total amount of disturbance on the site;
- E. To further the goals and policies of the Town of Lake Luzerne Comprehensive, Plan;
- F. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
- G. For major subdivisions the Planning Board shall require Conservation Subdivisions as outlined herein. Conservation Subdivision requirements may be applied to any minor subdivision upon the request of the applicant and approval by the Planning Board. Applicants may be able to do a conventional subdivision if extenuating circumstances are accepted by the Planning Board that render a Conservation Subdivision inappropriate on that lot.

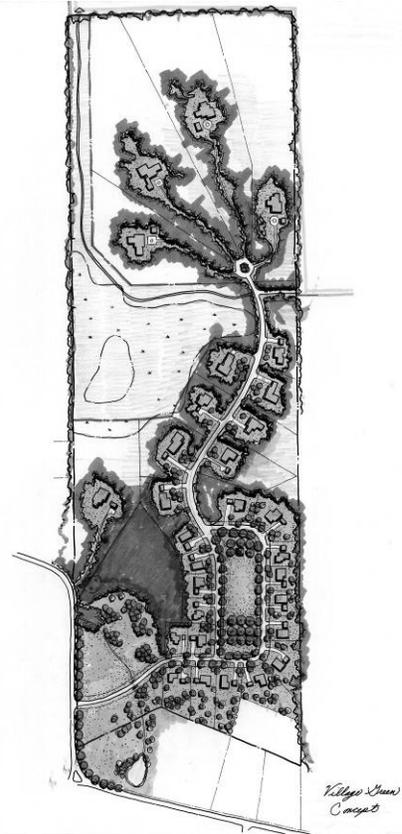


Figure 1 - Example of a Conservation Subdivision

## ARTICLE X - CONSERVATION SUBDIVISIONS

- (1) In order for the Planning Board to determine that a Conservation Subdivision is appropriate, at least one of the following conditions shall be found on the lot:
  - (a) The land contains significant resources with conservation value;
  - (b) The lot adjoins other land that, when combined with open space on the lot, would result in a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining lots have been protected as open space.
  - (c) That there are extraordinary circumstances unique to the lot that demonstrates that conservation subdivision is the most appropriate method of subdivision.

### **Review Process**

The Conservation Subdivision process involves the following steps:

- (1) Conservation Analysis
- (2) Concept Plan
- (3) Preliminary Plat Review
- (4) Final Plat Review

### **Conservation Analysis**

- A. Applicants shall prepare a Conservation Analysis, consisting of inventory maps, survey and topographic maps, written description of the land, and a written analysis of the conservation value of various site features.
- B. The Conservation Analysis shall identify site features with conservation value on the lot, including but not limited to the following:
  - (1) "Constrained land" as defined herein. Constrained land includes:
    - (a) All Wetlands
    - (b) Watercourses/waterbodies with a 100 foot buffer
    - (c) 100-year floodplains

## ARTICLE X - CONSERVATION SUBDIVISIONS

- (d) Slopes over 15% which are 2,000 square feet or more of contiguous sloped area
  - (2) Active Farmland, Agriculture Districts, Prime Agricultural Soils and/or Soils of Statewide Importance for Farming
  - (3) Significant habitat as defined by the NYSDEC Natural Heritage Program
  - (4) Existing or proposed public trail corridors
  - (5) Scenic viewsheds, as determined through the completion of a NYS Department of Environmental Conservation Visual Environmental Assessment Form, or as otherwise defined in any Natural Resources inventory or similar plan adopted by resolution of the Town Board
  - (6) Unique geological features
  - (7) Documented aquifers and aquifer recharge areas
  - (8) Sites identified as historic on any federal, state, or local register of historic places
  - (9) Public parks and publicly accessible recreation lands
  - (10) Unfragmented forest land
  - (11) Buffer areas necessary for screening new development from adjoining lots and from other publicly accessible areas including roads, parkland, and nature preserves
  - (12) Stone walls
  - (13) Highly erodible soils
  - (14) Trees 8" in average diameter at 4 feet from the ground or larger, except where such trees are part of a larger stand of trees, in which case the entire stand may be identified as a unit
  - (15) If requested by the Planning Board after the initial submission of the Conservation Analysis, other land area exhibiting present or potential future recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.
- C. The Conservation Analysis shall result in a composite map (i.e. overlay map) based on the information collected above, and shall identify

## ARTICLE X - CONSERVATION SUBDIVISIONS

areas that are suitable for development and those lands which have conservation value and should be protected from development.

### **Planning Board Action on Conservation Analysis**

- A. The Planning Board shall make Conservation Findings.
- B. The Conservation Findings shall be expressed in a written report and express the determinations of the Board as to which areas have significant conservation value and should be protected from development by conservation easement or deed restriction. These determinations shall be based upon an analysis that weighs the relative importance of the environmental resources on the site. The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the Conservation Analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
- C. The outcome of the Conservation Analysis and the Planning Board's Conservation Findings shall be used as the basis for Concept Plan Review.

### **Concept Plan Review**

- A. At the conclusion of the Conservation Analysis process a Concept Plan shall be submitted.
- B. The Concept Plan shall show the following:
  - (1) Preferred locations for and intensity of development.
  - (2) Density calculation
  - (3) Land to be permanently preserved and recommended conservation uses, ownership, and management guidelines for such land. The open space protected pursuant to this Section must have conservation value, which shall be determined in the course of the Conservation Analysis.
  - (4) Land suitable for stormwater management facilities, which may be located within the preserved land area
  - (5) Proposed lot locations and roads.

### **Density Calculation**

The Density shall be determined by either of the following two methods:

A. The Mathematical Method

- (1) The density is the Developable Area divided by the minimum lot size as provided in the Dimensional Table. All fractional units shall be rounded down.
- (2) To determine the Developable Area, subtract the *Constrained Land* and the *Development Loss Factor* from the total acreage of the parcel.
  - (a) Constrained land includes:
    - [1] Wetlands. For wetlands falling under the jurisdiction of the NYSDEC, any upland buffer areas as defined by the NYSDEC shall also be included in constrained land calculations.
    - [2] Watercourses/waterbodies
    - [3] 100-year floodplains
    - [4] Slopes over 15% which are 2,000 square feet or more of contiguous sloped area
  - (b) The *Development Loss Factor* is a 15% reduction in the useable land area which shall be applied, to take into account roadways, stormwater areas, and drainage or utility easements.

B. Plat Method

- (1) The applicant may provide the Planning Board with a preliminary plat of the site showing how it may be subdivided in a conventional manner conforming to the requirements of the Dimensional Table and the Subdivision Regulations.

C. All fractional units shall be rounded down.

### **Open Space Conservation**

At least 40% of the total acreage shall be preserved by conservation easement or deed restriction and shown as such on the Concept Plan, based upon the Conservation Analysis.

**Density Bonus**

- A. Applicants can receive additional density on the site, as follows:
  - (1) Additional 20% density allowed if public access is provided to the protected open space
- B. All fractional units shall be rounded down.

**Preliminary And Final Plat Review**

Once the concept plan is approved, the applicant must follow all processes and requirements pertaining to Preliminary and Final Plat for Major Subdivisions pursuant to the Subdivision Regulations of the Town of Lake Luzerne.

**Lot Sizes In Conservation Subdivisions**

- A. The Planning Board shall determine appropriate lot sizes in the course of its review of a Conservation Subdivision based upon the criteria established in this section and the requirements of the NYS Department of Health. Town services and or private water/sewage systems may be used to meet NYS requirements.
- B. In order to permit a clustered lot configuration, wells and septic systems may also be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities and the conservation value and/or environmental quality of the protected open space is not diminished.
- C. The applicant shall specify dimensional requirements for a proposed Conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat.

**Other Area And Dimensional Requirements**

- A. For lands located in the Adirondack Park:
  - (1) The number of Principle Building Units allowed shall not be exceeded.
  - (2) Building rights are not transferred across boundaries of land use areas as shown on the Official Adirondack Park Land Use and Development Plan Map adopted pursuant to section 805 of the Adirondack Park Agency Act and incorporated into this chapter

## ARTICLE X - CONSERVATION SUBDIVISIONS

pursuant to Adirondack Park Land Use and Development Plan Map.

- B. There shall be no required area, bulk, or dimensional standards in a Conservation Subdivision, except building height as stated in the Dimensional Table and where such subdivision abuts an existing residence, all side and rear yard setbacks are required as stated in the Dimensional Table for the district where the Conservation Subdivision is located.
- C. The applicant shall specify dimensional requirements for a proposed Conservation Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat. The Planning Board may vary bulk requirements to accommodate a Conservation Subdivision.

