

Town of Johnsburg

Zoning Law

September 1, 2007

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ARTICLE 1 GENERAL PROVISIONS

Section 100 Title and Enactment Authority

The title of this law is the "Town of Johnsburg Zoning Law," and shall include this text and the official zoning map.

Enactment of this Local Law by the Town is pursuant to the Municipal Home Rule Law of the State of New York.

Section 105 Purposes

The overall purpose of this law is to promote the health, safety, and general welfare by regulating the density of population; and the location, intensity and use of buildings, structures and land; for trade, residence, recreation or other purposes. Further purposes of this law are to implement the goals and policies of the Town of Johnsburg Comprehensive Plan adopted on July 19, 2005 and any amendments thereto.

It is the further purpose and objective of this law to ensure optimum overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park and to preserve the beauty and character of the Adirondack Park setting to the benefit of the town residents and visitors to the community.

Section 110 Prior Law

This law shall replace and supersede the prior existing "Town of Johnsburg Zoning Ordinance," adopted on March 2, 1964 and any amendments thereto.

Section 115 Conflict with Other Laws

Whenever the requirements of this law are at variance with the requirements of any lawfully adopted rules, regulations, law or statutes, the most restrictive or those imposing the higher standard shall govern.

Section 120 Authority of the Adirondack Park Agency

Nothing in this Local Law shall be deemed to supersede, alter, enlarge, or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, Freshwater Wetlands Act, and Wild, Scenic and Recreational Rivers System Act to review and approve, approve subject to conditions, and disapprove those land uses and developments and subdivisions of land defined therein as Class A regional projects, jurisdictional wetlands activities or rivers projects, or otherwise supersede, alter or impair the statutory function, duties and responsibilities of that Agency with regard to matters involving a town in which an Agency approved local land use program has been validly adopted or enacted. Provided that, the Adirondack Park Agency cannot, in the context of its Class A regional site plan review, override a local decision not to permit a given land use or development.

Section 125 Severability

Should any section of or provision of this law be decided by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

ARTICLE 2 PERMITS AND PROCEDURES

Section 200 Applicability to Land Use or Development

No land use or development shall be undertaken, maintained or altered except in conformity with all provisions contained in this Local Law relating to both the zoning district and the land use area in which the land, water, site, structure or use is located, or is proposed to be located, and in conformity with the permit requirements of this Local Law. Where this Local Law is more restrictive than covenants or agreements between parties, or other plans or the regulations of the Adirondack Park Agency, the provisions of this Local Law shall control.

Section 205 Regulated Uses

- A. No person shall undertake any of the following unless a town Zoning Permit has been issued by the Zoning Enforcement Officer.
 - 1. Construction of any new building or structure one hundred (100) square feet or larger in ground coverage, except swimming pools.
 - 2. Expansion or enlargement of any existing structure, if the completed structure is one hundred (100) square feet or greater in ground area.
 - 3. Placement of a mobile home or the replacement of an existing mobile home with another mobile home.
 - 4. Change in the use of a building or of land, except as provided in Parts B and C of this section.
 - 5. Construction or enlargement of parking lots for non-residential uses.
 - 6. Certain signs, as provided in Article 7 herein.
 - 7. Yard sales, porch sales, garage sales and sales of a similar nature, which are held fifteen (15) or more days per year.
 - 8. Seasonal roadside stands, as defined herein.
 - 9. External structural changes or additions to existing buildings within the Main Street Overlay District per Section 930, Part A.

- B. The following activities do not require the issuance of a town Zoning Permit, but must meet the building setbacks and other requirements of this law.
 - 1. Any swimming pool as defined herein.
 - 2. Home occupations, as defined herein.
 - 3. Certain signs, as provided in Article 7.
 - 4. Keeping of farm animals, as provided in Section 640.
 - 5. Fences and walls, as provided in Section 645.
 - 6. Storage or occupancy of a recreational vehicle or travel trailer, as provided in Section 832.

- C. The following activities are not regulated by this law and do not require a town Zoning Permit.
 - 1. Buildings or structures smaller than one hundred (100) square feet in ground area, except for seasonal roadside stands as defined herein.
 - 2. Expansion or enlargement of any structure that results in a finished structure less than one hundred (100) square feet in ground area, except for seasonal roadside stands as defined herein.
 - 3. Interior structural alterations, or routine maintenance and improvement, which does not expand the exterior dimensions of a structure.
 - 4. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this law.
 - 5. Non-structural horticultural or gardening uses.
 - 6. The erection of chimneys, posts and other similar structures.

7. Temporary yard sales, porch sales, garage sales and sales of a similar nature, which are held fewer than fifteen (15) days per year.
8. Certain signs, as provided in Article 7.
9. Timber harvesting.
10. Non-commercial sand or gravel extraction.
11. Horticulture not involving the construction of a structure.
12. Municipal roads in hamlet zoning districts (HR, HB, HP, HX) as designated herein.

D. The following activities are regulated by this law, but require a permit from the Adirondack Park Agency and not a town Zoning Permit.

1. Class A Regional Projects as defined by the Adirondack Park Agency Act.
2. Any shoreline project requiring a permit from the Adirondack Park Agency pursuant to Part 577 of the Adirondack Park Agency Rules and Regulations. (Said permits generally apply to projects located within one-quarter mile of the Hudson River outside of Hamlet or Moderate Intensity Use land use areas.)

E. A Water Well Construction Permit is required prior to constructing or drilling any water well. (See Section 650.)

Section 210 Zoning Permit Types

Under the terms of this Law, the following classes of Zoning Permits may be issued.

- A. Permitted Use. A Zoning Permit for a permitted use shall be reviewed by the Zoning Enforcement Officer on his own authority. (Permitted uses are shown with an “x” on Schedule A of this Law.)
- B. Allowed after Site Plan Approval. Uses designated by the letter “p” on Schedule A herein require Site Plan Approval by the Planning Board before a Zoning Permit may be issued.
- C. Allowed after issuance of Special Use Permit. Uses designated by the letter “S” on Schedule A herein require the issuance of a Special Use Permit by the Planning Board before a Zoning Permit may be issued.
- D. Allowed after a decision by the Zoning Board of Appeals. A Zoning Permit shall be issued by the Zoning Enforcement Officer after issuance of a variance by the Zoning Board of Appeals or as a result of a ruling on an appeal heard by the Zoning Board of Appeals. (See Article 11 herein.)
- E. Allowed after review and approval by the Adirondack Park Agency: Class A regional projects.

Section 215 Required Information for Application

Unless otherwise stated, all petitions, applications and appeals shall be made on forms prescribed by the Planning Board or Zoning Board of Appeals. Completed forms shall be accompanied by such further information, plans or specifications as may be required by such forms, and by the Zoning Board of Appeals and/or the Planning Board. For any application requiring site plan review or special use permit, a jurisdictional determination is required from the Adirondack Park Agency.

The following are required in order to constitute a complete application:

- A. Map. Eight (8) copies of a property map, drawn to scale, shall be submitted with all applications. The map shall be either a Plot Plan Map or a Site Plan Map for Major Projects:
 1. Plot Plan Map. A Plot Plan is required with all applications for minor projects as defined herein. Such map shall contain sufficient information to enable the Zoning Enforcement Officer, the Planning Board and/or the Board of Appeals to make an informed decision. Such map shall show as appropriate: dimensions and location of the lot, exact size and location of

all existing and proposed buildings, proposed location of water and sewage disposal systems, parking areas, driveway location, watercourses, ponds, surface drainage patterns, flood hazard areas, and location of existing or proposed easements.

2. Site Plan for Major Projects. A Site Plan for Major Projects is required for all major projects that require Site Plan Approval. (See Section 950.) The map shall be prepared by a professional architect, landscape architect, engineer, or surveyor.
- B. Tax map of parcel proposed for land use and development showing adjacent properties.
- C. Evidence of property ownership, agreement or option to purchase, with all parties represented, must be provided at the time of application.
- D. Licenses. Any use currently licensed by Federal, State, County or Town Agencies and already operating within the town shall present evidence or currently valid licenses before any expansion permits are considered.
- E. Fee. The appropriate fee established by the Town Board in its fee structure shall be collected at the time of application.

Section 220 Fees

Application fees shall be established by resolution of the Town Board.

Section 225 Issuance of Zoning Permits

- A. When all requirements of this Law have been met, the Zoning Enforcement Officer shall issue a Zoning Permit and return one copy of the approved map to the applicant. One copy of the approved permit and approved map shall be filed in the Town Clerk's Office. If the permit has been denied, the reasons for denial shall be stated in writing and returned to the applicant.
- B. Class A Regional Projects (see Appendix C) require issuance of a permit by the Adirondack Park Agency instead of the Town of Johnsbury. In such instance, the applicant shall supply the Town with a copy of the Agency approved application, and the Town shall issue a Zoning Permit.

Section 230 Termination of Permit

- A. A Zoning Permit for any building for which construction has not been commenced two (2) years after issuance, or for any use which has not been commenced two (2) years after issuance, shall expire, and such building and/or use may not be established nor construction begun unless a new permit has been issued.
- B. For purposes of this section, land use and development shall not be considered as having been commenced when merely the following have been undertaken: digging of soil test pits, performing soil percolation tests and other minor site inspections, the staking of lots, or the securing of other approvals or permits required by law.
- C. Once a Zoning Permit for any building or use is revoked or has expired, construction shall cease and the use shall not be established.

Section 235 Site Plan Compliance Letter

- A. No person shall occupy or use a structure and/or a site which requires a Zoning Permit as set forth in Section 205, Part A unless a Site Plan Compliance Letter has been issued by the Zoning Enforcement Officer

- B. The applicant shall notify the Zoning Enforcement Officer when the structure is ready for final inspection. If satisfied that the applicable State and local regulations pertaining to the project have been complied with and that the project has been completed as specified on the approved application, the Zoning Enforcement Officer shall issue a Site Plan Compliance Letter granting permission to occupy or use the structure.

ARTICLE 3 DEFINITIONS

Section 300 Word Interpretation

Except where specifically defined herein all words used in this law shall carry their customary meaning. Doubt as to the precise meaning of a word or phrase shall be decided by the Zoning Board of Appeals.

Section 310 Definitions

Accessory Use. Any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of the principal land use or development on the lot, including in the case of a residential structure, any professional, commercial and artisan activities and other "home occupations" carried on by the residents of such structures.

Accessory Structure. A structure which is physically separate from the principal building and customarily incidental and subordinate to a principal land use or development, including but not limited to garages, sheds, swimming pools, alternative energy systems, a guest cottage not for rent or hire, and any moveable structure in excess of 100 square feet in ground area. For purposes of this law, fences, walls and poles under 40 feet high are not considered to be accessory structures.

Adirondack Park Agency or Agency. The Adirondack Park Agency created by Section 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 Land Use and Development Plan Map. The Adirondack park land use and development plan prepared by the Adirondack Park Agency as directed by law, approved by the agency on March three, nineteen hundred seventy-three, adopted in subdivision one of section eight hundred five, including the plan map, and any amendments thereto, the provisions of the plan as contained in subdivisions three and four of section eight hundred five and sometimes referred to as the "provisions of the plan" and any amendments thereto, and the shoreline restrictions contained in section eight hundred six, and any amendments thereto.

Adult Arcade. An establishment where film, slides, or any other images of "specified sexual activities" or "specified anatomical areas" are available for viewing by the public.

Adult Bookstore or Adult Video Store. A bookstore or video-store where as one of its principal business purposes offers for sale or rental any printed matter or videocassettes that depict "specified anatomical areas" or "specified sexual activities." For the purpose of this definition, a principal business purpose shall mean that part of the business that constitutes 20 percent or more of the printed material or videocassettes for sale or rent in the establishment.

Adult Cabaret. A nightclub, bar, restaurant, juice bar, or similar establishment where persons appear in a state of nudity, or where there are live performances, films, videocassettes or slides characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adult Entertainment Establishment. An establishment, or any part thereof, which includes any of the following: topless or bottomless dancers or waitresses; strippers; topless hair care or massages; entertainment where the servers or entertainers wear pasties or G-strings; adult cabaret; adult arcade; adult bookstore; or adult video-store.

Agricultural Use. Management of any land for general farming, truck gardening, nurseries, greenhouse, orchards; raising of cows, horses, pigs, poultry and other livestock for gain or profit; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

Agricultural Use Structure. Any barn, stable, shed, silo, garage, greenhouse, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

Airport/Heliport. A place on land designed for the take-off and landing of aircraft.

Amusement Park. An outdoor facility, which includes one or more permanent structures and/or buildings where there are devices for entertainment, including rides, booths, games, sale of items, or buildings or structures for entertainment purposes.

Animal Hospital. A business that treats animals and regularly houses them on the premises overnight and for extended periods for treatment.

APA. New York State Adirondack Park Agency.

Applicant. A person applying for a permit, approval, or variance having a legal interest in the property that is the subject of the application.

Assisted Living Facility for Seniors. A residential facility that accepts adults 55 years or older, who by reason of physical or other limitations are unable to live independently, primarily for domiciliary care rather than nursing or medical care.

Bed and Breakfast Establishment. A dwelling with one or more rooms for overnight accommodation to transient paying guests, and that satisfies the standards of Section 804. Similar establishments that do not qualify under Section 804 shall be deemed to be tourist accommodations.

Board of Appeals. Town of Johnsbury Zoning Board of Appeals.

Boathouse. A covered structure with direct access to a navigable body of water which (1) is used only for the storage of boats and associated equipment; (2) does not contain bathroom facilities, sanitary plumbing, or sanitary drains of any kind; (3) does not contain kitchen facilities of any kind; (4) does not contain a heating system of any kind; (5) does not contain beds or sleeping quarters of any kind; and (6) does not exceed a single story.

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

Business Office. An office or place of business that does not involve the sale of goods or the keeping of stock in trade. Business offices include, but are not limited to, offices of real estate, insurance, accountants, doctors, dentists, attorneys, architects, surveyors, engineers, psychologists, and chiropractors.

Campground, Recreational Vehicle Park. Property consisting of a tract of land and providing ground areas for two (2) or more recreational vehicles, travel trailers, tents or other temporary or vehicular structures for over-night occupancy, primarily but not exclusively for recreational or vacation purposes.

Change in Use. A change in the use of a building or of land shall be deemed to occur when the pre-existing use and the proposed use are listed as different uses on Schedule A, i.e. where such uses are listed on separate rows on said schedule.

Class A Regional Project. A land use or development which is classified and defined as such in Section 810 of the Adirondack Park Agency Act and in this law. Also, any Class B regional project or Class B regional subdivision which is also, in whole or in part, a Class A regional project as defined in the APA Act, a “development” as defined in the Wild, Scenic and Recreational Rivers System Act (ECL, sec. 15-2703(3)) or a “rivers project” as defined in 9 NYCRR Part 577, a “regulated activity” or “wetlands project” as defined in 9 NYCRR Part 578 shall be deemed a Class A regional subdivision in its entirety.

Class A Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of the Adirondack Park Agency Act. Also, any Class B regional project or Class B regional subdivision which is also, in whole or in part, a Class A regional project as defined in the APA Act, a “development” as defined in the Wild, Scenic and Recreational Rivers System Act (ECL, sec. 15-2703(3)) or a “rivers project” as defined in 9 NYCRR Part 577, a “regulated activity” or “wetlands project” as defined in 9 NYCRR Part 578 shall be deemed a Class A regional subdivision in its entirety. Additionally, any subdivision of a parcel of land which extends into an adjoining municipality shall be deemed a Class A regional project..

Class B Regional Project. A land use or development which is classified and defined as such in Section 810 of the Adirondack Park Agency Act and in this law.

Class B Regional Subdivision. A subdivision that is classified and defined as a Class B Regional Project and in the Town of Johnsburg Subdivision Control Law.

Commercial Sand And Gravel Extraction. Any extraction from the land of more than fifty cubic yards in any two year period of sand, gravel or topsoil (1) for the purpose of sale to or use by persons other than the owner of the land, or (2) for use by any municipality.

Commercial Use. Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee.

Condominium. A form of ownership of a building or group of buildings and/or land in which dwelling units 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.

Cooperative. A multi-unit project dwelling units, offices or commercial shops which may include one or more buildings on the same lot or property whereby dwelling units, offices, shops or spaces, common areas and facilities are owned by an organization, independent corporation, partnership or other entity for the benefit of those using or occupying the property.

Day Care Center. A site or building, or portion thereof designed and/or operated to provide day care and/or instruction for four or more persons, and operated for a fee, excepting state licensed “group family day care” and “family daycare” facilities for children operating solely within dwellings as provided in Section 390 of the Social Services Law.

Disposal. The discharge, deposit, injection, dumping, spilling, leaking, incineration or placement

in or on any land or water so that material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

Dock. A floating or fixed structure that: (1) extends into or over a lake, pond, or navigable river or stream from only that portion of the immediate shoreline or boathouse necessary to attach the floating or fixed structure to the shoreline or boathouse; (2) is no more than eight feet in width; or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which is no more than eight feet in width; and (3) is built or used for the purposes of securing and/or loading or unloading water craft and/or for swimming or water recreation.

Dwelling Unit. One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

Erect a sign. To build, construct, alter, enlarge, relocate, attach, hang, place, affix or maintain any sign, and includes the painting of wall signs.

Family. One or more persons occupying a dwelling unit as a single functional family and including a group of persons sharing a dwelling unit and acting as a family unit, including but not limited to: (a) family members related by blood, marriage or adoption, and (b) unrelated individuals occupying a residence designed as a single family dwelling as a group, and sharing kitchen, bathroom, and living area rooms. This definition does not include persons occupying boarding houses, lodging houses, bed and breakfast establishments, motels, or hotels, but does include residents of an assisted living facility or community residence occupying a residence designed as a single family dwelling.

Firing Range. A site or building used for the orderly discharge of firearms at targets that may function as a commercial use or part of a private club.

Forestry use. 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, skidways, landings, fences and forest drainage systems.

Forestry use structure. Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

Gross Floor Area. The total floor area to be used or intended to be used by tenants of a dwelling, or for services to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, employee restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

Group Camp. Any land or facility for seasonal housing and recreational educational or business; related use by private groups or semipublic groups, such as Boy or Girl Scout Camp, fraternal lodge or university or college conference center outside the campus.

Guest Cottage. Not more than one residential structure which is associated with a single-family dwelling and which:

- a. is used only on an occasional basis;

- b. is used only by guests of the resident(s) of the single-family dwelling;
- c. is not for rent or hire separately from the single-family dwelling;
- d. contains one-half or less of the enclosed floor space of the associated single family dwelling or 2,000 square feet, whichever is less; and
- e. otherwise meets the definition of accessory structure.

Hazardous Chemicals. Solid, liquid or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed, including but not limited to hazardous substances designated by the U.S. Environmental Protection Agency under Section 311 of the Clean Water Act (40 CFR 116).

Hazardous Waste. A waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (a) cause or contribute to an increase in mortality or an increase in irreversible, or incapacitating reversible illness, or (b) pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

Home Based Business with Vehicles or Equipment. Business operated by the resident of a residential property that involves the storage or parking on said property of a total of two or more, but not more than four (4), of the following vehicles or equipment: truck or trailer greater than 20 feet in length, any piece of earth moving equipment, any well-drilling rig, or any other similar heavy equipment or vehicle used in the conduct of the business. Such businesses include, but are not limited to, independent trucking, construction, well drilling, or earth moving businesses.

Home Based Manufacturing. A commercial use located on the property where the business owner resides involving the manufacture and sale of goods, including but not limited to: wood products, furniture, boats, canoes, ceramics, quilts, baskets, crafts or electronic or computer equipment.

Home Occupation. Any personal, professional, service or business use conducted entirely within a dwelling or accessory building and carried on by a resident of the dwelling unit, which use is clearly incidental and secondary to the use of the property for residential purposes and that does not change the exterior residential character thereof.

Hunting and Fishing Cabin. A cabin, camp or lean-to or other similar structure designed for occasional occupancy for hunting, fishing, or similar purposes, which may include a pit privy and a kitchen sink, but may not include amenities such as electricity, utilities, mechanically pressurized water or external sanitary sewage systems.

Industrial use. Any manufacturing, production or assembly of goods or materials, including any on site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extractions, sawmills, chipping mills, pallet mills and similar wood using facilities.

Junk Equipment. Any equipment which meets all the following conditions: (a) It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; (b) It is not in working order; (c) It has remained unused for more than one year.

Junk Mobile Home. Any manufactured housing unit designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling, sleeping, or storage purposes and which meets all of the following conditions:

- (1) it does not meet the requirements of the New York State Uniform Fire Prevention and Building Code for residential occupancy; and

- (2) it is either unoccupied stored, abandoned, wrecked, discarded, dismantled, or partly dismantled.

Junk Motor Vehicle. Any motor vehicle whether automobile, bus, trailer truck, tractor, motor home, motorcycle, all terrain vehicle, mini-bicycle, or snowmobile or any other device originally intended for travel on public highways which meets all the following conditions: It is (1) unlicensed or unregistered; and (2) abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; and (3) not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Junkyard. Includes any of the following.

- a. The outdoor storage of two (2) or more junk motor vehicles.
- b. The outdoor storage of one (1) or more junk mobile homes or travel trailers.
- c. The outdoor storage of two (2) or more pieces of junk equipment, including junk farm or construction equipment.
- d. Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of machinery, scrap metals, waste papers, rags, or used or salvaged building materials.

Kennel. Land or building in which four (4) or more dogs more than six (6) months old are housed, groomed, bred, boarded, or trained for a fee, or are kept for sale.

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", that are delineated on the Adirondack Park Land Use and Development Plan Map and any amendments thereto.

Land Use or Development, or Use. Any construction or other activity that materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping or grading, or ordinary repairs or maintenance or interior alterations, to existing structures or uses.

Light Industry. 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. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills and similar wood using facilities, or any manufacturing or assembly facility that involves: (a) the manufacture of hazardous chemicals; (b) the use of petroleum-based products except as incidental to the primary industrial use; (c) the outdoor storage of scrap metal or junk; (d) the creation of solid, liquid, or airborne hazardous wastes; (e) the creation of smoke or airborne particulate matter except as incidental to the main industrial use; or (f) the creation of noise which would have an adverse impact upon neighboring properties.

Lot or Lot of Record. Land or parcel of land not divided by streets, or roads, occupied or unoccupied or to be occupied by a building and its accessory buildings, and that is recorded by deed or survey in the Office of the Warren County Clerk.

Luminous sign. Means an incandescent or other sign which gives forth its own light, or any transparent or translucent sign through which artificial light is emitted, including, without limitations any neon sign, fluorescent sign or advertising light display.

Major Public Utility Use. (See also Public Utility Use.) Any electric power transmission or distribution line with associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing twenty-five or more pairs of wire and designed to provide initial telephone service for new structure; any telephone or other communication transmission tower, any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits including any water storage tanks designed to service fifty (50) or more principal buildings. This definition excludes any “telecommunications facility”, “telecommunication tower” or “wind power generating facility, large” as separately defined in this article.

Major project. Any project exceeding any of the thresholds for a Minor Project as defined herein.

Manufacturing. Any process whereby the nature, size, or shape of articles or raw materials is changed, or where articles are assembled.

Mean High Water Mark. The average annual high water level of a lake, pond, river, stream, creek or other body of water as established by an Adirondack Park Agency regulation or determination by a licensed surveyor.

Mineral Extraction. Any extraction, other than specimens or samples, from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel or topsoil extraction; including the construction, alteration of and maintenance of mine roads, mine tailing piles or dumps and mine drainage.

Mineral Extraction Structure. Any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages; or other main building or structure associated with mineral extraction.

Minimum Front Building Setback. The required minimum distance between a principal or accessory structure, including any additions thereto, and the front lot line.

Minimum Building Side Setback. The required minimum distance between a principal or accessory structure, including any additions thereto, and any side lot line of the property.

Minimum rear yard. The required minimum distance between a principal or accessory structure, including any additions thereto, and any rear lot line of the property.

Minimum Highway Frontage. The required minimum length of the front lot line along its boundary with any public road line or private road line.

Minimum Lot Width. The required minimum length of width of a lot measured parallel to the front lot line, at the minimum front building setback. For corner lots, the minimum width applies to each of the highways that the lot borders upon.

Minor Project. Any of the following:

- a. Any project not requiring site plan review and approval.

- b. Construction of a multi-family structure on a lot or parcel, or on adjacent lots or parcels as one project, with fewer than five (5) units.
- c. Construction of facilities or structures for a non-residential use covering no more than twenty-five hundred (2500) square feet of building footprint.
- d. Alteration of existing structures or expansion of existing structures by no more than one thousand (1000) square feet of ground area.
- e. Conversion of existing structures to another use.
- f. Alteration and active use of five thousand (5,000) square feet or less of land, with or without structures, in connection with a use requiring site plan review and approval.

Mobile Home. A dwelling built to U.S. Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards designed for one family, which has the following characteristics.

- a. Manufactured as a moveable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation or a mobile home stand, or piers, with or without a basement or cellar.
- b. Designed to be transported on its own chassis and wheels and connected to utilities after placement on a stand, foundation or piers.
- c. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
- d. May be constructed in two or more separately towable components that are designed to be joined into one integral unit capable of being again separated into the components for repeated towing, such as a doublewide mobile home.

A modular home, as defined herein, is not considered to be a mobile home.

Mobile Home Park or Court. A parcel of land under single ownership which is designed and improved for the placement of two (2) or more mobile homes parked or located thereon and for which use said premises are offered to the public or to any person.

Modular Home. A dwelling unit constructed off site consisting of more than one segment designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all of the standards of the New York State Building Code. A single modular housing unit is considered to be a single family dwelling for purposes of this law.

Motor Vehicle Service and/or Repair Shop. A building or site, or portion thereof, used for making repairs to motor vehicles such as automobiles, trucks, snowmobiles, all-terrain vehicles, or lawn tractors and garden equipment. This definition includes auto body shops.

Multiple-family Dwelling. A structure containing three (3) or more dwelling units separated from each other by common wall in the form of attached housing, or placed above or below one another.

Non-conforming Structure. Any structure which is actually, substantially, and legally in existence within a given zoning district on the effective date of this Local Law or any amendment thereto which is not in conformance with the dimensional regulations for that zoning district.

Non-conforming Use. Any use which is actually, substantially, and legally in existence within a given zoning district on the effective date of this Local Law, or any pertinent amendment thereto which is not an accessory use, a permitted use, or a use allowed by Site Plan Approval Review or Special Use Permit for that zoning district.

Nudity or State of Nudity. Means the appearance of "specified anatomical areas."

Obsolete Sign. A sign that advertises a business no longer conducted or a product no longer sold on the site. Any business location which does not conduct business at or sell a product from that location for two summer seasons or a period of sixteen months, whichever is longer, is considered to be no longer conducting business, and its signs are obsolete.

Open Space Recreation Use. Any recreation use particularly oriented to and utilizing the outdoor character of an area including a snowmobile, trail bike, jeep or all-terrain vehicle trail; a cross-country ski trail; a hiking and backpacking trail; a bicycle trail; horse trail; a playground, picnic area, public park, public beach or similar use.

Person. Any individual, corporation, partnership, association, trustee, municipality, county, or other legal public or private entity, but shall not include the state or any state agency.

Personal Service Establishment. Includes barber, hairdresser, beauty parlor, shoe repair, photographic studio, massage parlor, and businesses involving the care of a person or his or her apparel.

Planning Board. The Town of Johnsbury Planning Board.

Principal Building. Any one of the following:

- a. a single family dwelling or mobile home constitutes one principal building;
- b. a tourist cabin or similar structure for rent or hire involving 300 square feet or more of floor space constitutes one principal building;
- c. 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;
- d. 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;
- e. 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 5,000 square feet of floor space or portion thereof of such commercial use structure constitutes one principal building;
- f. any other structure which exceeds 1,250 square feet of floor space constitutes one principal building;
- g. a structure containing a commercial use and one dwelling unit.
- h. a tourist accommodation greater than 300 square feet with two or more rooms otherwise meeting the definition of "dwelling unit" in this article constitutes one principal building.
- i. 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 one principal building.

An accessory structure or use does not constitute a principal building.

Public or Semi-Public Buildings and Grounds. Any of the following, including grounds and accessory structures necessary for their use, but not including any open space recreation use as defined herein or cemetery.

- a. Places of worship, parish houses, convents, rectories, parsonages and similar accessory buildings.
- b. Cemeteries.

- c. Nursery schools, elementary schools, high schools, colleges or universities.
- d. Public libraries and museums.
- e. Not-for-profit fire, ambulance, and public safety buildings.
- f. Hospitals, health care centers
- g. Not-for-profit membership club or corporation established for cultural, social or recreational purposes, such as a Veterans of Foreign Wars meeting hall or similar buildings used by similar organizations.
- h. Not-for-profit recreational facilities, used for swimming, tennis, platform tennis, bowling, hockey, ice-skating and other indoor or outdoor sports.

Public Transportation Terminal. A building and/or area used by private and public operators in their function of transporting the public by means of bus, train or taxi, excluding school busing.

Public Utility Use. (See also Major Public Utility Use.) Includes any facility constructed, erected, or operated by a municipal agency or public utility, including but not limited to: telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities; electrical, telephone, gas or water transmission or distribution cables; lines, wires, conduit, pipes, or other equipment including dams, buildings, towers, and other structures or facilities associated with privately or publicly owned utilities. Telecommunication facilities and towers and “wind power generating facilities, large” as defined in this article are not included in this definition.

Recreational or Entertainment Facility, Commercial. Any land or building that is used primarily to provide recreation or entertainment to the public for private gain.

Recreational Vehicle. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles are deemed to include, but are not limited to: camping trailers, fifth wheel trailers, motor homes, travel trailers as defined herein, and truck campers.

Recreational Vehicle Park. Property with designated areas for two (2) or more recreational vehicles or for the erection of tents or other structures for over-night occupancy, primarily for, but not exclusively for, recreational or vacation purposes.

Residential Cluster Development. A development on a single parcel of land consisting of three (3) or more dwelling units and two (2) or more residential structures, whereby structures are clustered closer together than otherwise would be permitted by the minimum lot size, road frontage, building setback, and other dimensional requirements of this law as specified on Schedule B herein if each structure were to be located on a separate parcel of land. A residential cluster development may consist of single-family dwellings, two family dwellings, multiple family dwellings, or a senior citizen housing development. A mobile home park shall not be considered to be a residential cluster development.

Residential Cluster Subdivision. A subdivision consisting of three (3) or more residential lots, whereby individual lots and planned residential structures thereon are clustered closer together than otherwise permitted by the required minimum lot size, road frontage, building setback, and other dimensional requirements of this law as specified on Schedule B herein. Residential cluster subdivisions include, but are not limited to: (a) single family dwellings on individual lots, (b) mobile homes each on an individual lot of record, (c) two family dwellings on individual lots, or (d) a townhouse development. (Residential cluster subdivisions require review and approval in accordance with the Town of Johnsbury Subdivision Control Law.)

Restaurant: An establishment at which food is served to patrons on the premises, which may include the sale of alcoholic beverages provided that the sale of such beverages is clearly secondary and accessory to the serving of food.

Retail Gasoline Sales. Any establishment that sells gasoline to the public, including but not limited to automotive service stations, convenience stores, and car washes.

Retail Service Establishment. Establishments providing services, as opposed to products, to the general public, including but not limited to car washes, electrical or computer repair shops, dry cleaners, laundromats, and personal service establishments. This definition does not include motor vehicle service or repair.

Rooming or Boarding House. An accommodation located within an owner-occupied single family or a multi-family dwelling, where lodging in which at least two (2) but no more than six (6) rooms are offered for rent and which may be characterized by common dining facilities and leisure facilities available for use by the lodgers.

Sawmill. Mill for processing timber into boards and lumber, as a commercial operation. For purposes of this law the term sawmill does not include portable devices used on a temporary basis for cutting timber harvested on the property where the portable device is temporarily located.

Seasonal Roadside Stand. Buildings, structures or vehicles totaling less than one-hundred (100) square feet in ground area, that are used primarily for the sale of agricultural products no more than 62 days per year. This definition does not include operations primarily for the sale of crafts or non-agricultural items.

Senior Citizen Housing Development. A residential development that may contain attached dwelling units where at least one of the following conditions is true: (a) the federal Department of Housing and Urban Development has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program, (b) it is occupied solely by persons who are 62 years of age or older, or (c) it houses at least one person who is 55 years of age or older in a least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Shopping Center. A single parcel of land with buildings or structures planned as a whole and intended for two (2) or more retail, office or similar uses.

Shoreline. The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams.

Shoreline Building Setback. The shortest distance, measured horizontally, between any point of a building structure and the shoreline of any lake, pond, river, or stream navigable by canoe.

Shoreline Lot. Any lot, parcel or site that adjoins a shoreline, includes a shoreline or, in whole or in part, is located at or within the minimum shoreline setback requirement. Any land use or development on such a lot, parcel or site shall be deemed to involve the shoreline.

Shoreline Lot Width. 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, pond, river, or any stream navigable by canoe.

Sign. Any sign, billboard, advertising structure or inscribed surface, pattern of artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model,

ornamental figure or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, commercial, industrial, tourist or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype or advertising matter is made visible. The meaning of sign shall also include any sign currently in disuse but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

Single-family Dwelling. Any detached building containing one dwelling unit designed for occupancy by one family only.

Ski Center. Any trail or slope for alpine skiing; including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

Solid Waste. All materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, medical and infectious waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles, and offal.

Specified Anatomical Areas. (a) Less than completely and opaquely covered: human genitals, pubic region, buttocks, female breast below a point immediately above the areola, or (b) human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities. (a) Human genitals in a state of sexual stimulation or arousal, (b) acts of human masturbation, sexual intercourse or sodomy, or (c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

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

Subdivision of Land, or Subdivision. Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses, cemeteries, or a mobile home park.

Subdivision Plat. A drawing of a plan for a land subdivision.

Swimming Pool. Any man-made, non-permeable, receptacle for water having a depth at any point greater than two feet and having a surface area of one-hundred and twenty (120) square feet or more, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above ground. An inflatable pool shall not be considered to be a swimming pool. A swimming pool shall be deemed to be a structure for all purposes under the provisions of this Local Law.

Tavern: An establishment used primarily for the serving of alcoholic beverages to the general public where food service may be an accessory activity.

Telecommunication facility. Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular operation (also known as base transceiver station or BTS).

Telecommunication tower. A structure on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding a structure used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

Tourist Accommodation. Any hotel, motel, resort, tourist cabin or similar facility designed to house the general public, excepting a Bed and Breakfast establishment.

Tourist Attraction. Any man-made or natural place of interest open to the general public and for which an admittance fee 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.

Townhouse Development. A multiple family dwelling project of individual dwelling units arranged in a row of a least three (3) such units, each on its own separate lot and where each unit has its own front and rear access to the outside, no unit located over another unit, and each unit is separated from any other unit by one or more common walls.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and which is no longer than thirty two (32) feet. (See also definition of recreational vehicle.)

Two Family Dwelling. A building containing two dwelling units and no other uses.

Trucking Business. A facility for the storage of more than one truck exceeding gross vehicle weight of 18,000 pounds, or more than two smaller trucks, that are used principally for hire or for transporting goods not manufactured or warehoused on the site.

Warehousing. Terminal facility for handling freight, with or without maintenance facilities, and buildings used primarily for the storage of goods and materials.

Waste Disposal Area. Any area for the disposal of solid waste other than an on-site disposal area directly associated with an industrial use. (See definitions of solid waste and disposal.) Waste disposal area does not include composting facilities for the treatment of municipal sewage treatment sludges and wastes.

Wetland. 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. Freshwater wetland maps and freshwater wetland determinations are provided by the Adirondack Park Agency to determine whether a Class A Regional Project permit is needed for activities in or affecting a wetland.

Wind Power Generating Facility, Large. A wind conversion facility consisting of one or more wind turbines, towers, and associated control or conversion electronics which has a rated capacity of more than 100 kW, and where electrical power is transferred to a transmission system for distribution to customers rather than for use on the site.

Wind Power Generating Facility, Residential. A wind conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce on-site consumption of utility power.

Zoning Board of Appeals (ZBA). The Town of Johnsbury Zoning Board of Appeals.

Zoning Enforcement Officer (ZEO). The Town of Johnsbury official designated to administer and enforce this law.

ARTICLE 4 ZONING DISTRICT REGULATIONS

Section 400 Types of Districts

For the purposes of this law, the Town of Johnsbury is hereby divided into the following zoning districts:

HR	Hamlet Residential
HB1	Hamlet Business 1
HB2	Hamlet Business 2
HP	Hamlet Public and Semi-Public
HX	Hamlet Mixed Use
MX 1.3	Rural Mixed Use 1.3
MX 3.2	Rural Mixed Use 3.2
MX 8.5	Rural Mixed Use 8.5
MX 42.7	Rural Mixed Use 42.7
CI	Commercial - Industrial
MSO	Main Street Overlay District
SCO	Scenic Corridor Overlay District

Section 405 Purpose of Districts

The purpose of each zoning district is to fulfill its "vision" and the policies as described in the Town of Johnsbury Comprehensive Plan.

Section 410 Zoning Map

Zoning districts are located and bounded as shown on the "Town of Johnsbury Zoning Map" which, with all explanatory matter, is hereby made part of this law.

Section 415 Interpretation of District Boundaries on Zoning Map

- A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.
- B. Except for (1) within Hamlet districts and (2) Commercial-Industrial districts established in accordance with Article 5 herein, zone district boundaries are intended to coincide with the boundary lines of the Land Use Areas as shown on the Adirondack Park Land Use and Development Plan Map, used for regulatory purposes by the Adirondack Park Agency. Boundary lines of said map are generally intended to follow roads, rivers, streams, great lot or tract lines, and standard setbacks of 1/10 mile (528 feet) or 1/4 mile (1340 feet) from any of the above. Where boundary lines on the Town of Johnsbury Zoning Map are indicated as generally following any of the above lines, zone boundaries shall be construed to follow such lines.
- C. Within Hamlet zones, zone district boundaries are intended to follow lot lines, watercourses, or centerlines of roads unless otherwise indicated.
- D. The Zoning Enforcement Officer (ZEO) shall make the determination as to the exact location of district boundaries in any individual case. Should the ZEO so decide, any issue or question may be referred directly to the Zoning Board of Appeals which shall make a determination without a formal appeal. A decision of the ZEO regarding zoning boundaries may be appealed to the Zoning Board of Appeals.

Section 420 Changes, Adirondack Park Land Use and Development Map

- A. The boundaries of zoning districts on the Zoning Map are intended to be identical to 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 with the following exceptions: (a) within Hamlet zoning districts, (b) within any Commercial – Industrial district created pursuant to Article 5, and (c) any Industrial Land Use Area as so designated on the Adirondack Park Land Use and Development Plan Map as of September 30, 2006. Any such Industrial Land Use Area shall be designated an MX 8.5 Zoning District on the Town of Johnsbury Zoning Map.
- B. Any amendment to the Official Adirondack Park Land Use and Development Plan Map shall take effect for the purposes of this Local Law upon approval of the Town Board, without need to amend this Local Law or the Town Zoning Map. If such amendment involves the expansion of any "hamlet" boundary on the Official Adirondack Park Land Use and Development Plan Map, such lands shall be deemed to lie within a Hamlet Mixed Use (HX) district unless the town zoning map is otherwise amended following the procedures prescribed in Section 1245 herein. The Town of Johnsbury Zoning map shall be promptly updated to reflect any such changes.

Section 425 Use Regulations

- A. Schedule A, "Use Chart," of this law shall govern the types of land uses that are permitted within each Zoning District, excepting Commercial-Industrial (CI) districts, which shall be governed by Section 525.
- B. Permitted Uses. Land uses designated by an "x" on Schedule A are allowed uses within the zoning district.
- C. Site Plan Review Uses. Uses designated by "p" on Schedule A are allowed uses only after Site Plan Approval by the Planning Board as set forth in Article 9.
- D. Special Uses. Uses designated by an "S" on Schedule A are uses allowed only after approval of a Special Use Permit by the Planning Board as set forth in Article 9.
- E. A use shall be deemed to be prohibited within a zoning district if it is not listed on Schedule A either as a permitted use, a site plan review use, or a special use within that district.
- F. Within the Main Street Overlay District (MSO) allowed uses shall be governed by the underlying zoning district.
- G. Within the Scenic Corridor Overlay District (SCO) uses shall be governed by the SCO use regulations as specified on Schedule A, not by the underlying district.

Section 430 Lot Size and Dimension Chart

- A. Schedule B, "Lot Size and Dimension Chart," of this law shall govern minimum required lot size, maximum average density of development, lot dimensions, and building setbacks on a lot.
- B. Within the Main Street Overlay district (MSO) lot sizes, maximum average density, minimum required lot dimensions and building setbacks shall be governed by the underlying zoning district.
- C. Within the Scenic Corridor Overlay district (SCO) minimum required lot sizes, dimensions, and building setbacks shall be governed by the SCO use regulations as specified on Schedule B, but maximum average density shall be governed by the underlying zoning district.

Section 435 Green Space Buffer

In addition to the minimum requirements of Schedule B, the following shall apply in all zones except Hamlet Residential (HR), Hamlet Business (HB1, HB2) and Hamlet Mixed Use (HX),

- A. A minimum thirty (30) feet green space buffer adjacent to side and rear property lines is required for all non-residential uses that border upon an existing residential property.
- B. The green space buffer must be maintained as a vegetated area. No driveways, parking lots, or storage of materials or vehicles are permitted, nor shall the buffer be used as a work area.
- C. For purposes of this section, an existing residential property means any lot 10 acres or less in size for which the principal use is residential, and upon which a dwelling exists at the time of Special Use Permit approval and/or Site Plan approval.
- D. At the time of Special Use Permit approval and/or Site Plan approval the Planning Board may reduce the minimum required width of the green space buffer on any side without the issuance of a variance, provided that it is found that the future development or use of the adjacent property is not impaired.

Section 445 Density and Lot Calculation

- A. This zoning law regulates density of development separately from lot size. Whenever a parcel of land is subdivided, the proposed subdivision shall comply with both maximum density and minimum lot size requirements of the land use district. The Planning Board shall establish and the applicant shall show on the plat the number of lots containing one principal building that may be created on the entire parcel to be subdivided.
- B. The number of permissible re-subdivisions, if any, shall also be marked on each lot or on a table shown on the plat. Plat notations shall indicate, in substance, that either (1) "This lot may contain only one principal building as defined in the Town of Johnsbury Zoning Law, and may not be further subdivided," or (2) "This lot may contain a maximum of {insert number} principal buildings as defined in the Town of Johnsbury Zoning Law, and may be subdivided into a total of no more than {insert number} lots." Upon re-subdivision of any lot, such notations shall be made for each new lot.
- C. If a parcel is improved with one or more principal buildings in existence on August 1, 1973, such principal buildings may be placed on lots that satisfy the minimum lot size requirements for the zoning district in which same are located. Such lots and the principal buildings thereon shall not be considered for purposes of the density calculation in Part A of this section, which shall apply only to the remaining unimproved land on the parcel.
- D. For purposes of calculating the required minimum lot size and maximum average density under this Section, no wetlands, water bodies or land located within the right-of-way of a public highway or a proposed street which is intended to be dedicated to the Town shall be counted.
- E. For the purpose of counting the number of lots (1) any lot to be retained by the subdivider, and (2) all lots in the same land use area which are part of one project and which would otherwise be adjoining but which are located on opposite sides of a public or private road, or railroad or right-of-way owned in fee, shall be counted separately.

Section 450 Lots in Two or More Zoning Districts

- A. If a lot lies in two or more zoning districts, each portion of the lot shall be governed by the regulations of the district in which it lies. Upon special authorization of the Zoning Board of Appeals, and after application and public hearing, the provisions of the less restricted portion of the lot may be extended up to 100 feet into the more restricted portion, except as provided in

Part B below. An extension of more than 100 feet shall require a variance or a zoning map amendment.

- B. The total number of principal buildings allowed in each portion of such lot shall not exceed that permitted by the maximum density requirement as specified on Schedule B prior to any extension granted pursuant to paragraph A. Said maximum densities correspond to those established by the Adirondack Park Land Use and Development Plan Map, and any change in such densities shall require an amendment of the plan map from the Adirondack Park Agency.

Section 455 Measurement of Building Setbacks

- A. When establishing measurements to meet required setbacks, measurements shall be taken from the front lot line to the closest protruding part of the use or structure, to include such projecting facilities as porches, carports, and attached garages. Any accessory structure physically attached to a principal building, including attachment by means of a breezeway or a roofed passageway with open or attached lattice sides, is deemed to be part of the principal structure in applying regulations.
- B. Corner lots. For purposes of determining required setbacks from lot lines, corner lots of rectangular shape shall be deemed to have two front yards and two side yards, and no rear yard.

Section 460 Maximum Height

- A. Measurement. Maximum building height as specified on Schedule B herein shall mean the vertical distance measured from the lowest portion of the natural grade of the building site adjacent to the building, or finished grade of cut required to accommodate the building, to the highest point of the structure, not including chimneys, antennas or other small elements.
- B. Exemptions. The following structures are exempt from the maximum height requirement specified on Schedule B herein: Houses of worship, chimneys, flagpoles, agricultural structures, electrical transmission poles and lines, telecommunications towers, wind generating facilities, and towers for fire, police and emergency communications.

ARTICLE 5 COMMERCIAL-INDUSTRIAL FLOATING ZONE

Section 500 Intent

It is the intent of this law to provide for commercial and industrial development in the Town of Johnsbury by the creation of districts exclusively for such uses. Such districts are envisioned as relatively small areas where a broad range of industrial and commercial activities is allowed. However, no specific zones have been identified in the "Town of Johnsbury Comprehensive Plan" of 2005 as appropriate for such uses, only potential locations. It is therefore the intent of this article to establish criteria and procedures for the creation of Commercial - Industrial districts in order to facilitate their establishment at such time as desirable locations become apparent either as a result of specific development proposals or other factors.

Section 807 (4) of the Adirondack Park Agency Act allows local governments to create industrial zoning districts, where, after approval by the APA, the local government assumes review and approval authority for industrial uses and wood using facilities that would otherwise require APA approval as Class A Regional Projects. An additional intent of this article is to facilitate the future creation of such Section 807 (4) eligible districts at such time as desirable locations for same are identified.

Section 505 Applicability

This Article shall apply to any of the following proposals.

- A. District only: the creation of a Commercial–Industrial district consisting of one or more parcels or parts of parcels without any specific proposal(s) to develop or subdivide one or more of the parcels. Such a proposal shall require amendment of the Town of Johnsbury Zoning Map, but shall require neither Site Plan approval nor subdivision approval.
- B. District with Site Plan(s): the creation of a Commercial–Industrial district consisting of one or more parcels or parts of parcels, accompanied by application to develop one or more of the parcels for a specific use. Such a proposal shall require an amendment to the zoning map and Site Plan approval for any specific site to be developed.
- C. District with Commercial–Industrial subdivision: the creation of a Commercial–Industrial district consisting of one or more parcels, or parts of parcels, subdivided into building lots, and designed as a whole. Such a proposal shall require an amendment to the Town of Johnsbury Zoning Map, and also subdivision approval as a major subdivision(s).
- D. Any combination of the above.
- E. The Town may seek approval from the Adirondack Park Agency pursuant to Section 807 (4) of the Adirondack Park Agency Act for any of the above types of Commercial–Industrial districts.

Section 510 Review Authority

- A. The Town Board shall have the authority for amending the Zoning Map to create a Commercial-Industrial district, and the Planning Board shall have the responsibility to make a recommendation on such action.
- B. The Town Board shall have the authority to approve site plans for any specific development proposals that are submitted simultaneously with the proposal to create a Commercial-Industrial district, and the Planning Board shall have the responsibility to make a recommendation on such applications.. After a Commercial-Industrial district has been created, the Planning Board shall have the sole authority to review and approve site plans for subsequent land use and development proposals within such district.

- C. The Planning Board shall have the authority to review and approve any proposed subdivision of land within a proposed or existing Commercial-Industrial Zoning district in accordance with the Subdivision Control Law.

Section 515 District Site Requirements

- A. Size. For locations within or contiguous to hamlet zoning districts the minimum size for a Commercial-Industrial district shall be two (2) acres. For all other locations the minimum size shall be ten (10) acres. Not more than 2 sites totaling more than 100 acres or less are eligible for approval pursuant to pursuant to Section 807 (4) of the Adirondack Park Agency Act
- B. Location. No Commercial-Industrial district shall be located: (a) in a Resource Management land use area, (b) in a Rural Use land use area remote from any existing hamlet, or (c) along a major travel corridor where a park atmosphere prevails.
- C. Parcels. A Commercial-Industrial district may consist of one or more land parcels, and may be in multiple ownership.
- D. Physical Characteristics. The district shall contain suitable locations for buildings and, and for on-site sewage disposal systems if a community sewerage collection and treatment system is not available. Soils and slopes shall be suitable for such facilities. Slopes shall generally not exceed eight (8) percent.
- E. Visibility. The site shall be situated such that industries and businesses can be visually screened from the view of major travel corridors by terrain or vegetation.
- F. Access. The district shall be accessible by a State or County highway suitable for truck traffic. Access to a Commercial-Industrial district shall not be through residential neighborhoods or local roads and streets.
- G. Power Supply. Areas with access to 3-phase power shall be preferred.
- H. Water Supply. The district may be served by either a community water supply or by individual on-site wells. Water supply shall be adequate for proposed allowed uses.
- I. Sewerage Disposal. The district may be served by either a community sewerage disposal system or by individual on-site sewage disposal systems.

Section 520 Procedures to Create a Commercial-Industrial District

- A. Initiation. Proposals for creation of a Commercial-Industrial district may be initiated by the Town Board, the Planning Board, the Zoning Board of Appeals, or an applicant in conjunction with a specific development proposal.
- B. Planning Board Review and Recommendation. Upon receipt of a proposal to create a Commercial-Industrial district the Planning Board shall undertake a review and make a recommendation to the Town Board. If the Planning Board initiates the proposal its recommendation shall be forwarded to the Town Board. If a specific development is proposed, the Planning Board shall also make a recommendation to approve, approve with modifications, or to disapprove the site plan for such development. The Planning Board shall conduct its review and recommendation on the creation of an Industrial zone and any specific development proposals in accordance with the procedure for reviewing site plans as specified in Sections 945 and 950.
- C. Town Board Review and Approval. The Town Board shall follow the procedures for the adoption of amendments to this law and the zoning map as specified in Section 1245 herein in their review and approval of a Commercial-Industrial district and any accompanying site plans for specific developments. In a referral to the Adirondack Park Agency as a program

amendment the Town Board may request that the APA review the Commercial-Industrial district proposal for approval under section 807 (4) of the APA Act.

- D. Planning Board Review and Approval of Subdivision. The Town Planning Board shall review and approve any subdivision of land involved in the proposal in accordance with the procedures for approval of major subdivisions as specified in the Subdivision Control Law.
- E. SEQR review. The creation of any Commercial-Industrial Zoning district under the provisions of this section shall be classified as a Type I action pursuant to the New York State Environmental Quality Review Act.

Section 525 Allowed Uses

The following uses are allowed within a Commercial-Industrial District after Site Plan Review and Approval, except as provided in Section 530 below.

1. Industrial uses
2. Sawmills, chipping mills, pallet mills, and similar wood using facilities
3. Lumber yard
4. Research and testing laboratory
5. Fuel distribution business
6. Warehousing
7. Trucking
8. Mining
9. Construction company
10. Offices
11. Service type businesses, such as appliance sales and service or equipment sales and service
12. Other commercial enterprises as may be specified at the time a Commercial-Industrial District is created.

Section 530 Performance Standards, Prohibited Uses

All uses within a Commercial-Industrial District shall comply with local, county, state and federal regulations. Uses that cause a significant adverse impact upon the environment shall be prohibited. Uses shall be further limited to those considered "low hazard" or "moderate hazard" as defined in Part 700 of the New York State Building Code.

- A. In addition, specifically prohibited are uses that involve:
 1. The manufacturing, processing, storage, transportation handling or treatment of any hazardous chemicals that are not treated to comply with applicable local, state or federal regulations.
 2. Any use that involves discharge into the air, ground, groundwater, sewer system, or stream or body of water of any solid, liquid or airborne hazardous wastes that are not treated to comply with applicable local, state or federal regulations.
 3. Any use which would cause or tend to cause the production of undesirable smoke or airborne particulate matter that is not treated to comply with applicable local, state or federal regulations.
 4. Any use that causes a danger to the general public due to the possibility or likelihood of a fire or explosion, including any uses where explosives, combustible gases or flammable liquids are manufactured, stored, processed, handled or transported.
 5. Any use or activity that could or does emit dangerous levels of radioactivity.
 6. The production or processing from raw materials of cement, explosives, fertilizers, rubbers and rubber substances, soaps, starch and any by-products of coal, coke and/or petroleum.
 7. The milling or processing of flour; or the distillation of wood or bones.

8. The operation of stockyards or slaughterhouses or rendering plants or operations and uses involving same.
9. Any dwelling or residential facility other than the quarters of a watchman incidental only to the industrial project on which it is located.
10. Any storage facility or use involving storage tanks with a capacity greater than 10,000 gallons or the storage of any petroleum product or hazardous chemicals.

Section 535 Site Plan Approval Standards

In addition to the general site plan review requirements provided in Section 910 of this law, the following shall apply to any use within a Commercial-Industrial district.

- A. All buildings, outdoor storage areas, and parking areas shall be set back a minimum of 100 feet from any state highway, and shall be substantially screened from view of any state highway during all seasons of the year by means of topography or vegetation.
- B. If on-lot sewerage disposal is proposed, soils shall be tested for their adequacy for sewage disposal leach fields, and shall be determined to be suitable for such purpose.

ARTICLE 6 SUPPLEMENTAL REGULATIONS

Section 600 Residential Principal Buildings Per Lot

- A. There shall be only one residential principal building per lot, except as follows. (a) Multiple buildings may be placed on a single lot within a residential cluster development approved pursuant to Section 834. (b) Two single family dwellings or mobile homes may be placed on a single lot provided that they are situated such that, were the lot to be subdivided in the future it would be possible for all the requirements of Schedule B to be satisfied, and each such subdivided lot could be served by its own on-site septic system, and have access to public or private road.
- B. For purposes of this section, a residential principal building means the building used as a dwelling, and does not include accessory buildings or structures. A tourist cabin or similar structure for rent or hire involving three hundred (300) square feet or more of floor space shall be deemed to constitute one principal residential building. A single structure containing a commercial use that is also used as a residence shall be considered to be one principal residential building.

Section 605 Existing Undersized Lots of Record

- A. Any vacant lot legally recorded prior to February 25, 1964 (the date of adoption of the previous Town of Johnsburg Zoning Ordinance), that at the time of such recording was in compliance with all dimensional requirements for single family dwellings in effect at the time, and that does not meet the minimum lot size, maximum average density, minimum lot width, minimum highway frontage, or shoreline lot width requirements as specified on Schedule B herein, shall be considered as complying with these regulations, and no variance shall be required for use of the lot, provided that: (a) such lot does not adjoin any other parcels held by the same owner which if combined with said lot would result in a larger lot, (b) minimum front, side and rear building setbacks as specified on Schedule B herein are satisfied, and (c) applicable requirements for on-site sewage disposal systems are satisfied.
- B. Such undersized lots of record may only be used for the purpose of erecting one single-family dwelling.
- C. Existing structures located on such undersized lots of record may be reconstructed or expanded without the issuance of a variance provided that minimum front, side and rear building setbacks as specified on Schedule B herein are satisfied; except that in the event of

damage by fire, flood, wind, hurricane, tornado or other acts beyond the control of man, Section 615 (E) herein shall apply.

Section 610 Non-conforming Building Setbacks

Buildings and structures existing prior to the adoption of this law which are placed closer to front, side or rear lot lines than permitted by Schedule B herein shall not be expanded within such setback areas without a variance from the Zoning Board of Appeals.

Section 615 Non-conforming Uses and Structures

Uses of land or structures that lawfully existed at the time this law was adopted and which would be prohibited or restricted by these regulations may be continued or maintained subject to the following conditions.

- A. Enlargement of buildings and structures.
 - 1. Buildings and structures which contain a non-conforming use may be enlarged by an amount not to exceed twenty-five (25) percent of the size of the building, as measured by total floor area, without issuance of a variance by the Zoning Board of Appeals, provided that minimum building setbacks specified on Schedule B and green space buffer requirements of Section 435 are satisfied.
 - 2. Buildings and structures which do not comply with the minimum building setbacks specified in Schedule B or green space buffer requirements of Section 435 shall not be expanded within the required building setback or buffer without the issuance of a variance by the Zoning Board of Appeals.
- B. Expansion of area. No non-conforming use may expand to occupy a greater area of land without the issuance of a variance by the Zoning Board of Appeals.
- C. Shoreline setback. In no case shall any increase or expansion, or any building or structure, violate or increase non-compliance with the minimum setbacks from shorelines and shoreline cutting restrictions as specified in Schedule B herein without obtaining an area variance.
- D. Unsafe buildings and structures. Any non-conforming building or structure or portion thereof declared unsafe by proper authority may be restored to a safe condition.
- E. Restoration. Any building, structure or use which is nonconforming to the use, bulk or area provisions of this Local Law, which is damaged by fire, flood, wind, hurricane, tornado, or other acts beyond the control of man may be repaired or rebuilt according to its original use, bulk and area, provided such rebuilding or repair be accomplished within three (3) years after such damage occurs.
- F. Discontinuance. Whenever a non-conforming use has been discontinued for a period of one year the use shall not thereafter be re-established except as provided in paragraph E, and all future uses shall be in conformity with these regulations.
- G. Changes. Once changed to a conforming use, no building, structure or land so changed shall be permitted to revert to a non-conforming use without the issuance of a variance.
- H. Ownership. Any non-conforming use sold to another party may be continued, provided that such use is re-established within one year of the sale as specified in paragraph F.

Section 620 Shoreline Vegetative Cutting Restrictions

- A. Within 35 feet of a shoreline no vegetation may be removed, except that up to a maximum of 30 percent of the trees in excess of six inches diameter at breast height (DBH) existing at any time may be cut over any 10-year period.

- B. Within six feet of a shoreline no vegetation may be removed, except up to a maximum of 30 percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to the general standards above.
- C. 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
- D. Within a ¼ mile of the Hudson and Sacandaga Rivers, except within Hamlet districts and MX 1.3 districts, special vegetative cutting restrictions pertaining to Wild, Scenic and Recreational River Areas apply pursuant to 9 NYCRR, Part 577. The Adirondack Park Agency shall determine jurisdiction.

Section 625 Off-Road Parking

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods.
- B. Parking areas should be designed to eliminate the necessity to back out or to park on the shoulder of public roads.
- C. An overload of parking on to off-site areas, neighboring property, or road rights-of-way more than three times per month shall constitute a violation.
- D. A parking space shall not be less than 10 ft x 20 ft exclusive of access ways and driveways.
- E. No non-residential parking space shall be located within ten (10) feet of a side lot line.
- F. Existing uses must comply with these minimum off-road parking requirements if the use changes, if the use expands its gross floor area by twenty-five (25) percent or more during a three year period, or if the use is discontinued for a period of one year and seeks to be reestablished.
- G. In calculating the number of required parking spaces, fractional portions shall be rounded to the nearest whole number.
- H. For uses not specifically listed in part J below, the requirement shall be the same as for the most similar use listed, as otherwise provided in this law, or as determined by the Planning Board.
- I. The Planning Board shall have the authority to reduce or increase the requirements stated in paragraph J at the time of Site Plan or Special Use permit approval. Requirements may be reduced if the applicant can demonstrate the need for fewer parking spaces.

J. Minimum parking standards:

Residential use, except senior citizen housing development and 2d or 3d story apartments in the HB1 district	2 spaces per unit
Senior citizen housing, 2d or 3d story apartments in the HB1 district	1 space per unit
Professional offices	1 space per 200 s.f. of office area
Retail stores and service shops	1 space per 200 s.f. of gross floor area
Place of public assembly (eating and drinking establishment, church, meeting hall, funeral home, and similar uses)	1 space per 3 seats
Tourist accommodation, bed and breakfast	1 space per unit or sleeping room
Place of employment	1 space per employee

Section 630 Storage of Petroleum Based Products

Any storage of petroleum based products, including but not limited to gasoline, oil or kerosene, shall include adequate provision for insuring that leaks are prevented, and that any leak, rupture or spill will be contained and not introduced into any reservoir, pond, stream, creek or any other water body.

Section 635 Outdoor Lighting

Outdoor lighting shall be the minimum required to meet any legal requirements and ensure patron safety. Lighting devices shall be oriented and shielded to minimize disturbance on surrounding properties. Lighting shall be directed onto the lot in such a manner that no direct beam of light or excessive glares shine onto other properties or the highway.

Section 640 Keeping of Farm Animals

A. No building or structure in which fowl, hogs, cows, horses, goats, sheep or other farm animals are kept shall be less than one hundred (100) feet from any side or rear property line or from any shoreline, and shall comply with the minimum structure setback from highways as specified on Schedule B of this law.

B. Keeping of pigs or fowl as a commercial operation.

1. Minimum lot size: 20 acres
2. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.
3. All buildings, structures or other accessory uses shall be at least one hundred (100) feet from side and rear lot lines, and at least one-hundred and twenty five (125) feet from the center line of any public or private road.
4. No animals shall be kept, either indoors or outdoors, within five hundred (500) feet of any neighboring residential structure that was in existence at the time that the pig or fowl operation became a legally established use.
5. A commercial operation shall mean the keeping of pigs or fowl for the purpose of sale of the animals themselves or any product derived therefrom.

Section 645 Fences, Walls

- A. In Hamlet Residential (HR) and Hamlet Mixed Use (HX) districts no fence or wall shall exceed four feet in height between the front lot line and the front building set back as specified on Schedule B herein.
- B. On a corner lot in any district, no fence or wall shall obscure visibility at the highway intersection so as to constitute a traffic hazard.

Section 650 Wells

- A. Prior to commencing to construct or drill any private well a "Town of Johnsburg Water Well Construction Permit" shall be issued by the Zoning Enforcement Officer.
- B. The well must be located at least ten (10) feet from any property line. The centerline of a well shall, if extended vertically, clear any projection from an adjacent structure by at least five (5) feet. Each private well shall be located a minimum of 25 feet from the normal driving surface of any public roadway or a minimum of 15 feet from the road right-of-way, whichever is greater. A suction line or well shall be located a minimum of 50 feet from any septic tank or septic system distribution box, and 100 feet from any septic absorption field.
- C. If a 100-foot radius drawn around the well extends beyond the applicant's property lines, the applicant must provide proof that every affected abutter has been notified by certified mail of the applicant's intention to install a well.

Section 655 Flood Hazard Areas

All development in flood hazard areas as specified in the Town of Johnsburg Flood Damage Protection Law, adopted 1987, shall comply with all requirements of said law.

ARTICLE 7 SIGN REGULATIONS

Section 700 General Provisions

Signs are accessory uses that may be erected and maintained in accordance with the following regulations.

Section 705 Location on Premises

A sign, other than an off-premises sign allowable by Special Permit pursuant to Section 725, shall be erected and maintained only on the same parcel of land where the subject of the sign is located, and not more than 200 feet from the principal location thereof. For purposes of this regulation, the principal location of the subject of a sign shall be deemed to include the principal private access road connecting the subject with a public highway.

Section 710 Signs Not Requiring Zoning Permit

The following signs may be erected and maintained without a Zoning Permit, provided that they are less than four square feet in sign area and are non-illuminated (except as indicated below):

- A. Signs advertising the sale or rental of the premises upon which the sign is located, limited to two (2) per property, and that are removed within five (5) days of closing of sale or rental.

- B. Signs denoting the architect, engineer, or contractor where construction, repair, or renovation is in progress, limited to one per property.
- C. Professional and trade name plates and home business signs. Such signs may be illuminated by external white light only and shall be limited to one per person or business.
- D. Signs that mark property boundaries, give directions for roads or trails, prohibit trespassing, hunting, fishing, or off-road vehicles, or warn of hazards.
- E. Any sign erected by the federal, state, county, or town government or any department or agency thereof. Such signs are not limited in size.
- F. Signs giving the name of the residents of a dwelling and/or its address. Such signs may be illuminated by external white light only and shall be limited to one per dwelling.
- G. Temporary signs, including banners or pennants, relating to garage, lawn, or other individual, non-recurring sales, or for a church bazaar, political campaign, fund drive, parade, fair, fireman's field day, or other event or undertaking conducted by a political, civic, religious, charitable, or educational organization. Such signs shall be removed by the sponsor within three (3) days after the close of the event. Such temporary signs are not limited in size.
- H. A sign placed temporarily to advertise a garage sale or the sale of produce grown or harvested by the property owner where the subject sign is located, limited to one per principal location of the subject of the sign. Such temporary signs shall be removed immediately after the termination of the activity being advertised.
- I. Temporary signs, customarily of paper or cardboard, placed in the windows of grocery stores and supermarkets to advertise weekly specials. Such temporary signs are not limited in size or number.

Section 715 Signs Allowable by Zoning Permit

The following signs may be erected and maintained only upon the issuance of a Zoning Permit by the Zoning Enforcement Officer. The ZEO shall issue a Zoning Permit upon a proper application showing compliance with all the applicable provisions of this Section.

- A. A freestanding or attached and projecting advertising sign, being perpendicular or approximately perpendicular to the line of a public highway from which it is intended to be seen. No such sign shall exceed twenty-four (24) square feet in sign area. There shall be not more than one such sign for any commercial enterprise or for any group of enterprises located on a parcel of land under single ownership.
- B. An advertising sign located on and parallel to a wall of a building housing the enterprise advertised. No such sign shall exceed forty (40) square feet in sign area. There shall be no more than one such sign for any commercial enterprise.
- C. A sign, including a bulletin board, customarily used by places of worship, libraries, museums, social clubs, and societies, provided that there shall be no more than one such sign per establishment or organization, and that no such sign shall exceed ten (10) square feet in sign area.

Section 720 General Sign Regulations

The following regulations apply to signs throughout the Town:

- A. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity, except in the case of digital street clocks and temperature indicators. No luminous sign shall exceed 15 square feet of sign area.
- B. No sign shall contain any neon or similar lighting.
- C. No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause beams of light to be cast upon any public highway, sidewalk, or adjacent

premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall contain any mirror or mirror-like surface, nor any day-glow or other fluorescent paint or pigment.

- D. No bare lamps, bare bulbs or fluorescent tubes over forty (40) watts shall be allowed. All lighting shall be directed downward.
- E. No sign relating to a permanent commercial enterprise, with the exception of traditional barber poles, shall contain or consist of any banner, pennant, ribbon, streamer, spinner, or other similar moving, fluttering, or revolving device. No sign or part thereof may rotate or move back and forth, except that a sign may be suspended and swing, though not rotate, in the wind.
- F. No permanent sign shall extend more than 15 feet above the natural ground elevation or be located upon or higher than the roof of the associated establishment.
- G. No sign shall be erected or maintained upon the roof of any building or structure.
- H. No pole sign erected or maintained upon the premises of any gasoline or other automotive service station shall have a sign area greater than 15 square feet.
- I. Where feasible and practical no sign shall be painted or placed upon or supported by any tree, rock, or other natural object other than the ground.
- J. No motor vehicle, trailer, or wagon upon which is painted or placed any sign shall be parked or stationed in a way which displays the sign to the public.
- K. All signs shall be constructed of durable materials and maintained at all times in good repair.
- L. No advertising sign shall be maintained with respect to an enterprise, which, for a period of one year, conducts no business, or with respect to a product or service that is no longer offered by the enterprise maintaining the sign.
- M. No sign shall be erected or maintained either within the right-of-way or within 10 feet of the roadbed of any public highway. Nor shall any sign exceeding 20 square feet in the sign area be erected or maintained within 20 feet of the roadbed of any public street or highway. Such minimum setbacks shall not apply in the Hamlet Districts or to any signs located on and parallel to a wall of a building entirely housing the business or activity with which the signs are principally associated.

Section 725 Signs Allowable by Special Use Permit

The Planning Board, in accordance with the Special Use Permit procedure set out in Article 9 herein, may grant approval for an off-premises sign. Such sign shall meet all the requirements of the State Department of Environmental Conservation for the grant of a permit for such sign pursuant to Section 9-0305 of the Environmental Conservation Law. As a condition to approval of an off-premises sign, the Planning Board shall find that the sign:

- A. Meets all the applicable requirements of this Section other than on-premises location.
- B. Will be useful in providing information not otherwise reasonably available to the public.
- C. Will be visually compatible with its surroundings.
- D. Will not pose a traffic hazard or otherwise endanger the health, safety, or welfare of the public.
- E. Has been subject to a jurisdictional determination by the Adirondack Park Agency.

Section 730 Unsafe, Illegal and Obsolete Signs

- A. In any case where the Zoning Enforcement Officer shall find any sign unsafe and a potential danger to persons or property, or if he shall find any sign which in his judgment has been erected, installed, attached, established, painted or otherwise created in violation of this Local Law, he shall follow the procedures in respect to violations set forth in Article 13 herein, and the provisions of said Article shall apply in respect to prosecution, penalties and punishment for such violations.

- B. In the case of an unsafe sign that the Zoning Enforcement Officer believes to be an immediate peril to persons or property, he may order and arrange for the removal of such sign, without notice to the owner thereof.
- C. Such sign shall be declared obsolete and in violation of this Local Law, and the Zoning Enforcement Officer shall forthwith follow the procedures in respect to violations as set forth in Article 13 and the provisions of the said article shall apply in respect to prosecution, penalties and punishment for such violation.
- D. In any case where the Zoning Enforcement Officer finds it necessary to cause the removal of a sign because of the failure to do so by the owner thereof or of the premises on which such sign is located, the cost of any other expense incidental thereto shall be charged against the owner of the property and such charge shall be a lien against the property until paid.

Section 735 Non-Conforming Signs

- A. For the purposes of this local law a sign is considered a "structure" and subject to the provisions of Section 615 herein.
- B. If a Class B Regional Project subject to the town's review is proposed for a parcel of real property upon which an existing sign is located, and the said sign is associated with the principal activity which is the subject of the proposed project but does not conform to these standards, the Planning Board may require that the said nonconforming sign be brought into compliance herewith within a reasonable period of time, not to exceed six (6) years. Such requirement may entail the compulsory elimination of the sign upon the termination of a period calculated to be the remaining economic life thereof based upon actual depreciation schedules, but in any event not to exceed six (6) years.

Section 740 Measurement of Sign Area

In measuring the square foot area of signs permitted under this law, the entire face of the sign including any portion incidental to its decoration, and in the case of any open sign, made up of individual boards, letters, figures or designs, shall be measured as one sign. 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.

ARTICLE 8 ADDITIONAL REGULATIONS FOR CERTAIN USES

Section 802 Adult Entertainment Establishment

- A. No adult entertainment establishment shall be located within 1000 feet of the property line.
- B. Any adult entertainment shall be set back at least 1000 feet from any highway right-of-way.
- C. The adult use shall be conducted entirely within an enclosed building. No "specified anatomical area" or "specified sexual activity" (see definitions) shall be visible at any time from outside the building. This requirement shall also apply to any signs or displays.
- D. No outside displays or advertising other than an approved sign shall be allowed.
- E. The serving of alcoholic beverages shall be prohibited.

Section 804 Bed And Breakfast Establishment

- A. The business shall be conducted within a single-family dwelling that is the principal residence of the operator.
- B. A bed and breakfast establishment shall have accommodations for not more than 12 guests.
- C. If meals are offered, they shall be offered only to registered lodgers.

- D. Facilities and services shall be offered solely to registered lodgers and not to the general public.

Section 806 Campground, Recreational Vehicle Park

- A. Minimum lot size: 10 acres.
- B. Campgrounds and recreational vehicle parks shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreational purposes. The removal of wheels, and placement of a unit on a foundation in a camping ground is prohibited.
- C. Each campground or recreational vehicle park shall have adequate access to a public highway, and each recreational vehicle site shall be serviced from interior roadways.
- D. A campground or recreational vehicle park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.
- E. The minimum size of each campsite shall be 2500 square feet, provided however, that there shall be no more than 10 campsites per acre.
- F. There shall be a minimum fifty (50) feet green space buffer surrounding the campground or recreational vehicle park. No campsite or portion thereof, building, structure or roadway shall be placed within the buffer area.
- G. No campsite shall be located within seventy-five (75) feet of the mean high water mark of any water body, and shall otherwise comply with the setbacks from shorelines required by Schedule B of this law.
- H. The Planning Board may require that the campground or recreational vehicle park be substantially screened from the view of public roads and neighboring properties by use of vegetation and/or fencing.
- I. Each campground or recreational vehicle park shall comply with all applicable rules and regulations of the New York State Department of Health.
- J. Adequate plans shall be made for the collection and disposal of garbage, rubbish and solid wastes generated within the park. There shall be no on-lot exposed garbage, junk, or other wastes. The operator shall provide for the pick up of trash at least once a week.
- K. Mobile homes, whether permanent or temporary, shall not be parked or stored in any campground or recreational vehicle park.

Section 808 Condominium and Cooperative Development

- A. Requirements of this law, including use restrictions and dimensional requirements, shall be determined by the physical form and proposed use of the development, not by the form of ownership.
- B. A multiple family dwelling that is also a condominium or cooperative shall meet the standards for a multiple family dwelling.
- C. A single family housing development which is also a condominium or cooperative development shall meet the minimum lot size, maximum average density, and setback requirements for single family dwellings, and its design and layout shall be approved by the Planning Board in accordance with the Subdivision Control Law.
- D. A residential cluster development that is also a condominium or cooperative development shall comply with the regulations for residential cluster development as provided herein.
- E. Any condominium or cooperative development that also constitutes a land subdivision shall require review and approval pursuant to the Town of Johnsburg Subdivision Control Law.
- F. All state regulations pertaining to the creation of condominium or cooperative developments shall be satisfied.