### **Professional Assistance**

- A. If the Town determines that review of the application requires professional assistance to make informed decisions, the Planning Board or the Zoning Enforcement Officer may engage the services of professional consultants, at the expense of the applicant. The cost of assistance is separate and apart from any other fees or costs associated with SEQRA review.

### **Permanent Open Space In Conservation Subdivisions**

- A. Conservation value of open space.
  - (1) Open space set aside in a Conservation Subdivision shall be permanently preserved as required by this Code. Developed lands shall not impact the conservation value of the permanent open space.
  - (2) The open space protected pursuant to this Code must have conservation value as determined by the Conservation Findings.
  - (3) A significant amount of protected open space should be contiguous and configured in such a manner as to achieve the conservation goals.

## ARTICLE X - CONSERVATION SUBDIVISIONS

### B. Permanent preservation.

- (1) A permanent deed restriction or a conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes, shall be granted with the approval of the Planning Board. Such deed restriction or conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval.
- (2) The permanent protection shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation), and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair or impact the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.
- (3) Permanent open space may be preserved as a portion of one large lot held in private ownership or may be contained in a separate open space lot.

### C. Notations on final plat.

Preserved open space land shall be clearly delineated and labeled on the subdivision Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The Final Plat shall clearly show that the open space land is permanently preserved for conservation purposes required by this Code, and shall include deed recording information in the County Clerk's office.

## ARTICLE X - CONSERVATION SUBDIVISIONS

### D. Ownership of Open Space Land.

Open space land shall under all circumstances be protected but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

### E. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:

- (1) The HOA must be a condition of the approval and must be established before the first building permit is issued, and must comply with all applicable regulations of the New York State Attorney General and the provisions General Business Law, and filed with the Town Clerk.
- (2) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
- (3) The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
- (4) The HOA must be able to adjust the fees to meet changed needs.
- (5) The applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:
  - (a) upon the failure of the HOA to take title to the open space from the applicant or other current owner, or,
  - (b) upon dissolution of the association at any future time, or,
  - (c) upon failure of the HOA to fulfill its maintenance obligations hereunder, or,

## ARTICLE X - CONSERVATION SUBDIVISIONS

- (d) upon failure to pay its real property taxes.
  - (6) Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
  - (7) The Town's Counsel shall find that the HOA documents presented satisfy the conditions in Subsections (1) through (6) above, and such other conditions as the Planning Board shall deem necessary.
- F. Maintenance standards.
- (1) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation easement or for the storage or dumping of any matter, including, but not limited to fill, refuse, junk, or other offensive or hazardous materials.
  - (2) If the Town Board finds that the provisions of Subsection F(1) above are being violated, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.

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**ARTICLE XI - Nonconforming Uses, Structures and Lots**

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**Nonconforming uses**

A. Continuation

Any nonconforming use which existed lawfully at the time of adoption of this local law may be continued, subject to the following provisions.

B. Expansion, modification, or replacement

(1) Expansion

A nonconforming use which existed prior to adoption of this Code may be expanded within any portion of an existing structure in which it is located. A nonconforming use shall not be expanded beyond the area of the existing structure in which the use is located, unless granted a use variance from the Zoning Board of Appeals and, if required by the terms of the variance granted, Site Plan Review and approval by the Planning Board.

(2) Modification

A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity unless such modification results in a use of the same or a less nonconforming nature, and then only with prior site plan approval by the Planning Board.

(3) Replacement

If a nonconforming use is replaced by another use, such use shall conform to the use regulations of the district in which it is located.

B. Discontinuance

If a nonconforming use is discontinued for a period of 12 consecutive months, such nonconforming use shall expire; and any subsequent use on the same lot shall conform to the use regulations of the district in which it is located.

## ARTICLE XI – NONCONFORMING USES, STRUCTURES, AND LOTS

### C. Continuance of non-conforming use

- (1) If any building or structure in which a nonconforming use is conducted is hereafter removed voluntarily, or destroyed by fire, wind, explosion, structural failure or other natural cause, the structure may be reconstructed or restored and the nonconforming use continued.
- (2) Such restoration or reconstruction must not enlarge the structure beyond the original dimensions unless granted a use variance from the Zoning Board of Appeals and, if required by the terms of the variance granted, Site Plan Review and approval by the Planning Board.
- (3) A valid building permit must be obtained within one year of the removal or destruction of the original structure and construction shall be complete and a Certificate of Compliance issued within one year of the issuance of a valid building permit. A one year extension within which to complete the project and obtain a Certificate of Compliance may be granted by the Zoning Board of Appeals.

### **Nonconforming Buildings and Structures.**

#### A. Continuation.

- (1) Any nonconforming building or structure which existed lawfully at the time of adoption of this local law may be maintained.
- (2) Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this local law, may be completed and used in accordance with the plans and specifications for such building or structure provided that the building or structure shall be completed and a Certificate of Compliance issued within one (1) year with the possibility for a one (1) year extension granted by the Zoning Board of Appeals.

#### B. Modification and replacement.

- (1) Modification.

## ARTICLE XI – NONCONFORMING USES, STRUCTURES, AND LOTS

- (a) A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
  - (b) A nonconforming building or structure shall not be added to, enlarged, reconfigured or altered in any manner which increases its nonconformity.
- (2) Replacement.
- (a) A nonconforming building or structure may not be replaced or rebuilt in any manner which increases its nonconformity.
  - (b) A non-conforming structure may be replaced, in-kind, if such structure is destroyed by fire, wind, explosion, structural failure or other natural cause to the extent of 50% or more of its fair market value at the time of such damage. The replacement must be completed and a Certificate of Compliance issued within one (1) year of such occurrence. An application may be made to the Zoning Board of Appeals for a one (1) year extension within which to complete the project and obtain a Certificate of Compliance.
  - (c) If said timelines are expired the nonconforming structure may not be rebuilt on the same footprint but instead must conform to the regulations of the district in which it is located.

### **Nonconforming Lots**

- A. A permitted use may be constructed or located on any nonconforming lot, providing that the owner of said lot owns no adjoining, unimproved land which would create a conforming lot if combined with the lot to be improved, provided that all dimensional requirements for that use in that district are met.
- B. In instances where an existing lot of record is nonconforming relative to lot size, an area variance to waive these dimensional requirements is not required in order for a building permit to be secured. However,

## ARTICLE XI – NONCONFORMING USES, STRUCTURES, AND LOTS

any new construction on a nonconforming lot must comply with all applicable required setbacks.

- C. Buildings and structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the required setbacks of the district in which it is located.

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**ARTICLE XII - Administration and Enforcement**

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**General provisions**

- A. Notice of public hearing.
- (1) Each notice of hearing upon an application for site plan review, special use permit, planned development district application, the review of a variance application upon an appeal to the Zoning Board of Appeals, or any other public hearing required by this Code, NYS Town Law or SEQRA shall be published once in the official newspaper of the Town and at Town Hall at least five (5) and no more than thirty (30) days prior to the date of the hearing.
  - (2) Such notice of hearing shall also be mailed by the Town to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. The notice shall be sent certified mail, return receipt requested.
  - (3) The cost of the public hearing notice shall be included in the fee for the applicable review or permit. If subsequent, separate hearings are required by the reviewing board or requested by the applicant, the cost of additional notices and mailings shall be paid by the applicant prior to such notices being sent. This shall not include hearings held open or continued by the reviewing Board.
- B. Referral to County Planning Board
- (1) Any variance application, site plan review or zoning change application within the following thresholds shall be referred to the Warren County Planning Board for their review and comment:
    - (a) Within 500 feet of the Town boundary.
    - (b) Within 500 feet of an existing or proposed county or state park or recreation area.
    - (c) Within 500 feet of a right-of-way of any existing or proposed parkway, thruway, expressway, road or highway.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

- (d) Within 500 feet of any existing or proposed county or state stream or drainage channel or easement.
  - (e) Within 500 feet of any existing public building or institution.
  - (f) Within 500 feet of the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
  - (g) Within 500 feet of the boundary of a farm operation located in an agricultural district as defined by article 25-AA of the agriculture and markets law.
- (2) Within 30 days after receipt of a full statement of such referred matter, the Warren County Planning Board shall report its recommendations to the referring Town body. If the county fails to report within 30 days, the Town body may act without such report. If the county disapproves the proposal, or recommends modification thereof, the Town body having jurisdiction 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 action.
- (3) Within 7 days after final action by the Town body, a report of said final action shall be filed with the Warren County Planning Board.
- C. Referral to neighboring municipalities.
- (1) Town of Lake Luzerne shall give notice to an adjacent municipality when a hearing is held by such body relating to:
    - (a) the granting of a use variance on property that is within five hundred feet of an adjacent municipality;
    - (b) site plan review and approval on property that is within five hundred feet of an adjacent municipality; or
    - (c) a subdivision review and approval on property that is within five hundred feet of an adjacent municipality.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

(2) Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least ten days prior to any such hearing.