Section 810 Conversion into 2d or 3d Story Apartment, HB1 District

- A. This section shall apply to the creation of a residential dwelling unit on the 2d or 3d story of any building within the Hamlet Business 1 (HB1) district that was in existence on the date of adoption of this law.
- B. One off-street parking space shall be provided for each dwelling unit created in any second or third story apartment.
- C. Said off-street parking space may be located on the property on which the apartment is located, or on a nearby private property provided that sufficient legal arrangements to guarantee the parking are established.

Section 812 Fuel Distribution Business

- A. Setbacks.
 - 1. No fuel distribution business shall be located within one thousand (1000) feet of any public park, nursing home, public or semi-public building, or place of public gathering.
 - 2. No structure, storage area, work area, or parking area shall be located: (a) within one hundred (100) feet of any adjoining property line, (b) within two hundred (200) feet of any stream, lake, pond, wetland or other body of water, or (c) within one hundred (100) feet of the right-of-way of any public highway.
- B. Fencing. There must be erected and maintained a fence adequate to prevent the entrance of children and others into the area of the activity of business and to contain the fuel storage area. Whenever the facility is not open for business, or temporarily unsupervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. Fencing requirements may be waived where topography or other natural conditions effectively prohibits the entrance of children and others.
- C. Screening. Where a fuel distribution business is or would be visible from a public highway or from neighboring properties, the fence shall be of a design approved by the Planning Board and sufficient to totally screen the fuel storage area from view. The Planning Board may approve the planting of a vegetative screen consisting of evergreen trees or shrubbery as an alternative to such fence.
- D. Fire Protection. Inside and adjacent to any screening and adjacent to the boundary of the fuel storage area there must be maintained at least a fifteen-foot (15') wide fire lane which shall be kept open and free of any materials. All storage areas shall be accessible by fire trucks.
- E. Approved Storage. The Planning Board may specify what types of fuel or materials may be stored at the facility, where they may be stored, and the manner in which they may be stored in order to protect employees, customers and the public from risk of fire, explosion, surface or groundwater contamination, or other hazard.
- F. Aquifer Protection. No fuel distribution shall be so located and designed so as to present a risk of groundwater contamination. Location over the Peaceful Valley aquifer or other aquifers shall be avoided.
- G. Fire and Building Code Compliance. All applicable provisions of the New York State Uniform Fire Prevention and Building Code shall be satisfied.

Section 814 Home Based Business with Vehicles or Equipment

- A. The following may be parked or stored on the property where the business owner resides, provided that any such trucks, trailers or equipment are parked and/or stored under conditions and in a location approved by the Planning Board: any truck or trailer, any piece of earth

moving equipment, any well-drilling rig, or any other similar heavy equipment or vehicle used in the conduct of the business

- B. Any materials stored outdoors on the property for use in such business must be stored under conditions and in a location approved by the Planning Board.
- C. No use shall create a nuisance on any surrounding property, including but not limited to, noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or traffic hazard.

Section 816 Home Based Manufacturing

- A. Home based manufacturing must be conducted within a dwelling that is a bona fide residence of the principal practitioner, or within an accessory building on the residential property such as a garage or barn.
- B. Not more than two persons other than a resident of the dwelling shall be employed as part of the home occupation.
- C. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home based manufacturing exists.
- D. There shall be no outdoor storage of materials used in the manufacture of the product.
- E. Goods for sale may be displayed out of doors in locations approved by the Planning Board.
- F. Not more than one truck or trailer greater than 20 feet in length used in connection with the home occupation shall be parked or stored on the property at any time, except for temporary, but not overnight, parking for purposes of pick-up or delivery of merchandise.
- G. There shall be sufficient off-street parking spaces provided such that at no time are delivery, employee, or customer vehicles parked along public or private roads or highways.

Section 818 Home Occupation

- A. A home occupation must be conducted within a dwelling that is a bona fide residence of the principal practitioner, or within an accessory building on the residential property such as a garage.
- B. No more than twenty-five (25) percent of the gross floor area of the dwelling shall be used for the conduct of a home occupation.
- C. Not more than one person other than a resident of the dwelling shall be employed as part of the home occupation.
- D. In no way shall the appearance of the structure be altered or the operation within the dwelling be conducted in a manner which would cause the residence to differ from its residential character either by use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- E. No use shall create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- F. There shall be no outdoor display of goods or products. There shall be no outdoor storage of materials used in the home occupation.
- G. Not more than one truck or trailer greater than 20 feet in length used in connection with the home occupation shall be parked or stored on the property at any time, except for temporary, but not overnight, parking for purposes of pick-up or delivery of merchandise.
- H. There shall be sufficient off-street parking spaces provided such that at no time are vehicles parked along public roads or highways.
- I. Signage shall be limited to one sign no larger than six (6) square feet in area, and that otherwise complies with the sign regulations contained herein.
- J. A home occupation shall not include any of the following: repair or maintenance of motor vehicles; commercial stables and kennels; restaurants; tourist homes; rooming or boarding

houses; clinics; musical and dancing instruction to groups exceeding four (4) pupils at any one time; convalescent homes; mortuary establishments; and other trades and businesses of a similar nature. A home occupation shall not include any trucking business, construction business, well-drilling business, excavation business or similar business that involves parking or storing on the property at any time any truck or trailer greater than 20 feet in length, any piece of earth moving equipment, any well-drilling rig, or any other similar heavy equipment or vehicle used in the conduct of the business.

Section 820 Individually Sited Mobile Homes

Paragraphs A through G below shall apply in all zoning districts. Paragraphs H and I shall apply in Hamlet Residential (HR), Hamlet Mixed Use (HX), Rural Mixed Use 1.3 (MX 1.3), and Scenic Corridor Overlay (SCO) districts only.

- A. All mobile homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976) and any amendments and revisions thereto. The applicant is responsible for demonstrating compliance with these standards. The presence of a permanent certification label affixed to the mobile home by the manufacturer shall be presumptive evidence that the construction of a mobile home is in compliance with such standards.
- B. Each mobile home shall be placed on footings or a foundation extending below the frost line, and that are in compliance with the New York State Building Code.
- C. Each mobile home shall be secured with anchors or tie-downs to stabilize the structure in conformance with manufacturer's recommendations or State building code, whichever is greater.
- D. Each mobile home shall be provided with skirting to screen the space between the mobile home and the ground. Such skirting shall be of non-transparent durable material such as wood, stone, cement block, or vinyl, and shall not consist of wire mesh, bales of hay, or transparent plastic. Such skirting shall be installed within 90 days of occupancy.
- E. Tires, pieces of metal, boards, cement blocks, bricks and similar loose objects shall not be placed upon a roof of a mobile home.
- F. No mobile home may be used for any purpose other than for a single-family residence. A mobile home shall not be used as a storage building.
- G. Any existing mobile home may be replaced with a mobile home of larger size without obtaining a variance provided that the extent of any existing non-conformity with minimum building setbacks is not increased.
- H. Each mobile home shall be provided with a factory manufactured roof pitch of 3/12 (about 14 degrees) or greater, with shingle, shingle-like, or metal roof.
- I. Each mobile home shall be provided with exterior walls of traditional site-built appearance made of clapboards, shingles, and shakes; masonry; wood board-and-batten; or "Texture 1-11" exterior plywood.

Exceptions. None of the provisions of this section shall be applicable to any mobile home located on the site of a construction project, survey project or other similar work project and used solely as a field office or work or tool house in connection with such project, provided such mobile is removed from said site within thirty (30) days after completion of such project and provided permission of the Zoning Enforcement Officer is obtained before said mobile home is brought into the Town of Johnsbury.

Section 822 Junkyards

All junkyards as defined herein shall comply with the Town of Johnsbury Junk Storage Law, and any amendments thereto. In addition, any new junkyard shall obtain Special Use Permit approval from the Planning Board and a zoning permit in accordance with this law.

Section 824 Kennel, Animal Hospital

- A. Minimum lot size: five (5) acres
- B. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.
- C. All buildings, structures or other accessory uses shall be at least (50) feet from any property line.
- D. No animals shall be kept, either indoors or outdoors, within 500 feet of any neighboring residential structure that was in existence at the time that the kennel or animal hospital became a legally established use.
All animals, except livestock, shall be kept within a totally enclosed building between 6 p.m. and 6 a.m.

Section 826 Mineral Extraction, Commercial Sand or Gravel Extraction

- A. All mining activities shall obtain required permits from the NYS Department of Environmental Conservation and the Adirondack Park Agency.
- B. No mining activity except travel along haul roads shall be conducted within 500 feet of an existing residential structure.

Section 828 Mobile Home Park

The following shall apply to all mobile home parks developed or expanded after the date of adoption of this law.

- A. Construction standards. All mobile homes shall be in compliance with standards equal to or more strict than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976). The owner or applicant is responsible for providing adequate assurance that these standards have been complied with. The presence of a permanent certification label affixed to the mobile home by the manufacturer shall be presumptive evidence that the construction of a mobile home is in compliance with such standards.
- B. Minimum Size. A mobile home park shall have an area not less than ten (10) acres.
- C. Maximum average density. The total number of mobile home sites shall not exceed the number that would be allowed by application of the maximum average density requirement for single-family homes as provided on Schedule B.
- D. Components. Mobile home parks shall provide individual mobile home lots for lease or rent, access roadways, parking, and recreation space for residents.
- E. Lot dimensions. Each mobile home lot shall be at least 8000 square feet in area, at least seventy-five (75) feet wide, and at least seventy-five (75) feet deep.
- F. Building setbacks.
 - 1. All mobile homes, and any additions thereto including porches and patios, shall be a minimum distance of fifteen (15) feet from side and rear lot lines, and a minimum distance of twenty (20) feet from the front lot line or from any road line.
 - 2. An unattached garage or other accessory building shall be minimum distance of ten (10) feet from side lot and rear lot lines, and twenty (20) feet from the front lot line or from any road line.
 - 3. No mobile home lot, office, or building shall be closer to a public road right-of-way than one hundred (100) feet, or closer to a neighboring property line than fifty (50) feet.

- G. Green space buffer. A minimum green space buffer of at least one-hundred (100) feet from any public road and a least fifty (50) feet any neighboring property line is required. The green space buffer shall be maintained as a vegetated area. No buildings, roads, parking, or storage of materials or vehicles shall be permitted within the required green space buffer. The Planning Board may waive any requirement of this paragraph at the time of site plan approval provided that such waiver shall not adversely impact the public health, safety or general welfare of the community.
- H. Screening from State Routes 28 and 8. Any mobile home park shall be substantially screened from view from State Route 28 or State Route 8 by means of natural topography, existing vegetation, or by planting a vegetative screen as approved by the Planning Board.
- I. Landscaping plan. A landscaping plan is required. The landscaping plan must be approved by the Planning Board.
- J. Road access. Each mobile home lot shall front on an internal access roadway. No mobile home lot shall front directly onto a Town, County or State highway.
- K. Internal roads. All access roadways shall be at least thirty (30) feet wide, and have a gravel or paved surface at least eighteen (18) feet wide with two (2) feet shoulders on each side. Roads shall be underlain by gravel at least twelve (12) inches deep, with adequate ditching and drainage. Adequate turnarounds for traffic and fire equipment shall be provided.
- L. Parking. Parking space for each lot shall be provided within each lot and such space shall be at least twenty feet by twenty feet, (20' X 20'). No vehicles shall be parked upon roadways within the park.
- M. One home per lot. Every mobile home within a mobile home park shall be located on a mobile home park lot. Not more than one mobile home shall be located on any one mobile home park lot.
- N. Additions. No additions shall be made to a mobile home except a canopy and/or porch open on three sides, an addition made by the mobile home manufacturer, or an addition built in conformance with the State Building Construction Code for one-family dwellings.
- O. Accessory building. No more than one accessory building, not to exceed four hundred (400) square feet, shall be permitted on any mobile home park lot.
- P. Skirting. The park owner shall require and include in the park regulations that each mobile home shall be enclosed at the bottom with a skirting or enclosure, which shall meet New York State Uniform Fire Prevention and Building Code regulations, within thirty (30) days of placement of the mobile home. Such skirting shall be on non-transparent durable material such as wood, stone, cement block, or vinyl, and shall not consist of wire mesh, bales of hay, or transparent plastic, and shall be maintained in good repair.
- Q. Stand. All mobile homes shall be placed on a stand that provides adequate support for the placement and tie-down of the mobile home. The stand may be constructed of gravel, concrete, or other suitable material, and shall be designed to not heave, shift or settle unevenly due to frost action.
- R. Tie downs. Each mobile home shall be provided with anchors or tie-downs capable of securing the stability of the mobile home. Anchors/tie-downs shall be placed at least at each corner of the stand.
- S. Water supply and sewage disposal. Water supply and sewage disposal systems shall be designed and constructed in compliance with all county and state requirements.
- T. Garbage disposal. An adequate secured area shall be provided and maintained on each-park lot for the collection of garbage. The park owner shall be responsible for regular and adequate collection and disposal of garbage. All outdoor garbage containers shall be secured from dogs, raccoons, birds and other creatures at all times.
- U. State and County Permits. Plans for the mobile home park shall have all approvals required from all state and county agencies, as required, prior to final approval by the Planning Board.
- V. Utilities. All public utilities (electric, gas, cable TV, telephone, and similar utilities) shall be installed underground.

- W. Non-automobile parking. No campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored on any park lot except in areas designated and approved for parking or storage. Boats may be parked on an individual lot, but shall be a minimum distance of fifteen (15) feet from side and rear lot lines, and a minimum distance of twenty (20) feet from the front lot line or from any road line.
- X. Road names and lot numbers. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number, which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- Y. Road Maintenance. Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal.
- Z. Bus Shelter. A sheltered bus stop shall be provided adequate for the anticipated number of school children living within the park. A space shall be provided for a bus to safely pull off the roadway to receive and discharge passengers.

Section 830 Motor Vehicle Service and/or Repair Shop

- A. All vehicles awaiting service, pick-up by customers, or otherwise stored overnight on the lot shall be parked within a vehicle parking area approved by the Planning Board.
- B. All junk wastes such as discarded parts or portions of vehicles shall be stored in an enclosed structure or fenced area so as to not be visible from adjacent properties.
- C. The Planning Board may require a green space buffer, vegetative screening and/or solid or picket fencing in order to reduce visual impact upon surrounding properties.

Section 832 Recreational Vehicles not in Recreational Vehicle Parks

- A. No recreational vehicle that is not located in a recreational vehicle park may be connected to water, sewer or electrical utilities except for a temporary thirty (30) day period.
- B. A recreational vehicle may only be stored on property owned by said recreational vehicle's owner provided that:
 - 1. There is an existing dwelling on the lot, and;
 - 2. Such vehicle is stored either in an enclosed garage, or out-of-doors no closer to the property line than as specified by the minimum front yard, rear yard and side yard requirements of Schedule B.
- C. No permanent structural addition, such as a porch, shall be added onto any recreational vehicle.

Section 834 Residential Cluster Development

Separate dwelling units on a single parcel of land may be placed closer together than would otherwise be permitted by the minimum lot width, lot size, road frontage, building setback and other dimensional requirements of this law were each structure to be located on a separate parcel of land, provided that the following are satisfied. (See also definition of Residential Cluster Development.)

Maximum average density for the property included in the residential cluster development shall not exceed that specified on Schedule B herein.

- A. All lots and/or structures shall front on and have access to an internal road or drive constructed to serve the cluster development, or upon a road or drive constructed to serve a previously approved residential cluster development. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved residential cluster development.

- B. All structures within a cluster development located within, or partially within, the Scenic Corridor Overlay district shall be set back a minimum of two hundred (200) feet from State Route 28 and/or Peaceful Valley Road. All structures within a cluster development located within other zoning districts shall be set back a minimum of one hundred (100) feet from any state or county highway. The 200 or 100 foot setback area shall be maintained as a vegetated buffer. Existing vegetation shall be retained to the extent practicable in order to screen the development from view of the public road.
- C. A residential cluster development shall have minimum frontage of fifty (50) feet upon an existing public road.
- D. Open areas within the site shall be chosen so as to facilitate one or more of the following objectives: to preserve views, to provide recreation areas, to serve as a buffer between neighboring properties or streets, to preserve wooded areas and hedgerows, to preserve wildlife habitat, to preserve historic sites or structures, to protect environmentally sensitive features, or to protect any areas that enhance or preserve the quality of the natural or residential environment, and/or benefit the community at large.
- E. Provision, whether by deed restriction, covenant, or other legal arrangement, shall be made to ensure that the undeveloped portion of the parcel remain as permanent open space or recreation area: (a) Designated open space areas may be owned privately by individuals. Adequate provision shall be made by covenant, deed restriction or other legal means to insure that future owners are aware of the development restrictions upon such areas. (b) Open space or recreation areas may be owned in common by individuals within the subdivision. In such case, covenants or other legal arrangements shall specify ownership of the cluster open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, and any other specifications deemed necessary by the Planning Board. (c) Open space or recreation areas may be deeded to the Town upon approval by the Town Board.
- F. In their approval of site plans for cluster development the Planning Board shall maintain accurate records and maps showing the location of permanent open spaces. No further development upon the designated open spaces shall be permitted.

Section 836 Retail Gasoline Sales

- A. Gasoline and/or fuel pumps and above ground or underground fuel storage tanks shall not be located closer to any side or rear lot line than the minimum setbacks for buildings as specified in Schedule B of this law.
- B. Gas pumps shall be set back far enough from the road line so as to not present a traffic hazard as a result of vehicles waiting in line at the gas pumps.
- C. Fire and Building Code Compliance. All applicable provisions of the New York State Uniform Fire Prevention and Building Code shall be satisfied.

Section 838 Tourist Accommodation

- A. Calculating Maximum Allowable Number of Units. For purposes of calculating the maximum number of units allowable on a land area pursuant to Schedule B, tourist accommodation units which are attached to a similar unit by a party wall, units of tourist homes or similar structures, and tourist cabins or similar structures for rent or hire each involving less than 300 square feet of floor space, each unit shall be considered to be one-tenth (1/10) of a principal building. The minimum land area required for a tourist accommodation unit, tourist cabin or similar structure for rent or hire involving more than 300 square feet of floor space shall be the same as for a single family dwelling.
- B. Minimum Shoreline Frontage. Where a motel, hotel or other tourist accommodation involves the shoreline of any lake or pond, or any river or stream navigable by boat, including canoe, the

following shoreline frontages shall be required per room or unit, unless the minimum shoreline lot width specified on Schedule B is greater, in which case the greater lot width shall be required: 100 feet for one to 10 accommodation units; for each additional unit up to 20 units, 8 additional feet; for each additional unit up to 40 units, 5 additional feet; for each additional unit thereafter, 3 additional feet.

Section 840 Seasonal Roadside Stands

Seasonal roadside stands shall be located at least ten (10) feet from any public highway right-of-way. Entry, exit and parking shall not constitute a traffic hazard.

Section 842 Yard, Porch or Garage Sales

Yard sales, porch sales, garage sales and sales of a similar nature shall be conducted in a manner so as to not constitute a traffic hazard.

Section 844 Wind Power Generating Facility (Residential)

- A. A residential wind power generating facility shall not create sound levels exceeding 55 dBA as measured from the closest property line.
- B. Minimum setback from any lot line shall be 100 feet plus the height of the tower.
- C. For purposes of this section, the height of tower shall be measured from the ground to the top of the fixed portion of the tower, excluding the wind turbine itself.

ARTICLE 9 SITE PLAN REVIEW AND APPROVAL, SPECIAL USE PERMITS

Section 900 Site Plan Review and Approval, General Provisions

- A. Applicability. All uses designated by the letter “p” on Schedule A herein shall require Site Plan Review and Approval.
- B. Purpose. The purpose of Site Plan Review and Approval is to insure that the design, layout and operation of an allowed use within a district: (a) minimizes adverse impacts upon neighboring properties, the natural and man-made environment, roadways, and the community in general, (b) is in keeping with the character of the area in which it is located, and (c) is consistent with the goals and objectives of the Town of Johnsbury Comprehensive Plan.
- C. Planning Board Authority. The Planning Board is hereby authorized to review and approve site plans. The Planning Board shall approve no site plan unless it finds that the standards stated in this article are satisfied, and that adverse impacts are mitigated to the extent practicable.
- D. Public Hearing. A public hearing is optional, at the discretion of the Planning Board, for uses requiring site plan review and approval.

Section 905 Special Use Permits, General Provisions

- A. Purpose. It is the policy of the Town of Johnsbury to allow a variety of uses of land within many of the zoning districts provided that such uses do not adversely affect neighboring properties, the natural environment, or the character of the area in which they are located, and provided that such land uses are consistent with the goals and policies stated in the “Town of Johnsbury Comprehensive Plan.” While a particular use may be generally suitable within a zoning district as indicated on Schedule A herein, it is recognized that each physical site and each specific land use is unique, and that a particular use may not be compatible in a specific location.
- B. Planning Board Authority. The Planning Board is hereby authorized to issue Special Use Permits for Special Uses. No Special Use Permit shall be issued unless the board finds that the standards stated in this article are satisfied. A Special Use Permit shall be denied if a significant adverse impact is found to exist that cannot be adequately mitigated so as to render the impact non-significant.
- C. Public Hearing. A public hearing is required for uses requiring a Special Use Permit.
- D. Site Plan Review. All uses requiring Special Use Permits shall also require Site Plan Review and Approval.

Section 910 General Site Plan Approval Standards

The following standards shall apply to all uses requiring Site Plan Approval, in all zoning districts.

- A. Impact Upon Surrounding Properties. Land use and development shall be planned and undertaken so as to avoid adverse impacts on adjoining and nearby land uses, especially residential uses, and shall not adversely affect the character of the neighborhood. The proposed use shall not create a significant adverse impact upon nearby properties by reason of traffic, noise, fumes, odors, vibration, flashing lights, litter, surface water or groundwater contamination, air pollution, drainage, visual impact, excessive night time lighting, creation of a safety hazard, risk of fire or explosion, or any other cause. The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent land and buildings, nor significantly impair their value.

- B. Vehicular Access. Proposed vehicular access points shall be adequate in width, grade, alignment and visibility; not located too near road intersections or places of public assembly; and meet similar safety considerations.

To the extent practicable, intersections with and entries onto any public road shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

<u>Design Speed of Highway</u>	<u>Left Turn</u>	<u>Right Turn</u>
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road. (Said distances represent the safe braking distance for traffic along the public road.) It is not the intent of this provision to deny the ability to develop any particular lot, but to insure that the best possible location for access onto a public highway is chosen.

- C. Emergency Vehicle Access. All proposed buildings, structures, equipment and materials shall be readily accessible for fire and police protection.
- D. Buffers, Screening. In all rural zoning districts (MX Districts), the following uses shall be substantially screened from view of pre-existing neighboring residential properties at all seasons of the year by vegetation or by fencing of a design and type approved by the Planning Board: retail gasoline sales, vehicle repair or sales establishments, campgrounds and recreational vehicle parks, mining, industrial uses, junk yards, fuel distribution businesses, and any other use which in the judgment of the Planning Board may have an adverse visual impact upon neighboring properties or the community in general. For purposes of this part, a pre-existing residential property shall mean any lot of record that contains a residential structure at the time a complete application for the proposed use is received by Planning Board.
- E. Landscaping. Any proposed use involving the construction of a new building or addition larger than 2500 square feet or any parking area greater than 2500 square feet shall require the submission of a landscaping plan as part of the application. The landscaping plan shall show the location, type and size of species to be planted or to be retained on the site. The Planning Board may require that such plan be prepared by a professional architect, engineer, landscaper, or planner. This requirement may be waived by the Planning Board in the case of minor projects.
- F. Drainage and Erosion Control. Adequate provision shall be made for drainage of the site, and to insure that storm water runoff does not create an adverse impact upon nearby lands or waterways. Appropriate erosion control measures shall be taken to prevent the pollution of waterways by silt and sediment. All NYS Department of Environmental Conservation rules and regulations pertaining to erosion and runoff control shall be satisfied.
- G. Water Quality Protection. Adequate provision shall be made to insure that any leak, spill or other discharge of petroleum based products or other chemical potentially harmful to surface water or groundwater supplies are contained and are prevented from being introduced into such waters. Approval may require that potentially harmful materials be stored on an impervious pavement, enclosed by an impervious dike high enough to contain the volume of liquid kept in the storage area, and/or be separated from any shoreline, watercourse, or storm water runoff channel by adequate setback.

- H. Lighting. Exterior lighting shall be directed down and away from adjoining residential properties and public roads, and shall not constitute a traffic hazard. Lighting shall be shielded from shining into the nighttime sky so as to prevent light pollution. High intensity lighting shall be minimized.
- I. Impact upon Historic Resources. Adverse impacts to the integrity of neighboring properties of local, state, or national historic significance shall be minimized. To the extent practicable, a proposed use or development shall be designed to harmoniously blend with the historic resource by use of appropriate building designs, color schemes, and building materials, as well as by utilizing green space buffers and vegetative screening.
- J. Water supply. Adequate provision shall be made for water supply. No site plan approval shall be granted for projects located within the North Creek Water District until a letter of approval is obtained from the North Creek Water District Superintendent acknowledging that adequate water supply exists to service the proposed project.
- K. Sewage disposal. On-site disposal systems shall comply with all applicable state and local regulations.
- L. Noise. Sound levels exceeding 55 dBA between the hours of 7 AM and 11 PM, or exceeding 45 dBA between the hours of 11 PM and 7 AM, as measured at the property line, shall be avoided.

Section 915 Development Objectives For Use In Regional Site Plan Review

In their review of site plans for Class B regional projects as defined in the Adirondack Park Agency Act, the Planning Board shall also evaluate the project in relation to the development considerations and objectives set forth in Appendices A and B.

Section 920 Shoreline Site Plan Review Standards

The following standards shall apply to all uses located on a shoreline of any watercourse navigable by canoe.

- A. All construction on any shoreline lot shall be carried out in such manner as to: (1) minimize interference with the natural course of such waterway, (2) avoid erosion of the shoreline, (3) avoid net increase in runoff of surface water into the waterway, (4) retain natural shoreline vegetation or re-establish natural vegetation, and (5) generally maintain the existing aesthetic and ecological character of the shoreline.
- B. Any paved or otherwise improved parking, loading or service areas shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or siltation into the waterway.

Section 925 Scenic Corridor Overlay District Standards

The visual character of the town in its natural setting within the Adirondack Park is an important and valuable public asset which promotes the general and economic welfare of the town. This is especially true along major travel corridors. Accordingly, it is the purpose of the Scenic Corridor Overlay District (SCO) to preserve the scenic, "Adirondack" character along major travel corridors within the town. All land uses subject to Site Plan Review and Approval that are also located within the SCO district shall be subject to the following standards.

- A. Design Standards. Buildings shall be designed to be in keeping with "Adirondack" character. Such character shall be determined by the Planning Board, who shall consider traditional building designs, color schemes and building materials found in the Adirondack region to be in keeping with such character. In general, clapboard siding, log construction, or wood siding

combined with earth tone color schemes shall be preferred. Building colors should blend with the natural landscape so that development does not take on a visual prominence. Overly bright, garish, brilliant, luminescent or Day-Glo colors shall be avoided. Vertical plywood siding such as T-111 and asphalt shingles shall be avoided. Asphalt or composite shingle, slate or standing seam metal are preferred materials for visible roofing. Roof colors should be neutral to dark. Untreated "galvanized" roofing and highly reflective roofing shall be avoided.

- B. Signs. The design and color of signs shall not detract from the scenic character of the corridor. The Planning Board shall encourage the use of yellow lettering on stained wood in order to be in keeping with the common color scheme used throughout the Adirondack State Park for off-premise signage, as established by Section 9.0305 of the New York State Environmental Conservation Law.
- C. Vegetative Screening. In forested sections of the corridor, a sufficient number of mature evergreen trees shall be preserved along the roadway to provide adequate screening of buildings and parking areas and preserve forested character. The degree of such required screening may range from partial to full screening, and shall be determined by the Planning Board at the time of site plan review. On previously cleared lots, new plantings may be required.
- D. View Preservation. In portions of the corridor with existing or potential views of the Hudson River, development shall be designed so as to preserve views of the river to the extent practicable, and to blend with the environment so as avoid detracting from the natural beauty of the area.
- E. Landscaping Plan. A landscaping plan showing the location and type of all species to be planted or retained on the site shall be required for all uses within SCO zoning districts that require Site Plan Approval. Said plan shall include vegetative screening specified in Part C above. The Planning Board may require that the plan be prepared by a professional landscape architect, engineer, landscaper, or planner.

Section 926 HB2 District Design Standards

The visual character of the town in its natural setting within the Adirondack Park is an important and valuable public asset which promotes the general and economic welfare of the town. This is especially true along major travel corridors. Accordingly, it is the purpose of this section to preserve the scenic, "Adirondack" character within the HB2 Zoning District. All land uses subject to Site Plan Review and Approval located within the HB2 Zoning District shall be subject to the following standards.

Design Standards. Buildings shall be designed to be in keeping with "Adirondack" character. Such character shall be determined by the Planning Board, who shall consider traditional building designs, color schemes and building materials found in the Adirondack region to be in keeping with such character. In general, clapboard siding, log construction, or wood siding combined with earth tone color schemes shall be preferred. Building colors should blend with the natural landscape so that development does not take on a visual prominence. Overly bright, garish, brilliant, luminescent or Day-Glo colors shall be avoided. Vertical plywood siding such as T-111 and asphalt shingles shall be avoided. Asphalt or composite shingle, slate or standing seam metal are preferred materials for visible roofing. Roof colors should be neutral to dark. Untreated "galvanized" roofing and highly reflective roofing shall be avoided.

Section 930 Main Street Overlay District (MSO)

As described in the "Town of Johnsburg Comprehensive Plan" and the "North Creek Action Plan," the Main Street business district contains a core of buildings characterized by architectural styles

reminiscent of early 20th century. Goals of the comprehensive plan are to enhance the viability of this district and to encourage the growth of tourist/recreation related businesses. The maintenance of a visual environment that capitalizes on the historic character of the area is an important element in achieving this goal. It is therefore the purpose of this law to assure building design that is consistent with the historic character of the district.

- A. This section shall apply to all buildings located in the MSO district except structures used and designed as single or two family dwellings and their accessory structures.
- B. All regulated construction specified in Part A above shall be subject to Site Plan Approval. The Planning Board shall review each application for consistency with the Design Guidelines for the North Creek Main Street area as set forth in the "North Creek Action Plan" of 1993, and shall not approve an application unless it finds that it reasonably conforms to these guidelines.

Section 935 Special Use Standards

In order to approve a Special Use Permit, the Planning Board shall find that the following standards are satisfied.

- A. General Site Plan Review standards of Section 910.
- B. Additional requirements for certain uses of Article 8, where applicable.
- C. Shoreline Site Plan Review standards of Section 920, where applicable.
- D. Scenic Corridor Overlay District standards of Section 925, where applicable.
- E. Main Street Overlay District standards of Section 930, where applicable.
- F. Requirements for Class B Regional Project approval of Article 10, where applicable.

Section 940 Conditions

In approving a Site Plan or Special Use Permit application the Planning Board shall have the authority to impose such conditions and restrictions on the design, layout and operation of a proposed land use and development that it deems reasonable to fulfill the purposes of this law, including but not limited to:

- A. Requiring landscaping or vegetative screening, and/or the retention of existing vegetation, to minimize adverse visual impact.
- B. Increasing building setback or other dimensional requirements.
- C. Limiting the size or height of buildings, structures, parking areas or facilities.
- D. Specifying the location and design of entrances, exits, and off-street parking space.
- E. Requiring that materials be stored indoors or certain activities be conducted indoors.
- F. Limiting hours of operation to reduce noise impacts on neighboring properties..
- G. Requiring storm water retention ponds or other drainage and pollution control devices.
- H. Requiring clustering of structures and uses in order to minimize the burden on public services, and/or to preserve open space character or open spaces of special significance or importance to the community.
- I. Requiring more stringent shoreline restrictions for particular projects.
- J. Restricting the further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure that restrictions on intensity of development as provided in this Local Law are respected in the future.

Section 945 Application for Site Plan Approval and/or Special Use Permit (Minor Projects)

An application for approval of a minor project, as defined herein, shall include all information required by Section 215.

Section 950 Application for Site Plan Approval and/or Special Use Permit (Major Projects)

- A. An application for approval of a major project, as defined herein, shall include all information required by Section 215.
- B. The following plans.
 - 1. A vicinity map at a scale of 1 inch = 2000 feet that shows the relationship of the project to the surrounding area. Such map may be superimposed on a NYS Department of Transportation planimetric quadrangle map of the area that shows land contours as well as other features.
 - 2. Twelve copies of a site plan map, drawn to an approved scale, prepared by a professional architect, landscape architect, engineer, or surveyor. The map shall include as applicable:
 - a. Title of drawing, including name and address of the applicant, the landowner (if different), and the person responsible for preparation of such drawing.
 - b. North arrow, scale and date.
 - c. Boundaries of the property plotted to scale.
 - d. Land contours at appropriate intervals.
 - e. Existing watercourses, bodies of water, drainage patterns.
 - f. Flood hazard areas as shown on the Federal Insurance Administration Flood Hazard Boundary Map or Flood Hazard Rate Map.
 - g. Proposed grading and drainage plan and/or storm water management plan.
 - h. Location, design, type of construction, proposed use and exterior dimensions of all proposed buildings.
 - i. Location, proposed use and height of all buildings, structures and site improvements including culverts, drains, retaining walls, and fences.
 - j. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
 - k. Location of outdoor storage, if any.
 - l. Provision for handicapped access.
 - m. Description of the method of sewage disposal and location of the facilities.
 - n. Identification of water sources; if well, locate.
 - o. Location, size and design and construction materials of all proposed signs.
 - p. Location and characteristics of all buffer areas, including existing vegetative cover.
 - q. Location and design of outdoor lighting facilities.
 - r. Landscaping plan.
 - s. Other information as required by the Planning Board.
- C. Accompanying data, to include the following as applicable
 - 1. Application form and fee.
 - 2. Name and address of applicant and any professional advisors.
 - 3. Property deed, or authorization of owner if applicant is not the owner of the property.
 - 4. Estimated project construction schedule.
 - 5. Identification of any permits required from other governmental bodies.
 - 6. Environmental Assessment Form, Part I.
 - 7. Any additional endorsements, certifications or approvals required by the Planning Board.
 - 8. Other information as the Planning Board may reasonably require to assess the proposed project; such as location of fire lanes and hydrants, provisions for pedestrian access, or designation of the amount of building area proposed for use for retail sales or other commercial activity.

Section 955 Waiver of Submission Requirements

The Planning Board may waive one or more submission requirements required in Section 950 paragraphs B and C in the case of projects of an uncomplicated nature.

Section 960 Reimbursable Costs

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. Prior to incurring such costs the Planning Board shall discuss such costs with the applicant, and may require that an escrow account be established for such purpose.

Section 965 Procedure

Applications for Site Plan Approval and/or a Special Use Permit shall be processed in the following steps.

- A. Referral to Planning Board or Adirondack Park Agency. The Zoning Enforcement Officer shall refer any application for Site Plan Approval and/or Special Use Permit that is also a Class A Regional Project, a "rivers project" or a "wetlands Project" pursuant to APA regulations to the Adirondack Park Agency for its review pursuant to Article 10, and shall also provide a copy of said application to the Planning Board. The Zoning Enforcement Officer shall refer all other applications for Site Plan Approval and/or Special Use Permit to the Planning Board for its review and action.
- B. Preliminary Review. The Planning Board shall undertake a preliminary review of an application at its first regularly scheduled meeting after the application is submitted. At the review the Board shall determine: (a) whether the application is complete, (b) whether a public hearing will be required, (c) what further action will be necessary to fulfill the requirements of SEQRA (see Part C, below.), and whether the project is a Class B regional project as defined by the Adirondack Park Agency Act. If the application is deemed to be incomplete, then the applicant shall be notified in writing of what additional information is required.
- C. SEQRA. Pursuant to the New York State Environmental Quality Review Act (SEQRA) the Planning Board in its initial review of an application shall: (1) determine that no further action is necessary to fulfill the requirements of said act, or (2) require that the applicant submit a Full Environmental Assessment Form (EAF) for its review. Upon review of a Full EAF the Planning Board shall issue either a negative declaration, a conditioned negative declaration, or a positive declaration. If a positive declaration is issued, the Board shall require that an Environmental Impact Statement be prepared pursuant to SEQRA.
- D. Notice to APA. (Only required for Class B Regional Projects) Not later than 10 days following receipt of a complete application for a Class B Regional Project a copy of the application shall be furnished to the Adirondack Park Agency.
- E. Hearing. A public hearing is optional, at the discretion of the Planning Board, for uses requiring Site Plan Approval only. A public hearing is mandatory for Special Use Permit applications and for Class B regional projects. Such hearing shall be conducted within sixty-two (62) days of the receipt of a complete application. Notice of the hearing shall be given to the applicant at least ten (10) before the hearing, and shall be printed in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. Certain actions require that notice of the hearing be mailed to the Warren County Planning Board ten (10) days prior to conducting the hearing, as further specified in Section 1240 herein. In the case of Class B regional projects, a copy of the public notice of the hearing shall be mailed to the Adirondack Park Agency at least 14 days prior to such hearing.
- F. Decision. The Planning Board shall render its decision to approve, approve with conditions, or deny the application within sixty-two (62) days after the hearing, or within sixty-two (62) days of the receipt of a complete application if no hearing is held, unless an extension is mutually agreed upon.