(3) Such adjacent municipality may appear and be heard.

### D. Records to be retained

The original or a certified copy of all decisions, approvals, rulings and findings of the Zoning Board of Appeals or Planning Board under this Code, shall be promptly furnished by the Zoning Enforcement Officer to the Town Clerk within five (5) days of the decision and retained as a permanent Town public record.

### E. Assistance to Boards

Planning Board and Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. The Planning Board and Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board.

### F. SEQRA Compliance

The Planning Board and Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part Six Hundred Seventeen of the New York Codes, Rules and Regulations.

## **Zoning Enforcement Officer**

### A. Zoning Enforcement Officer

The Zoning Enforcement Officer shall have the power and duty to administer and enforce the provisions of this Code. The Zoning Enforcement Officer shall be appointed by, and may be removed at the pleasure of, the Town Board. An appeal from an action, omission, decision or rule by the Zoning Enforcement Officer regarding a

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

requirement of this Code may be made only to the Zoning Board of Appeals. The Town Board may appoint Deputy Zoning Enforcement Officers to exercise any or all of the duties of the Zoning Enforcement Officer.

### B. Zoning Enforcement Officer Duties

The Zoning Enforcement Officer shall have the power and duty to perform the following tasks:

- (1) Administer, interpret, and apply the provisions of the Zoning Code.
- (2) Conduct pre-application meetings with the applicant, using checklists and/or instructional materials maintained by the Zoning Enforcement Officer.
- (3) Accept and review all Building Permit and Certificate of Compliance applications.
  - (a) Determine completeness of the applications and compliance with the provisions of this Code.
  - (b) Distributes applications to involved entities: Fire, Police, APA (where applicable), Town Attorney, and Town Engineer.
  - (c) Consult/coordinate with experts on technical review and field inspections conducted as part of the application process.
  - (d) Ensure compliance with SEQR.
- (4) Have the authority to make inspections of buildings or lots necessary to carry out the application of this Code.
- (5) Provide notes and supplementary information to all Boards as requested, answer questions regarding the proposed project application to the Planning Board and Zoning Board of Appeals.
- (6) Certify Code Compliance letters. Conduct field inspections for issuance of the Certificate of Compliance, to determine whether the conditions of approval are met. Coordinate with Warren County Building Inspector for inspections.
- (7) Receive complaints of zoning violations from residents using

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

affidavit if possible. Investigate alleged violations of this Code. Keep an inventory of said violations including dated photographs and/or other evidence in the appropriate file.

- (8) Notify landowners of zoning violations. Assist landowner to attain compliance with appropriate alternative procedure, appeals, or any other administrative remedies necessary.
- (9) Coordinate the enforcement of this Code with the enforcement of other related land use statutes and codes by active cooperation with other appropriate agencies. Testify, as necessary, at public and judicial hearings.
- (10) Ensure compliance with other ordinances per Town Board's direction (i.e., construction activities without a permit or violations of another code (stormwater, septic, local health code, junkyards, noise, etc.))
- (11) Refer all infractions outside of the purview of the Town to the appropriate agency: Warren County, DEC, APA, etc.
- (12) Engage in periodic review of approved projects to determine whether the conditions of approval are being carried out.
- (13) Consult with Town Attorney in cases where enforcement of this Code conducted as part of the normal operation of the position is likely to create controversy or create a precedent for the future.
- (14) Issue the appropriate Certificate of Compliance when all provisions of this Code are met. Maintain files of applications, interpretations, and violations. Master copies of these files are to be retained in office of Zoning Enforcement Officer at all times.
- (15) Review 'As-of-Right' uses for compliance with this Code.
- (16) Develop recommendations regarding zoning amendments, fee structures, and application forms; and may propose solutions to any problem encountered in administering this Code.
- (17) Create a written punch list of approval conditions for applicant. Facilitate Certificate of Compliance with Warren County Building Dept.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

- (18) The Zoning Enforcement Officer shall also maintain records, open to the public, including the zoning map, text, and office records. These records shall be kept up-to-date by recording all amendments and retaining all official documents. The Zoning Enforcement Officer shall also be responsible for the maintenance of files for all actions, applications, interpretations, permits, resolutions, complaints and violations and meeting minutes for the Planning Board and Zoning Board of Appeals. Master copies of these files are to be retained in Town Hall at all times.
- (19) The Zoning Enforcement Officer shall not issue a Certificate of Compliance for the construction of any building or use of any property unless such building or use conforms to all laws and ordinances of the Town.
- (20) The Zoning Enforcement Officer shall submit to the Town Board for insertion in the Board minutes a written report summarizing for the month all building permits and certificates of occupancy issued as well as complaints of violations and any action taken as a result of such complaints.

### **Planning Board**

#### A. General Provisions

- (1) The Planning Board shall have all the powers and perform all the duties prescribed by state statute and by this Code. The Planning Board shall have original jurisdiction for all matters pertaining to this Code pursuant to state statute.
- (2) The Planning Board shall consist of seven members for consecutive seven year terms. The members and the Chairperson of such Planning Board shall be appointed by the Town Board. In the absence of a Chairperson the Planning Board may designate a member to serve as Chairperson.
- (3) The Town Board may provide for the compensation of Planning Board members. The Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

### (4) Eligibility

No person who is a member of the Town Board or the Zoning Board of Appeals shall be eligible for membership on the Planning Board.

### (5) Chairperson duties

All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Planning Board may determine. Such Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

### (6) Service on other Planning Boards

No person shall be disqualified from serving as a member of the Town Planning Board by reason of serving as a member of the town or County Planning Agency.

### (7) Vacancy in office

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

### (8) Removal of members

The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

### (9) Rules and regulations

The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Code or any other statute, or under any Code of the Town. Adoption of any such recommendations by the Town Board shall be by Local Law.

### (10) Report on referred matters

The Town Board may seek input from the Planning Board where their input would help the Board make a more informed decision.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

The Town Board may by resolution provide for the referral of any matter or class of matters to the Planning Board before final action is taken thereon by the Town Board or other office or officer of the Town having final authority. The Town Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report, or after the Planning Board has exceeded the time period set by the Town Board for the Planning Board to submit its report.

- (11) Training and attendance requirements
  - (a) Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.
  - (b) To be eligible for reappointment to such board, such member shall have completed the training.
  - (c) No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with these training requirements.

### **Zoning Board of Appeals**

#### A. General provisions.

##### (1) Zoning Board of Appeals

The Zoning Board of Appeals shall have all the powers and perform all the duties prescribed by state statute and by this Code. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Code.

##### (2) Appointment of members

The Town Board shall appoint a Board of Appeals consisting of five members for consecutive five year terms and shall designate the chairperson thereof. In the absence of a chairperson, the board of appeals may designate a member to serve as acting chairperson. The Town Board may provide for compensation to

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose.

### (3) Eligibility

No person who is a member of the Town Board or the Planning Board shall be eligible for membership on such Board of Appeals.

### (4) Training and attendance requirements

(a) Each member of the Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.

(b) To be eligible for reappointment to such board, such member shall have completed the training.

(c) No decision of a Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with these training requirements.

### (5) Vacancy in office

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

### (6) Removal of members

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

### (7) Chairperson duties

All meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as such board may

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

### **Fines; Penalties for Offenses**

- A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of the Town of Lake Luzerne Zoning Regulations, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to the aforementioned, or fail to comply with a notice, directive or order of the Zoning Enforcement Officer or agents thereof.
- B. Any person who owns, controls or manages any building, structure or premises, and who shall fail to comply with a written directive, including a stop-work order of the Zoning Enforcement Officer or an agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or their agents, or any other person assisting in the construction or use of any building or structure, or in the land disturbance on or use of any premises who knowingly violates any of the applicable provisions of the Town of Lake Luzerne Zoning Regulations, or any lawful order, notice, directive, permit, certificate, approval or variance issued hereunder shall be punishable as follows:
  - (1) Criminal sanctions  
Criminal sanctions are as follows:
    - (a) First offense: fine not exceeding \$350 or six months' imprisonment or both.
    - (b) Second offense: fine of not less than \$350 or more than \$700, or up to six months' imprisonment, or both.
    - (c) Third offense or subsequent offense (if committed within five years of first offense): fine of not less than \$700 or more than \$1,000, or up to six months' imprisonment or both.