- G. Record of Decision. Within five (5) business days after such decision is rendered it shall be filed in the Office of the Town Clerk, and a copy shall be mailed to the applicant. All records of decision shall be in writing, and shall contain findings of fact that support the decision. The record shall contain any conditions or modifications required by the Planning Board, and if the site plan is disapproved shall state the reasons for disapproval. If a Class B project is involved, the record shall state that the project fulfills the requirements for Class B project approval as specified in Section 1015 herein.

Section 970 Procedure if Variance Is Required

Should an application require both a variance and Site Plan Approval the Planning Board shall have the authority to approve the site plan, and the Zoning Board of Appeals shall have the authority to grant the variance. The applicant must meet all conditions required in both approvals. (See Sections 965 and 1130 for review and approval procedures.)

ARTICLE 10 CLASS A AND CLASS B REGIONAL PROJECT REVIEW

Section 1000 Purpose and Intent

- A. This section establishes requirements and administrative procedures for the review of Class A and Class B Regional Projects by the Planning Board or the Adirondack Park Agency, and sets forth the Town's role when Class A Regional Projects are reviewed by the Adirondack Park Agency.
- B. It is the intention of the Town to avoid duplication of review processes for Site Plan Review uses and Special Uses. Therefore, if the Adirondack Park Agency reviews any use as a Class A Regional Project, the Town Planning Board's role shall be limited to that set forth in Sections 1025 and 1030 below.

Section 1005 Use Variance from Local Law

If the Class A Regional Project permit involves a use variance from this local law, the applicant must apply to the Town Zoning Board of Appeals and be granted such variance in order to institute the use, regardless of whether Adirondack Park Agency approval is required.

Section 1010 Review Authority

- A. Class A Regional Projects. No person shall undertake a Class A Regional Project (and/or a Class A Regional Subdivision) unless and until the Adirondack Park Agency has reviewed and approved, or approved subject to and with conditions, such project, and has issued an Agency permit with respect thereto pursuant to the terms of the Adirondack Park Agency Act, pertinent Agency regulations, and this law.
- B. Class B Regional Projects. The Town of Johnsbury Planning Board is hereby authorized to approve, approve subject to and with conditions, or disapprove all Class B Regional Projects proposed to be located within the territory of the town pursuant to and in accordance with the requirements and procedures set forth in this Section upon approval by the APA of the local land use program.
- C. If a Class B Regional Project is also a Class A Regional Project or Class A subdivision, the project will be deemed to be a Class A Regional Project or Class A subdivision in its entirety, and subject to the review authority of the Adirondack Park Agency.

Section 1015 Requirements for Class B Regional Project Approval

The Planning Board shall not approve any Class B Regional Project unless it first determines that such project meets the following criteria.

- A. The project complies with all applicable provisions of this Local Law, including the standards for approval of Site Plans and Special Use Permits as set forth in Article 9.
- B. The project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational, or open space resources of the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth herein and in Section 805(4) of the Adirondack Park Agency Act, and, in so doing, the Planning Board shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in Appendix A and B herein.

Section 1020 Application for Class B Regional Project Approval

In addition to the procedural requirements of Section 965 herein, the following shall also apply to all Class B Regional Projects:

- A. Not later than 15 days following receipt of a complete application for a Class B Regional Project, the Zoning Enforcement Officer or Planning Board shall notify the Adirondack Park Agency of such receipt, shall afford the Agency the opportunity to comment thereupon and provide a copy of the application and such further pertinent information as the Agency may deem necessary.
- B. The Planning Board shall mail a copy of the public notice of the hearing to the Adirondack Park Agency at least 14 days prior to such hearing. The Adirondack Park Agency shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this Article.
- C. Every Class B Regional Project decision rendered by the Planning Board shall be in writing, and shall contain such findings of fact as are required by Section 965, Part G herein. The Planning Board 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 appropriate means, to insure that requirements related to maximum average density of development as provided in this local law shall be respected, and the imposition of reasonable conditions to insure that the project will be adequately supported by services and improvements made necessary by the project and to insure that the project will be completed in accordance with the terms of the application and any permit, and including, without limitation, the requirements and conditions authorized under Section 940. In addition, the Planning Board shall require that the Zoning Enforcement Officer incorporate any such requirements and conditions in any Zoning Permit issued with regard to such Class B Regional Project.
- D. A project permit issued for a Class B Regional Project shall expire within 60 days unless it has been duly recorded by the applicant in the name of the landowner(s) in the Adirondack Park Agency Regional Project Permit Book in the office of the Warren County Clerk.

Section 1025 Adirondack Park Agency Approval of Class A Projects

Once the local land use program has been approved by the Adirondack Park Agency, the APA shall not approve a Class A Regional Project unless it first determines, after consultation with the Planning Board and receipt of timely advisory recommendation, that the project would comply with all provisions of this local law and all other components of the approved local land use program.

Section 1030 Planning Board Authority for Class A Projects

- A. All Class A regional projects plans shall be referred to the Adirondack Park Agency for review. The Planning Board is hereby designated and appointed to consult with the APA with regard to its review of Class A Regional Projects involving Site Plan or Special Use Approval. Upon receipt of a complete application for a Class A Regional Project, the APA shall refer the application to the Town Planning Board for its advisory recommendation.
- B. Copies of all initial applications for Class A Regional Projects shall be submitted to the Planning Board. As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A Regional Project, the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the project application and formulating advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the town land use program.
- C. Not later than 30 days following receipt of a notice of application completion the Planning Board shall, by certified mail, provide the Agency with its advisory comments and recommendations.

ARTICLE 11 APPEALS TO THE ZONING BOARD OF APPEALS

Section 1105 Application for Variance

An applicant may initiate a request for a variance by filing an application with the Zoning Board of Appeals using forms supplied by the Board. The applicant shall include a copy of the tax map which shows the property; a map drawn to scale showing existing features and the planned variance; and other drawings or information the Zoning Board of Appeals deems necessary.

Section 1110 Requirements for Area Variances

- A. Area variances may be granted where the dimensional or physical requirements of this law cannot be reasonably met, including but not limited to minimum highway frontage, minimum building setbacks, maximum height of buildings, and maximum size or height of signs.
- 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 the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the board shall consider:
 - 1. Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance.
 - 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 variance is substantial.
 - 4. Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.
 - 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. Any area variance granted shall be the minimum necessary for the applicant to make reasonable use of the property.

Section 1115 Requirements for Shoreline Variances

In the case of application for a variance from the shoreline regulations specified on page 5 of Schedule B herein, or from provisions of the Adirondack Park Land Use and Development Plan pursuant to section 809(11) (e.g. density restrictions) of the Adirondack Park Agency Act, as those provisions are implemented by the Town in its local land use program, no such variance shall be granted unless the applicant also demonstrates and the Board of Appeals finds: (a) that there are practical difficulties in the way of carrying out the strict letter of the restrictions/provisions as called for in such sections, guided by the criteria of 9 NYCRR Part 576 (Standard for the Review of Variances Pursuant to the Adirondack Park Agency Act), and (b) that the spirit of the restrictions or provisions would be observed, public safety and welfare secured, and substantial justice done.

Section 1120 Requirements for Use Variances

- A. A use variance may be granted to allow land to be used for a purpose which is otherwise not permitted by this law.
- B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals each of the following:
 - 1. For each and every allowed use within the zoning district where the property is located, including uses allowed after Site Plan Approval or issuance of a Special Use Permit, the applicant cannot realize a reasonable return, provided that lack of return is substantial and is established by competent financial evidence.
 - 2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
 - 3. That the requested use variance, if granted, will not alter the essential character of the neighborhood.
 - 4. That the alleged hardship has not been self-created.
- C. Any use variance granted shall be the minimum necessary to address the unnecessary hardship proven by the applicant.

Section 1125 Grant of Variance with Conditions

In granting any variance the Zoning Board of Appeals shall have authority to impose such reasonable conditions as are related to the use of the property for the purpose of avoiding or minimizing any adverse impact the exercise of such variance may have on the neighborhood, community, or environment.

Section 1130 Appeals of a Decision by the Zoning Enforcement Officer (ZEO)

- A. Any appeal from a decision of the ZEO pursuant to this law shall be made within sixty (60) days after the ZEO files said decision.
- B. An appeal may be made by any person aggrieved by the decision, or by an officer, department, board or bureau of the Town.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the ZEO certifies to the Zoning Board of Appeals that by reason in the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings may not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record.

Section 1135 Review and Approval Procedure

Upon receipt of a complete application the Zoning Board of Appeals shall take the following actions:

- A. Except for applications for variances involving land in any hamlet zoning district (HB1, HB2, HX, HR, HP), forward a copy of any application for a variance to the APA.
- B. Schedule a public hearing within sixty-two (62) days and provide notice of such hearing by publication in a newspaper of general circulation in the town at least ten (10) days prior to the date thereof.
- C. Refer the application to the Warren County Planning Board, if required, at least five (5) days prior to the hearing. (See Section 940 herein.)
- D. Conduct a public hearing on the matter as scheduled.
- E. Within sixty-two (62) days of the close of the public hearing, the Zoning Board of Appeals shall render a decision. Said time period may be extended by mutual consent of the applicant and the Board.
- F. All decisions shall be in writing, shall be filed with the Town Clerk within five (5) business days of the decision, and a copy thereof shall be provided to the applicant.

Section 1140 Variances Subject to APA Review

- A. The following variances shall be subject to Adirondack Park Agency review pursuant to Section 582.6 of the "Adirondack Park Agency Rules and Regulations," if outside Hamlet areas:
 1. Variances from local shoreline restrictions.
 2. Variances from the local controls governing intensity of development, such as minimum lot size or maximum density.
 3. Variances from use restrictions which would allow a use other than those on the classification of compatible use lists in the Adirondack Park Agency Act for the official map land use area in which it would be located.
 4. Any other variances which involve the provisions of the approved local land use and development plan except variances for front, side or rear yards not involving shoreline.
- B. After a decision to grant a variance, the Zoning Board shall inform the applicant that the variance does not take effect until the end of the APA 30 day review period as specified below.
- C. Upon rendering a decision to grant a variance of this law, the Zoning Board shall notify the Adirondack Park Agency, by certified mail, of such decision. The Agency shall be provided a full record of the decision, including at a minimum, a copy of the current recorded deed, the parcel's tax map number, all maps, diagrams and pictures, written statements, minutes of the Zoning Board of Appeals meeting and a copy of the Board decision, including any conditions. Said decision of the Board shall not be final until 30 days after the Agency receives a full record of the decision. If, within such thirty (30) day period, the Agency determines that such variance (a) involves the provisions of the approved local land use and development plan including any shoreline restriction, and (b) was not based upon the appropriate statutory basis for the granting of variances, the Agency may reverse the local determination to grant the variance.

ARTICLE 12 ADMINISTRATION

Section 1200 Zoning Enforcement Officer

The duty of administering and enforcing the provisions of this Law is hereby conferred upon the Zoning Enforcement Officer (ZEO), who shall be appointed by the Town Board.

Section 1205 Duties of the Zoning Enforcement Officer

- A. Administer the Zoning Law. The ZEO shall review all applications for zoning permits and, if the requirements for such permit are met, he shall issue a permit. If the applicant's plans do not meet the Zoning requirements, he shall deny the permit. The ZEO may not use discretionary judgment. He must enforce the "letter of the law".
- B. Referral to the Zoning Board of Appeals. An applicant after being denied a zoning permit; or any aggrieved person, or any officer, department or board of the Town, may appeal the ZEO's findings to the Zoning Board of Appeals for an interpretation or variance. Should an appeal be requested the ZEO shall notify the Zoning Board of Appeals of the request and forward all necessary supporting information.
- C. Referral to Town Planning Board. The ZEO shall forward any application that requires Site Plan Approval or a Special Use Permit to the Planning Board along with all supporting information.
- D. Site Zoning Violations. For any plans, construction, building, use or premise found in violation of this law, including any violation of any approved Site Plan or Special Use Permit, the ZEO shall order the responsible party, in writing, to remedy the conditions. The ZEO shall have the authority to secure from the Town Justice a stop order to restrain the continuance of the violation.
- E. Report to Town Board. The ZEO shall issue a monthly report to the Town Board describing and enumerating actions taken and permits issued. The ZEO shall provide a copy of such report to the Planning Board and Zoning Board.
- F. Public Record. Within 5 business days the ZEO shall file all permit actions, including all correspondence with regard to violations, with the Town Clerk.

Section 1210 Planning Board

- A. The Town Board may select a chairperson of the Planning Board, or on failure to do so, the Planning Board shall elect a chairperson from its own members.
- B. The Planning Board may adopt rules or bylaws for its operation.
- C. The Town Board may provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- D. The existing Planning Board, as currently constituted as of the date of this local law, shall continue.

Section 1215 Powers and Duties of Planning Board

The Planning Board shall have the following powers and duties with respect to this law:

- A. Review and approval of Site Plans in accordance with the standards and procedures set forth herein.
- B. Issuance of Special Use Permits.
- C. Submittal of an advisory opinion to the Town Board for any proposed amendment to this law.
- D. On the request of the Town Board, or on its own initiative, submittal of an advisory opinion to the Town Board in any matter relating to planning and zoning.
- E. Any other powers and duties as specified elsewhere in this law.

Section 1220 Meetings of the Planning Board

- A. Meetings shall be held at such meeting times as the Board may determine, or at the call of the chairperson.
- B. A quorum shall consist of a majority of its members, but any motion or resolution, including any decision to approve or disapprove a Site Plan, shall require for its adoption an affirmative vote of at least a majority of the entire membership.
- C. The Board shall keep minutes of its proceedings.
- D. All meetings and hearings of the Board shall be public. Every decision or determination shall be in writing, shall be filed in the office of the Town Clerk.

Section 1225 Zoning Board of Appeals

- A. The Town Board shall appoint a chairperson of the Zoning Board of Appeals. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson.
- B. The Zoning Board of Appeals may adopt rules or bylaws for its operation.
- C. The Town Board may provide an appropriation to the Zoning Board of Appeals to cover necessary expenses including the means for the Board to maintain a written record of its meetings and public hearings.
- D. The existing Zoning Board of Appeals, as currently constituted as of the date of this local law, shall continue.

Section 1230 Powers and Duties of the Zoning Board of Appeals

The Zoning Board of Appeals shall have the following powers and duties with respect to this law:

- A. Review and decide on requests for variances to this law.
- B. Hear and render a decision on appeals to a decision made by the Zoning Enforcement Officer.
- C. Upon appeal from a decision by the Enforcement Officer, decide any question involving interpretation of any provision of this law, or the location of any district boundary line on the Zoning district map.
- D. In the case of lots in two or more zoning districts, grant special authorization to extend a zone district boundary up to 100 feet pursuant to Section 450 herein.

Section 1235 Meetings of the Zoning Board of Appeals

- A. The Zoning Board of Appeals shall hold meetings at the call of the chairperson, or at the request of a majority of its full membership.
- B. The presence of a majority of its full membership shall constitute a quorum for the conduct of business before the Board. A concurring vote of a majority of its full membership shall be necessary to act on any application for variance or appeal.
- C. A member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- D. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from its own attorney, and may request its own attorney to attend its meetings.
- E. The Zoning Board of Appeals may require the Zoning Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- F. All meetings of the Zoning Board of Appeals shall be open to the public.
- G. The Zoning Board of Appeals shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Zoning of Appeals.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings.
- I. Every decision or determination of the Zoning Board of Appeals shall be in writing, and shall be filed in the office of the Town Clerk.

Section 1240 Referral to the County Planning Board

- A. State General Municipal Law Section 239-m requires that certain variance, site plan approval, special use permit, and zoning amendment proposals be referred to the Warren County Planning Board for its review prior to final action on the matter. Such proposals include, but are not limited to, developments which affect real property within 500 feet of any of the following:
 - 1. A State or County highway.
 - 2. State or County land where a public building or institution is located.
 - 3. A State or County owned park or recreation area.
 - 4. The Town of Johnsbury boundary.
- B. If the County Planning Board does not respond within thirty (30) days of the date it receives a full statement of the proposal, final action may be taken on the matter by the referring board without such report.
- C. In the event the County Planning Board recommends disapproval of the proposal or approval subject to modifications, then the referring board may override the county decision only by a vote of a majority plus one of its membership.
- D. The referring board shall send a copy of its final decision to the County Planning Board within thirty (30) days after the local decision is reached. If the decision of the referring board is contrary to a County Planning Board recommendation, then the local board shall send a resolution fully stating the reasons for its contrary action.

Section 1245 Amendments

- A. The Town Board may amend by supplementing, or repealing, provisions of this law and the Zoning Map after public notice, public hearing, and required referrals in accordance with the governing statutes.
- B. Referrals.
 - 1. Certain amendments require referral to the Warren County Planning Board as described in Section 1240 herein.
 - 2. Any proposed amendment shall also be submitted to the Adirondack Park Agency for a determination as to whether it is subject to APA approval under Section 807 of the Adirondack Park Agency Act. Any amendment which is determined to be subject to APA review will not be enacted by the Town Board until after it has been approved by the APA.
- C. The Town Board, by resolution, shall fix the time and place of public hearing on the proposed amendment and shall cause notice to be given as follows.
 - 1. By publishing a notice at least ten (10) days in advance in the official newspaper of the Town.
 - 2. By referring the proposed amendments to each town and village within 500 feet of the Town of Johnsbury boundaries, and to any state park commission whose property lies within the Town or within 500 feet of its boundaries.
- D. Procedure. The procedure as to the notice of a public hearing on an enactment of a proposed amendment shall follow and be governed by Section 265 of the Town Law, and Section 239-m of the General Municipal Law, including all subsequent amendments thereto. The procedure shall also comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law. Notice of the decision of the Town Board shall be sent promptly to the Adirondack Park Agency, and a copy of the filing with the Secretary of State provided.

ARTICLE 13 ENFORCEMENT

Section 1300 Violations

- 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 this law, 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 this law, or to fail to comply with a notice, directive or order of the Zoning Enforcement Officer or agent thereof.
- B. Where a violation has occurred or exists, the potentially responsible persons shall include the owner of the real property involved or affected; any contractor, subcontractor, builder, construction superintendent, engineer, manager, or other person responsible for undertaking, managing or directing the illegal activity; and any agent of the foregoing.

Section 1310 Fines and penalties

A. Criminal sanctions

1. A violation of this law may be enforced by criminal sanctions as follows:

First offense:	Fine not exceeding \$350 or six months imprisonment or both
Second offense:	Fine not less than \$350 or more than \$700, or up to six months imprisonment or both
Third offense, or subsequent offense (if committed within five years of first offense)	Fine not less than \$700 or more than \$1,000, or up to six months imprisonment or both

2. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
3. 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 an information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternative, the Zoning Enforcement Officer or agent or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.
4. Such fines may be compromised or released as part of any disposition.

B. Civil penalties.

1. As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:

First offense:	Civil penalty not exceeding \$350
Second offense:	Civil penalty not less than \$350 or more than \$700
Third offense, or subsequent offense (if	Civil penalty not less than \$700 or more than

committed within five years of first offense)	\$1,000
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2. Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.
3. Such penalties may be compromised or released as part of any disposition.

Section 1320 Alternative or Additional Actions and Remedies

- A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.
- B. The Town Board may negotiate appropriate corrective, remediation, abatement, and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner. Such agreements or orders may require the violator and/or owner to pay a monetary penalty which (i) covers exemplary or punitive damages and (ii) reimburses actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements and costs of emergency and other corrective and restoration measures.

Section 1325 Administrative Actions; Stop-work Orders

- A. The Zoning Enforcement Officer has plenary authority and responsibility to take administrative action to enforce this law.
- B. Whenever the Zoning Enforcement Officer has reasonable grounds to believe that unlawful development pursuant to this law is being undertaken or continued he shall notify the owner of the property or any agent of the owner or any other responsible party and direct that all unlawful activity immediately cease and that all related building and construction be suspended until the stop-work order has been rescinded or superseded by a court order.
- C. Relief or release from any stop-work order may be obtained in the proper circumstance as follows:
 1. If all provisions hereof, together with all other reasonable conditions specified by the Zoning Enforcement Officer or agent, are satisfied, and thereby by resolution of the Town Board upon the advice of the Zoning Enforcement Officer or Planning Board (for site plan review, special permit, and regional projects), a rescission of the stop-work order may occur.
 2. Except in matters pertaining to violations of requirements imposed by site plan review or subdivision review, if a variance is granted by the Zoning Board of Appeals granting permission to maintain violations specified in a stop-work order and to continue such circumstances as thereafter allowable, the final administrative determination of the Zoning Enforcement Officer or agent shall conform or rescind the stop-work order in accordance with the requirements of the Zoning Board of Appeals.

Section 1330 Suspension of administrative review

Review of any application pursuant to the provisions of this chapter 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 thereof, other written notice of an alleged violation has been delivered to the property owner or applicant, or a criminal or civil action has been commenced against the property owner, applicant or other responsible person for alleged violations related to the development or activity or site for which the permit is sought or for any alleged violation of the provisions of this law related to the site.

Section 1340 Revocation of permit

Any permit, approval, certificate, or variance granted under the provisions of this law which was based upon or granted in reliance upon the applicant's false or material misrepresentation in an application or the applicant's failure to make known a material fact or circumstance may be revoked by the Zoning Enforcement Officer. A revocation action may be taken after written notice to the property owner or applicant/permittee and opportunity for a hearing.

SCHEDULE A: USE CHART (PAGE 1 OF 4)

x = Permitted Use.

P = Use allowed after Site Plan Review and Approval by the Planning Board.

S = Use allowed after issuance of a Special Use Permit by the Planning Board.

A = An allowed use within the zone, but requires review and approval by the Adirondack Park Agency as a Class A Regional Project (see also Appendix C).

P, A = A use allowed either after Site Plan Review and Approval by the Planning Board or after review and approval by the Adirondack Park Agency as a Class A Regional Project, depending upon size and number of units (see also Appendix C).

S, A = A use allowed either after issuance of a Special Use Permit by the Planning Board or after review and approval by the Adirondack Park Agency as a Class A Regional Project, depending upon size and number of units (see also Appendix C).

Notes:

1. Development may also require an APA permit if it is in or adjacent to wetlands, is located in other critical environmental areas, is over 40 feet in height, or involves clear cutting forest (see also Appendix C).
2. Within the Scenic Corridor Overlay (SCO) zone allowed land uses are determined by the SCO zone and not by the underlying zone, excepting the MX 42.7 underlying zone. Within the MX 42.7 zone permitted land uses are determined by the MX 42.7 zone requirements.
3. See Section 525 and 530 for uses allowed in the Commercial – Industrial (CI) zone

Residential Uses	Zones:								
	HR	HB1 HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SCO
Single family dwelling	x			x	x	x	x	P	P
Two family dwelling	x			x	P	P,A	P,A		P
Dwelling unit on second or third story of a non-residential use		P							
Multiple family dwelling, Townhouse	S,A		S,A	S,A					
Assisted living facility for seniors	S,A		P,A	S,A	S,A	S,A	S,A		S,A
Hunting and fishing cabin, private club structure involving 500 or less square feet of floor space				x	x	x	x	x	x, A
Hunting and fishing cabins, private club structures involving 500 or more square feet of floor space				x	x	x	x	P	P, A
Mobile home	x			x	x	x	x	P	P,A
Mobile home park				S,A	S,A	S,A	S,A		S,A
Nursing or convalescent home			P,A	S,A	S,A	S,A	S,A		S,A
Residential cluster development	S,A			S,A	S,A	S,A	S,A	S,A	S,A
Rooming or boarding house	S,A	S,A		S,A	S,A	S,A	S,A		S,A

SCHEDULE A: USE CHART (page 2 of 4)

Residential Uses (continued)	<u>Zones:</u>								
	HR	HB1 HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SCO
Senior citizen housing development	S,A	S,A	S,A	S,A	S,A	S,A	S,A		S,A
Travel trailer	x			x	x	x	x	x	P
Yard, porch or garage sales held 15 or more days per year	P	P		P	P	P	P	P	P
Yard, porch or garage sales held less than 15 days per year	x	x		x	x	x	x	x	x
Wind power generating facility, residential					P,A	P,A	P,A	P,A	P,A
Residential accessory use or structure	x	x	x	x	x	x	x	x	x

General Uses	<u>Zones:</u>								
	HR	HB1 HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SCO
Agricultural uses and structures				x	x	x	x	x	S,A
Airport, private airstrip, heliport				A	A	A	A		
Cemetery	S		S	S	S	S	S	S	S
Firing range					S	S	S		
Forestry structure				x	x	x	x	P	S,A
Forestry use				x	x	x	x	x	x
Golf course				S	S	S	S	S	S,A
Group camp				S	S	S	S	S	S,A
Highway maintenance area not containing a building	x	x	x	x	x	x	x		x
Municipal roads	x	x	x	x	P	P	P	P	P
Open space recreation use	S	S	S	S	S	S	S	S	S
Public or semi-public building and grounds (includes religious uses)	S	x	S	S	S	S	S		
Public utility use	P	P	P	P	P	P	P	P	P,A
Major public utility use	A	A	A	A	A	A	A	A	A
Ski center with or without tourist accommodations			S,A	S,A	S,A	S,A	S,A	S,A	S,A
Telecommunications facility or tower		A	A	A	A	A	A		

SCHEDULE A: USE CHART (page 3 of 4)

ZONES:

Commercial Uses	HR	HB1 HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SCO
Adult entertainment establishment							S,A		
Automobile, vehicle, or lawn and garden equipment sales		P		S	S,A	A	S,A		
Bed and Breakfast establishment	P	P	P	P	P	S	P,A		P,A
Business office		P		P	P,A	S	P,A		
Campground, recreational vehicle park					S	x	S	S,A	S,A
Commercial riding stables					S,A	x	S,A	S,A	S,A
Construction or well-drilling business		P		S	P,A	S	P,A		
Convenience store with gas pumps		P		S	S,A	S	S,A		
Day care center	S	P	P	P	P	x	P		
Funeral home		P		P	P,A	P	P,A		
Greenhouse, florist, greenhouse (commercial)		P		P	P,A	S	P,A		
Home based business with vehicles or equipment				S	P	S	P		S
Home based manufacturing		P		S	S	P	S		S
Home occupation	x	x		x	x	A	x	x	x
Kennel				S	S,A	S,A	S,A		
Motor vehicle service and/or repair		P		S	S,A	A	S,A		
Newspaper and printing establishment		P		P	P,A		P,A		
Personal service establishment		p		P	P,A		P,A		
Public transportation terminal		P	P						
Recreational or entertainment facilities, commercial		P		S	S,A		S,A		S,A
Retail gasoline sales		P		S	S,A		S,A		
Retail service establishment		P		P	P,A		P,A		
Restaurant, without drive-in service		P		S	S,A		S,A		S,A
Restaurant, with drive-in service		P		S	S,A		S,A		
Retail store		P		P	P,A		P,A		
Seasonal roadside stand		P		P	P		P		
Shopping center		P		S					
Tavern		P		S	S,A		S,A		
Tourist accommodation		P,A		S	S		S,A		S,A
Tourist attraction other than amusement park		P		S,A	A		A		

SCHEDULE A: USE CHART (page 4 of 4)

ZONES:

Industrial, Warehousing and Other Uses	HR	HB1 HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SCO
Commercial sand or gravel extraction			S			S,A	S,A	S,A	
Fuel distribution business						S,A	S,A		
Junkyard						S,A	S,A		
Light industrial use		S		S		S,A	S,A		
Lumber yard		S		S		S,A	S,A		
Mineral extraction, Mineral extraction structure						A	A		
Research and testing laboratory		S		S		S,A	S,A		
Sawmill, chipping mill, pallet mill, and similar wood using facility						S,A	S,A	S,A	
Trucking business						S,A	S,A		
Windpower generating facility (large)						A	A	A	

Uses Prohibited in all Zones

Motor vehicle race track

Waste disposal area

Any other use not listed as x, P, S or A in this schedule within any zoning district, nor listed as allowed in CI zoning districts in Sections 525 and 530 of this law.

SCHEDULE B, LOT SIZE AND DIMENSION CHART

Page 1 of 5

	Zone						
	HR	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SC
SINGLE FAMILY DWELLING, MOBILE HOME							
Maximum average density (acres per principal building)			1.3	3.2	8.5	42.7	(a)
Minimum lot size (sq. ft. or acres) On-lot water <u>or</u> sewer Community water <u>and</u> sewer (b)	22,500 15,000	30,000 22,500	1 ac	1 ac	1 ac	1 ac	1 ac
Minimum highway frontage (ft) (c)	25	25	50	50	50	50	50
Minimum lot width (ft)	75	100	100	100	100	100	100
Minimum front building setback (ft) Principal structure Accessory structure (d)	30 30	40 40	40 40	40 40	40 40	40 40	100 100 (e)
Minimum side building setback (ft) Principal structure Accessory structure	15 10	15 10	15 15	20 15	20 15	30 15	20 15
Minimum rear yard (ft) Principal structure Accessory structure	25 10	25 10	25 none	25 none	25 none	25 none	25 none
Maximum height Number of stories Feet	2 ½ 35	2 ½ 35	2 ½ 35	2 ½ 35	2 ½ 35	2 ½ 35	2 ½ 35

- (a) In the Scenic Corridor overlay zone maximum average density is determined by the underlying zone.
- (b) Community water, sewer: Water or sewage disposal system shared by a group of property owners, and owned either privately by the property owners or by another entity under applicable provisions of State Law.
- (c) Minimum highway frontage may be satisfied by a right-of-way easement at least 25 feet wide providing access to an interior lot that otherwise does not have frontage on a public or private road.
- (d) Measured from highway right-of-way.
- (e) A 100-foot setback is required from State Route 28. A 40-foot setback is required from other roads within the Scenic Corridor Overlay Zone.

SCHEDULE B, LOT SIZE AND DIMENSION CHART

Page 2 of 5

	Zone						
	HR	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SC
TWO FAMILY DWELLING							
Maximum average density (acres per dwelling unit)			1.3	3.2	8.5	42.7	(a)
Minimum lot size (sq. ft. or acres)							
On-lot water and sewer	30,000	30,000	1 ac	1 ac	1 ac	1 ac	1 ac
Community water <u>and</u> sewer (b)	22,500	22,500					
Minimum highway frontage (ft)	25	25	50	50	50	50	50
Minimum lot width (ft)	75	100	100	100	100	100	100
Minimum front building setback (ft)							
Principal structure	30	30	40	40	40	40	100
Accessory structure (c)	30	30	40	40	40	40	100 (d)
Minimum side building setback (ft)							
Principal structure	20	20	20	25	25	30	25
Accessory structure	10	10	15	15	15	15	15
Minimum rear yard (ft)							
Principal structure	25	25	25	25	25	25	25
Accessory structure	10	10	none	none	none	none	none
Maximum height							
Number of stories	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½
Feet	35	35	35	35	35	35	35

- (a) In the Scenic Corridor overlay zone maximum average density is determined by the underlying zone.
- (b) Community water, sewer: Water or sewage disposal system shared by a group of property owners, and owned either privately by the property owners or by another entity under applicable provisions of State Law.
- (c) Measured from highway right-of-way.
- (d) A 100-foot setback is required from State Route 28. A 40-foot setback is required from other roads within the Scenic Corridor Overlay Zone.

SCHEDULE B, LOT SIZE AND DIMENSION CHART

Page 3 of 5

	Zone		
	HR	HP	HX
MULTI-FAMILY DWELLING, TOWNHOUSE			
Maximum average density (acres per dwelling unit)			
Minimum lot size (sq. ft.)	40,000 s.f. or 5000 s.f. per dwelling unit, whichever is greater	40,000 s.f. or 5000 s.f. per dwelling unit, whichever is greater	40,000 s.f. or 10,000 s.f. per dwelling unit, whichever is greater
Minimum highway frontage (ft)	50	50	50
Minimum lot width (ft)	125	150	150
Maximum lot coverage by buildings	25%	25%	25%
Minimum front building setback (ft) (a)			
Principal structure	30	40	30
Accessory structure	30	40	30
Minimum side building setback (ft)			
Principal structure	30	30	30
Accessory structure	10	10	10
Minimum rear yard (ft)			
Principal structure	25	25	25
Accessory structure	10	10	10
Maximum height			
Number of stories	2 ½	2 ½	2 ½
Feet	35	35	35

(a) Measured from highway right-of-way.

SCHEDULE B, LOT SIZE AND DIMENSION CHART

Page 4 of 5

	Zone										
	HR	HB1	HB2	HP	HX	MX 1.3	MX 3.2	MX 8.5	MX 42.7	SC	CI
ALL USES EXCEPT THOSE GOVERNED BY PAGES 1 TO 4 OF THIS SCHEDULE (a)											
Maximum average density (acres per principal building)						1.3	3.2	8.5	42.7	(b)	
Minimum lot size (sq. ft. or acres)	30,000	none	30,000	40,000	40,000	1 ac	1 ac	1 ac	1 ac	1 ac	
Minimum highway frontage (ft)	50	25	50	50	50	50	50	50	50	50	50
Minimum lot width (ft)	100	30	100	150	200	200	200	200	200	200	
Maximum lot coverage by buildings	25%		25%	25%	25%	15%	15%	15%	15%	15%	
Minimum front building setback (ft) Principal structures and accessory structures (c)	30	(d)	40	40	40	40	40	40	40	100 (e)	
Minimum side building setback (ft) Principal structures and accessory structures	25	10	25	30	30	30	30	30	30	30	
Minimum rear yard (ft) Principal structures and accessory structures	25	none	25	25	25	25	25	25	25	25	
Maximum height											
Number of stories	2 ½	2 ½	2 ½	2 ½	2 ½	3	3	3	3	3	3
Feet	35	35	35	35	35	35	35	35	35	35	35

- (a) Requirements for a particular use may be more strict than those shown in this chart, as specified in the supplemental regulations or Special Use Permit approval criteria of this law.
- (b) In the Scenic Corridor overlay zone maximum average density is determined by the underlying zone.
- (c) Measured from highway right-of-way.
- (d) 20 feet or consistent with the existing setback of neighboring structures, whichever is less.
- (e) A 100-foot setback is required from State Route 28. A 40-foot setback is required from other roads within the Scenic Corridor Overlay Zone.

HB1 = Main Street business district

HB2 = Route 28 business district located in the southern part of North Creek hamlet

SCHEDULE B, LOT SIZE AND DIMENSION CHART

Page 5 of 5

SHORELINE REGULATIONS

A. Sewage Disposal System Setback. The minimum shoreline setback of any onsite sewage drainage field or seepage pit shall be one hundred (100) feet from the shoreline, or greater as required by other applicable law or regulation. This regulation shall apply to all waterways, navigable or non-navigable.

B. Building Setback and Lot Width

1. This part shall apply to all buildings and structures, other than docks and boathouses, larger than 100 square feet in ground area.
2. All shoreline lot widths distances shall be measured horizontally. Shoreline lot widths are measured along the shoreline as it winds and turns at the shoreline.
3. Building setback restrictions are measured along the shortest line between any point of the structure and any point on the shoreline.
4. Sewage disposal system setbacks are measured along the shortest line between any point of the seepage pit, draining field or other leaching facility and any point on the shoreline.
5. The minimum shoreline setback applies to all principal buildings and accessory structures in excess of 100 sq. ft. outside designated river areas, other than docks and boathouses.
6. This regulation shall apply to all navigable waterways.

District	Minimum Shoreline Setback	Minimum Shoreline Lot Width	Minimum Setback from the Hudson or Sacandaga Rivers	Minimum Lot Widths for Hudson & Sacandaga Rivers
Hamlet districts	50	50	50*	50*
MX 1.3	50	100	150*	100*
MX 3.2	75	125	150*	150*
MX 8.5	75	150	150*	200*
MX 42.7	100	150	150*	300*

**Recreational River Zone: An Adirondack Park Agency determination of jurisdiction is required prior to issuance of a Zoning permit. Shoreline setbacks apply to all structures other than docks and boathouses. Special shoreline cutting restrictions also apply which are administered by the Adirondack Park Agency.*

C. Minimum Shoreline Lot Widths for Deeded or Contractual Access to Water Bodies (by lots, parcels or sites or multiple family dwelling units not having separate and distinct shoreline ownership).

The following shall apply to all zoning districts.

<u>Number of Lots Involved</u>	<u>Minimum Shoreline Frontage</u>
5 to 20	100 feet
21 to 100	100 feet plus 3 feet for each lot exceeding 20
101 to 150	340 feet plus 2 feet for each lot exceeding 100
151 or more	440 feet plus 1 foot for each lot exceeding 150

APPENDIX A - DEVELOPMENT CONSIDERATIONS

The following are those factors which relate to potential for adverse impact upon the Park's natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources and which shall be considered, as provided in this Local Law, before any Class A Regional Project or Class B Regional Project is undertaken in the Town of Johnsbury. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivision of land shall also be taken into account, as well as benefits which might be derived therefrom.

A. Natural Resource Considerations.

1. Water.
 - (a) Existing water quality.
 - (b) Natural sedimentation or siltation.
 - (c) Eutrophication.
 - (d) Existing drainage and runoff patterns.
 - (e) Existing flow characteristics.
 - (f) Existing water table and rates of recharge.
2. Land.
 - (a) Existing topography
 - (b) Erosion and slippage.
 - (c) Floodplain and flood hazard.
 - (d) Mineral resources.
 - (e) Viable agricultural soils.
 - (f) Forest resources.
 - (g) Open space resources.
 - (h) Vegetative cover.
 - (i) The quality and availability of land for outdoor recreational purposes.
3. Air.
 - (a) Air quality.
4. Noise.
 - (a) Noise levels
5. Critical resource areas.
 - (a) Rivers and corridors of rivers designated to be studied as wild, scenic, or
 - (b) Recreational in accordance with the environmental conservation law.
 - (c) Rare plant communities.
 - (d) Habitats of rare and endangered species and key wildlife habitats.
 - (e) Wetlands.
 - (f) Unique features, including gorges, waterfalls, and geologic formations.
6. Wildlife.
 - (a) Fish and wildlife.
7. Aesthetics.
 - (a) Scenic vistas.
 - (b) Natural and man-made travel corridors.

B. Historic Site Considerations.

1. Historic factors.
 - (a) Historic sites or structures.

C. Site Development Considerations.

1. Natural site factors.
 - (a) Geology.
 - (b) Slopes.
 - (c) Soil characteristics.

- (d) Depth to ground water and other hydrological factors.
- 2. Other site factors.
 - (a) Adjoining and nearby land uses.
 - (b) Adequacy of site facilities.

D. Government Considerations.

- 1. Government considerations.
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district user charges.

E. Government Review Considerations.

- 1. Government control factors.
 - (a) Conformance with other government controls.

APPENDIX B - DEVELOPMENT OBJECTIVES FOR USE IN SITE PLAN REVIEW, SPECIAL USE PERMIT REVIEW, AND REGIONAL PROJECT REVIEW

A. Soils.

1. Soils, General.

Objective: Prevent accelerated soil erosion and the potential for earth slippage.

General Guideline: Respect existing natural features such as slope, soil texture and structure; minimize removal of vegetative cover; rapidly revegetate cleared areas limit cuts and fills; and employ such erosion control devices and measures as are necessary to promptly stabilize slopes and surfaces and to control runoff.

2. Agricultural Soils.

Objective: Conserve viable agricultural soils.

General Guideline: Avoid activities on Class I and Class II agricultural soils presently in agricultural service which would diminish or preclude continuing use thereof for agricultural purposes.

B. Topography.

Objective: Minimize topographic alterations.

General Guideline: Minimize excavation, cuts and fills and site grading by employing to advantage existing topographic features; and avoid development activities on steep slopes where environmental damage and costly development problems could result therefrom.

C. Surface Waters.

1. Water Quality and Eutrophication.

Objective: Maintain or enhance existing physical, chemical and biological water quality characteristics and prevent any undue acceleration of existing rates of eutrophication of bodies of water.

General Guideline: Maintain wide buffer strips of natural vegetation bordering water bodies; minimize channel disturbance and alterations; preserve shoreline vegetation; minimize hydrologic changes which would result from damming or impounding; avoid introduction of nutrients from the use of fertilizers and from sewage effluent; and avoid introduction of toxic materials to water bodies.

2. Surface Drainage.

Objective: Retain existing surface water drainage and runoff patterns and existing flow characteristics.

General Guideline: Minimize alterations to existing drainage patterns and drainage courses; preserve drainageways in their natural state; and provide, where necessary, natural ponding areas and other measures designed to provide natural retention of storm water runoff if development includes a significant area of impervious surface.

3. Flood Plains.

Objective: Maintain the storage capacity of flood plains and their existing ability to convey water downstream; and avoid activities in flood plains which will result in dangers to life, safety and property if subjected to flooding.

General Guideline: Avoid the placement of buildings intended for human habitation commercial use and industrial use within flood plains; avoid the use of fill to create elevated sites; and within

any floodway fringe special zoning district conform all development plans to the floodplain regulations contained in Article VII, hereof.

D. Ground Water.

Objective: Preserve quality, infiltration rate, and levels of ground water.

General Guideline: Comply at a minimum with applicable government water pollutant discharge restrictions; particularly avoid discharges of effluent potentially degrading to ground water quality in proximity to major aquifer recharge areas; and avoid impairment of aquifer recharge areas which could result from covering them with impervious surfaces.

E. Shorelines.

Objective: Maintain or enhance the existing physical, biological and aesthetic characteristics of the shoreline of all lakes, ponds, rivers and streams.

General Guideline: Comply at a minimum with applicable government shoreline restrictions, minimize construction or development of any kind near or on the shoreline; avoid physical modifications of the shorelines themselves; minimize the removal of vegetation along shorelines; locate buildings so as to be partially screened from the shorelines by natural vegetation; maximize the preservation of stretches of shoreline in a natural, unchanged and developed state.

F. Mineral Resources.

Objective: Conserve existing known mineral resources.

General Guideline: Avoid activities which would preclude present or future use of important mineral resources that may be of economic significance to the region.

G. Air Quality.

Objective: Maintain or enhance existing air quality.

General Guideline: Adhere to applicable governmental air quality standards; provide adequate air pollution abatement devices; and reduce dust levels caused by construction activities.

H. Noise Levels.

Objective: Limit additions to noise levels.

General Guideline: Adhere at a minimum to applicable government noise level standards; utilize noise abatement equipment; and maintain natural buffers such as existing topographic relief and vegetation.

I. Wetlands.

Objective: Preserve the hydrologic, wildlife, vegetational, aesthetic, educational, open space and recreational values of wetlands.

General Guideline: Avoid development in marshes, bogs, swamps and periodically inundated lands or on lands immediately adjacent thereto if such development would result in environmental damage to the marsh, bog, swamp or periodically inundated land.

J. Aquatic Communities.

Objective: Protect generally the existing natural aquatic plant and animal communities and preserve rare and endangered aquatic plant and animal species.

General Guideline: Preserve key spawning areas, nursery grounds, food sources and food source areas; preserve habitats of rare and endangered plant and animal species; maintain adjacent vegetated areas generally as habitats and buffer zones; minimize shoreline alterations such as beach construction and emplacement of docks, rafts, boat launching facilities and breakwaters; and avoid introduction of toxic materials and nutrients to water bodies.

K. Terrestrial Vegetation.

1. Vegetation, General.

Objective: Preserve or quickly restore terrestrial vegetation.

General Guideline: Minimize clearing of vegetation in light of development objectives; avoid clearing vegetation where damage will result to remaining vegetation from such factors as wild, erosion and frost; and protect remaining vegetation during the construction period.

2. Rare and Endangered Terrestrial Plant Species.

Objective: Preserve rare and endangered terrestrial plant species.

General Guideline: Locate development and other intensive human activities so as to protect the location and habitats of rare and endangered plant species and allow for the continuing propagation of these species.

3. Productive Commercial Forest Land.

Objective: Conserve productive forest lands.

General Guideline: Avoid impairment of productive forest lands for commercial forest production by employing sound forestry practices and by employing such planning techniques as clustering of development.

L. Terrestrial Wildlife.

1. Terrestrial Wildlife, General.

Objective: Maximize the preservation of terrestrial wildlife species.

General Guideline: Preserve key wildlife habitats, such as deer wintering yards, nesting areas, productive feeding areas, and important vegetation transition areas; and maintain wildlife diversity to the extent possible in view of project objectives by maintaining a diversity of habitat.

2. Rare and Endangered Terrestrial Wildlife Species.

Objective: Preserve rare and endangered terrestrial wildlife species.

General Guideline: Locate development and other intensive human activities so as to protect the location and habitats of rare and endangered terrestrial wildlife species and allow for the continuing propagation of these species.

M. Aesthetics.

1. Aesthetics, General.

Objective: Preserve and enhance, where possible. Impact of the project upon the existing aesthetic qualities of the project site and its environs.

General Guideline: Utilize existing vegetation and topographical features, and employ careful siting methods so as to minimize the visual impact of all development activities.

2. Scenic Vistas.

Objective: Maintain the scenic qualities of views from vistas designated in the Adirondack Park State Land Master Plan.

General Guideline: Avoid visibility of buildings and other development and land use alterations generally from vistas by employment of vegetative screening, existing topography and careful siting methods.

3. Travel Corridors.

Objective: Preserve the scenic qualities of views from public roads and trails and from boats and canoe routes.

General Guideline: Employ vegetative screening, existing topography, and careful siting methods to minimize the visual impact of buildings and other development and land use alternations.

N. Open Space.

1. Open Space, General.

Objective: Maintain the open space character of the project site, adjacent land, and surrounding areas.

General Guideline: Provide on the project site sufficient open space areas for outdoor recreational use by those persons who will use the proposed project, taking into account the existing recreational resources available in the area; and locate buildings and other development so as not to interfere with those areas to be used as hiking, bicycling and cross-country skiing trails as well as trail-bike, jeep, all-terrain vehicle and horse trails, playgrounds, public areas, campgrounds, parks, beaches and similar uses.

2. Outdoor Recreation

Objective: Maintain the quality and availability of land for outdoor and open space recreational purposes.

General Guideline: Provide on the project site sufficient open space areas for outdoor recreational use by those persons who will use the proposed project, taking into account the existing recreational resources available in the area; and locate buildings and other development so as not to interfere with those areas to be used as hiking, bicycling, and cross-country skiing trails as well as trail-bike, jeep, all-terrain vehicle and horse trails, playgrounds, picnic areas, campgrounds, parks, beaches , and similar uses.

O. Adjoining and Nearby Land Use.

1. Adjacent Land Uses, General.

Objective: Minimize incompatibility of new development with the character of adjoining and nearby and uses.

General Guideline: Take into account the existing and potential land uses in the vicinity of the project site in determining what new land use activities are suitable for the project site; avoid new intensive development in open space areas; and avoid substantially altering existing residential and other land use patterns.

2. Adjacent State Land.

Objective: Preserve the wild and natural character of adjacent state lands designed as wilderness, primitive, or canoe by the Adirondack Park State Land Master Plan.

General Guideline: Minimize development activities which would materially impair the wilderness attributes of these State lands; design and construct development that is located within one-eighth mile of these State lands so as to minimize its visual and audial impact in these wilderness-like areas, thereby insuring the continued capability of State and private types of ownership.

P. Wild, Scenic and Recreational Study Rivers.

Objective: Protect or enhance the natural qualities of any river designated to be studied for possible inclusion in the State's wild, scenic or recreational river system.

General Guideline: Maintain buffer zones and existing vegetation along designated study rivers; avoid intensive development within one-quarter mile of such rivers; minimize alterations to such rivers and their banks; and pressure the free-flowing character of such rivers.

Q. Historic Sites.

Objective: Protect archeological sites, historic sites, and unique historical structures for their educational and culture value to the area, region or State.

General Guideline: Preserve and restore archeological sites, historic sites, and unique historic structures to the extent warranted by their respective significance; avoid land uses and development on adjoining and nearby lands which would be incompatible with the significance of such sites and structures.

R. Special Interest Areas.

Objective: Preserve special interest areas such as unique natural features and their surrounding environs.

General Guideline: Avoid physical and aesthetic alteration and impairment of the natural condition of unique physical features such as gorges, waterfalls and interesting geological formations; provide for their continuing protection; utilize these special interest areas as assets to development.

S. Government Considerations.

1. Service and Finance.

Objective: Fully explore and assure the ability of governmental services and facilities made necessary by the project.

General Guideline: Phase development activities to a level commensurate with the financial capability of the various levels of government to provide the governmental services and facilities that will be generated by the development, such as transportation systems, schools, health care, sewage and solid waste disposal systems, water supply systems, and fire and police protection; require that as nearly as possible the balance between the cost of public services required to adequately serve the development as compared with the anticipated tax and other revenues to be generated by the development be favorable at each level of government or taxing jurisdiction affected by the project; and include in development plans provisions to maintain or improve existing services and alleviate any potential any adverse impact upon the ability for the government to provide services and facilities.

2. Regulation.

Objective: Conform development activities to all applicable governmental rules and regulations.

General Guideline: Comply with all applicable Local Laws, rules and regulations of all governmental agencies with responsibilities for such activities, including those of towns and villages, counties, the State Department of Health and Environmental Conservation, and the Adirondack Park Agency.

T. Public Utilities and Community Resources.

Objective: Assure the adequacy of such public utility services and community resources as shall be necessary for the project.

General Guideline: Avoid excessive demands on the capabilities of public utilities such as electricity and communication services; avoid necessity for major uncompensated increase in

community services and activities such as recreational facilities, social cultural and health services, and transportation facilities.

APPENDIX C: CLASS A REGIONAL PROJECTS

A. Hamlet Zoning Districts (HR, HB1, HB2, HX)

1. All land uses and development and all subdivisions of land involving wetlands except for forestry uses (other than timber harvesting that includes a proposed clear cutting of any single unit of land or more than twenty-five acres), agricultural uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.
2. Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All land uses and development and all subdivisions of land involving one hundred (100) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
4. All structures in excess of forty (40) feet in height, except agricultural use structures and residential radio and television antennas.
5. Any of the following uses.

Commercial or private airport, airstrip or heliport
Telecommunications tower or facility
Tourist accommodation with one hundred (100) or more units
Watershed management and/or flood control
6. Any other use or structure allowed by this law in Hamlet zoning districts, and that is also designated as a Class A Regional Project by the Adirondack Park Agency Act.
7. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent (25) or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

B. Mixed Use 1.3 Zoning Districts (MX 1.3)

1. All land uses and development and all subdivisions of land located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studies as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracks of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified

in number 5 below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

2. Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All land uses and development and all subdivision of land involving seventy-five (75) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
4. All structures in excess of forty feet (40) in height, except agricultural use structures and residential radio and television antennas.
5. Timber harvesting that includes a proposed clear cutting of any single unit of land of more than twenty-five (25) acres.
6. Any of the following commercial uses involving ten thousand (10,000) or more square feet of floor space.

Adult entertainment establishment
Automobile, vehicle, or lawn and garden equipment sales
Business office
Commercial riding stables
Construction or well-drilling business
Convenience store with gas pumps
Day care center
Funeral home
Greenhouse, florist, greenhouse (commercial)
Home based business with vehicles or equipment
Home based manufacturing
Kennel
Motor vehicle service and/or repair
Newspaper and printing establishment
Nursing or convalescent home
Personal service establishment
Recreational or entertainment facilities, commercial
Restaurant, with drive-in service
Restaurant, without drive-in service
Retail gasoline sales
Retail service establishment
Retail store
Rooming or boarding house
Seasonal roadside stand
Tavern
Tourist attraction other than amusement park

7. Any of the following uses

Commercial or private airport, airstrip or heliport
Major public utility use

Sewage treatment plant
Ski center
Telecommunications tower or facility
Tourist attraction
Watershed management and/or flood control
Wind Power Generating Facility (large)

8. Any other use or structure allowed by this law in Mixed Use 1.3 zoning districts, and that is also designated as a Class A Regional Project by the Adirondack Park Agency Act.
9. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

C. Mixed Use 3.2 Zoning Districts (MX 3.2)

1. All land uses and development and all subdivisions of land located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studies as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracks of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number 5 below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.
2. Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All land uses and development and all subdivision of land involving thirty-five (35) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
4. All structures in excess of forty feet (40) in height, except agricultural use structures and residential radio and television antennas.
5. Timber harvesting that includes a proposed clear cutting of any single unit of land of more than twenty-five (25) acres.
6. Any of the following commercial uses involving five thousand (5,000) or more square feet of floor space.

Adult entertainment establishment

Automobile, vehicle, or lawn and garden equipment sales
 Business office
 Commercial riding stables
 Construction or well-drilling business
 Convenience store with gas pumps
 Day care center
 Fuel distribution business
 Fuel distribution business
 Funeral home
 Greenhouse, florist, greenhouse (commercial)
 Home based business with vehicles or equipment
 Home based manufacturing
 Kennel
 Lumberyard
 Motor vehicle service and/or repair
 Newspaper and printing establishment
 Nursing or convalescent home
 Personal service establishment
 Recreational or entertainment facilities, commercial
 Research and testing laboratory
 Restaurant, with drive-in service
 Restaurant, without drive-in service
 Retail gasoline sales
 Retail service establishment
 Retail store
 Rooming or boarding house
 Seasonal roadside stand
 Tavern
 Trucking business

7. Any of the following uses.

Commercial or private airport, airstrip or heliport
 Junkyard
 Light industrial use
 Major public utility use
 Mineral extraction, mineral extraction structure
 Sawmill, chipping mill, pallet mill, and similar wood using facility
 Sewage treatment plant
 Ski center
 Telecommunications tower or facility
 Tourist attraction
 Watershed management and/or flood control
 Windpower generating facility (large)

8. Any other use or structure allowed by this law in Mixed Use 3.2 zoning districts, and that is also designated as a Class A Regional Project by the Adirondack Park Agency Act.

9. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

D. Mixed Use 8.5 Zoning Districts (MX 8.5)

1. All land uses and development and all subdivisions of land located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto.
 - e. Within one hundred fifty (150) feet of the edge of the right of way of federal or state highways, except for an individual single-family dwelling and accessory uses or structures thereto.
 - f. Within one hundred fifty (150) feet of the edge of the right of way of county highways designated by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, as major travel corridors by the agency or local government, except for an individual single-family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number 5 below and sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above-described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above-described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.
2. Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in by local law.
3. All land uses and development and all subdivisions of land involving twenty (20) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
4. All structures in excess of forty (40) feet in height, except agricultural use structures and residential radio and television antennas.
5. Timber harvesting that includes a proposed clear cutting of any single unit of land of more than twenty-five (25) acres.
6. Any of the following commercial uses involving twenty-five hundred (2500) or more square feet of floor space.

Adult entertainment establishment
Automobile, vehicle, or lawn and garden equipment sales
Business office

Commercial riding stables
Construction or well-drilling business
Convenience store with gas pumps
Day care center
Funeral home
Greenhouse, florist, greenhouse (commercial)
Home based business with vehicles or equipment
Home based manufacturing
Home occupation
Kennel
Motor vehicle service and/or repair
Newspaper and printing establishment
Nursing or convalescent home
Personal service establishment
Recreational or entertainment facilities, commercial
Retail gasoline sales
Retail service establishment
Restaurant, without drive-in service
Restaurant, with drive-in service
Retail store
Rooming or boarding house
Seasonal roadside stand
Tavern
Tourist attraction other than amusement park
Fuel distribution business
Lumberyard
Research and testing laboratory
Trucking business

7. Any of the following uses.

Commercial or private airport, airstrip or heliport
Junkyard
Light industrial use
Major public utility use
Mineral extraction, mineral extraction structure
Sawmill, chipping mill, pallet mill, and similar wood using facility
Sewage treatment plant
Ski center
Telecommunications tower or facility
Tourist accommodation
Watershed management and/or flood control
Windpower generating facility (large)

8. Any other use or structure allowed by this law in Mixed Use 8.5 zoning districts, and that is also designated as a Class A Regional Project by the Adirondack Park Agency Act.

9. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

E. Mixed Use 42.7 Zoning Districts (MX 42.7)

1. All land uses and development and all subdivisions of land located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto.
 - e. Within three hundred (300) feet of the edge of the right of way of federal or state highways, except for an individual single-family dwelling and accessory uses or structures thereto.
 - f. Within three hundred (300) feet of the edge of the right of way of county highways designated as major travel corridors by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, except for an individual single-family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number 5 below, and sand and gravel pits associated with such uses located within three hundred (300) feet of the edge of the right of way of the above-described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within three hundred (300) feet of the edge of the right of way of the above-described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.
2. Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All subdivisions of land (and all land uses and development related thereto) involving two (2) or more lots, parcels or sites.
4. All structures in excess of forty feet (40) in height, except agricultural use structures and residential radio and television antennas.
5. Timber harvesting that includes a proposed clear cutting of any single unit of land of more than twenty-five acres.
6. Campgrounds and recreational vehicle parks involving fifty (50) or more sites.
7. Any of the following uses.

Campground, recreational vehicle park with 50 or more sites
Commercial sand or gravel extraction

Group camp
Major public utility use
Mineral extraction, mineral extraction structure
Sawmill, chipping mill, pallet mill, and similar wood using facility
Sewage treatment plant
Ski center with or without tourist accommodations
Watershed management and/or flood control
Windpower generating facility (large)

8. Any other use or structure allowed by this law in Mixed Use 42.7 zoning districts, and that is also designated as a Class A Regional Project by the Adirondack Park Agency Act.
9. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

F. Commercial – Industrial Zoning Districts (Floating Zone)

Class A regional projects within Commercial – Industrial zoning districts shall be so designated at the time of creation of such districts, after consultation with the Adirondack Park Agency.

APPENDIX D: CLASS B REGIONAL PROJECTS

1. Mixed Use 1.3 Zoning Districts (MX 1.3)

1. All land uses and development and all subdivision of land involving from fifteen (15) to seventy four (74) residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions created since August 1, 1973 is fifteen (15) or more.
3. Subdivisions of land (and all land uses and development related thereto) involving less than fifteen (15) lots, parcels or sites and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least twenty-five thousand (25,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least forty thousand (40,000) square feet in size.
4. Any individual single family dwelling or mobile home located within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness primitive or canoe in the master plan for management of state lands.
5. Any of the following commercial uses involving less than ten thousand (10,000) square feet of floor space.

Adult entertainment establishment
Automobile, vehicle, or lawn and garden equipment sales
Business office
Commercial riding stables
Construction or well-drilling business
Convenience store with gas pumps
Day care center
Funeral home
Greenhouse, florist, greenhouse (commercial)
Home based business with vehicles or equipment
Home based manufacturing
Kennel
Motor vehicle service and/or repair
Newspaper and printing establishment
Nursing or convalescent home
Personal service establishment
Recreational or entertainment facilities, commercial
Retail gasoline sales
Retail service establishment
Restaurant, without drive-in service
Restaurant, with drive-in service
Retail store
Rooming or boarding house

Seasonal roadside stand
Tavern
Tourist attraction other than amusement park

6. Any of the following uses.

Campground, recreational vehicle park
Golf course
Group camp
Mobile home park with fewer than seventy five (75) dwelling units
Mobile Home Subdivision
Multi family dwelling with fewer than seventy five (75) dwelling units
Municipal roads
Public or semi-public building and grounds
Public utility use
Tourist accommodation
Two family dwelling

7. Any other use or structure allowed by this law in Mixed Use 1.3 zoning districts, and that is also designated as a Class B Regional Project by the Adirondack Park Agency Act.

8. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

2. Mixed Use 3.2 Zoning Districts (MX 3.2)

1. All land uses and development and all subdivision of land involving from ten (10) to thirty four (34) residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions created since August 1, 1973 is ten (10) or more.
3. Subdivisions of land (and all land uses and development related thereto) involving less than ten (10) lots, parcels or sites and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least fifty thousand (50,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least one hundred and twenty (120,000) square feet in size.
4. Any individual single family dwelling or mobile home located within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness primitive or canoe in the master plan for management of state lands.
5. Any of the following commercial uses involving less than five thousand (5000) square feet of floor space.

Adult entertainment establishment
 Automobile, vehicle, or lawn and garden equipment sales
 Business office
 Commercial riding stables
 Construction or well-drilling business
 Convenience store with gas pumps
 Day care center
 Funeral home
 Greenhouse, florist, greenhouse (commercial)
 Home based business with vehicles or equipment
 Home based manufacturing
 Kennel
 Motor vehicle service and/or repair
 Newspaper and printing establishment
 Nursing or convalescent home
 Personal service establishment
 Recreational or entertainment facilities, commercial
 Retail gasoline sales
 Retail service establishment
 Restaurant, without drive-in service
 Restaurant, with drive-in service
 Retail store
 Rooming or boarding house
 Seasonal roadside stand
 Tavern
 Tourist attraction other than amusement park
 Fuel distribution business
 Lumberyard
 Research and testing laboratory
 Trucking business

6. Any of the following uses.

Campground, recreational vehicle park
 Commercial sand or gravel extraction
 Golf course
 Group camp
 Mobile home park with fewer than thirty five (35) dwelling units
 Mobile Home Subdivision
 Multi family dwelling with fewer than thirty five (35) dwelling units
 Municipal road
 Public or semi-public building and grounds
 Tourist accommodation
 Two family dwelling

7. Any other use or structure allowed by this law in Mixed Use 3.2 zoning districts, and that is also designated as a Class B Regional Project by the Adirondack Park Agency Act.

8. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

3. Mixed Use 8.5 Zoning Districts (MX 8.5)

1. All land uses and development and all subdivision of land involving from five (5) to nine (9) residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions created since August 1, 1973 is five (5) or more.
3. Subdivisions of land (and all land uses and development related thereto) involving less than five (5) lots, parcels or sites and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least eighty thousand (80,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least three hundred and twenty thousand (320,000) square feet in size.
4. Any individual single family dwelling or mobile home located within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness primitive or canoe in the master plan for management of state lands.
5. Any individual single family dwelling, mobile home, or hunting or fishing cabin located within one hundred and fifty (150) feet of the right-of-way of a Federal or State Highway.
6. Any of the following commercial uses involving less than two thousand and five hundred (2500) square feet of floor space.

Adult entertainment establishment
Automobile, vehicle, or lawn and garden equipment sales
Business office
Commercial riding stables
Construction or well-drilling business
Convenience store with gas pumps
Day care center
Funeral home
Greenhouse, florist, greenhouse (commercial)
Home based business with vehicles or equipment
Home based manufacturing
Kennel
Motor vehicle service and/or repair
Newspaper and printing establishment
Nursing or convalescent home
Personal service establishment
Recreational or entertainment facilities, commercial
Retail gasoline sales
Retail service establishment
Restaurant, without drive-in service
Restaurant, with drive-in service
Retail store

Rooming or boarding house
Seasonal roadside stand
Tavern
Tourist attraction other than amusement park
Fuel distribution business
Lumberyard
Research and testing laboratory
Trucking business

7. Any of the following uses.

Campground, recreational vehicle park
Commercial sand or gravel extraction
Golf course
Group camp
Mobile home park with fewer than twenty (20) dwelling units
Mobile Home Subdivision
Multi family dwelling with fewer than twenty (20) dwelling units
Municipal road
Public or semi-public building and grounds
Tourist accommodation
Two family dwelling

8. Any other use or structure allowed by this law in Mixed Use 8.5 zoning districts, and that is also designated as a Class B Regional Project by the Adirondack Park Agency Act.

9. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

4. Mixed Use 42.7 Zoning Districts (MX 42.7)

1. All land uses and development and all subdivision of land involving two (2) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

2. Any individual single family dwelling or mobile home located within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness primitive or canoe in the master plan for management of state lands.

3. Any of the following uses.

Single family dwelling
Mobile home
Hunting and fishing cabin or private club structure involving 500 or more square feet of floor area
Forestry structure
Municipal road
Golf course
Campground or recreational vehicle park with fewer than 50 sites

4. Any other use or structure allowed by this law in Mixed Use 42.7 zoning districts, and that is also designated as a Class B Regional Project by the Adirondack Park Agency Act.
5. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five (25) percent or more of the original size of such existing use or twenty-five (25) percent or more of the original square footage of such structure.

5. Commercial – Industrial Zoning Districts (Floating Zone)

Class B regional projects within Commercial – Industrial zoning districts shall be so designated at the time of creation of such districts, after consultation with the Adirondack Park Agency.

TOWN OF JOHNSBURG
SUBDIVISION CONTROL LAW

September 1, 2007

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(Appendix F consists of large size engineering drawings showing construction details, and is available at the Town Offices.)

ARTICLE I: GENERAL PROVISIONS

Section 110 Enactment

Pursuant to the authority granted to the Town in Articles 2 and 3 of the Municipal Home Rule Law the Town Board of the Town of Johnsborg authorizes and empowers the Planning Board of the Town of Johnsborg to approve or disapprove applications for subdivision plat approval within the Town of Johnsborg.

Section 120 Title

This law shall be known and cited as the Town of Johnsborg Subdivision Control Law.

Section 125 Prior Regulations

This law shall replace and supersede the prior existing "Town of Johnsborg Subdivision Regulations and Design and Construction Standards" adopted on November 16, 1989, and any amendments thereto.

Section 130 Purpose

The standards and procedures contained herein are intended to insure that (a) land to be subdivided is suitable for building purposes without creating dangers to health, or peril from fire, flood, traffic hazard, or other hazard, (b) lots are created such that adequate provision can be made for sewage disposal, water supply, emergency vehicle access, storm water drainage, utility service, and other needed improvements, (c) roads are constructed to Town standards and are suitable to accommodate the expected volume of traffic, (d) the rural and scenic character of the Town is preserved, and (e) goals and objectives of the Town of Johnsborg Comprehensive Plan are furthered.

Section 140 Applicability

- A. This law regulates all subdivisions as defined herein.
- B. The Town of Johnsborg Planning Board shall review all proposed subdivisions. Class A Regional Subdivisions shall also be reviewed and approved by the Adirondack Park Agency in accordance with Article 7 herein.
- C. Whenever any subdivision of land is proposed to be undertaken, the sub divider shall make application for and receive final approval of such proposed subdivision in accordance with this local law before any lot is leased or sold any land is cleared or vegetation removed (except vegetation removed for surveying, engineering tests and inspection), any permit is issued for a structure in the subdivision, and any building, utility installation, road construction or other new land use or development within the subdivision is undertaken.
- D. Pursuant to Article 16 of the Town Law, the Planning Board is hereby authorized to review and approve the development of plats which were filed in the Office of the Warren County Clerk prior to November 16, 1989 and which are undeveloped. "Undeveloped" means that 20 percent or more of the lots within the plat are unimproved or that the plat or a portion thereof has been determined by the Adirondack Park Agency not to qualify as a "pre-existing" subdivision. The procedure for approval of development of any such plat shall be the same as for a proposed new subdivision under this local law, as may be appropriately modified by the Planning Board.

Section 150 Fees

Application review and inspection fees shall be established by resolution of the Town Board.

ARTICLE 2: DEFINITIONS

For the purpose of this law words and terms used herein are defined as follows:

Adirondack Park Agency or Agency. The Adirondack Park Agency created by Section 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.

Category 1 Road. An existing or proposed private roadway that is not otherwise classified as a shared driveway.

Category 2 Road. An existing road that is a Town, County, State or Federal highway; or, a proposed rural road that is intended to be a Town highway, as distinguished from a hamlet street as defined herein.

Class A Regional Project. A land use or development which is classified and defined as such in Section 810 of the Adirondack Park Agency Act.

Class A Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of the Adirondack Park Agency Act. Also, any class B regional project or class B regional subdivision which is also, in whole or in part, a class A regional project as defined in the APA Act, a "development" as defined in the Wild, Scenic and Recreational Rivers System Act [ECL, sec. 15-2703(3)] or a "rivers project" as defined in 9 NYCRR Part 577, a "regulated activity" or "wetlands project" as defined in 9 NYCRR Part 578 shall be deemed a class A regional subdivision in its entirety. Additionally, any subdivision of a parcel of land which extends into an adjoining municipality shall be deemed a class A regional project.

Class B Regional Project. A land use or development which is classified and defined as such in Section 810 of the Adirondack Park Agency Act.

Class B Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of the Adirondack Park Agency Act.

Clerk of the Planning Board. The person designated to perform the duties of the Clerk of the Planning Board for all purposes of these regulations.

Cluster Subdivision. A subdivision consisting of three (3) or more residential lots, wherein some individual lots are smaller than otherwise permitted by the required minimum lot size requirements of the Town of Johnsburg Zoning Law, and wherein road frontage, building setback and other dimensional requirements of Schedule B of said law may be relaxed by the Planning Board, provided that the maximum average density requirements of said law are satisfied. Cluster subdivisions may include, but are not limited to: (a) single family dwellings on individual lots, (b) mobile homes each on an individual lot of record, (c) two family dwellings on individual lots, (d) a

Townhouse development as defined in the Town of Johnsburg Zoning Law, or (e) a commercial or industrial use subdivision.

Community Sewage System. A system of piping, tanks, leach fields, or other facilities for the collection and treatment of sewage wastes serving more than one lot, whether owned by the Town, a private utility, or a homeowners association or similar organization.

Community Water System. A source of potable water and necessary appurtenances together with a distribution system serving more than one lot, whether owned by the Town, a private utility, homeowners association or similar organization.

Final Plat. A drawing, in final form, prepared by a licensed surveyor or engineer, showing a proposed subdivision containing all information or detail required by law and by this law to be presented to the Planning Board for approval, and which after final plat approval, may be duly filed or recorded by the sub divider in the Office of the County Clerk of Warren County.

Final Plat Approval. Signing of a final plat by a duly authorized officer of a Planning Board after a resolution granting final approval to the plat, or after satisfaction of all conditions specified in a resolution granting conditional approval of the plat. Such final approval qualifies the plat for recording in the office of the County Clerk of Warren County.

Hamlet Street. As distinguished from a Category 1 Road or a Category 2 Road as defined herein, a hamlet street means any roadway in a hamlet or similar developed area that is intended to serve local traffic and traffic at lower speeds than in rural areas. The Planning Board may classify any proposed roadway as a hamlet street taking into account the housing density, anticipated maximum vehicular speed, and other factors.

Major Subdivision. (a) Any subdivision involving the creation of five (5) or more lots within any consecutive ten (10) year period; or (b) any subdivision involving the construction of any new public or private road or street or substantial improvement of an existing road or street. A subdivision consisting of two to four lots served by a shared driveway shall not be deemed to constitute a major subdivision.

Mature Tree. Any tree in excess of six (6) inches in diameter at breast height.

Minor Subdivision. Any subdivision involving the creation of four (4) or fewer lots within any consecutive ten (10) year period, and which does not require the construction or substantial improvement of a road or street.

Person. Any individual, corporation, partnership, association, trustee, municipality, or other legal entity, but shall not include the state or any state agency.

Planning Board. Planning Board of the Town of Johnsburg.

Preliminary Plat. A drawing marked "Preliminary Plat" showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Principal Building. Any one of the following:

- a. a single family dwelling or mobile home constitutes one principal building;

- b. a tourist cabin or similar structure for rent or hire involving 300 square feet or more of floor space constitutes one principal building;
- c. 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;
- d. 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;
- e. 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;
- f. 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;
- g. any other structure which exceeds 1,250 square feet of floor space constitutes one principal building;
- h. a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building.
- i. An accessory structure or use does not constitute a principal building.

Re-subdivision. A change (including lot line adjustment) in a subdivision plat filed in the Office of the County Clerk which (a) affects any areas reserved thereon for public or common use, (b) affects any street or road layout shown on such plat, or (c) diminishes the size of any lot shown thereon. A merger or consolidation of adjoining lots that eliminates interior lot lines but does not change any lot lines does not constitute a subdivision.

Shared Driveway. An arrangement whereby two to four lots are served by a common driveway.

Shoreline. The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams.

Shoreline Lot Width. 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, pond, river, or any stream navigable by canoe.

Sketch Plan. A sketch of a proposed subdivision as further described in Section 800.

Sub divider. A person who is the registered owner, or authorized agent of the registered owner of land proposed for subdivision.

Subdivision. Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. The term subdivision includes re-subdivision. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include: the lease of land for hunting

and fishing and other open space recreation uses; cemeteries; or mobile home parks whereby two or more mobile homes are sited on a single parcel of land.

Town Board. The Town Board of the Town of Johnsburg.

Town Engineer. A licensed professional engineer employed by the Town of Johnsburg.

Zoning Law. Town of Johnsburg Zoning Law

ARTICLE 3: DESIGN, STANDARDS AND REQUIRED IMPROVEMENTS

Section 300 Relationship to Land Features

- A. Subdivision design shall preserve, insofar as is possible, the natural features, terrain and drainage of the land to be developed. Accordingly, proposed subdivisions which are to be located in areas characterized by steep slope, wet soils, shallow soils or other physical limitation for development shall be presumed to have significant problems requiring special design features or mitigating measures if such problems are to be satisfactorily overcome. In general, future uses upon land to be subdivided should be able to blend harmoniously with the surrounding topography, vegetation, and other natural features, and should avoid the need for costly land alterations or intricate engineering to overcome adverse site conditions. The Board shall consider the objectives and guidelines set forth in Appendices A and B herein.
- B. All proposed subdivision design and development shall comply with the provisions of the Town of Johnsbury Flood Damage Protection law of 1987, and any amendments thereto.