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

- [1] Every such person shall be deemed guilty of a separate offense for each week such violations, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.
  - [2] The Zoning Enforcement Officer or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing any information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternatively, the Zoning Enforcement Officer or agent, or the Town Board may request the District Attorney to prosecute the violation or to appoint an Attorney as a special district attorney for that purpose.
- (2) Civil penalties
- (a) As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:
    - [1] First violation: civil penalty not exceeding \$350.
    - [2] Second violation (if committed within five years of first offense): civil penalty of not less than \$350 or more than \$700.
    - [3] Third violation or subsequent offense (if committed within five years of first offense): civil penalty not less than \$700 or more than \$1,000.
  - (b) Such fines or penalties may be compromised or released by the Town Board as a part of any disposition.

### **Alternative or Additional Remedy**

In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for criminal sanctions or civil penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

### **Stop-Work Order**

- A. The Town Board for the Town of Lake Luzerne hereby grants the Zoning Enforcement Officer plenary administrative responsibility to immediately suspend any continuing violations by posting a stop-work order on the premises wherein the violation has occurred.
- B. Whenever the Zoning Enforcement Officer has reasonable grounds to believe that work on any building, structure or development of any premises is being undertaken or continued in violation of the provisions of the applicable building laws or the provisions hereof, or other ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued, or not in conformity with the terms or conditions of a permit, approval or variance, or in an unsafe and dangerous manner, he/she shall notify the owner of the property, or

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

the owner's agent, to suspend all work, and such persons shall forthwith stop such work and suspend all building and development activities until the stop order has been rescinded or superseded by a court order. Such order and notice shall be in writing, shall state the conditions under which the work or development may be resumed, and may be served upon a person to whom it is directed, either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building or premises where the work or development is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for permission for the construction of such building or development of such premises.

- C. Obtaining relief or release from any stop-work order may be obtained in the proper circumstances as follows:
- (1) If all provisions hereof, together with all other reasonable conditions specified by the Zoning Enforcement Officer or agent, are satisfied, and thereafter by resolution of the Zoning Board of Appeals, an authorization of release or lifting of a stop-work order may occur.
  - (2) Except in matters pertaining to violations of requirements imposed by site plan review, if a variance is granted by the Zoning Board of Appeals granting permission to maintain violations specified on a stop-work order and to continue such circumstances as thereafter allowable, the administrative determination of the Zoning Enforcement Officer or agent shall conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals.

### **Suspension of Administrative Review**

Processing and review of any application pursuant to the provisions hereof may be suspended and the application deemed incomplete with written notice to the applicant if a stop-work order has been issued by the Zoning Enforcement Officer or agent, other written notice of an alleged violation has been delivered to the property owner or applicant, or a criminal or civil criminal action commenced against the property owner, applicant or other responsible person for alleged violations of law related to the activity for which the permit is sought or for alleged violation of the provisions hereof

## ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

related to the site. Such suspension of application processing may remain in effect pending final resolution of any enforcement action by an order of court or by a negotiated settlement of the pending violations between the responsible parties and the Town Board. In any appropriate case, the Zoning Enforcement Officer may suspend review of an application.

### **Misrepresentation**

Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

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**Article XIII - Variance and Appeals**

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**Variations and Appeals**

A. Area variance

The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this Code. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety or welfare of the neighborhood or community of such grant.

B. Use variances

The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Code. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

C. Appeals

Applicants, or any officer, department, board or bureau of the Town have the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this Code to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the administrative official charged with the enforcement of this Code, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

**Application**

- A. Applications shall be in writing and must be filed with the Zoning Board of Appeals within sixty (60) days after the order, requirement, decision, interpretation, or determination being appealed. Such application shall refer to the specific provisions of this Code involved and shall specify

the grounds for the variance requested, the interpretation claimed, or the reversal of an order, requirement, decision, or determination of an administrative official and the relief sought.

- B. The applicant shall supply the Zoning Board of Appeals with:
- (1) A completed application, on forms provided by the Town.
  - (2) A legal description of the property.
  - (3) A map showing the property and all adjacent and adjoining properties.
  - (4) A "To Scale" drawing of the proposed action.
  - (5) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision.

### **Hearing on Appeal**

- A. The Zoning Board of Appeals shall fix a reasonable time within sixty-two (62) days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper in the Town and at Town Hall at least five (5) and no more than thirty (30) days prior to the date thereof.
- B. Such notice of hearing shall also be mailed directly by the Zoning Board of Appeals to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date.
- C. At least seven days before the date of the hearing required by law on a use variance application or appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal. The Zoning Board of Appeals may request an advisory opinion from the Planning Board on area variance applications, but is not required to do so. The Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.

## ARTICLE XIII - VARIANCE AND APPEALS

- D. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.
- E. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision, interpretation, or determination made by officials charged with the enforcement of this Code. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.
- F. Imposition of conditions
- The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed appeal. Such conditions shall be consistent with the spirit and intent of this Code and shall be imposed for the purpose of minimizing any adverse impact such appeal may have on the neighborhood or community.
- G. Rehearing
- A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Zoning Board of Appeals not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights of persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- H. Stay upon Appeal
- An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this Code, from whom the appeal is taken, certifies to

the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and for due cause shown.

I. Expiration of Appeal Decision

Unless otherwise specified by the Zoning Board of Appeals and without any further hearing by the Zoning Board of Appeals, a decision on any appeal, including the granting of area and use variances, shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within one (1) year of the date on which the decision is filed. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Zoning Board of Appeals, who shall grant such extension if, in consultation with the Zoning Enforcement Officer, there have been no material changes in the circumstances surrounding the application.

**Area Variance Criteria and Standards**

- A. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of this Code, to grant area variances from the area or dimensional requirements of this Code.
- B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following tests. Not all five tests are required to be met in order to grant the area variance.
  - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

## ARTICLE XIII - VARIANCE AND APPEALS

- (2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - (3) Whether the requested area variance is substantial;
  - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### **Use Variances Criteria and Standards**

- A. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this Code, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Code.
- B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (1) Under applicable zoning regulations, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

## ARTICLE XIII - VARIANCE AND APPEALS

- (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (4) The alleged hardship has not been self-created.
- C. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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**APPENDIX A- DEVELOPMENT CONSIDERATIONS**

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The following types of considerations shall be applied, to the extent that they are applicable, in a manner that reflects the size, nature and public interest as these factors relate to any use or project considered under the Subdivision, Planned Development, Special Permit or Site Plan Review processes of this Code.

Adequate information shall be submitted and the responsible Town body shall evaluate the types of development considerations outlined following in order that any undue adverse impact on the natural, physical, social and economic resources of the Town may be avoided. The accompanying Zoning Map is a partial inventory of these features, depicting those most readily mapped natural resource considerations to assist in this assessment.

**General Development Considerations**

- A. The proposed use or project shall be reviewed to determine:
  - (1) The need for the proposed project, including any market or feasibility study that may be appropriate to the proposed project.
  - (2) The extent to which the proposal is consistent with the stated purposes of the Comprehensive Plan and the process according to which the use or project is being considered.
  - (3) The relationship of the proposed project to the standards of the existing zoning district including, but not limited to, overall density and types of uses to be accommodated.
  - (4) The relationship of the proposal to the existing land use make-up and character of areas immediately adjoining or likely to be impacted by the proposal.
  - (5) The relationship of any principal and accessory building(s) on the proposed site to one another and to other structures and uses in the vicinity as well as to the natural features of the site and historic sites or structures in the area.
  - (6) The provision for satisfactory accommodation of all utilities including surface runoff, water supply, sanitary sewage disposal, and any others that may be anticipated or necessary.

## APPENDIX A – DEVELOPMENT CONSIDERATIONS

- (7) The provision for open space and any appropriate recreational facilities in the proposed project, including adequate assurances for their maintenance and continuation.
  - (8) The amount of traffic to be generated and the provisions for adequately handling such volumes, as well as traffic circulation features within the site including the amount of, location of, and access to automobile parking and any service areas.
  - (9) The overall sensitivity of the proposed project to the neighborhood and the site and its provision for the location, size and type of any signing, lighting and landscape features.
- B. It shall be the objective of the reviewing body to take into account whether or not the proposed use or project satisfies, to an appropriate degree, the objectives of the Comprehensive Plan and this Code relative to the factors outlined above, and based on their findings, and on the additional development considerations which follow, to render their determination accordingly.