Section 305 Lots

- A. Conformance with Zoning. All lots shall meet the minimum area and dimensional requirements for a building lot as specified in the Town of Johnsbury Zoning Law unless approved as a cluster subdivision. The total number of lots created in any subdivision, including retained land, shall be consistent with the maximum average density requirements of said law.
- B. Lots to be Buildable. There shall be a buildable area on each proposed lot of sufficient size and suitably located for (a) a building, (b) an on-lot waste water disposal system except where a community sewage system is proposed, and (c) a well except where a community water system is proposed. Such buildable area shall be free from such restrictions as wetlands, wet soils, ponded or wet areas, flood hazard, slope greater than fifteen (15) percent, rock outcrops, soil with bedrock close to the surface, and other conditions which would create difficulties for home construction or for sewerage treatment. Such buildable area shall be suitable for an on-site waste water treatment system consistent with the requirements of the "On-Site Wastewater Treatment Local Law" of the Town of Johnsbury.
- C. Access to Streets and Roads. Each lot shall have access onto a public or private street or road by means of either: (a) direct frontage upon such road as specified by the minimum highway frontage requirement on Schedule B of the Town of Johnsbury Zoning Law, or (b) a right-of-way easement of minimum width equal to the said minimum highway frontage requirement. Said right-of way-easement may be shared by two to four lots. Access to lots may be through an individual driveway, or through a shared driveway in accordance with Section 345 herein. (Explanatory note: Part (b) above would allow 4 lots served by a shared driveway to share a 25 feet wide easement within which the driveway would be situated. The total minimum road frontage for four such lots would be 25 feet.)
- D. Driveway Locations. Each lot shall have a suitable location for a driveway such that driveway slope at the intersection with the roadway does not exceed three (3) percent, driveway slope does not exceed fifteen (15) percent over any length, and such that to the extent practicable, sight distance in each direction at the entrance to the roadway complies with the standards of Section 340 herein.

- E. Shape. Extremely narrow elongated lots shall be avoided. The average depth of a lot shall generally not be greater than four (4) times its average width.
- F. Lot Lines. Side lot lines shall generally be approximately at right angles to the street or road except to follow natural features.
- G. Corner Lots. Corner lots for residential use shall have extra width to permit required building setback from both roads.

Section 310 Preservation of Natural and Cultural Features

Features such as historic landmarks and buildings, existing trails, country lanes, rock outcrops, cliffs, hill top lookouts, rock gorges, unique stands of vegetation, significant wildlife habitats, and similar features of physical or cultural value that provide a sense of uniqueness to the site shall be preserved where practicable. Shorelines of streams, lakes, and ponds shall be left in their natural state except for areas where vegetation is removed in compliance with shoreline vegetative cutting regulations of the Town of Johnsbury Zoning Law. The Planning Board may require the provision of a green space buffer around such features.

Section 315 Tree Removal

Removal or damage to existing mature trees shall be avoided to the extent practicable.

Section 320 Provision for Future Road Maintenance

- A. Provision shall be made for future road ownership and maintenance by means of one of the following alternatives:
 - 1. Public roads:
 - a. The subdivision road is constructed, dedicated to the Town and accepted by the Town Board prior to final plat approval.
 - b. The subdivision road is constructed, dedicated to the Town and accepted by the Town Board and conveyed after final inspection and posting of a maintenance bond before the last lot is sold. In the event the road is not accepted by that time, it remains a private road and will be owned and maintained in accordance with a plan approved by the Planning Board.
 - 2. Private Roads:
 - a. The road is conveyed to a homeowners' association pursuant to the terms of a recorded Declaration of Covenants and/or deeds.
 - b. The road is owned by the owners of lots in the subdivision pursuant to the terms of a recorded Declaration of Covenants and/or deeds.
 - c. The road is maintained in accordance with the terms of a road maintenance agreement which provides for sharing the obligations and costs of repair and maintenance. This agreement shall be executed by the owners of all lots and properties to which access is obtained by use of said road. The agreement shall run with the land and be binding on the owners, their successors, distributees and assigns and shall be recorded in the Office of the Warren County Clerk simultaneously with the filing of the approved subdivision plat.
 - d. The road is owned and maintained by some other form of legally binding recorded agreement which addresses on-going maintenance responsibilities of future lot owners.

- B. When any road is dedicated to the Town, the subdivision application must address the contingency of the Town's Board refusal to accept and the Planning Board must address that contingency in its decision. The sub divider is responsible for maintenance of all subdivision roads until conveyance to the Town or another entity.

Section 325 Road Design Standards

- A. All standards in this section are minimum requirements. The Planning Board may require additional design standards, or vary these standards, in any particular case based upon the recommendation of the Town Highway Superintendent or Town Engineer.

B. Standards.

	Category 1 Road	Category 2 Road	Hamlet Street
Minimum width of right-of-way	50 feet	50 feet	50 feet
Pavement surface width	20	22 feet	22 feet
Shoulder width	4 feet	4 feet	(a)
Width, total roadbed	28 feet	30 feet	(a)
Typical surface material	Gravel	Gravel, Plant mix or Road Mix (a)	Plant mix
Minimum horizontal and vertical alignment sight distance. (b)	200 feet	300 feet	200 feet
Minimum sight distance at intersections	200 feet	300 feet	200 feet
Maximum grade over any 150 feet length	12 %	10 %	12 %
Maximum grade at intersections	3 %	3 %	3 %

(a) To be determined by the Planning Board at the time of subdivision review and approval.

(b) At all points along a road, there shall be an unobstructed line of sight in each direction for the minimum distance specified.

- C. Relation to Terrain. All roads shall be logically related to the existing topography, soils, vegetation, and other natural features and shall be coordinated into a logical and efficient system. Areas with steep slopes, shallow soils, soils with a water table at or near the surface, and soils that are highly susceptible to erosion or slippage shall be avoided insofar as practical. Roads shall be designed to be parallel to natural land contours where possible. Long stretches of road straight downhill should be avoided in order to minimize erosion problems, and for safety reasons. All roads shall be arranged so as to obtain a maximum number of building sites at or above the grade of the roads. Road layout shall minimize stream crossings and shall avoid traversing slopes exceeding 25%.
- D. Intersections. Roads shall intersect one another at right angles. No proposed intersection with an existing road shall be less than 125 feet from any existing intersection unless the proposed intersection is directly opposite the existing intersection so as to create a four-way intersection..

- E. Dead End Roads. Dead-end roads shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 120 feet, or a tee type turn-around of dimensions deemed sufficient for snow plowing and fire trucks by the Town Highway Superintendent.
- F. Access to adjoining property. In order to make possible the extension of roads or utilities into neighboring properties, the arrangement of roads in a subdivision shall provide for connection to adjoining lands which may be subdivided in the future.
- G. Names and Numbers. Names of new roads shall not duplicate existing or platted roads. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads.
- H. Road Signs. The sub divider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.
- I. Utilities. Installations of utility distribution and service lines shall be planned at the time road layout is determined.

Section 330 Road Construction Standards

- A. All standards in this section are minimum requirements. The Planning Board may require additional construction standards in any particular case based upon the recommendation of the Town Highway Superintendent or Town Engineer.
- B. All improvements shall be made at the expense of the sub divider.
- C. The road bed shall consist of at least twelve (12) inches of a good grade gravel, or other materials recommended by the Town Highway Superintendent or Town Engineer, underneath the entire width of the road bed. The gravel base shall be compacted.
- D. All areas to be filled for road construction shall be cleared and grubbed prior to placement of fill. Clearing and grubbing shall consist of removal of all woody vegetation including trees, fallen trees, logs, stumps, roots, and brush. All fills shall be compacted to provide stability of material and to prevent undue settling.
- E. The riding surface shall be gravel, surface treated gravel, road mix or plant mix asphalt concrete, as determined by the Planning Board on recommendation of the Highway Superintendent or Town Engineer.
- F. All necessary drainage facilities to manage storm water runoff created by any new street or road or by redevelopment within the subdivision including grading, whether located within the street or road right-of-way or elsewhere, shall be installed prior to take over and/or final plat approval (see Section 670). All culverts shall be of the necessary length and diameter and shall be approved by the Highway Superintendent or Town Engineer.
- G. All necessary drainage shall be dug and all rocks and stumps shall be removed from drainage ditches. The average depth of the ditches shall be eighteen (18) inches.
- H. In the event that sloping needs to be done in the area of a steep bank or embankment this shall be done at a grade of 2 to 1 (2 units vertical distance for each 1 unit horizontal distance) on course or gravel soils, 2 ½ to 1 in fine sand and silty sand, 3 to 1 in sandy silt, and 4 to 1 in silt,

sandy clay or clay. If internal drainage measures and/or lateral structural support is provided by the subdivision for wet soil conditions of fine grained soils, the slopes may be steeper in accordance with design analysis.

- I. Construction details, including placement of utility lines, shall be approved for sufficiency by the Planning Board at the time of subdivision approval. The Board shall require review of construction details by the Town Highway Superintendent or the Town Engineer to assist their determination. The "Standard Details" contained in Appendix F of this law shall be used as guidelines in such review, but may be varied if there exist other acceptable designs or methods of construction. In the event of conflict between the requirements of this section and the "Standard Details" contained in Appendix F, the requirements of this section shall apply.

Section 335 Future Access to Interior Property

The Planning Board may require that one or more 50 feet rights-of-way be reserved in order to provide for future road access to interior land.

Section 340 Sight Distance at Driveways and Intersections

- A. To the extent practicable, all intersections with any public road, including driveway intersections, shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

Design Speed of Highway	Left Turn	Right Turn
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road.

- B. If the location of one or more proposed driveways is such that a traffic hazard is created on an existing roadway due to inadequate sight distance, the Planning Board may require an alternative lot arrangement making use of a shared driveway or short access road which enters the existing roadway at a safer location.
- C. This section is intended to insure that the best location for a driveway or entrance to a roadway is chosen given the unique circumstances of the lot to be subdivided. It is not intended to prevent the subdivision of a lot, but to minimize any possible hazard.

Section 345 Standards for Shared Driveways

- A. Sufficient legal arrangement, such as a right-of-way easement, shall be made to provide for the future use and maintenance of shared driveways.
- B. Shared driveways shall be constructed so as to be passable by emergency vehicles during all seasons of the year.
- C. The right-of-way easement for any shared driveway shall be at least twenty-five (25) feet wide.
- D. Minimum width of the driving surface shall be 12 feet.
- E. Maximum grade shall be twelve (12) percent.
- F. No shared driveway shall serve more than four (4) lots.

- G. Maximum length of any one shared driveway shall be one-thousand (1000) feet.
- H. A shared driveway shall only serve lots occupied by a one or two family dwelling.

Section 350 Drainage and Storm Water Runoff

- A. Off-site storm water runoff shall not create damage or difficulty to downstream properties, shall not overload downstream culverts and other drainage facilities, and shall not introduce significant amounts of pollutants to surface waters of the Town of Johnsbury. Features of the natural terrain shall be used to the extent practical to reduce runoff from the site. Retention basins, dry wells and other structural devices to reduce runoff from the site may be required by the Planning Board.
- B. All major subdivisions as defined herein, and any subdivision that involves one acre or more of land disturbance, shall comply with applicable Storm water Phase II Permit and State Pollution Discharge Permit requirements of the New York State Department of Environmental Conservation, including the preparation of a Storm water Pollution Prevention Plan (SWAPP), and the construction and/or implementation of all drainage control measures prescribed by such SWAPP.
- C. Except where a wetland is involved, the Planning Board may require the sub divider to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate widths enforceable by all lot owners within the subdivision and/or by the Town of Johnsbury.
- D. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether Inside or outside the subdivision. The Town Engineer shall recommend approval of the design and size of the facility based on:
 - 1. anticipated run-off from a 10 year, 24-hour continuous rainfall, if the contributing drainage area is one square mile or less,
 - 2. anticipated run-off from a 25 year, 24-hour continuous rainfall, if the contributing drainage area is between 1 and 4 square miles, or
 - 3. anticipated run-off from a 100 year, 24-hour continuous rainfall, if the contributing drainage area is more than 4 square miles.
- E. The sub divider's engineer shall study the effect of each subdivision on the existing downstream drainage facilities and other properties outside the area of the subdivision. Said study shall estimate the volume of storm water runoff resulting from the subdivision and subsequent development thereon, and shall propose mitigating measures to reduce runoff as needed. The study shall be reviewed by the Town Engineer. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year, 24-hour continuous rainfall, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until such provision has been made for the improvement of said condition.
- F. Culverts shall be located so as to maintain pre-construction drainage patterns, provided such patterns were acceptable prior to construction.

Section 355 Water Supply

- A. Proof of adequate water supply shall be provided as specified in Appendix C, part B, herein for all subdivision plats requiring water supply approval by the New York State Department of Health pursuant to Section 1115 of the Public Health Law, and for any other subdivision plat at the discretion of the Planning Board.
- B. No plat approval shall be granted for subdivisions located within the North Creek Water District until a letter of approval is obtained from the North Creek Water District Superintendent acknowledging that adequate water supply exists to service the proposed project.
- C. Town water shall be installed at the expense of the sub divider.
- D. All requirements of the North Creek Water District shall be satisfied.

Section 360 Trail Systems

- A. Where deemed appropriate by the Planning Board, provision shall be made for unimproved walking trails within the subdivision, either as paths or trails wholly within the land to be subdivided or connected to existing or possible future trails through adjacent properties or along roadways.
- B. The Planning Board may require that up to ten (10) percent of the total land area of the subdivision be designated for such trails, provided that if such trails are to be located on public land other than within public highway rights-of-way that the Planning Board shall make a finding that a need exists for such trails consistent with Section 277 (4) (b) of Town Law.

Section 365 Clearing and Grading

Clearing and grading for road and utility installations shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide for utility installation.

Section 370 Erosion Control, Re-vegetation

- A. Ditch bottoms shall be constructed and maintained to minimize soil erosion by means of sodding, mulching, netting, stone paving, rip-rap, or other suitable materials.
- B. All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas, and all cut and fill slopes including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions.
- C. Areas on which vegetation has been destroyed or removed, excluding roadways, driveways, building sites and parking lots, shall be successfully re-vegetated or otherwise stabilized with structural erosion control measures.
- D. Upon completion of final grading of any area, mulching and re-vegetation operations shall begin within five (5) working days and shall be completed within ten (10) working days, provided however that where this is not possible or desirable because of weather conditions or other circumstances, such re-vegetation operations shall be performed as soon as reasonably possible.

- E. Re-vegetation measures shall be evaluated for compliance between 180 and 360 calendar days from the date of planting. Corrective action shall be instituted and completed within fifteen (15) working days upon determination of unsatisfactory compliance. In making their determination the Planning Board or designee thereof shall consider rills, gullies, loss of mulch, loss of seed, or failure of seed germination as evidence of unsatisfactory compliance.
- F. Any additional erosion and sediment control measures or water quality control measures as may be specified in a Storm water Pollution and Prevention Plan (SWPPP), if such plan is required by state law or regulations and/or by the Town Planning Board.

Section 375 Modification of Designs

If at any time before or during construction of improvements it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements, the Chairman of the Planning Board may authorize such modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not amount to a waiver or substantial alteration of any improvements required by the Board. The Chairman shall issue any authorization under this paragraph in writing, and shall submit a copy of such authorization to the Planning Board at their next meeting. If such authorization should result in a modified final plat, the revised final plat shall be filed with the County Clerk.

Section 380 Waiver of Standards and Required Improvements

- A. Where the Planning Board finds that compliance with these requirements would cause unusual hardship or unreasonable difficulties, and/or where the lots created by subdivision have no reasonable expectation of being used for any use except an open space use such as forestry, agriculture, or open space recreation, the minimum requirements of this article may be waived or modified provided that: (a) the public interest is served, (b) the development is in keeping with the spirit and intent of this law, (c) no provisions of the Town of Johnsburg Zoning law are waived or modified unless so authorized in the Zoning Law or by variance as provided in said law, (d) in the case of a Class B Regional Subdivision, the provisions of Section 710 (B) herein are satisfied, and (e) approval standards pursuant to the State Environmental Quality Review Act (SEQR) are not waived.
- B. The Planning Board shall record the reasons for any such waiver in its minutes.

ARTICLE 4: MAXIMUM AVERAGE DENSITY CALCULATION

Section 400 Plat Notation

- A. The Town of Johnsburg Zoning Law regulates density of development separately from lot size. Whenever a parcel of land is subdivided, the proposed subdivision shall conform to both maximum average density and minimum lot size requirements specified for the zoning district. The Planning Board shall establish and the sub divider shall show on the plat the number of lots containing one principal building that may be created on the entire parcel to be subdivided.
- B. For other than cluster subdivisions, the number of permissible re-subdivisions, if any, shall also be marked on each lot or on a table shown on the plat. The intended final density of development for the original parcel to be subdivided, subject to Planning Board approval, shall be accounted for and allocated for each of the lots shown on the subdivision plat. Plat

notations shall indicate, in substance, that either (1) "This lot may contain only one principal building as defined in the Town of Johnsborg Zoning Law, and may not be further subdivided," or (2) "This lot may contain a maximum of {insert number} principal buildings as defined in the Town of Johnsborg Zoning Law, and may be subdivided into a total of no more than {insert number} lots." Upon re-subdivision of any lot, such notations shall be made for each new lot.

Section 410 Density Calculation

- A. If a parcel is improved with one or more existing principal buildings which were in existence on August 1, 1973, such principal buildings may be placed on lots that satisfy the minimum lot size requirements for the zoning district in which same are located. Such lots and the principal buildings thereon shall not be considered for purposes of the density calculation, which shall apply only to the remaining unimproved land on the parcel or lands improved by other buildings or structures.
- B. For purposes of calculating minimum lot size and density under this Article, no state-designated wetlands, water bodies or land located within the right-of-way of a public highway or of a proposed public or private road shall be counted.
- C. For the purpose of counting the number of lots: (a) any lot to be retained by the sub divider, and (b) all lots in the same land use area which are part of one project and which would otherwise be adjoining but which are located on opposite sides of a public or private road, or railroad or right-of-way owned in fee, shall be counted separately.

ARTICLE 5 CLUSTER SUBDIVISIONS

Section 500 Purpose

The purpose of this article is to encourage flexibility in the design and development of land in order to preserve valuable open space, scenic qualities, and environmentally sensitive features, and to facilitate the economical construction and maintenance of roads and other improvements.

Section 510 General Provisions

- A. Lots and lot dimensions may be smaller than otherwise permitted by the minimum lot size and dimension requirements of the Town of Johnsborg Zoning Law provided that the provisions of this article are satisfied.
- B. Review and approval of a subdivision that is also a residential cluster development as defined in the Town of Johnsborg Zoning Law shall be undertaken by the Planning Board simultaneously with their review of the application for a Special Permit pursuant to said zoning law.
- C. All provisions of New York State Town Law, Section 278 shall apply.
- D. The Planning Board may require a cluster design in order to protect and preserve valuable natural and cultural features of the site and/or to avoid developing on environmentally sensitive areas, including but not limited to, the following circumstances: (1) significant wildlife or plant habitat exists on the site, (2) substantial portions of the site area characterized by wetlands, steep slopes, or soils with severe limitations for buildings or on-site septic absorption fields, (3) streams would be crossed by development of the entire site, (4) scenic views would be adversely impacted by a non-cluster design, or (5) the site is adjacent to, or contains, buildings or structures of historical significance.

Section 520 Residential Cluster Subdivisions

- A. Maximum average density for the property to be included in the residential cluster development shall not exceed that specified on Schedule B of the Town of Johnsbury Zoning Law. The maximum number of allowable dwelling units on the property involved shall be determined in accordance with Article 4 herein.
- B. All lots and/or structures shall front on and have access to an internal road or drive constructed to serve the cluster development, or upon a road or drive constructed to serve a previously approved residential cluster development. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved residential cluster development.
- C. All structures within a cluster development located within, or partially within, the Scenic Corridor Overlay district shall be set back a minimum of two hundred (200) feet from State Route 28 and/or Peaceful Valley Road. All structures within a cluster development located within other zoning districts shall be set back a minimum of one hundred (100) feet from any state or county highway. The 200 or 100 foot setback area shall be maintained as a vegetated buffer. Existing vegetation shall be retained to the extent practicable in order to screen the development from view of the public road.
- D. A residential cluster development shall have minimum frontage of fifty (50) feet upon an existing public road.
- E. For shoreline parcels to be subdivided, the number of principal buildings proposed to front on the shoreline shall not exceed the number which otherwise could front upon such shoreline in a conventional subdivision layout designed in compliance with the minimum shoreline lot width requirements of the Town of Johnsbury Zoning Law.
- F. Open areas within the site shall be chosen so as to facilitate one or more of the following objectives: to preserve views, to provide recreation areas, to serve as a buffer between neighboring properties or streets, to preserve wooded areas and hedgerows, to preserve wildlife habitat, to preserve historic sites or structures, to protect environmentally sensitive features, or to protect any areas that enhance or preserve the quality of the natural or residential environment, and/or benefit the community at large.
- G. Provision, whether by deed restriction or covenant, conservation easement held by a registered land trust, or other legal arrangement, shall be made to ensure that the undeveloped portions of the parcel remain as permanent open space or recreation area:
 - 1. Designated open space areas may be owned privately by individuals. Adequate provision shall be made by covenant, deed restriction or other legal means to insure that future owners are aware of the development restrictions upon such areas. Covenants and deed restrictions shall be enforceable by other residents in the subdivision and by the Town of Johnsbury.
 - 2. Open space or recreation areas may be owned in common by individuals within the subdivision via a home owner's association or other legal means. In such case, covenants or other legal arrangements shall specify ownership of the cluster open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, and any other specifications deemed necessary by the Planning Board.
 - 3. Open space or recreation areas may be deeded to the Town upon approval by the Town Board.

- H. In its approval of site plans for cluster development the Planning Board shall maintain accurate records and maps showing the location of permanent open spaces. No further development upon the designated open spaces shall be permitted.

Section 530 Non-Residential Cluster Subdivisions

Clustering of commercial, industrial or other non-residential lots is permitted under this Article provided that:

- A. All non-residential uses are allowable uses for the zoning district in which they are located.
- B. The maximum average density for the property to be included in the cluster development does not exceed that specified on Schedule B of the Town of Johnsburg Zoning Law. The maximum number of principal buildings permitted on the property to be subdivided shall be calculated in accordance with the definition of a principal building and Article 4 herein.
- C. All provisions of Section 510 above shall be satisfied.

ARTICLE 6: REVIEW AND APPROVAL PROCEDURE

Section 600 General Provisions

- A. Gift, Devise, or Inheritance. In the case of a subdivision of land resulting from a bona fide gift, devise or inheritance by and from natural persons which constitutes a minor subdivision, the Planning Board may, in its sole discretion, waive the required fee and/or the public hearing. However, such a division of land shall remain subject to all other provisions of this law, and any new land use, development or construction on lots created thereby shall be subject to the provisions of the Zoning Law. This provision is intended to supersede the requirement for a public hearing set forth in Town Law Section 276 (5) (d) (i). A division of land resulting from a bona fide gift, devise or inheritance by and from natural persons which constitutes a major subdivision shall be subject to all of the provisions of this law.
- B. SEQR. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act ("SEQR") under Article 8 of the New York Environmental Conservation Law and its implementing regulations. Time periods set forth below shall be modified to coordinate with SEQR review as provided in New York State Town Law Section 276.

Section 605 Review Steps, Minor Subdivisions

Applications for approval of a minor subdivision shall be processed in the following steps.

- 1. Optional sketch plan conference.
- 2. Application for final plat approval.
- 3. Determination of SEQR applicability
- 4. Notice to APA. (Class B Regional Subdivisions only.)
- 5. Hearing notice to APA (Class B Regional Subdivisions only.)
- 6. Public hearing on final plat.
- 7. Planning Board action on final plat.

Section 610 Review Steps, Major Subdivisions

Applications for approval of a major subdivision shall be processed in the following steps.

1. Sketch plan conference.
2. Application for preliminary plat approval.
3. Determination of SEQR applicability.
4. Notice to APA. (Class B Regional Subdivisions only.)
5. Hearing notice to APA. (Class B Regional Subdivisions only.)
6. Public hearing on preliminary plat.
7. Planning Board action on preliminary plat.
8. Application for final plat approval.
9. Hearing notice to APA. (Class B Regional Subdivisions only, and only if step 10 is taken.)
10. Public hearing on final plat (Not required for all approvals. See Section 655.)
11. Planning Board action on final plat.

Section 620 Sketch Plan Conference

- A. Applicability. This provisions of this section are optional for minor subdivisions, and are required for major subdivisions unless waived by the Planning Board. (See Part G below.)
- B. Intent. The intent of the sketch plan conference is to enable the sub divider to inform the Planning Board of the proposal prior to the preparation of a detailed subdivision plat map, and for the Planning Board to review the basic design concept, advise the sub divider of potential problems and concerns, and to determine the information to be required on the application for subdivision approval. This step does not involve formal application, fee or filing with the Planning Board.
- C. Submission of Sketch Plan. Prior to any subdivision of land, the sub divider shall submit to the Clerk of the Planning Board at least ten days prior to a meeting of the Board five (5) copies of a Sketch Plan of the proposed subdivision. The sketch plan shall contain the elements specified in Section 800 herein.
- D. Change in Recommendations. Nothing shall preclude the Planning Board from changing its recommendations if new information or a change in circumstances arises at or prior to the next formal application stage.
- E. Planning Board Review and Recommendations
 1. The sub divider shall meet with the Planning Board to discuss the requirements of this local law, including those relating to street design and construction, placement of utilities, drainage, sewerage, water supply, fire protection, and parks and open space areas, as well as the availability of existing services and other pertinent information. The Planning Board shall review the Sketch Plan, and shall make advisory recommendations to the sub divider as to whether the subdivision shown on the Sketch Plan meets the requirements of this law insofar as can be determined. If possible, the board shall make these recommendations at the same time it meets with the sub divider, and in no case shall the Board fail to make such recommendations within thirty (30) days of submission of the Sketch Plan.
 2. In addition, the Planning Board shall review the location of the proposed subdivision for the presence of any adverse physical, biological, aesthetic or public considerations limiting development of the site as shown on the natural and man-related resource maps on file in the Town offices and/or as contained in the Town of Johnsborg Comprehensive Plan. If the site falls within a questionable area denoted on such maps, the Planning Board may request the sub divider to consult with appropriate technical reviewer assistance agencies (such as, but not limited to, the Soil Conservation Service and the State or County Department of

Health) to determine appropriate measures to mitigate or avoid potential problems; provided that the findings or recommendations of such agencies shall not be binding on the Planning Board or the sub divider.

3. The Planning Board shall also advise whether a conventional or cluster design is preferred.
- F. Classification of Subdivision. The Planning Board shall classify the subdivision as either a Minor Subdivision or a Major Subdivision as defined herein, and shall so notify the applicant. The Planning Board shall also advise whether the subdivision is a Class A Regional Subdivision or a Class B Regional Subdivision, and shall so notify the applicant.
- G. SEQR Applicability. The Planning Board shall determine whether the New York State Environmental Quality Review Act (SEQR) applies to the proposed subdivision, and if so, the sub divider shall be required to comply with applicable requirements.
- H. Review and Approval by Other Agencies. The applicant shall identify all permits and approvals required by other agencies (local, state and federal), and the Planning Board shall require that the applicant submit application for such permits and approvals in order to facilitate simultaneous review by said agencies.
- I. Waiver. The sketch plan conference step may be waived by the Planning Board in the case of subdivisions of an uncomplicated nature, provided that no requirements of SEQR are waived.

Section 625 Application for Preliminary Plat Approval for Major Subdivisions or Final Plat Approval for Minor Subdivisions

- A. Applicability. This section shall apply both to Preliminary Plat Approval for Major Subdivisions and to Final Plat Approval of Minor Subdivisions.
- B. Application and Fee. Unless otherwise agreed by the Planning Board and the sub divider, the sub divider shall submit an application for plat approval within six (6) months after classification of the subdivision shown by the Sketch Plan, and the Board's recommendations thereon. Failure to do so within such time period may require resubmission of the Sketch Plan to the Planning Board. The application shall be on a form provided by the Clerk of the Planning Board, and shall include the elements described in Article 8 herein. The plat shall conform to the layout shown on the Sketch Plan, reflecting any recommendations made by the Planning Board. All applications shall be accompanied by the required application fee.
- C. Number of Copies. twelve copies of the application and plat map shall be presented to the Clerk of the Planning Board.
- D. Sub divider to Attend Planning Board Meeting. The sub divider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Major Subdivision Preliminary Plat.
- E. Date of Official Submission. The date of the submission of the shall be considered to be the date on which both a completed application for plat approval and the required fee have been filed with the Clerk of the Planning Board.
- F. SEQR. An application shall not be deemed to be complete until all the requirements of the State Environmental Quality Review Act (SEQR) are fulfilled, which may include: (1) the

preparation of a short Environmental Assessment Form and making a determination of non-significance on said form, (2) the preparation of a Full Environmental Assessment Form and the filing of a negative declaration of significance or a conditional negative declaration of significance, or (3) the preparation of a Full Environmental Assessment Form, the filing a positive declaration of significance, and the completion and filing of a Draft Environmental Impact Statement.

- G. Referral to County Planning Agency Where Necessary. Where required by Section 239-k or 239-n of the General Municipal Law, the county superintendent of highways or commissioner of public works shall be notified, and a copy of the completed application shall be forwarded to the county planning agency having jurisdiction, for that body's report and recommendations .

Section 630 Notice to APA for Class B Regional Subdivisions

Not later than fifteen (15) days following receipt of a complete application for a Class B Regional Subdivision, the Planning Board shall notify the Adirondack Park Agency of such receipt, and upon request, shall furnish the Agency with a copy of the project application and such further pertinent information as the Agency may deem necessary, and shall afford the Agency the opportunity to comment thereon.

Section 635 Public Hearing for Preliminary Plat for Major Subdivision or Final Plat for Minor Subdivision

Within sixty-two (62) days of receipt of a complete application for approval of a Preliminary Plat for a Major Subdivision or a Final Plat for a Minor Subdivision, the Planning Board shall conduct a public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least ten (10) days before the hearing. If the subdivision is classified as a Class B Regional Subdivision, notice of the hearing shall be provided to the Adirondack Park Agency at least fourteen (14) days prior to such hearing.

Section 640 Action on Preliminary Plat for Major Subdivision

- A. Within sixty-two (62) days from the public hearing for a Preliminary Plat for a Major Subdivision the Planning Board shall render a decision on the application. The Planning Board shall approve, approve with modifications, or disapprove the plat, and state any modifications or reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the sub divider and the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day or otherwise agreed upon period shall be deemed approval of the Major Subdivision Preliminary Plat. Within five (5) business days of approval, the plat shall be certified by the Clerk of the Planning Board as having been granted approval. One copy shall be returned by mail to the sub divider, and one copy shall be retained by the Planning Board. A copy of the resolution stating the decision shall be filed with the office of the Town Clerk, and a copy shall be provided to the sub divider.
- B. When granting approval to a Major Subdivision Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to any modifications, waivers, or required infrastructure or financial security.
- C. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat.

Section 645 Action on Final Plat for Minor Subdivision

Within sixty-two (62) days from the public hearing for a Final Plat for a Minor Subdivision the Planning Board shall render a decision on the application. The Planning Board shall approve, approve with modifications, or disapprove the plat, and state any modifications or reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the sub divider and the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day or otherwise agreed upon period shall be deemed approval of the Final Plat. Within five (5) days of approval, it shall be certified by the Chairperson of the Planning Board, acting as the Clerk of the Planning Board, as having been granted approval. One copy shall be returned by mail to the sub divider, and one copy shall be retained by the Planning Board. A copy of the resolution stating the decision shall be filed with the office of the Town Clerk.

Section 650 Application for Final Plat Approval for Major Subdivisions

- A. Application and Fee. Unless otherwise agreed by the Planning Board and the sub divider, the sub divider shall submit an application for Major Subdivision Final Plat approval within six months after Major Subdivision Preliminary Plat approval. Failure to do so within such time period may require resubmission of the Major Subdivision Preliminary Plat to the Planning Board. The application shall be on a form provided by the Clerk of the Planning Board, and shall include the elements described in Article 8 herein. The Major subdivision Final Plat shall conform to the Major Subdivision Preliminary Plat, as modified by the Planning Board if such Major Subdivision Preliminary Plat was approved with modifications. All applications for Major Subdivision Final Plat approval shall be accompanied by the application fee.
- B. Number of Copies. Twelve copies of the application for Major Subdivision Final Plat approval shall be presented to the Clerk of the Planning Board at the time of submission of the Major Subdivision Final Plat.
- C. Date of Official Submission and Referral to County Planning Agency Where Necessary. The date of submission of the Major Subdivision Final Plat shall be considered to be the date on which both a completed application for approval of the Major Subdivision Final Plat, including any endorsements required by paragraph D of this section, and the required fee have been filed with the Clerk of the Planning Board. Where material changes have been made in the plat since the previous referral of the preliminary plat to county officials as required by Section 625 (G) herein, the Planning Board shall make another such referral as described in that section.
- D. Endorsement of State and County Agencies. Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the subdivision plat requiring approval by the Department of Environmental Conservation and/or the State or County Department of Health have received at least preliminary approval(s) of such facilities.

Section 655 Public Hearing for Final Plat for Major Subdivisions

This step is not required for subdivisions that have received preliminary plat approval, and that are in substantial agreement with the approved preliminary plat. For other applications, the Planning Board shall conduct a public hearing within sixty-two (62) days of receipt of a complete application for final plat approval. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least ten (10) days before the hearing. If the subdivision is classified as a Class B Regional Subdivision notice of the hearing shall be provided to the Adirondack Park Agency at least ten (10) days prior to such hearing.

Section 660 Action on Final Plat for Major Subdivision

- A. Within sixty-two (62) days of the date of official submission of a Subdivision Plat if no hearing is held, or in the event a hearing is held, not more than sixty-two (62) days after the completion of such hearing, the Planning Board shall by resolution conditionally approve, disapprove, or grant final approval, and authorize the signing of such plat. This time period may be extended by written agreement of the sub divider and the Planning Board. Failure to take action on a final plat within such sixty-two (62) day or otherwise agreed upon period shall be deemed final approval of the plat and a certificate of the Town Clerk as to the date of submission and the failure to take action shall be issued on demand. Final plat approval shall not be granted until the requirements of Section 670 herein have been met.
- B. A copy of the resolution stating the decision of the Planning Board shall be filed with the office of the Town Clerk.

Section 665 Conditional Approval of Final Plat

Upon conditional approval, with or without modification, of a final plat the Planning Board shall empower a duly authorized officer to sign the plat and grant final plat approval when all requirements stated in the conditional approval resolution have been satisfied. The plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in his office, and a certified copy mailed to the sub divider. A certified statement of the requirements shall accompany the plat which, when completed, will authorize the signing of the conditionally approved final plat. The conditionally approved plat shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time not to exceed two additional periods of ninety (90) days each. Upon completion of the requirements the final plat shall be filed with the Clerk of the Planning Board or the Town Clerk. Conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to final plat approval.

Section 670 Required Improvements or Financial Guarantees

No final plat shall be approved unless: (a) all infrastructure and improvements have been constructed as required by this law and by the Planning Board, and have been satisfactorily completed in accordance with Article 9 herein, or (b) in lieu of the completion of improvements prior to final plat approval, financial guarantee is provided by the sub divider in accordance with Article 9 herein.

Section 675 Recording of Final Plat

The sub divider shall record the Final Plat, or section thereof, in the Office of the Clerk of Warren County, New York within sixty-two (62) days after the date of approval; otherwise the approval shall expire.

Section 680 Filing of Plats in Sections

- A. Prior to granting final plat approval, the Planning Board may permit the plat to be subdivided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. Approval to the sections, subject to any conditions imposed by the board, shall be granted concurrently with approval of the plat.

- B. In the event the owner shall file only a section of such approved plat in the office of the county clerk within the sixty-two (62) day period specified in part A above, such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Section 265-a of the Town Law.

Section 685 Town Acceptance of Roads, Land

Final Plat approval by the Planning Board shall not be deemed an acceptance by the Town of any road or other land shown dedicated by the sub divider.

ARTICLE 7: CLASS A AND CLASS B REGIONAL PROJECT REVIEW

Section 700 Applicability

When a proposed subdivision is a regional subdivision, the provisions of this section shall apply in addition to all other provisions of this law. For the purpose of this law, if a subdivision constitutes both a Class B regional subdivision and a Class A regional subdivision, it shall be deemed a Class A regional subdivision in its entirety.

Section 705 Special Requirements for Approval of Class B Regional Subdivisions

- A. When a proposed subdivision is a Class B regional subdivision, the Planning Board shall not render approval or conditional approval unless the Board first determines that the subdivision would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Town or the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the subdivision taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the subdivision. In making this determination, the Planning Board shall consider those factors pertinent to the subdivision contained in the development considerations set forth at Appendix A, and in so doing, the Planning Board shall be guided by the development objectives and general guidelines set forth in Appendix B.
- B. When the Planning Board renders final approval of a Class B regional subdivision the Board shall issue a permit authorizing the sub divider to undertake the subdivision in accordance with any terms and conditions set forth therein. The Planning Board, in conjunction with its approval of any Class B regional subdivision, 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 appropriate means, to insure that guidelines as to intensity of development as provided in the zoning ordinance shall be respected, and the imposition of reasonable conditions to insure that the subdivision will be adequately supported by services and improvements made necessary thereby and to insure that the subdivision will be completed in accordance with the terms of the approval and permit. In addition, the Planning Board may incorporate any such requirements and conditions in the permit issued with regard to such Class B regional subdivision.