### **Natural Resource Considerations**

- A. The recognition and satisfactory accommodation of important natural and physical limitations and opportunities of the site will be determined and will include consideration of and likely impact on the following:
- (1) Ground and Surface Water Characteristics including water quality, supply, recharge, flow and run-off patterns, water table, sedimentation, siltation and eutrophication.
  - (2) Land Forms, Elevation and Slope – including aesthetics, slippage, erosion, fragile ecosystems and drainage patterns.
  - (3) Soil and Subsurface Characteristics - including absorption qualities, erosion, depth to bedrock and water table and mineral resources.
  - (4) Forest and Vegetative Cover - including commercial forest lands, visual factors and screening, exposure to erosion and wind-throw, wildlife habitat and rare plant communities.
    - (a) Air Quality - including levels of pollution, prevailing wind directions, natural buffers, abatement devices.

## APPENDIX A – DEVELOPMENT CONSIDERATIONS

- (b) Noise Levels - including relationship to DEC and EPA Standards, natural buffers and surrounding uses.
- (c) Scenic Views and Visual Considerations - including scenic vistas, travel corridors, relationship between natural and man-made features and screening.

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**APPENDIX B - DEFINITIONS**


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Definitions. As used in this Code, unless the context otherwise requires, the following terms shall have the meanings indicated. Any term in this Code which is not defined in this or other sections of this Code shall carry its customary meaning.

**ACCESS** — Entranceway for vehicles to leave or enter a property or lot from a public highway or private road.

**ACCESSORY USE** – Any use which is incidental and subordinate to a permitted use and located on the same lot and such shall be under the same ownership.

**ACCESSORY STRUCTURE** – Any building or structure affixed to land or any movable structure in excess of 144 square feet which is incidental, subordinate to, and associated with, a permitted principle structure.

**ADIRONDACK PARK AGENCY or AGENCY** – The Adirondack Park Agency created by ~ 803 of Article 27 of the Executive Law of the State of New York.

**ADIRONDACK PARK AGENCY ACT** – Article 27 of the Executive Law of the State of New York, including any future amendments thereto.

**ADIRONDACK PARK or PARK** – Land lying within the area described in Subdivision 1 of ~ 9-0101 of the Environmental Conservation Law of the State of New York, including any future amendments thereto.

**AGRICULTURAL USE** – The production, keeping or maintenance, for sale or lease, of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals ; bees and apiary products; fur animals; trees, forest products and forestry uses; fruits of all kinds, including grapes, nuts, berries and vegetables. The term includes the sale of products grown or raised directly on such land.

**AGRICULTURAL USE, PERSONAL**– The production, keeping or maintenance, of plants and animals where the sale, if any, of agricultural products is

## APPENDIX B - DEFINITIONS

limited to those products produced on the lot and such sales are only permitted from a single temporary roadside stand or display.

**ANTENNA** – A device which transmits and/or receives radio frequencies, telecommunications signals or electromagnetic waves.

**APPLICANT** – A person who applies for a Certificate of Compliance.

**BASEMENT** – That portion of the building having more than one-half of the floor-to-ceiling height below the average grade of the adjoining ground.

**BED & BREAKFAST** – A dwelling having a resident host in a single-family home with common dining and leisure rooms and separate guest lodging rooms for overnight accommodation.

**BOARDING HOUSE** – An owner-occupied commercial facility providing lodging in which at least two but no more than six units are offered for rent and which may be characterized by common dining facilities and leisure facilities available for use by the lodgers.

**BOATHOUSE** – A structure with direct access to a navigable body of water (1) which is used for the storage of boats and associated equipment and (2) which does not have bathroom or kitchen facilities and is not designed for lodging or residency.

**BUILDING** – Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property.

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

**BUILDING, DETACHED** – A freestanding building surrounded by open space on all sides and not physically joined to another building.

**BUILDING FRONT** – That side of any building facing a public street as designated on any application for a Permit by the applicant providing, however, that any building shall have one designated front for the purpose of computing and applying any applicable requirement or standard under this Code.

**BUILDING HEIGHT** – The vertical distance measured from the lowest point of the existing grade adjacent to the foundation to the uppermost portion of the structure, excluding chimneys.

## APPENDIX B - DEFINITIONS

**BUILDING LINE** – The point from which all yard requirements are measured and which is determined by a line formed by the intersection of a horizontal plane of average grade level and a vertical plane that extends from the most projected part of the building open to the sky, excluding eaves and other permitted projections.

**BUILDING PERMIT** – Written permission issued by Warren County for the demolition, construction, repair, alteration or addition to a structure and subject to the requirements and procedures specified for the action under consideration.

**CAMPGROUND** – Any area designated for transient occupancy by camping in tents, camp trailers, motor homes, transient mobile homes, truck campers, or pickup campers or similar facilities designated for temporary shelter.

**CAMPGROUND, EXISTING** - Any lot or parcel designed for the accommodation of seasonal or temporary parking of recreational vehicles, other than the personal parking or storage of two (2) or fewer recreational vehicles.

**CERTIFICATE OF COMPLIANCE** – Written permission issued by the Code Enforcement Officer as required under the provisions of this Code, subsequent to the completion of any action for which a government approval was required and prior to the use or occupancy of the land or building to which the Permit pertained.

**CHANGE OF USE** – Any new use for an existing site or structure that substantially differs from the previous use.

**CHURCH** – A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

**CLUB** – Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for a profit nor to render a service that is customarily carried on as a business.

## APPENDIX B - DEFINITIONS

**COMBUSTIBLE FUEL** – A non-toxin producing fuel, primarily used for the production of heat or energy, as regulated by the New York State Department of Environmental Conservation rules and regulations, Open Fires Part 215 ECL 19-0301, as amended.

**COMMON PROPERTY** – Property owned and managed by a homeowners' association, or other group, or any real property owned by "tenants in common," who each have an "undivided interest" in the entire property.

**CONCEPT PLAN** — Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review, which may be used as the basis for preparing the site plans for Planning Board review.

**CONCEPT PLAN CONFERENCE** — Initial Planning Board review of the project proposal with the applicant. The concept plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements be prior to submitting the site plan.

**CONDOMINIUM** – A type of ownership where the dwelling units in a building or group of buildings are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. The purchaser has title to his or her interior space in the building and an undivided interest in parts of the interior, the exterior, and other common elements. The property is identified in a master deed and recorded on a plat with the local jurisdiction.

**CONSERVATION EASEMENT** – A voluntary agreement between a private landowner and a municipal agency or qualified not-for-profit corporation to restrict the development, management, or use of the land for the purpose of retaining or protecting the natural, scenic, or open space values of real property or to assure its availability for agricultural, forest, recreational, or open space use. That agency holds the interest and is empowered to enforce its restrictions against the current landowner and all subsequent owners of the land.

**CONSTRAINED ACREAGE** – Land that includes wetlands, watercourses/water bodies with a one-hundred-foot buffer, one-hundred-year floodplains, and slopes over 25% which are 2,000 square feet or more of contiguous sloped area.

## APPENDIX B - DEFINITIONS

**CONTRACTING BUSINESS** – An office, shop, and/or yard where construction equipment, heavy equipment and materials are stored. This definition does not include the temporary use or storage of equipment associated with and incidental to the approved construction of any improvement upon real property.

**DAY-CARE CENTER** - A site, building, or place designed and/or operated to provide day care and/or instruction for twelve or more persons and operated on a regular basis for a fee.

**DEVELOPMENT** – Any change in use, building, construction, expansion, alteration, modification, demolition, but not including interior renovations to a structure.

**DISTURBED AREA** – An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling. Tree removal without stump removal shall not create a disturbed area, unless it results in a change in the natural cover or topography, by baring soil and rocks that may cause or contribute to sedimentation.

**DOCK** – A structure, including wharf and moorings, which is built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

**DRIVE-THROUGH USE** – An establishment that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.

**DRIVEWAY** – Any area privately reserved on any lot, plot, site or parcel of land for the purpose of providing vehicular access from an access road or state, county or town highway to a private dwelling or other private principal buildings located on said lot, plot, site or parcel of land, to certain portions of said dwellings or other principal buildings to accessory buildings or to private parking spaces, the use of said area being private to residents or owners of said dwellings, to the occupants or owners of such other private principal buildings and to such other persons as may be designated or permitted to use such private area by the owners thereof.

**DUDE RANCH** – A ranch operated wholly or in part as a resort offering horse riding related activities as outdoor recreation opportunities, and offering only temporary rental accommodations for vacation use by nonresidents.

DWELLING UNIT – One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household, which shall not be less than 500 square feet. And there shall be a minimum of 60 square feet of habitable area provided for sleeping accommodations for each person excluding kitchens, bathrooms and hallways.

- A. DWELLING, SINGLE-FAMILY – A detached building (not including a manufactured home) which is designed or used exclusively as living quarters for one family or household.
- B. DWELLING, MULTIFAMILY – Any building designed to be occupied in separate dwelling units therein by three or four families; any such building containing three or four separate dwelling units.
- C. DWELLING, TWO-FAMILY - A detached building (not including a manufactured home) designed for year-round occupancy by two families living independently of each other.

EASEMENT — The right to use the land of another, obtained through the lawful acquisition of use rights from a landowner, for a special purpose, consistent with the property's current use.

EXCAVATION – Any removal of any sand, gravel, clay, shale, rock, topsoil or other natural mineral deposits from a lot, exclusive of the process of site improvement or alteration preparatory to the location of a building or use for which a Building/Use Permit has been issued.

EXEMPT BUILDING USE – A minor ancillary structure or use less than 144sq. ft. generally not affecting the principal use of the premises in any significant manner. A storage structure shall require a building permit (at no charge). Exempt buildings and uses shall comply with all requirements of this Code related thereto.

EXTRACTION, PRIVATE - Any extraction from the land of sand, gravel, or topsoil by the owner of the land, or any extraction for the purpose of sale of less than 750 cubic yards of said materials in any one-year period.

FAMILY – One or more persons related by blood, marriage or adoption, or one or more persons in a permanent and stable relationship and residing as a family unit sharing living expenses, cooking together as a housekeeping unit, sharing expenses for food, rent, utilities and other household expenses.

## APPENDIX B - DEFINITIONS

FENCE – A structure designed to, or which in fact does divide, enclose or screen a parcel of land or portion thereof.

FIRING RANGE – An outdoor site and any accessory buildings used for the discharge of firearms, including targets or skeet.

FISHING CLUB – Land and necessary appurtenant facilities for use by a membership club or organization and permitted guests for fishing purposes. Such land and buildings need not have frontage on or public access to a public highway or body of water.

FLOOD HAZARD, AREA OF — Land subject to a one-percent-or-greater chance of flooding in any given year. Also commonly referred to as "base floodplain" or "100-year flood area."

FORESTRY USE/FOREST PRACTICES – Any management, including logging of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skid ways, landings, fences and forest drainage systems.

FUNERAL HOME – A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.

GARAGE, PRIVATE RESIDENTIAL – A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the resident thereof, and which is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC – A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GOVERNMENT OFFICE OR AGENCY – Any department, commission, independent agency or instrumentality of the United States, of New York State, of Warren County, and/or the Town of Lake Luzerne.

GROSS FLOOR AREA – A square foot number representing the entire area occupied by a building including common areas, storage, mechanical areas, and space occupied by interior structures and partitions excluding basement area.

## APPENDIX B - DEFINITIONS

**GROUP CAMP** – Any land or facility for seasonal housing and recreational or educational use by private groups or semipublic groups, such as a Boy or Girl Scout camp, fraternal or service lodge, university, college, nature or conservation center or club, or religious camp.

**GROUND FLOOR** – The first floor of a building other than a cellar or basement which is located not more than 2 feet below nor 6 feet above the average finished grade.

**HABITABLE AREA** – Area in a structure for living, sleeping, eating or cooking. Maintenance or utility space, parking garages and similar areas are not considered habitable space.

**HEAVY EQUIPMENT** – Any large operational equipment, including but not limited to trucks, bulldozers, front end loaders, backhoes, engines, compressors, flatbeds, tandems, and tractor-trailer combinations.

**HOME OCCUPATION, LEVEL ONE** – An occupation or profession carried on within a dwelling unit or an accessory structure that meets the dwelling unit setbacks, and which is clearly incidental to the use of the dwelling unit for residential purposes and does not change the character thereof.

**HOME OCCUPATION, LEVEL TWO** – A Home Occupation Level Two is the same as a Home Occupation Level One but allows an increased intensity of the use as described in the General Regulations of this Local Law. Level Two Home Occupations shall include any Home Occupation that requires the storage of heavy equipment or tractor trailer parking.

**HOTEL/MOTEL** – A commercial facility providing transient lodging containing six or more units and where the customary uses such as restaurant facilities, meeting rooms, recreation facilities playgrounds, game rooms, snack bars, and leisure rooms are provided for use by the lodger and the general public, including resorts, tourist cabins. (Excluding travel trailers, travel vehicles or motor homes.)

**HUNTING CLUB** – Land and necessary appurtenant facilities for use by a membership club or organization and permitted guests for fishing and/or hunting purposes. Such land and buildings need not have frontage on or public access to a public highway or body of water.

**INDOOR RECREATION FACILITY** – A commercial recreational land use conducted entirely within a building, including arcade, archery, arena,

## APPENDIX B - DEFINITIONS

athletic and health clubs, bowling alley, gymnasium, performance theater, pool or billiard hall, skateboard park, skating rink, swimming pool, tennis court and other such recreational uses.

**INDUSTRIAL USE** – A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location. Including but not limited to wood and metal fabrication and other light industries.

**INN** – A commercial facility, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 25 units.

**JUNK AUTOMOBILE** – Any unregistered, old or secondhand motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, motor vehicle shall mean all vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways or for use in agricultural or construction activity.

**JUNKYARD** – Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials. This definition shall include any place of storage or deposit, whether in connection with another business or not, where two or more unlicensed, old or secondhand motor vehicles, no longer in condition for legal use on the public highways are held, whether for the purpose of used parts or materials there from or not.

**KENNEL** – A commercial or non-profit establishment that houses more than four (4) dogs, cats, or other domestic animals more than one year of age and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**KENNEL, PRIVATE** – The fenced or enclosed area used to keep household animals.

**LANDOWNERS/HOMEOWNERS ASSOCIATION** – An organization, approved by the Attorney General, established by owners of buildings, site and/or

facilities for the express purpose of managing, maintaining, operating, and/or developing common areas or interests related to those buildings, site or other facilities.

LAND USE AREA – Those areas delineated on the official Adirondack Park Land Use and Development Plan Map adopted under Article 27 of the Executive Law of the State of New York and designated thereon as "hamlet," "moderate intensity use," "low intensity use," "rural use," "resource management," and "industrial," and such portions of those areas as are located within the Town and delineated on the Adirondack Park Land Use and Development Plan Map incorporated in this Code.

LANDSCAPING – The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features, and contouring of the earth.

LIGHT MANUFACTURING – The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

LIVESTOCK – Horses, cows, pigs, sheep, goats, deer, llamas, alpacas, emus, ostriches, chickens, ducks, geese and similar animals and birds.

LOGGING ROAD – An access road usually created by removing trees and stumps in a confined space to facilitate the removal of logs during tree harvesting operations. The construction of such a road shall be considered clear-cutting if trees over six inches in diameter are removed to create a cleared road area greater than 16 feet wide. No logging road can be less than 500 feet from another logging road.

LOT – A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

LOT AREA – The total area included within front, side and rear lot lines.

LOT, CORNER – A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

## APPENDIX B - DEFINITIONS

**LOT COVERAGE** – That portion of the lot that is covered by buildings and structures. and expressed as a percentage of total lot area.

**LOT DEPTH** – The minimum contiguous distance measured from the front lot line to the rear lot line.

**LOT LINE** – Any line dividing one lot from another or from an established public right-of-way or the shoreline.

**LOT, MINIMUM AREA OF** – The smallest lot area established by this Code on which a use or structure may be located in a particular district.

**LOT, UNIMPROVED** – A lot on which no building or structure has been constructed or located and on which no excavation, improved driveway or the installation of water supply or sewage disposal systems have been initiated with the intent to serve a building or use allowed for under the provisions of this Code.

**LOT WIDTH** – The distance between the side lot line measured along the front building line as determined by the front yard requirement prescribed by this Code.

**MANUFACTURED HOMES** - A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of Article 21-B of the Executive Law of New York State except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code. The definition of manufactured homes shall not include self-propelled recreational vehicles, travel trailers, or modular structures.

**MEAN HIGH WATER MARK** – The line upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land

is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

NAVIGABLE WATERWAY – See WATER, NAVIGABLE BODY OF

NONCONFORMING LOT – Any legally created lot of record on the effective date of this Code which does not meet the minimum lot area and/or lot width requirements of this Code for the zoning district in which such lot is situated.

NONCONFORMING STRUCTURE – Any structure which is in existence within a given zoning district on the effective date of this Code but which is not in conformance with the dimensional regulations for that zoning district.