Section 710 Special Additional Procedures Regarding Class B Regional Subdivisions

When a proposed subdivision is a Class B regional subdivision, within fifteen (15) days following receipt of a completed application, the Planning Board shall notify the Adirondack Park Agency and upon request, provide a copy of the application, Plat, and tax map parcel number of the parcel to be subdivided, together with such further pertinent information as the Agency may deem necessary. The Planning Board shall also notify the Agency and provide a copy of the notice of public hearing on the subdivision to the Agency at least fourteen (14) days before such hearing. The Agency shall be a full party in interest with standing to participate in the hearing and other proceedings pursuant to this section relative to Class B regional subdivisions.

Section 715 Special Additional Procedures Regarding Class A Regional Subdivisions

- A. As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A regional subdivision the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the application and formulating advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Town land use program including the Zoning Law, Subdivision Control Law, and On-Site Wastewater Treatment Law. Not later than thirty (30) days following receipt by the Planning Board from the Agency of such notice of application completion with regard to a Class A regional subdivision, or such shorter period as may be agreed upon in writing by the Agency and the Town, the Planning Board shall, by certified mail, provide to the Agency its advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Town land use program.
- B. The Planning Board may establish whatever joint procedures with the Adirondack Park Agency for review of Class A regional subdivision which the Board in its discretion deems desirable to minimize duplication and generally expedite the review process.

ARTICLE 8: DOCUMENTS TO BE SUBMITTED

Section 800 Sketch Plan

The sketch plan shall consist of a drawing based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire ownership of the sub divider to be shown on one sheet, and shall show:

1. The location of that portion of the sub divider's ownership which is to be subdivided in relation to the whole, and the location of nearby streets and roads.
2. All existing structures, wooded areas, water bodies, mapped wetlands, permanent and intermittent watercourses, and areas of steep slopes (generally 25% or greater) within the subdivided and of all adjoining property portion to be subdivided, and within 200 feet thereof.
3. Flood hazard areas as shown on the Federal Insurance Administration Flood Hazard Boundary Map or Flood Hazard Rate Map.
4. The name of the owner(s) of the property to be owners as disclosed by the most recent municipal tax records.
5. The tax map sheet, block and lot numbers, if available.
6. Type of sewage disposal and water supply.
7. All utilities and streets, existing and proposed.
8. All existing buildings or structures on the site.
9. The proposed lot layout, street layout and any proposed recreation or open space areas.
10. Tax map, block, section and lot number (s).
11. All existing restrictions on the use of land including easements or covenants.

Section 810 Application for Minor Subdivision Plat Approval

An application for Minor Subdivision Plat approval shall include:

1. The Plat to be filed with the County Clerk, at a scale of not more than two hundred (200) but not less than fifty (50) feet to the inch, which shall show:
 - a. Proposed subdivision name, name of the Town and county in which it is located, and the names of all adjoining property owners.
 - b. North point map scale, and name and address of the sub divider, the owner(s) of record, and engineer or surveyor, if any, including license number and seal.
 - c. The boundary lines of the tract, and for each of the lots therein offered for sale to the public, if any, the boundary lines of such lots by actual field survey, giving complete
 - d. Descriptive data by bearings and distances, made and certified to by a licensed land surveyor, and bearing the date of the completion of the survey. The corners of whatever part or parts of the tract may be offered for sale to the public shall also be located on the ground and marked by monuments as approved by the Planning Board, and shall be as shown on the Plat. No survey shall be required for a minor subdivision effected entirely by bona fide gift, devise or inheritance.
 - e. All existing structures, easements, wooded areas and permanent and intermittent watercourses.
2. Evidence that the sub divider is the owner of the property.
3. Design of all proposed on-site sanitation and water supply facilities, meeting the minimum specifications of the State Department of Health and the Town sanitary code.

4. A copy of the deed(s) relating to the property to be subdivided, and such proposed covenants or deed restrictions as may be intended to apply to the property in whole or in part.

Section 820 Application for Preliminary Plat Approval of a Major Subdivision

1. Name and address of sub divider and professional advisers, including license numbers and seals.
2. Evidence that the sub divider is the owner of the property.
3. Copy of tax map(s).
4. Ten copies of the plat map, drawn to a scale of not less than 1 inch = 100 feet, including but not limited to:
 - a. Proposed subdivision name, name of the Town and county in which it is located, and the names of all adjoining property owners.
 - b. North point map scale, and name and address of the sub divider, the owner(s) of record, and engineer or surveyor, if any, including license number and seal.
 - c. The boundary lines of the tract, and for each of the lots therein offered for sale to the public, if any, the boundary lines of such lots by actual field survey, giving complete
 - d. Descriptive data by bearings and distances, made and certified to by a licensed land surveyor, and bearing the date of the completion of the survey. The corners of whatever part or parts of the tract may be offered for sale to the public shall also be located on the ground and marked by monuments as approved by the Planning Board, and shall be as shown on the Plat.
 - e. All existing structures, easements, wooded areas and permanent and intermittent watercourses.
5. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
6. Plans and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and sub-base, and the location of any underground cables.
7. The approximate location and size of all proposed waterlines, hydrants and sewer lines, showing connection to existing lines.
8. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
9. Existing restrictions on the use of land including easements, covenants and zoning.
10. Preliminary designs for any bridges or culverts.
11. Grading and landscaping plans.
12. A copy of all covenants or deed restrictions intended to cover all or part of the tract.
13. Where the preliminary plat submitted covers only a part of the sub divider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
14. Any required fees.
15. A Full Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), if required.
16. Storm water Pollution Prevention Plan (SWAPP), if required by state law or regulations and/or by the Planning Board.
17. Additional information as deemed necessary by the Planning Board.

Section 830 Final Plat

1. One copy of the plat to be submitted to the County Clerk prepared by a licensed professional surveyor or engineer, drawn with ink on suitable material, plus twelve copies supplied to the Town. The map scale shall be one inch = one hundred feet unless specified otherwise by the Planning Board, to include:
 - a. Proposed subdivision name and the name of the Town and County in which the subdivision is located; the name and address of record owner and sub divider; name, address, license number and seal of the surveyor and/or engineer.
 - b. The length and bearing of all straight lines; radii and length of curves; tangent bearings for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale and true north point.
 - c. Road lines, pedestrian walkways, lots, easements and areas to be dedicated to public use.
 - d. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line, and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
2. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
3. Permanent reference markers shall be shown and constructed in accordance with Planning Board specifications.
4. Evidence that any proposed water supply and sewage disposal facilities associated with the Subdivision Plat requiring approval by the Department of Environmental Conservation and/or the State or County Department of Health have received at least preliminary approval(s) of such facilities.
5. A Full Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), if required.
6. Construction drawings including plans, profiles, and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or sewage disposal systems, storm drains or ditches, pavements, and sub-base and other facilities.
7. Evidence of legal ownership of property.
8. Deed restrictions, existing and proposed in form for recording.
9. Any required financial guarantees for public improvements (see Article 9).
10. Storm water Pollution Prevention Plan (SWAPP), if required by state law or regulations and/or by the Planning Board.
11. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in enforcement of this law.

Section 840 Waiver of Submission Requirements

The Planning Board, at its discretion, may waive any of the submission requirements specified in this article which it deems unnecessary for their review of the subdivision and which imposes unnecessary cost and expense upon the applicant, provided that: (a) no provision of New York State Town Law Sections 276, 277, 278, or 279 is waived, (b) no provision of the State Environmental Quality Review Act (SEQR) is waived, and (c) no provision of Article 7 of this law is waived.

ARTICLE 9: FINANCIAL GUARANTEES FOR IMPROVEMENTS

Section 900 Required Improvements

- A. The construction or installation of any improvement or facilities for which a financial guarantee has been made pursuant to this Article shall be completed within the time specified by the Planning Board, not to exceed three (3) years from the date of the posting of the guarantee.
- B. The sub divider may request an extension of time to perform required improvements provided he can show reasonable cause for inability to construct and install said improvements within the required time. Such extension of time shall not exceed six (6) months. At the end of such extension of time, if the required improvements are not completed satisfactorily the Town may use as much of the financial security required by this Article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.
- C. At least five (5) days prior to commencing construction of required improvements the sub divider shall pay to the Town Clerk the inspection fee and shall notify the Town Board or an official designated by the Board in writing of the time when the construction of such improvements will be commenced so that the Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of improvements.

Section 910 Required Financial Security

- A. Applicants for subdivision plat approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee re-vegetation and land restoration, and the installation of improvements. Such improvements may include community water systems, community sewer systems, storm water management facilities, sewers, roads, pavement markings, traffic signs and signals, sidewalks, and others.
- B. Acceptable financial security shall be provided to the Town in one of the following ways:
 - 1. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the improvements required by the Planning Board pursuant to this law.
 - 2. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the improvements required by the Planning Board pursuant to this Law.
 - 3. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the improvements required by the Town Board pursuant to this law.

Section 920 Review of Proposed Financial Security

For each of the above options, the required improvements shall be shown on subdivision plats, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

Section 930 Schedule of Improvements

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required improvements, establishing a schedule for the construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of a the financial guarantee to the applicant as work is satisfactorily completed.

Section 940 Staged Refunding of Financial Guarantees

- A. At such times as the sub divider wishes to have guarantee funds released in consideration of work satisfactorily performed, the sub divider shall cause to be prepared an accurate statement of the work performed and inspected as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required improvements.
- B. The sub divider, after preparing such statement, shall submit it for review by the Town Engineer, and for review, approval, and signature by the Planning Board and the Town fiscal officer. If the statement is approved by the Planning Board and the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the sub divider makes staged refunding possible, the Town Clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

Section 950 Acceptance of Required Public Improvements

When the Town Engineer or Town Highway Superintendent, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept some or all of the improvements.

Section 960 Default of Security Agreement

In the event that any required improvements have not been installed as provided in the financial security agreement, the Town Board may declare said agreement to be in default and collect the sum remaining payable thereunder. Upon receipt of the proceeds, the Town shall install such improvements as are covered by said agreement.

Section 970 Required Maintenance Guarantee

Upon acceptance of any improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent (10%) of the financial guarantee originally required of the sub divider. The sub divider may provide a maintenance guarantee by one of the methods provided for in Section 910 of this Article, but no maintenance bond shall be for less than five thousand dollars (\$5,000) (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

ARTICLE 10: ENFORCEMENT

Section 1000 Violations

- A. It shall be unlawful for any person to subdivide land through sale, lease, development or separate occupancy or to offer lots, parcels or sites for sale, lease, development or separate occupancy without first obtaining the approval of the Planning Board and, for Class A Regional Subdivisions, the APA in accordance with the provisions of this law and timely filing the approved and signed subdivision plat or plan with the Warren County Clerk.
- B. It shall be unlawful for any person to undertake grading, road construction, installation of utilities or other improvements, land-clearing or disturbance, or any other land use and development preparatory or incidental to a subdivision of land except in accordance with this ordinance or to do so contrary to or inconsistent with any provision or condition of approval imposed by the Planning Board or the APA in its approval of the subdivision.
- C. It shall be unlawful for any person to undertake new land use or development on a lot, parcel or site within a subdivision which has not received approval by the Planning Board or the APA, and which has not been timely filed in accordance with this chapter and Article 16 of the Town Law or in a manner inconsistent with the terms and conditions of the Planning Board's approval, including any conditions of waiver.
- D. It shall be unlawful for any person to fail to comply with a written directive, including a stop order and a stop-work order of the Planning Board, Enforcement Officer, Town Engineer, or any agent of the foregoing.
- E. Where a violation has occurred or exists, the potentially responsible persons shall include the owner of the real property which has been illegally subdivided or developed; any contract vendee, lessee or grantee of such owner who knowingly participates in such violation; any agent who has executed an application to the Planning Board on behalf of such owner or contract vendee with respect to such real property and who knowingly participates in such violation; the owner of any lot within the subdivision who undertakes development; and any contractor, subcontractor, builder, construction superintendent, engineer, or other person who knowingly participates in managing, directing, assisting in, or who is otherwise responsible for, the illegal construction or development activities.

Section 1010 Fines and Penalties

- A. Criminal sanctions
 - 1. A violation of this chapter may be enforced in a court of competent jurisdiction by imposing criminal sanctions as follows:

First offense:	Fine not exceeding \$350 or six months imprisonment or both
Second offense:	Fine not less than \$350 or more than \$700, or up to six months imprisonment or both

Third offense, or subsequent offense (if committed within five years of first offense)	Fine not less than \$700 or more than \$1,000, or up to six months imprisonment or both
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2. Each such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such offense 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 provision.
3. The Enforcement Officer, at the direction of the Planning Board, may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing an information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternatively, the Planning Board or Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.
4. Such fines may be compromised or released as part of any disposition.

B. Civil penalties.

1. A violation of this chapter may be enforced in a court of competent jurisdiction by imposing civil penalties as follows:

First offense:	Civil penalty not exceeding \$350
Second offense:	Civil penalty not less than \$350 or more than \$700
Third offense, or subsequent offense (if committed within five years of first offense)	Civil penalty not less than \$700 or more than \$1,000

2. As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation as follows:
3. Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.
4. In the event the penalty sought is within the monetary jurisdiction of the justice court, as established in Article 18 of the Uniform Justice Court Act, an action to recover such penalty, as shall be determined by the Town Attorney, may be commenced as a small claim pursuant to the provisions of said Act.
5. Such penalties may be compromised or released as part of any disposition.

Section 1020 Alternative or Additional Actions and Remedies

- A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.

- B. The Town Board may effect appropriate corrective, remediation, and abatement measures, including rescission of purchase contracts and lot sales, by means of an enforceable negotiated civil settlement agreement or consent order with the sub divider, landowners and other responsible persons. Such agreements or orders may require the sub divider and other responsible persons to pay a monetary penalty which (i) includes exemplary or punitive damages and (ii) reimburses the actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements, and costs of emergency and other corrective and restoration measures. If the monetary payments are not made, they may constitute the basis of a lien charge attachable to the land as a special assessment or charge assessable and collectable on the tax bill associated with the subject land.

Section 1030 Administrative Actions

- A. Whenever the Planning Board has reasonable grounds to believe that unlawful subdivision of land has been undertaken or is continuing, it may notify the sub divider or any agent of the sub divider and direct that the unlawful activity immediately cease. No such notice is required as a prerequisite to a proceeding for criminal sanctions, civil penalties or injunctive relief.
- B. The Planning Board may effect appropriate corrective, remediation and abatement measures, including rescission of purchase contracts and lot sales, by means of an enforceable negotiated settlement agreement with the sub divider and other responsible persons.
- C. When the Planning Board or any agent thereof has reasonable grounds to believe that work on any improvement in a subdivision is occurring in violation of this ordinance or not in conformance with the application or approval issued hereunder or in an unsafe or dangerous manner, it shall promptly notify the sub divider and responsible person(s) and direct in writing that such work be suspended. Such order shall describe the conditions under which the work may be resumed and may be served by personal delivery or posting in a conspicuous portion of the improvement site and also mailing a copy to the sub divider by certified mail. Such person(s) shall immediately cease and suspend the work until the stop-order has been rescinded.
- D. If in the opinion of the Planning Board or any agent thereof a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, or general welfare of the public, it may direct that such violation be immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the sub divider. If a person other than the sub divider is responsible for the violation, such person shall be jointly and severally liable, together with the sub divider for any such costs.
- E. No certificate of compliance for any building within a subdivision may be issued prior to satisfactory completion of the improvements required in the Planning Board's approval of the subdivision plat or any section thereof unless a performance guarantee has been posted pursuant to this code to assure completion of the improvements.

ARTICLE 11: MISCELLANEOUS PROVISIONS

Section 1100 Certification and Filing with County

The Town Clerk is hereby directed to forthwith file a certified copy of this local law with the Clerk of Warren County.

Section 1110 Severability

If any clause, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, section, or part of this local law.

Section 1120 Amendments

- A. Any proposed amendment to this law shall be referred to the Adirondack Park Agency in accordance with the regulations of the APA
- B. Any amendment to this local law shall become effective on the date the Town Board files the local law with the Secretary of State pursuant to the Municipal Home Rule Law provisions. Such amendment shall apply to any preliminary subdivision plat which has not received approval, or approval with modification, prior to such date of filing and to any preliminary subdivision plat, approved with or without modification, for which a formal application for final plat approval is not received within six months of the date of such approval.

Section 1130 Effective Date

This local law shall effect immediately upon filing with the Secretary of State.

APPENDICIES

Appendix A: Development Considerations

Appendix B: Development Objectives for Use in Review of Proposed Subdivisions

Appendix C: Water System Standards

Appendix D: Class A Regional Subdivisions

Appendix E: Class B Regional Subdivisions

Appendix F: Standard Details

(Appendix F consists of large size engineering drawings showing construction details, and is available at the Town Offices)

APPENDIX A - DEVELOPMENT CONSIDERATIONS

A. Natural Resource Considerations.

1. Water.
 - (a) Existing water quality.
 - (b) Natural sedimentation or siltation.
 - (c) Eutrophication.
 - (d) Existing drainage and runoff patterns.
 - (e) Existing flow characteristics.
 - (f) Existing water table and rates of recharge.
2. Land.
 - (a) Existing topography
 - (b) Erosion and slippage.
 - (c) Floodplain and flood hazard.
 - (d) Mineral resources.
 - (e) Viable agricultural soils.
 - (f) Forest resources.
 - (g) Open space resources.
 - (h) Vegetative cover.
 - (i) The quality and availability of land for outdoor recreational purposes.
3. Air.
 - (a) Air quality.
4. Noise.
 - (a) Noise levels
5. Critical resource areas.
 - (a) Rivers and corridors of rivers designated to be studied as wild, scenic, or
 - (b) Recreational in accordance with the environmental conservation law.
 - (c) Rare plant communities.
 - (d) Habitats of rare and endangered species and key wildlife habitats.
 - (e) Wetlands.
 - (f) Unique features, including gorges, waterfalls, and geologic formations.
6. Wildlife.
 - (a) Fish and wildlife.
7. Aesthetics.
 - (a) Scenic vistas.
 - (b) Natural and man-made travel corridors.

B. Historic Site Considerations.

1. Historic factors.
 - (a) Historic sites or structures.

C. Site Development Considerations.

1. Natural site factors.
 - (a) Geology.
 - (b) Slopes.
 - (c) Soil characteristics.
 - (d) Depth to ground water and other hydrological factors.
2. Other site factors.
 - (a) Adjoining and nearby land uses.
 - (b) Adequacy of site facilities.

D. Government Considerations.

1. Government considerations.
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district user charges.

E. Government Review Considerations.

1. Government control factors.
 - (a) Conformance with other government controls.

APPENDIX B - DEVELOPMENT OBJECTIVES FOR USE IN REVIEW OF PROPOSED SUBDIVISIONS

A. Soils

1. Soils, General.

Objective: Prevent accelerated soil erosion and the potential for earth slippage.

General Guideline: Respect existing natural features such as slope, soil texture and structure; minimize removal of vegetative cover; rapidly revegetate cleared areas limit cuts and fills; and employ such erosion control devices and measures as are necessary to promptly stabilize slopes and surfaces and to control runoff.

2. Agricultural Soils.

Objective: Conserve viable agricultural soils.

General Guideline: Avoid activities on Class I and Class II agricultural soils presently in agricultural service which would diminish or preclude continuing use thereof for agricultural purposes.

B. Topography

Objective: Minimize topographic alterations.

General Guideline: Minimize excavation, cuts and fills and site grading by employing to advantage existing topographic features; and avoid development activities on steep slopes where environmental damage and costly development problems could result therefrom.

C. Surface Waters.

1. Water Quality and Eutrophication.

Objective: Maintain or enhance existing physical, chemical and biological water quality characteristics and prevent any undue acceleration of existing rates of eutrophication of bodies of water.

General Guideline: Maintain wide buffer strips of natural vegetation bordering water bodies; minimize channel disturbance and alterations; preserve shoreline vegetation; minimize hydrologic changes which would result from damming or impounding; avoid introduction of nutrients from the use of fertilizers and from sewage effluent; and avoid introduction of toxic materials to water bodies.

2. Surface Drainage.

Objective: Retain existing surface water drainage and runoff patterns and existing flow characteristics.

General Guideline: Minimize alterations to existing drainage patterns and drainage courses; preserve drainageways in their natural state; and provide, where necessary, natural ponding areas and other measures designed to provide natural retention of storm water runoff if development includes a significant area of impervious surface.

3. Flood Plains.

Objective: Maintain the storage capacity of flood plains and their existing ability to convey water downstream; and avoid activities in flood plains which will result in dangers to life, safety and property if subjected to flooding.

General Guideline: Avoid the placement of buildings intended for human habitation commercial use and industrial use within flood plains; avoid the use of fill to create elevated sites; and within

any floodway fringe special zoning district conform all development plans to the floodplain regulations contained in Article VII, hereof.

D. Ground Water.

Objective: Preserve quality, infiltration rate, and levels of ground water.

General Guideline: Comply at a minimum with applicable government water pollutant discharge restrictions; particularly avoid discharges of effluent potentially degrading to ground water quality in proximity to major aquifer recharge areas; and avoid impairment of aquifer recharge areas which could result from covering them with impervious surfaces.

E. Shorelines.

Objective: Maintain or enhance the existing physical, biological and aesthetic characteristics of the shoreline of all lakes, ponds, rivers and streams.

General Guideline: Comply at a minimum with applicable government shoreline restrictions, minimize construction or development of any kind near or on the shoreline; avoid physical modifications of the shorelines themselves; minimize the removal of vegetation along shorelines; locate buildings so as to be partially screened from the shorelines by natural vegetation; maximize the preservation of stretches of shoreline in a natural, unchanged and developed state.

F. Mineral Resources.

Objective: Conserve existing known mineral resources.

General Guideline: Avoid activities which would preclude present or future use of important mineral resources that may be of economic significance to the region.

G. Air Quality.

Objective: Maintain or enhance existing air quality.

General Guideline: Adhere to applicable governmental air quality standards; provide adequate air pollution abatement devices; and reduce dust levels caused by construction activities.

H. Noise Levels.

Objective: Limit additions to noise levels.

General Guideline: Adhere at a minimum to applicable government noise level standards; utilize noise abatement equipment; and maintain natural buffers such as existing topographic relief and vegetation.

I. Wetlands.

Objective: Preserve the hydrologic, wildlife, vegetational, aesthetic, educational, open space and recreational values of wetlands.

General Guideline: Avoid development in marshes, bogs, swamps and periodically inundated lands or on lands immediately adjacent thereto if such development would result in environmental damage to the marsh, bog, swamp or periodically inundated land.

J. Aquatic Communities.

Objective: Protect generally the existing natural aquatic plant and animal communities and preserve rare and endangered aquatic plant and animal species.

General Guideline: Preserve key spawning areas, nursery grounds, food sources and food source areas; preserve habitats of rare and endangered plant and animal species; maintain adjacent vegetated areas generally as habitats and buffer zones; minimize shoreline alternations such as beach construction and emplacement of docks, rafts, boat launching facilities and breakwaters; and avoid introduction of toxic materials and nutrients to water bodies.

K. Terrestrial Vegetation.

1. Vegetation, General.

Objective: Preserve or quickly restore terrestrial vegetation.

General Guideline: Minimize clearing of vegetation in light of development objectives; avoid clearing vegetation where damage will result to remaining vegetation from such factors as wild, erosion and frost; and protect remaining vegetation during the construction period.

2. Rare and Endangered Terrestrial Plant Species.

Objective: Preserve rare and endangered terrestrial plant species.

General Guideline: Locate development and other intensive human activities so as to protect the location and habitats of rare and endangered plant species and allow for the continuing propagation of these species.

3. Productive Commercial Forest Land.

Objective: Conserve productive forest lands.

General Guideline: Avoid impairment of productive forest lands for commercial forest production by employing sound forestry practices and by employing such planning techniques as clustering of development.

L. Terrestrial Wildlife.

1. Terrestrial Wildlife, General.

Objective: Maximize the preservation of terrestrial wildlife species.

General Guideline: Preserve key wildlife habitats, such as deer wintering yards, nesting areas, productive feeding areas, and important vegetation transition areas; and maintain wildlife diversity to the extent possible in view of project objectives by maintaining a diversity of habitat.

2. Rare and Endangered Terrestrial Wildlife Species.

Objective: Preserve rare and endangered terrestrial wildlife species.

General Guideline: Locate development and other intensive human activities so as to protect the location and habitats of rare and endangered terrestrial wildlife species and allow for the continuing propagation of these species.

M. Aesthetics.

1. Aesthetics, General.

Objective: Preserve and enhance, where possible. Impact of the project upon the existing aesthetic qualities of the project site and its environs.

General Guideline: Utilize existing vegetation and topographical features, and employ careful siting methods so as to minimize the visual impact of all development activities.

2. Scenic Vistas.

Objective: Maintain the scenic qualities of views from vistas designated in the Adirondack Park State Land Master Plan.

General Guideline: Avoid visibility of buildings and other development and land use alterations generally from vistas by employment of vegetative screening, existing topography and careful siting methods.

3. Travel Corridors.

Objective: Preserve the scenic qualities of views from public roads and trails and from boats and canoe routes.

General Guideline: Employ vegetative screening, existing topography, and careful siting methods to minimize the visual impact of buildings and other development and land use alternations.

N. Open Space.

1. Open Space, General.

Objective: Maintain the open space character of the project site, adjacent land, and surrounding areas.

General Guideline: Provide on the project site sufficient open space areas for outdoor recreational use by those persons who will use the proposed project, taking into account the existing recreational resources available in the area; and locate buildings and other development so as not to interfere with those areas to be used as hiking, bicycling and cross-country skiing trails as well as trail-bike, jeep, all-terrain vehicle and horse trails, playgrounds, public areas, campgrounds, parks, beaches and similar uses.

2. Outdoor Recreation

Objective: Maintain the quality and availability of land for outdoor and open space recreational purposes.

General Guideline: Provide on the project site sufficient open space areas for outdoor recreational use by those persons who will use the proposed project, taking into account the existing recreational resources available in the area; and locate buildings and other development so as not to interfere with those areas to be used as hiking, bicycling, and cross-country skiing trails as well as trail-bike, jeep, all-terrain vehicle and horse trails, playgrounds, picnic areas, campgrounds, parks, beaches , and similar uses.

O. Adjoining and Nearby Land Use.

1. Surrounding Land Uses, General.

Objective: Minimize incompatibility of new development with the character of adjoining and nearby and uses.

General Guideline: Take into account the existing and potential land uses in the vicinity of the project site in determining what new land use activities are suitable for the project site; avoid new intensive development in open space areas; and avoid substantially altering existing residential and other land use patterns.

2. Adjacent State Land.

Objective: Preserve the wild and natural character of adjacent state lands designed as wilderness, primitive, or canoe by the Adirondack Park State Land Master Plan. *General*

General Guideline: Minimize development activities which would materially impair the wilderness attributes of these State lands; design and construct development that is located within one-eighth mile of these State lands so as to minimize its visual and audial impact in these wilderness-like areas, thereby insuring the continued capability of State and private types of ownership.

P. Wild, Scenic and Recreational Study Rivers.

Objective: Protect or enhance the natural qualities of any river designated to be studied for possible inclusion in the State's wild, scenic or recreational river system.

General Guideline: Maintain buffer zones and existing vegetation along designated study rivers; avoid intensive development within one-quarter mile of such rivers; minimize alterations to such rivers and their banks; and pressure the free-flowing character of such rivers.

Q. Historic Sites.

Objective: Protect archeological sites, historic sites, and unique historical structures for their educational and culture value to the area, region or State.

General Guideline: Preserve and restore archeological sites, historic sites, and unique historic structures to the extent warranted by their respective significance; avoid land uses and development on adjoining and nearby lands which would be incompatible with the significance of such sites and structures.

R. Special Interest Areas.

Objective: Preserve special interest areas such as unique natural features and their surrounding environs.

General Guideline: Avoid physical and aesthetic alteration and impairment of the natural condition of unique physical features such as gorges, waterfalls and interesting geological formations; provide for their continuing protection; utilize these special interest areas as assets to development.

S. Government Considerations.

1. Service and Finance.

Objective: Fully explore and assure the ability of governmental services and facilities made necessary by the project.

General Guideline: Phase development activities to a level commensurate with the financial capability of the various levels of government to provide the governmental services and facilities that will be generated by the development, such as transportation systems, schools, health care, sewage and solid waste disposal systems, water supply systems, and fire and police protection; require that as nearly as possible the balance between the cost of public services required to adequately serve the development as compared with the anticipated tax and other revenues to be generated by the development be favorable at each level of government or taxing jurisdiction affected by the project; and include in development plans provisions to maintain or improve existing services and alleviate any potential any adverse impact upon the ability for the government to provide services and facilities.

2. Regulation.

Objective: Conform development activities to all applicable governmental rules and regulations.

General Guideline: Comply with all applicable Local Laws, rules and regulations of all governmental agencies with responsibilities for such activities, including those of Towns and

villages, counties, the State Department of Health and Environmental Conservation, and the Adirondack Park Agency.

T. Public Utilities and Community Resources.

Objective: Assure the adequacy of such public utility services and community resources as shall be necessary for the project.

General Guideline: Avoid excessive demands on the capabilities of public utilities such as electricity and communication services; avoid necessity for major uncompensated increase in community services and activities such as recreational facilities, social cultural and health services, and transportation facilities.

APPENDIX C – WATER SYSTEM STANDARDS

A. **General**. All components of a community water system shall meet the following:

1. Recommended Standards for Water Works Adopted by the Great Lakes – Upper Mississippi River Board of State Sanitary Engineers. (New York State Department of Health Bulletin No. 42.)
2. Recommended Water System Design Standards of the Insurance Services Office of New York.
3. The design shall provide that additions to the system can be constructed without interrupting normal service or decreasing fire flows. All components shall be designed to provide present and future service as required by the Town of Johnsbury. Subdivision water systems shall be connected to the Town system if feasible, and if the Town system can adequately serve the subdivision. Developer owned public supply systems shall be built to the previously noted standards and shall be ceded to the Town of Johnsbury, along with all associated easements, at no cost to the Town if the Town so desires. The owner shall be required to pay for inspection by the Town or its designated agent during construction to insure the system will meet all applicable standards. In addition, prior to cession to the Town, the owner shall submit a detailed engineering analysis of the system to the Town for review and approval.

B. **Water Supply**

1. A source for a community water system shall be developed and tested in accordance with Recommended Standards for Water Works, and all New York State Department of Environmental Conservation and New York State Department of Health Standards.
2. For a residential subdivision of five (5) or more lots using individual wells on each lot, the owner shall, prior to final approval of any phase, drill one (1) well for every five (5) lots proposed, and have an eight (8) hour pumping test run by a Licensed Engineer for Hydrogeologist on each well. Such test should measure the drawdown and recovery of the well, and an analysis of the test data shall be made to demonstrate a long term safe aquifer yield capacity of at least five (5) gallons per minute (gpm) per well. The locations of the test wells shall be approved by the Town Engineer. Once the phase of the subdivision is approved, individual pump tests are required for each lot prior to the issuance of a building permit.
3. For a single family home a four (4) hour pumping test shall be performed and shall yield a minimum of five (5) gpm to demonstrate an adequate yield. Where the required yield is not obtained, the water supply and storage system shall be designed by a licensed professional engineer.
4. For a multi-family home, an eight (8) hour pumping test shall be performed and shall yield a minimum of five (5) gpm to demonstrate an adequate yield. Where the required yield is not obtained, the water supply and storage system shall be designed by a licensed professional engineer.

C. **Water Mains**

1. Pipe fittings shall be of approved materials and class. Class of pipe and type of material shall be specified according to ground conditions, external loading using specified bedding, and internal pressure as determined by immediate conditions and the Town of Johnsbury. Main

sizes shall be as required by the Town in Accordance with Town water system plans with no main less than eight (8) inch size. Dead ends shall be avoided wherever feasible. When permitted, however, a hydrant shall be installed.

2. In subdivisions where on-site private water supply systems will be utilized, a dry water supply system may be required by the Board within the road right-of-way or utility easement for future use when service becomes available. An escrow for the full dollar value of a dry water system may be an acceptable alternative.

D. Fire Protection

The design of all water supply and storage systems should meet NFPA standards for total water supply, fire flows and hydrants.

E. Valves

Valves shall be AWWA gate valves of a type approved by the Town. Valves shall be installed on every branch of an intersection, every stub provided for future expansion, at every hydrant, and as required by NYS DOH Bulletin 42. The Owner may be allowed to omit the valve on one branch line at intersections of lines of minor importance. Valve boxes shall be installed for each valve.

F. Services

Services shall be of approved materials at least $\frac{3}{4}$ inch inside diameter.

G. North Creek Water District Standards

If the water system is intended to be connected to the North Creek Water District, then the standards required by said district shall apply rather than the standards specified in this appendix.

APPENDIX D: CLASS A REGIONAL SUBDIVISIONS

A. Hamlet Zoning Districts (HR, HB1, HB2, HX)

1. All subdivisions involving wetlands.
2. Any subdivision that by agreement between the Town and the APA as set forth in this local law is to be reviewed by the APA; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All subdivisions involving one hundred (100) or more lots.

B. Mixed Use 1.3 Zoning Districts (MX 1.3)

1. All subdivisions located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studies as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracks of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
2. Any subdivision that by agreement the Town and the APA as set forth in this local law is to be reviewed by the APA; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.
3. All subdivisions involving seventy-five (75) or more lots.

C. Mixed Use 3.2 Zoning Districts (MX 3.2)

1. All subdivisions located in the following critical environmental areas:
 - a. Within one-quarter mile of rivers navigable by boat designated to be studies as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracks of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
2. Any subdivision that by agreement between the Town and the APA as set forth in this local law is to be reviewed by the APA, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized by local law.

3. All land uses and development and all subdivision involving thirty-five (35) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

D. Mixed Use 8.5 Zoning Districts (MX 8.5)

1. All subdivisions located in the following critical environmental areas:
 - a. Within one-quarter mile of the Hudson or Sacandaga Rivers.
 - b. Involving wetlands.
 - c. At elevations of twenty-five hundred (2500) feet or more.
 - d. Within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto.
 - e. Within one hundred fifty (150) feet of the edge of the right of way of federal or state highways, except for an individual single-family dwelling and accessory uses or structures thereto.
 - f. Within one hundred fifty (150) feet of the edge of the right of way of county highways designated by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, as major travel corridors by the agency or local government.
2. Any class of land use or development or subdivision that by agreement between the Town and the APA as set forth in this local law is to be reviewed by the APA provided, however, that any class of projects so agreed upon must be designated by and its review authorized in by local law.
3. All subdivisions involving twenty (20) or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

E. Mixed Use 42.7 Zoning Districts (MX 42.7)

All subdivisions.

F. Commercial – Industrial Zoning Districts (Floating Zone)

Class A regional subdivisions within Commercial – Industrial zoning districts shall be so designated at the time of creation of such districts, after consultation with the Adirondack Park Agency.

APPENDIX E: CLASS B REGIONAL SUBDIVISIONS

1. Mixed Use 1.3 Zoning Districts (MX 1.3)

1. All subdivisions involving from fifteen (15) to seventy four (74) lots.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions is fifteen (15) or more.
3. Subdivisions involving fewer than fifteen (15) lots and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least twenty-five thousand (25,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least forty thousand (40,000) square feet in size.
4. The cumulative counting of lots for purposes of determining class B regional subdivisions begins with the parcel as it existed on August 1, 1973.

2. Mixed Use 3.2 Zoning Districts (MX 3.2)

1. All subdivisions involving from ten (10) to thirty four (34) lots.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions is ten (10) or more.
3. Subdivisions (and all land uses and development related thereto) involving less than ten (10) lots, and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least fifty thousand (50,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least one hundred and twenty (120,000) square feet in size.
4. The cumulative counting of lots for purposes of determining class B regional subdivisions begins with the parcel as it existed on August 1, 1973.

3. Mixed Use 8.5 Zoning Districts (MX 8.5)

1. All subdivisions involving from five (5) to nine (9) lots.
2. Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions is five (5) or more.

3. Subdivisions involving less than five (5) lots, parcels or sites and which do not meet the following criteria:
 - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least eighty thousand (80,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
 - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least three hundred and twenty thousand (320,000) square feet in size.
4. The cumulative counting of lots for purposes of determining class B regional subdivisions begins with the parcel as it existed on August 1, 1973.

4. Commercial – Industrial Zoning Districts (Floating Zone)

Class A regional subdivisions within Commercial – Industrial zoning districts shall be so designated at the time of creation of such districts, after consultation with the Adirondack Park Agency.

TOWN OF JOHNSBURG
JUNK STORAGE LAW

September 1, 2007

ARTICLE A INTRODUCTION

Section 1 Authority

This law is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule Law.