NONCONFORMING USE – Any use which is in existence within a given zoning district on the effective date of this Code, but which is not in conformance with the use regulations for the zoning district.

NURSERY – Any land or greenhouses used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

OFFICE – A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government. The term encompasses the terms “MEDICAL OFFICE”, “BUSINESS OFFICE” and “PROFESSIONAL OFFICE”.

OPEN SPACE RECREATION USE – Any recreation use particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices or rides. These recreational uses may include a bike trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, fields, park, and beach for outdoor activities including but not limited to archery, soccer, golf, baseball, football, tennis and water-related activities.

OUTDOOR FURNACE, ACCESSORY – Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outside, or enclosed in an accessory structure, for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space as accessory to a principle use.

PARKING LOT -- An open area, other than a road, to be used for the storage of operable passenger automobiles and/or commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

PARKING, STACKED – The space specifically designed as a waiting area for vehicles whose occupants will be patronizing a drive-in business.

PARKING, TANDEM – The placement of parking spaces one behind the other, so that the space nearest the driveway or street access serves as the only means of access to the other space.

PARCEL OF PROPERTY – *See LOT.*

PERFORMANCE SECURITY – A bond, certified check, letter of credit or other acceptable security to cover the full cost of any required improvements, the amount of which shall be established upon recommendation to the Planning Board and as agreed upon by the Town Board, and which shall be further approved as to form, sufficiency, manner of execution and surety but the Town Attorney.

PERMIT – see CERTIFICATE OF COMPLIANCE.

PERSON – Any individual, firm, partnership, trust, company, association, corporation (including a government corporation), or village, state or federal government and any agency thereof.

PRINCIPAL BUILDING: Any one of the following:

- (1) A single-family dwelling or manufactured (mobile) home constitutes one principal building.
- (2) A tourist cabin or similar structure for rent or hire involving 300 square feet or more of floor space constitutes one building.
- (3) Each dwelling unit of a multiple-family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has a legal right of occupancy at differing times, constitutes one principal building.
- (4) Each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each

tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space constitutes one-tenth of a principal building.

- (5) Each commercial use structure and each industrial use structure in excess of 300 square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each 11,000 square feet of floor space or portion thereof of such commercial use structure constitutes one principal building.
- (6) All agricultural use structures and single-family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as one principal building.
- (7) Any other structure which exceeds 1,250 square feet of floor space constitutes one principal building.
- (8) A structure containing a commercial use which is also used as a single-family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

**PUBLIC, SEMI-PUBLIC FACILITY, INSTITUTION** – A structure, use or land designated and maintained as a public or municipal facility for education, recreation, transportation, fire and police protection and municipal functions.

**PUBLIC, PRIVATE UTILITY** – A structure, use or land designed and maintained as a public or private utility or service facility in the provision of electric, telephone, radio/television, water and sewer services.

**RECREATIONAL VEHICLE** – A vehicular unit, which is designed as a temporary dwelling for travel, recreational, and vacation use, and which is either self-propelled, or mounted on or pulled by, another vehicle. Examples include but are not limited to a travel trailer, camping trailer, truck camper, motor home, fifth-wheel, trailer, or van, but shall exclude manufactured homes.

**REGIONAL PROJECT** – Any Class "A" or Class "B" Regional Project as defined by the Adirondack Park Agency Act.

## APPENDIX B - DEFINITIONS

**RESTAURANT, FULL SERVICE** – An establishment, excluding taverns, where food and drink is prepared, served, and sold for on-premises consumption to patrons seated at tables. Full service restaurants shall not be permitted to have a *drive-through use* as part of their operation.

**RETAIL USE** – Establishments providing goods, merchandise or services to the general public, for a fee, such as, but not limited to, banks, educational services, gift shop, dry cleaners, Laundromats, supermarkets and food stores.

**RETAINING WALL** – A man-made barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

**RIDING STABLES** – A place, site or building used for the housing, care and riding of horses or other animals.

**RIGHT-OF-WAY** – A parcel of land open to the public for vehicular or pedestrian traffic.

**ROAD** – A paved or unpaved pathway serving as access for pedestrians and vehicles, freely open and accessible to the public, to and from common areas and adjacent private lands; may or may not be owned by the municipality; may or may not be included on the municipal road inventory.

**ROADSIDE STAND** – A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

**ROOF LINE** – A horizontal line intersecting the highest point or points of a roof, not including any cupola, pylon, chimney or other minor projection.

**SAWMILL/CHIPMILL** – A facility where logs or timbers are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot as an accessory to a residential use.

**SCHOOL** – Any building or part thereof which is designed, constructed and used for the education or instruction in any branch of knowledge which includes public or private, elementary, secondary, vocational or religious education.

SCREENING — Vegetation, fencing or earthen materials used to block visibility toward and/or away from a site or to lessen noise impacts from a particular site or from adjacent land uses.

SEASONAL-BUILDING – A structure designed to be used on a seasonal basis by virtue of its construction, or the design or construction of the infrastructure servicing the building. (April 1 through October 31)

SEASONAL USE – A use which occupies continually a building or site for less than nine months of the year. (April 1 through October 31)

SELF-STORAGE – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

SENIOR HOUSING – A facility consisting of three or more dwelling units, where each unit is occupied by at least one person who is 55 years of age or over.

SEPTIC SYSTEM, CONVENTIONAL – A subsurface sewage disposal system, which consists of the following: A septic tank to collect water and waste materials being discharged from occupancy, where a natural anaerobic (non-oxygenated) digestion occurs allowing the separation and settling out of solids, to allow a gray water discharge at outlet of septic tank going to: A leaching system that consists of either a series of perforated drainage tile fields or seepage pits to allow for ground absorption.

SEPTIC SYSTEM, ALTERNATIVE — Systems that do not conform to the site and design criteria for conventional septic systems as described above are considered alternative systems. Any system meeting requirements for alternative systems (described in New York State Health Department Standards Appendix 75-A) must have plan preparation and installation supervision by a design professional and filed with the Department of Health.

SETBACK – The horizontal separation distance from the property line, roadway center line or, in the case of shoreline property, from the mean high water mark to the building line of the structure. (See definition of "building line.")

SETBACKS - FRONT – A front lot line setback shall be effected from the point at which the width of the lot meets the minimum lot width requirement for that zone.

## APPENDIX B - DEFINITIONS

**SHORELINE** – The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams within the town.

**SHORELINE BUILDING SETBACK** – The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond, or the shorelines of any brook, stream or river within the town.

**SHORELINE FRONTAGE** – The distance measured along the shoreline as it winds and turns between the boundary lines of a lot as they intersect the shoreline of any lake or pond and the shorelines of any river to be studied as wild, scenic, or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including by canoe

**SHORELINE LOT WIDTH** – The minimum contiguous distance between the side lines of a lot as it winds and turns at the location of the proposed structure.

**SIGN** – Refers to a name, identification, display, announcement, declaration, device, demonstration or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure or parcel of property which directs attention to an object, product, place, person, activity, institution, organization or business.

- A. **ABANDONED SIGN** – Any sign which a) is located on a building which becomes vacant; or b) pertains to a time, event, or purpose that no longer applies; or, c) remains in place that no longer advertises a bona fide business or activity; or, d) pertains to a product or service other than the one offered on such lot except for in the case of a permitted "Off-Premises Sign", shall be deemed to have been abandoned.
- B. **ACCESSORY SIGNS** – Any sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- C. **DISPLAY AREA** – That area of a sign which circumscribes the border of the message, including structural elements if they are integral to the message.
- D. **DOUBLE-FACED SIGNS** – Signs designed to be viewed from two directions and which at no point are thicker than 36 inches

measured from the exterior surface of each face, and the two faces of the sign are either parallel or the angle between them is 30° or less.

- E. EXEMPT – A sign which may be placed without Permit but which shall otherwise comply with the applicable provisions of this Code. Such signs shall include official traffic signs, posting or trespass notices, temporary signs and any official flag, emblem or insignia of a nation, state or municipality not in connection with a commercial use.
- F. FLASHING – Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is not in use. For the purpose of this Code any revolving, illuminated sign shall be considered a “flashing sign.”
- G. FREESTANDING SIGN – A sign that is supported by one or more uprights, poles or braces, or by a vase of wood, stone or cement, in or upon the ground. This definition shall not include portable signs.
- H. FRONT or FACE – The outer surface of a building, which is visible from any private or public street or highway.
- I. HEIGHT - The vertical distance measured from the lowest point of the existing grade adjacent to the base of the free-standing sign to the uppermost portion of the sign or its structure.
- J. ILLUMINATED SIGN – Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent matter.
- K. LIGHTING DEVICE – Any light, string of lights or group of lights located or arranged so as to cast illumination on a sign.
- L. MARQUEE – A permanent roofed structure attached to and supported by the building.
- M. MOBILE – A sign attached to or suspended from any type of vehicle which is capable of being moved from place to place, whether actually moved or not, either under its own power or by attachment to any vehicle and intended primarily for the display of such sign. Such sign shall not include lettering, or other graphics painted or attached flush to the side or body of service, deliver or other such vehicles.

- N. NEON SIGN LIGHTING – Self-illuminated sign wherein the light source itself is shaped, and utilized to form all or part of the message.
- O. OFF-PREMISE SIGNS – A sign which advertises an establishment, products, services or entertainment, which are not present, sold or distributed on the lot where the sign is located.
- P. PORTABLE FREESTANDING AND/OR "A" TYPE SIGN – A sign that is designed to be movable and is not structurally attached to the ground, a building, a structure or any other sign. Such signs may or may not be in the configuration of an "A."
- Q. PROJECTING SIGNS – A sign other than a wall sign which projects from and is supported by a wall or roof of a building, structure or sign structure.
- R. ROOF SIGN – A sign erected upon a roof or parapet of a building or structure. A sign located between the eaves or projection of the juncture of the ceiling of the uppermost floor and the roof of a building, and the roof line.
- S. SIGN STRUCTURE – The standards, supports, uprights, braces and framework of the sign.
- T. TEMPORARY SIGN – Refers to signs that are limited to short-term display.
- U. WALL SIGNS – A sign permanently or temporarily attached or affixed to any exterior wall or projection of a structure.
- V. WINDOW SIGNS – Signs maintained in or painted upon a window.

SITE ALTERATION – The excavation or significant alteration of the site so as to affect surface drainage, removal of significant tree or soil cover or the provision for new or altered access to; but not to include, landscaping, minor site work or improvements, or tiling the land for agricultural purposes.

SITE PLAN — Maps, drawings, supportive data describing the project proposal or development plan for one or more lots on which are shown the existing or proposed conditions of the lot, submitted to the Planning Board for review and approval.

## APPENDIX B - DEFINITIONS

**SITE PLAN REVIEW** – The process whereby the planning board, and in some cases the APA, reviews the site plans and maps of the applicant to assure that they meet the stated purposes and standards of the zoning district, provide for the necessary public facilities, and protect and preserve topographical features and adjacent properties through appropriate siting of structures, landscaping and lighting.

**SOLAR COLLECTOR** – A device or structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun’s radiant energy for a beneficial use.

**SPECIAL EVENTS** – Social, educational and community activities that are limited in duration.

**SPECIAL USE PERMIT** – A use that would not normally be appropriate generally or without restrictions throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such use may be permitted in such zoning district as a special permit use, provided that specific provision for such is made in the district and a permit is obtained in accordance with this Code.

**STORY** – That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it.

**STRUCTURE** – Any object constructed, installed or placed on the land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, ski tow or jump, and any fixtures, additions and alterations thereto. Construction must be more than six inches above grade or in excess of 144 square feet to be considered a structure. Landscaping features and fences shall not constitute structures.

**STRUCTURE, ACCESSORY** – See ACCESSORY STRUCTURE

**STRUCTURE, PRINCIPAL** – Principal Building

**SWIMMING POOL** – Any body of water or receptacle for water having a depth at any point greater than two (2) feet, used or intended to be used for swimming, and constructed, installed, or maintained in or above the ground.

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A swimming pool shall be deemed an accessory structure for all purposes under the provisions of this Code.

**TAVERN** – An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may also be served as accessory to the principal use and where entertainment may be provided.

**TELECOMMUNICATIONS TOWER** – Any structure greater than 35 feet in height which is specifically designed for receiving and/or transmitting signals (for the purpose of communications).

**TIMBER HARVESTING** – The cutting of ten (10) or more live standing trees greater than six (6) inches in diameter at 4 1/2 feet above the ground in any one (1) calendar year in a one acre area.

**TOURIST ATTRACTION** – Any man-made or natural place of interest open to the general public and for which an admittance fees is usually charged, including but not limited to animal farms, amusement parks, replicas of real or fictional places, things or people, and natural geological formations.

**TRAVEL TRAILER** - A portable vehicle which is designed to be transported on its own wheels, which is designed intended to be used for temporary living quarters for travel, recreational or vacation purposes and which may or may not include one (1) or all of the accommodations and facilities included in a mobile home.

**USE** – The specific purpose for which a building, structure or land is designed, arranged, intended or for which it is or may be occupied or maintained.

**USE, PRINCIPAL** – The main or primary purpose or activity conducted on the lot.

**VEHICLE RENTAL OR SALES** – Establishments primarily engaged in the retail sale or rental of new and used vehicles, including automobiles, recreational vehicles, motorcycles, ATVs and other off-road vehicles, boats, and trailers, where service and repairs are incidental to the use, not to include the sale, service, or repair of commercial vehicles.

**VEHICLE REPAIR** - Any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, washing, repair or painting of vehicles is conducted or rendered. Automobile

repair as defined herein does not include the repair or service of commercial vehicles.

VEHICLE SERVICE – Any area of land, including structures thereon, that is used for the sale of gasoline, oil, other motor vehicle fuels, or products designed to be used for lubricating, washing, cleaning, or otherwise servicing automobiles, including a convenience store, provided that the store is an integral part of the gasoline or service station, but excluding the activities permitted with an automobile repair center, and the use of mechanical car washing equipment.

VOLATILE SUBSTANCES, GAS OR LIQUIDS – Combustible solids, liquids or gases, including but not limited to butane, propane, gasoline, kerosene, alcohol or other combustible substances.

WAREHOUSE – A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles, not intended for subsequent shipment to a retail outlet. Warehousing does include individual/personal/self-storage units, and does not include wholesale or retail sales, or distribution centers.

WASTE DISPOSAL AREA – Any area for the disposal of garbage, refuse and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

WASTE TREATMENT SITE – Any building, structure or area where sewage is treated.

WATER, NAVIGABLE BODY OF (also NAVIGABLE WATERWAY)– A lake, river, reservoir, channel, pond, stream or other natural or man-made configuration encompassing a quantity and depth of water which make it navigable under normal conditions by canoe or other like small water craft.

WATERSHED MANAGEMENT or FLOOD-CONTROL PROTECT – Any dam, impoundment, dike, rip-rap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds.

WATER SUPPLY SYSTEM – An approved source and connecting supply system for the provision of water for any use required to have such system. Such system may include water derived from approved spring, well, lake or

river sources as part of an approved public, community, or individual system as provided for in this Code.

**WATERBODY** — Any natural or manmade body of water such as a pond, lake, wetland or wet area that does not necessarily flow in a definite direction or course.

**WATERCOURSE** — A natural or artificial channel for passage of water either continuously or intermittently.

**WATER, GROUNDWATER** — Water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

**WATERSHED** – The area which is a drainage basin for a particular freshwater body.

**WATER, SURFACE** – Water contained in streams, rivers, ponds, wet areas, lakes and other water bodies and watercourses or that drains across land.

**WETLANDS** – Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a "bog," "swamp," or "marsh," which is either (a) one acre or more in size, or (b) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

**WINDMILL** – Shall mean any mechanism designed for the purpose of converting wind energy into electrical energy. A *Non-Commercial* Windmill is incidental and subordinate to another use on the same parcel, an accessory use, and supplies electrical power for on-site use. Excess electrical power generated but not needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by the company to the parcel for on-site use. Non-commercial windmills shall be sized to supply no more than 120% of the average annual energy consumption of electricity on the lot on which the windmill is situated.

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

**YARD, FRONT** – A yard that extends the full width of the lot and is situated between the adjacent highway right-of-way and building projected to the side lines of the lot. The depth of the front yard shall be measured between the building and the highway center line. Covered porches, whether or not enclosed, shall be considered as part of the main building and shall not

project into a required front yard. When a building is situated on a corner lot which abuts two streets, the lot will be determined to have two front yards, one side yard and one rear yard. When a building is situated on a corner lot which abuts three streets, the lot will be determined to have three front yards and one rear yard. When a building is situated on a lot that extends through to another street or to the shoreline of a water body, the lot shall be determined to have two front yards and two side yards.

**YARD, REAR** – A yard that extends the full width of the lot and is situated between the rear line of the lot and the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the building, including any covered porches, whether or not enclosed.

**YARD, SIDE** – A yard that is situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard, including any covered porches, whether or not enclosed.