Section 2 Title

This law shall be known as the "Town of Johnsbury Junk Storage Law."

Section 3 Purpose

The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons; protect water resources; preserve the aesthetic qualities of the municipality; prevent depreciation of the property on which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the Town of Johnsbury Comprehensive Plan.

Section 4 Prior Existing Junkyard Law

This law shall replace and supersede Article IV, Section 2, Part H. "Junk Yards" and Part I. "Automobile Storage," of the Town of Johnsbury Zoning Ordinance adopted February 25, 1964.

Section 5 Definitions

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article.

Enforcement Officer. The person(s) appointed by the governing Board to enforce the provisions of this law.

Junk. Includes any of the following.

- a. One (1) junk vehicle
- b. One (1) piece of junk equipment, including junk farm or construction equipment
- c. Two (2) or more appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- d. Two (2) or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- e. Any combination of the above that totals two (2) items.

Junk Appliance. Any household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer refrigerator, air conditioner, water heater, or television, which is stored outside of any residence or structure.

Junk Equipment. Any equipment which meets all the following conditions: (a) It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; (b) It is not in working order; (c) It has remained unused for more than one year.

Junk Furniture. Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

Junk Mobile Home. Any manufactured housing unit designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling, sleeping, or storage purposes and which meets all of the following conditions:

- (1) it is unoccupied and in its present condition does not meet the requirements of the New York State Uniform Fire Prevention and Building Code for residential occupancy; and
- (2) it is either stored, abandoned, wrecked, discarded, dismantled, or partly dismantled.

Junk Storage Area. The areas of any real property used or intended to be used for the placement, storage or deposit of one or more of the following: junk appliances, junk furniture, junk mobile homes, and junk motor vehicles.

Junk Motor Vehicle. Any motor vehicle whether automobile, bus, trailer truck, tractor, motor home, motorcycle, all terrain vehicle, mini-bicycle, or snowmobile or any other device originally intended for travel on public highways which meets all the following conditions: (a) it is unlicensed or unregistered; (b) it is abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; and (c) it is not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Junkyard. Includes any of the following.

- a. The outdoor storage of two (2) or more junk vehicles.
- b. The outdoor storage of one (1) or more abandoned mobile homes or travel trailers.
- c. The outdoor storage of two (2) or more pieces of junk equipment, including junk farm or construction equipment.
- d. Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of machinery, scrap metals, waste papers, rags, or used or salvaged building materials.

Person. Any individual, firm, partnership, association, corporation, company, or organization of any kind.

Prior existing junkyard. A junkyard that was in existence prior to the adoption of this local law.

ARTICLE B JUNK REGULATIONS

Section 1 Keeping of Junk

No junk as defined herein shall be located so as to be visible from any public road or from any neighboring residential property. For purposes of this section, a residential property shall mean any parcel of land upon which is located a residential structure.

ARTICLE C JUNKYARD LICENSE

Section 1 License Required

No person shall establish or maintain a junkyard within the Town Johnsbury unless a license has first been issued for such junkyard pursuant to this law. No person owning, having any right to, or any interest in any real property within the Town Johnsbury shall license, rent, lease, or otherwise license the use of such real property of any part thereof for a junkyard unless a license has first been issued for such junkyard pursuant to this law. All licenses shall be issued for a period of one year, after which time renewal shall be required.

Section 2 Temporary License for Prior Existing Junkyard

Any person maintaining a junkyard prior to the effective date of this law within the Town Johnsbury shall apply for a license within 60 days of the adoption of this law. If the junk storage area does not meet the requirements of this law, a temporary license shall be granted for a period not to exceed one year, during which time the junk storage area shall be arranged to comply with said requirements. If at the end of such period the junk storage area has not been arranged to comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk shall be removed from the premises.

ARTICLE D APPLICATION PROCEDURE

Section 1 Application

The applicant for a junkyard license shall obtain application forms from the Town Enforcement Officer. The completed forms along with six copies of the proposed site plan, and the appropriate fees, shall be returned to the Enforcement Officer. The Enforcement Officer shall submit the application materials to the Town Board.

Section 2 Site Plan Contents

The site plan shall be drawn to scale or indicating all dimensions and show:

- a. existing and proposed structures, including fences;
- b. property lines including the names of owners of adjacent property;
- c. streams, lakes, wetlands, floodplains, and other water bodies;
- d. wells and sanitary facilities;
- e. roads and easements;
- f. existing and proposed junk storage areas;
- g. existing and proposed accessways, and parking and loading areas;
- h. list of the types of junk that are proposed to be stored in the storage area.

Section 3 Environmental Assessment Form

An Environmental Assessment Form (EAF), either the short EAF form or full EAF form as appropriate, shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617.

Section 4 Application Fee

The annual fee for a junkyard license shall be established by resolution of the Town Board. Said fee shall accompany all applications, and all yearly license renewals.

Section 5 Referral to Planning Board

The application shall be referred to the Town of Johnsbury Planning Board. The Planning Board shall submit an advisory opinion on the application to the Town Board within 45 days of its receipt.

Section 6 Public Hearing

The Town Board shall fix a time within 45 days of the date a complete application is received for a public hearing. Notice of the hearing shall be made in a newspaper in general circulation in the Town at least five days prior to the date thereof. At the hearing the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard license.

Section 7 Town Board Action

Within 45 days of said hearing the Town Board shall render a decision to approve, approve subject to conditions, or disapprove the application for a junkyard license. The 45 day period may be extended by mutual consent of the applicant and the Board. All findings of the Board shall be entered into the official minutes of the Town. The decision of the Board shall immediately be filed in the office of the Town Enforcement Officer and the applicant shall be notified of the decision and the reasons for such decision by mail within five days of the decision of the Board. Upon approval of the site plan and application, and payment of the fees and reimbursable costs due the Town, the Board shall endorse its approval upon a copy of the final site plan and application.

Section 8 Issuance of License

If the application is approved by the Town Board, a junkyard license shall be issued by the Enforcement Officer. If the application is approved with conditions by the Board, the Enforcement Officer shall issue a junkyard license when conditions are met.

Section 9 Waivers

Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements of this law are justified, then a waiver may be granted. No waiver shall be granted, however, unless the Board finds, and records in its minutes that:

- a. Granting the waiver would be keeping with the intent and spirit of this law, and is in the best interests of the community.
- b. There are special circumstances involved in the particular case.
- c. Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.
- d. The waiver is the minimum necessary to accomplish the purpose.

Section 10 Renewals

Licenses shall be renewed upon payment of the annual license fee without hearing, provided that all provisions of this chapter are complied with during the license period, that the junkyard does not

become a public nuisance under the common law, and that the applicant is not convicted of any type of larceny or the receiving of stolen goods.

ARTICLE D ZONING PERMIT

Section 1 Town Zoning

All junkyards established after the date of adoption of this law (which are not a prior existing junkyard) shall comply with all provisions of the Town of Johnsbury Zoning Law, including obtaining a Zoning Permit.

Section 2 Adirondack Park Agency Approval

Pursuant to Section 1010 of the Town of Johnsbury Zoning Law, Adirondack Park Agency approval is required for any junkyard requiring a town Zoning Permit. (Junkyards are classified as Class A Regional Projects.)

Section 3 Zoning Permit and License

Any proposed junkyard requiring a Zoning Permit shall obtain both a Zoning Permit and a junkyard license as provided herein before becoming established.

ARTICLE E GENERAL CONSIDERATIONS

Section 1 Aesthetic Considerations

In granting or denying a license, the Town Board shall take the following aesthetic factors into consideration.

- a. Type of road servicing the junkyard or from which the junkyard can be seen.
- b. Natural or artificial barriers protecting the junkyard from view.
- c. Proximity of the site to established residential or recreational areas or main access routes thereto.

Section 2 Location Considerations

In granting or denying a license, the Town Board shall take the following location factors into consideration.

- a. The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings, or places of public gathering.
- b. Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors or smoke, or of other causes.
- c. The proximity of streams, lakes, wetlands, flood plains, groundwater supplies, and public water supplies.
- d. Local drainage patterns.
- e. Long range comprehensive plans for the Town.
- f. Proximity of the site to established residential or recreational areas.
- g. Availability of other suitable sites for the junkyard.

ARTICLE F JUNKYARD REGULATIONS

Section 1 Location

No junk storage area shall be located within:

- a. 500 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering.
- b. 50 feet of any adjoining property line.
- c. 100 feet of any stream, lake, pond, wetland or other body of water.
- d. 50 feet from the right-of-way of any public highway.

Section 2 Fencing

- A. There must be erected and maintained an eight (8) foot high fence enclosing the entire junkyard and a locking gate, adequate to prohibit the entrance of children and others into the area of the activity or business, and to contain within such fence the materials dealt with by the operator of the junkyard. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.
- B. Fencing requirements may be waived where topography or other natural conditions effectively prohibit the entrance of children and others.

Section 3 Screening

Where a junkyard is or would be visible from a public highway or from neighboring properties the fence provided in Section 2 above, shall be of wood or other materials sufficient to totally screen the junkyard from view. Such screening may be permitted by adequate planting of evergreen trees or shrubbery.

Section 4 Burning

No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 215).

Section 5 Burying

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 360).

Section 6 Approved Junkyard Items

No junkyard items shall be stored in any junk storage area other than those items specified on a junkyard license approved by the Town Board pursuant to this law.

ARTICLE G ADMINISTRATION AND ENFORCEMENT

Section 1 Enforcement Officer

The Enforcement Officer shall upon request of the Town Board make inspections of the premises of any junkyard for which application for a license has been made, or any other existing junkyard within the Town, and shall report to the Town Board on the conditions of such junkyard. The Enforcement Officer shall make periodic inspections of the Town to ensure that all existing junkyards have licenses and that the requirements of this law are met. Any observed violations shall be reported to the Board. The Enforcement Officer shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to license issuance or renewal.

Section 2 Revocation of License

The Town Board may revoke a junkyard license upon reasonable cause should the applicant fail to comply with any provision of this law. Before a license may be revoked, a public hearing shall be held by the Board. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five days prior to the hearing. At the hearing the Board shall hear the license holder and all other persons wishing to be heard on the revocation of the junkyard license. Should the Board decide to revoke a license, the reasons for such revocation shall be stated in the Board minutes. The license holder shall be immediately notified of the revocation by certified mail. Should any junkyard license be revoked, the operator shall cease and desist from operating a junkyard. All junk shall be removed from the premises within 60 days. If after 60 days the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the land owner.

Section 3 Fines and penalties

A. Criminal sanctions

1. A violation of this law may be enforced by criminal sanctions as follows:

First offense:	Fine not exceeding \$350 or six months imprisonment or both
Second offense:	Fine not less than \$350 or more than \$700, or up to six months imprisonment or both
Third offense, or subsequent offense (if committed within five years of first offense)	Fine not less than \$700 or more than \$1,000, or up to six months imprisonment or both

2. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
3. The 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 an information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternative, the Enforcement Officer or agent or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.
4. Such fines may be compromised or released as part of any disposition.

B. Civil penalties.

1. As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:

First offense:	Civil penalty not exceeding \$350
Second offense:	Civil penalty not less than \$350 or more than \$700
Third offense, or subsequent offense (if committed within five years of first offense)	Civil penalty not less than \$700 or more than \$1,000

2. Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.
3. Such penalties may be compromised or released as part of any disposition.

Section 4 Alternative or Additional Actions and Remedies

- A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.
- B. The Town Board may negotiate appropriate corrective, remediation, abatement, and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner. Such agreements or orders may require the violator and/or owner too pay a monetary penalty which (a) covers exemplary or punitive damages, and (b) reimburses actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements and costs of emergency and other corrective and restoration measures. If the monetary payments are not made, they may 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.

ARTICLE H MISCELLANEOUS PROVISIONS

Section 1 Severability

If any clause, sentence, paragraph, section or article of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2 Effective Date

This law shall be effective upon filing with the Secretary of State.

ON-SITE WASTEWATER TREATMENT LOCAL LAW

TOWN OF JOHNSBURG, COUNTY OF WARREN

NEW YORK

September 1, 2007

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ARTICLE 1

INTRODUCTORY PROVISIONS

Section 1.010 – Short Title

This local law shall be known as the Town of Johnsbury on-site wastewater treatment local law. The Town of Johnsbury is hereinafter referred to as the "Town".

Section 1.020 – Applicability

This local law shall govern the design and installation of all wastewater treatment systems within the Town except the design or installation of, or treatment of wastewater by means of a community or public sewer. For systems that are jurisdictional to DEC, the design, construction and operation shall comply with DEC regulations and permit requirements.¹

Section 1.030 – Authority

Enactment of this Local Law is pursuant to the Municipal Home Rule law, Article 3 of the Public Health Law and Article 27 of the Executive Law of the State of New York.

Section 1.040 – Purpose

The purpose of this local law is to promote the health, safety and general welfare of the community by insuring through the location, construction and use of properly designed facilities that non-industrial sewage is treated in a manner that will not create a health hazard, adversely affect the environment, or impair the enjoyment or use of property.

Section 1.050 – Compliance

Wastewater treatment systems shall comply with specifications and standards set forth in this ordinance. These specifications and standards are derived from the specifications and standards for wastewater treatment systems set forth in the current edition of:

- Ø "Wastewater Treatment Standards Individual Household Systems," NYS Department of Health (DOH) (10 NYCRR Appendix 75-A).
- Ø "Standards for Waste Treatment Works – Institutional and Commercial Sewerage Facilities," NYS Department of Environmental Conservation (DEC).
- Ø Adirondack Park Agency Guidelines for On-Site Sewage and Disposal Systems (1991).
- Ø On-Site Wastewater Treatment Systems Manual, EPA (Publication EPA625-R-00-008, Feb, 2002)

¹ DEC permit required for domestic sewage systems which discharge 1) 1,000 or more gallons per day, 2) to surface water, and/or 3) waste other than domestic sewage.

ARTICLE II

GENERAL PROVISIONS

Section 2.010 – Prohibited Acts

Except as otherwise provided in this local law:

- A. It shall be unlawful for any person to construct, alter, make major repairs to, enlarge, or extend any facility or part of such facility intended or used for the discharge of wastewater without obtaining all required governmental approvals.
- B. It shall be unlawful for any person to cause to be discharged within the Town any wastewater except by systems designed, installed, and approved in accordance with the requirements of this ordinance except that holding tank wastewater shall be disposed of in a location and by a method approved by the Town Board provided that such location has received all required governmental approvals.
- C. It shall be unlawful for any person to use or maintain any individual wastewater treatment system that is unsafe, is a source of pollution to any of the surface waters or groundwater source of the state, permits the seepage of raw or partially treated sewage to ground surface, creates a potential health hazard, adversely affects the environment or impairs the use or development of the lot on which it is situated or nearby lands or interferes with the enjoyment or use of property.
- D. It shall be unlawful for any person to abandon a septic tank or seepage pit, unless at the time of such abandonment the septic tank is pumped out and filled with clean, granular soil or inert, free-flowing, dense material.
- E. It shall be unlawful for any person to discharge pollutants to the waters of the State from any outlet or point source without first obtaining a State Pollution Discharge Elimination System (SPDES) permit from the Department of Environmental Conservation if so required.
 1. The SPDES permit is not required for the construction and use of a new or modified wastewater treatment system or outlet when such disposal system, point source or outlet is designed to discharge and discharges sewage effluent without the admixture of industrial wastes or other wastes to the ground waters of the State from premises when the discharge from such wastewater treatment system consists of a flow of less than one thousand gallons per day.

2. It shall be unlawful for any person, until a written SPDES permit therefore has been granted by the Department of Environmental Conservation, and unless such permit remains in full force and effect, to:
 - a. Make or cause to make or use any outlet or point source for the discharge of sewage, industrial waste or other wastes or the effluent therefrom, into the water of this state, or
 - b. Construct or operate and use a wastewater treatment system for the discharge of sewage, industrial waste, or other wastes or the effluent therefrom, into the waters of the State, or make any change in addition to or an extension of any existing disposal system or part thereof which would materially alter the volume of, or the method or effect of treating or disposing of the sewage, industrial waste or other wastes, or
 - c. Increase or alter the content of the wastes discharged through an outlet or point source into the waters of the State by a change in volume or physical, chemical or biological characteristics.

“Other wastes” means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dye-stuffs, acids, chemicals, ballast and all other discarded matter not sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the State.

Section 2.020 – Definitions

Abandonment – the relinquishment of the use of an on-site waste water treatment system with the intention of not continuing use of such system in the future. An on-site waste water treatment system shall be presumed to be abandoned when a new waste water system is being built to replace it.

Absorption area – that area to which effluent is distributed for infiltration and treatment into the soil. It includes the area of the subsurface absorption system and, if required by the design, the area covered by fill used to grade around the system.

Absorption system – any structure designed to distribute effluent into the soil and provide for its treatment. See conventional and alternative systems defined below.

Conventional absorption system

Absorption field – a system of narrow trenches partially filled with a bed of washed gravel or crushed stone $\frac{3}{4}$ to $1\frac{1}{2}$ inches in diameter (i.e., aggregate) through which a perforated distribution pipe is laid.

Gravelless absorption systems – generally proprietary products, which allow septic tank effluent to infiltrate soil in the absence of installed aggregate.

Seepage pit – a covered pit with an open-jointed or perforated lining through which septic tank effluent infiltrates into the surrounding soil.

Shallow absorption trenches – an absorption field with trenches installed at or no more than two feet below original ground level on sites where there is a depth of at least two feet but less than four feet of usable soil.

Absorption beds – similar to an absorption field except that several laterals (lengths of perforated distribution pipe) are installed in a single excavation.

Fill (a.k.a. "Site Modification" or "Amended Soil" system) – system employed when the soil percolation rate is faster than one minute per inch, wherein all soil bounded by two feet from the proposed absorption trenches (i.e., horizontally and vertically) is removed and blended with fine sand or sandy loam and replaced in six inch layers with mechanical compaction to the approximate density of the on-site soil.

Alternative absorption system

Raised system – a conventional absorption trench system constructed in stabilized permeable fill placed above the original ground surface.

Mound system – a soil absorption system that is elevated above the natural soil surface in suitable fill material; similar to a raised system utilizing sandy fill material without requiring a stabilization period prior to construction of the absorption bed/trenches.

Intermittent sand filters – a system which comprises the intermittent application of settled wastewater to a bed of granular material which is underdrained to collect and discharge filtered effluent to a subsurface absorption facility (i.e., downstream absorption mound or modified shallow trench system).

Non-waterborne systems – (composters, chemicals and recirculating toilets, incinerator toilets, sanitary privies) systems designed to treat human wastes with no wet plumbing. These systems must be accompanied by systems designed to treat household wastewater (i.e., greywater) from sinks, showers, tubs and other fixtures by settling and soil absorption.

Other engineered systems – a wastewater treatment system of a type not addressed in the Department of Health Design Handbook, designed by a design professional and construction certified by a licensed professional engineer. These systems should meet Class A national sanitary foundation certification.

Application rate – the rate at which effluent is applied to a subsurface absorption area, for design purposes, expressed in gallons per day per square foot (gpd/sq.ft.).

Baffle – a flow deflecting device used in septic tanks and distribution boxes to inhibit the discharge of floating solids, reduce the amount of settleable solids that exit and reduce the exit velocity of the wastewater.

Building – a structure wholly or partially enclosed with exterior or party walls, and a roof, affording shelter to persons, animals or property.

Building drain – that part of the lowest piping of a drainage system which receives the discharge of wastewater and conveys such discharge to the building sewer. The building drain extends to three feet outside the building wall.

Cesspool – a covered pit into which wastewater is discharged for disposal by infiltration of the liquid portion into the surrounding soil.

Cleanout – an opening providing access to wastewater collection and treatment devices (house sewer, septic tank, distribution box) which allows for the cleaning or purging of materials and obstructions.

Combined sewer – a sewer receiving both surface runoff and wastewater.

Design professional – a person licensed or registered in the State of New York and authorized by the State Education Law to design the wastewater treatment systems described.

Distribution box or device – a device used to uniformly distribute effluent to the distribution lines.

Distribution lines – the perforated pipe used to distribute effluent to the absorption area.

Effluent – the liquid discharged from a septic tank outlet.

Emergency repairs – repairs designed to prevent or abate an existing or imminent threat to the public health, safety or welfare caused or about to be caused by a wastewater treatment system.

Enforcement officer – a person appointed by the Town Board whose duty and authority is to administer and enforce the provisions of this ordinance.

Existing grade – the natural topography of land prior to construction activity.

Final grade – the elevation that ground will have at the conclusion of cutting, filling or other site work.

Garbage – organic solid wastes from domestic and commercial preparation, cooking, or dispensing of food, or from the handling, storage and sale of produce.

Grade – the slope of a line of pipe, trench bottom, or ground surface in reference to a horizontal surface.

Gravel – a mixture of mineral soil particles whose individual diameters range from ¼ inch to 3 inches.

Greywater – all sewage or wastewater from a house except waste from flush toilets and urinals.

Groundwater – subsurface water occupying a zone of saturated soil.

Holding tank – a sealed, vault or tank, usually a reinforced concrete septic tank with no outlet, into which wastewater is discharged for temporary storage.

Impervious material – material with a percolation rate of slower than 60 minutes per inch.

In existence – means that with respect to a wastewater treatment system, such structure has been lawfully completed.

Industrial wastes – any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process or industry, manufacturing, trade or business or from development or recovery of any natural resource.

Invert – the bottom most point of an open conduit or the bottom most point on the inside of a closed conduit.

Local Board of Health – the Town Board acting pursuant to its authority found in Article 3 of the Public Health Law.

Major repair/alteration – any replacement or reconstruction affecting the septic tank, other than baffle repair, or at least one-half of the subsurface absorption system of a wastewater treatment system.

Mean High Water Mark – the average annual high water level.

Minor repair/alteration – any remedial measure not defined as a major repair or major alteration.

Percolation – the movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.

Percolation test – a standard procedure for testing the soil's ability to accept and convey water to establish the application rate. See Appendices for proper testing procedures.

Person – means any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the State or any State agency.

Privy – a building fixed to a vault or pit, equipped with seating to allow for excretion of body waste.

Preexisting individual wastewater treatment system – any treatment system that was lawfully in existence prior to (effective date of ordinance).

Public water system – a community, non-community or non-transient non-community water system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

Sanitary tee – a pipe used in septic tanks, distribution boxes and drop manholes to reduce wastewater or effluent flow velocities and to increase solids retention in septic tanks which prevents carry-over of solids to subsurface absorption systems. See Baffle.

Seasonal high groundwater table – the highest surface of a zone of saturated soil which is at least six inches thick and which persists during the average year for more than a week when the ground is free of frost.

Seepage pit – a covered pit with an open-jointed or perforated lining through which septic tank effluent infiltrates into the surrounding soil.

Septic tank - a large, watertight chamber which promotes the growth of anaerobic bacteria for the biological decomposition of sewage.

Slope – the ratio of the maximum vertical rise or fall of the land in 50 feet of horizontal distance, expressed as a percentage.

Soil mottles – spots or blotches of different color, or shades of color, interspersed with the dominant background color. See Appendices.

Subdivision – the division of land into two or more lots, parcels or sites.

Surface Water Body – any lake, pond, river, permanent or intermittent stream.

Toilet wastes – human excreta and toilet flushing fluid.

Treatment System Building Permit – the permit required before construction of an on-site wastewater treatment system.

Treatment System Use Certificate – the certificate required before any portions of an on-site sewage treatment system are backfilled or covered.

Usable soil – soil with a percolation rate between one and sixty minutes per inch.

Wastewater – any water discharged through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device(e.g. water softener brine) which is produced in the house or property.

Wastewater treatment system – a complete system of piping, tanks or other facilities for the on-site collection and treatment of wastewater, and not connected to a community or public sewer system. A wastewater treatment system is also referred to as a disposal system in SPDES regulations.

Watercourse – a visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately following precipitation or snow melt shall not be considered a watercourse.

Wetland – 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. Adirondack Park Agency staff are available to determine wetland boundaries (definition as found in 9 NYCRR 578.3).

ARTICLE III

STANDARDS FOR NEW WASTEWATER TREATMENT SYSTEMS

Section 3.010 – General Standards

A. Permitted Systems

Where on-site conditions permit, conventional on-site wastewater disposal systems shall be installed. Since fill systems are more complicated than other “conventional” systems (e.g. six inch layers of new soil to match existing soil), these systems shall be designed (and submitted) by a design professional and reviewed by an enforcement officer. Seepage pits shall not be permitted.

Alternative systems shall be allowed in accordance with provisions as set forth in Section 5.030B of this code.

- B. All wastewater must be discharged into the on-site wastewater treatment system. Surface and subsurface water including roof, cellar, foundation and storm drainage shall be excluded from such systems and shall be disposed of so they will in no way affect the system, and are not discharged to surface waters or other waters that would contravene water quality standards.
- C. No component of a subsurface absorption area shall be located under driveways, roads, parking areas or areas subject to heavy loading, or any paved area unless the absorption system is structurally designed to support vehicular traffic and provide for ventilation.
- D. No on-site wastewater treatment system shall be allowed in areas where flooding occurs.
- E. Most proposed absorption facilities shall not be located where the final slope of stabilized soil exceeds 15%, but absorption trench systems with stringent minimum horizontal and vertical separation distances (i.e. 10 ft., 9 ft., 8 ft. or 7 ft. between parallel trenches and 2 ft., 3 ft. or 5 ft. between trench bottom and high ground water, bedrock, or impermeable soil, respectively) may be constructed on sites with in situ soil having a slope of >15% to <20% and a soil percolation rate of 1 to 60 minutes per inch. For absorption beds, the slope of the site shall not exceed 8%. Alternative systems must meet the slope siting criteria of DOH or DEC.
- F. Standards related to subdivision plats:

All new building lots not served by a public water supply shall be at least 20,000 sq. ft. in area. All new building lots shall include an area for wastewater treatment large enough to absorb 440 gallons per day (suitable for a four bedroom house), with a 100% replacement leaching area.

G. Horizontal separation distances and systems layout shall be governed by NYS DOH requirements as set forth in the NYS Department of Health "Individual Residential Wastewater Treatment Systems Design Handbook, 1996," which sets forth the minimum horizontal separation distances required (see the Appendices of this code). The following guidelines are intended to provide additional protection of public health and water quality:

1. The piping distance of sewage to an absorption system treatment area serving one or two single family dwellings is not recommended to be permitted beyond 250 ft. or in areas crossing wetlands, waterbodies, rights-of-way, property lines or a soil with any limiting feature.
2. An absorption system treatment area should not be located within 35 ft. of: (a) steep slopes (greater than 25%); (b) shallow soils (less than 4 ft. to bedrock or an impervious soil layer); or (c) soils with a high seasonal water table (groundwater less than 2 ft. from the surface); (d) rock croppings or (e) within 10 ft. from an unsuitable test pit.
3. A qualified soils scientist or engineer may be required when an absorption system or replacement area is proposed: (a) where the natural soil materials have been disturbed by excavation, removed or covered by more than 12 inches of fill; (b) within 25 ft. of an area whose soil depth to (i) bedrock is less than 48 inches, or (ii) impervious layer is less than 48 inches, or (iii) seasonal high groundwater table is less than 24 inches; (c) within 25 ft. of a slope greater than 25%.

H. Standards for Areas with special soil conditions.

1. The natural ground intended for the subsurface absorption system must have a minimum depth of four feet of usable soil above bedrock or impervious material. The separation distance to the seasonal high groundwater table shall be at least two feet with two feet of additional usable soil as backfill. When fractured bedrock is encountered, the usable soil depth must be at least six feet.
2. Within 200 ft. of the shoreline of a lake, pond, river or stream: if the percolation rate is 0 to 3 minutes per inch, a leaching (absorption) facility will not be permitted.

See Appendices for high groundwater determination and percolation test procedure.

Source: Appendix Q-4 of the APA Rules and Regulations as referenced in NYCRR Part 582 and Adirondack Park Agency Guidelines for On-Site Sewage Disposal Systems (March 25, 1991).

ARTICLE IV

PRE-EXISTING SYSTEMS

Section 4.010 – Continuation of Pre-existing Systems

Subject to the provisions of this ordinance, the use or maintenance of a preexisting wastewater treatment system may be continued without a wastewater treatment system use certificate provided it shows no evidence of failure but it shall be unlawful to alter, repair or enlarge such systems except in conformity with the provisions herein. Wastewater systems and or properties within 200 feet of lakes, streams or ponds must be inspected by a licensed professional engineer and Town Zoning Administrator prior to the sale, gift or transfer of the property. This inspection shall include a test pit in the leachfield and an examination of the leachfield. This article shall not be construed to allow any unsafe use or structure, or permit such structures or their use when such structure or use constitutes a threat to public health, safety, welfare or environmental quality; permits the seepage of wastewater to ground surface; or interferes with the enjoyment or use of property.

Wastewater systems and or properties within 200 feet of lakes, streams or ponds must be inspected by a licensed professional engineer and Town Zoning Administrator prior to the sale, gift or transfer of the property. This inspection shall include a test pit in the leachfield and an examination of the leachfield.

Section 4.020 – Repair, Alteration, Enlargement or Extension of a System

- A. It shall be unlawful to repair, alter, enlarge or extend a preexisting wastewater treatment system except as provided by the following definitions:
- (1) Minor repairs – minor repairs shall be limited to components of the system that are not critical to the long-term operation of the system. These types of repairs would include changing tank lids and covers, repairs to cleanout and inspection ports and repairing floats and alarms.
 - (2) Major repairs – all repairs not classified as minor shall be classified as a major repair. For major repairs, a repair permit shall be obtained prior to conducting the repair. Repair permits shall be maintained by the Code Enforcement Officer.
 - (3) Emergency repairs – repairs designed to prevent or abate an existing or imminent threat to public health, safety or welfare caused or to be caused by on-site wastewater treatment system. The permitting agency shall be notified

immediately, but in no case should this repair include enlarging the absorption area or replacing or disconnecting septic tanks.

ARTICLE V

ADMINISTRATIVE PROVISIONS

Section 5.010 – Enforcement Officer

The Enforcement Officer shall have the duty to administer and enforce the provisions of this local law. The Enforcement Officer shall be appointed and may be removed by the Town Board. Persons adversely affected by an action, omission, decision or ruling by the Enforcement Officer may appeal to the Local Board of Health, which shall render a decision regarding the appeal only after holding a hearing on the matter pursuant to the terms of this article. The Enforcement Officer shall not plan, design, construct, sell or install wastewater treatment systems within the town.

Section 5.020 – Required Records

The original or certified copy of all findings, decisions, permits, certificates or other rulings of the Enforcement Officer or Local Board of Health under this local law, shall be retained in the files of the Enforcement Officer as a permanent public record. (It is recommended that owners also retain a copy of the plan of the installed treatment system.)

Section 5.030 – Issuance of Wastewater Treatment System Permits and Treatment System Use Certificates

A. Wastewater Treatment System Permits:

1. It shall be unlawful for any person to construct, alter, repair or enlarge a wastewater treatment system within the Town unless a treatment system permit has been issued therefore, except that minor repairs and alterations or emergency repairs may be made without a permit.
2. Applications for treatment system permits (see Appendices) may be made only by the owner of the lot for which the system is proposed or his/her duly authorized agent or assign. Applications shall be in writing, signed by the applicant in such form as the Local Board of Health shall determine. A fee as set by resolution of the Town board must accompany the application for a treatment system permit. Applications shall be submitted to the Enforcement Officer and include such information as the Local Board of Health and Enforcement Officer shall require including the following:
 - a. The name and address of the applicant.

- b. Specific location of the property on which the construction, alteration, repair or enlargement is proposed.
- c. A plan of the proposed treatment system and replacement areas with substantiating data indicating that the minimum standards set forth in this ordinance would be complied with.
- d. A sketch of the property showing the location of the proposed treatment system construction, alteration, repair, or enlargement and including delineation of the property lines and sources of water supply for the property and adjoining properties and any surface waterbodies or wetlands within 200 ft.
- e. Evidence to demonstrate to the satisfaction of the Enforcement Officer that there is not public sewer available into which the wastewater can be discharged from plumbing facilities on the proposed building site, or that it is impracticable to discharge wastewater from on-site plumbing facilities into a public sewer system.
- f. A minimum of two soil percolation tests and one deep hole test pit are required for the site of a proposed absorption area. The percolation rate shall be determined by the methods described in the Appendices.

The Enforcement Officer may verify the results of such tests and require supporting information from the applicant necessary for such review. When in his/her discretion warranted, the Enforcement Officer shall request an individual designated by the Board of Health to conduct this test.

- g. Site data which might affect, or be affected by, the proposed system including but not limited to specifications regarding soil type, topography, depth to seasonal high groundwater, depth to impervious material, depth to bedrock and distance to surface waterbodies and wetlands. A qualified design professional will be required to design the on-site wastewater system treatment system when a subsurface absorption system or replacement area is proposed:
 - i. where the natural soil materials have been disturbed by excavation, removed or covered by more than 12 inches of fill;
 - ii. within 25 ft. of an area whose soil depth to a) bedrock is less than 48 inches, or b) impervious layer is less than 48 inches, or c) seasonal high groundwater table is less than 24 inches;

- iii. within 25 ft. of a slope of greater than 25%.

The determination of depth to seasonal high groundwaters shall be made in accordance with the Appendices of this local law. All determinations shall be accompanied by a detailed statement of the testing methods used as well as the basis for the determination.

The Enforcement Officer shall determine whether an application is complete. (It is recommended that the Local Board of Health consult with the State Department of Health for assistance in the training of the Enforcement Officer.)

- 3. The Enforcement Officer may require certification or retesting to verify information submitted as part of the application.
- 4. The Enforcement Officer may conduct such investigations, examinations, tests and site evaluations as he/she deems necessary to verify information contained in an application for a treatment system permit, and the applicant or owner of land on which the system is proposed shall grant the Enforcement Officer or his/her agents permission to enter on his/her land for these purposes.
- 5. The Enforcement Officer shall not issue a treatment system permit unless:
 - a. all pertinent site data has been submitted, verified and certified as required by this local law; all permit fees have been paid, and the Enforcement Officer has determined that the alteration, repair or construction as proposed in the application complies with all specifications contained in this local law, or
 - b. the Enforcement Officer is specifically ordered to issue a treatment system permit by the Local Board of Health pursuant to Section 5.070 of this local law or authorized by specific waiver of the NYS Department of Health and all permit fees have been paid.
- 6. The Enforcement Officer shall disapprove an application for a treatment system permit if he/she determines:
 - a. that the applicant has failed to supply all data necessary to make a determination as to whether or not such wastewater treatment system conforms to the requirements or specifications of this local law and has failed to supply such information for sixty (60) days after a written request for such additional information has been mailed;

- b. that the wastewater treatment system, as proposed, will not conform to the requirements or specifications of this local law and Appendix 75-A or an order of the Local Board of Health;
 - c. that the wastewater treatment systems, as proposed, cannot comply with any prior subdivision, site plan, or Class A or B regional project authorization for such locations;
 - d. that any required SPDES permit from DEC has not been issued.
7. The Enforcement Officer may, by written notice, order all further work stopped on any wastewater treatment system which is being constructed or installed in violation of this local law.

B. ENGINEERED SYSTEM APPROVAL:

The treatment systems addressed in the previous subsurface treatment section are classified as conventional systems and shall be used on sites with adequate soil percolation and vertical/horizontal separation distances to boundary conditions. At sites that are not suitable for conventional systems, consideration can be given to the construction of alternative systems to assure proper treatment of sewage rather than to restrict use of land. Examples include pre-existing lots, certain lawful lots, and replacement of lawful existing systems. Sites compatible with development using alternative systems generally require detailed evaluation, complicated design and more costly construction and maintenance. The following standards shall be complied with regarding the design and construction of alternative systems:

1. New Construction:

- a. All new individual on-site alternative wastewater systems, as described in the New York State Individual Residential Wastewater Treatment Systems Design Handbook, shall be designed or approved by a licensed design professional. A separate approval by NYSDOH for an alternative absorption system is also required.
- b. The engineered system may include any advanced on-site treatment systems approved by the NYSDOH including raised systems, mounds, intermittent sand filters, evaporation-transpiration (ET) and evapo-transpiration absorption (ETA) systems, non-waterborne systems, and holding tanks.

- c. All advanced on-site systems plans must include an operation and maintenance manual and all manufacturers' recommendations are to be followed in the installation, operation and maintenance of the system.
- d. An annual inspection by a licensed professional engineer must be completed and submitted to the Town by the property owner. The Town will send a letter annually in June to property owners with the required inspection forms for submittal to the Town within 60 days or prior to September 1st . All remedial measures to assure consistent operation must be implemented by the owner within 5 days if related to equipment or 30 days if related to absorption field. These time limits may be extended by a letter from a licensed professional engineer is submitted describing the anticipated remedial measures are to be implemented.
- e. The project engineer may propose an advanced on-site wastewater disposal field that is smaller than a conventional septic system leach field. A backup absorption field is not required for replacement systems utilizing advanced on-site wastewater treatment.
- f. All information and process requirements of 5.030(A) must be met.

2. Replacement Systems:

- a. All replacement individual on-site alternative wastewater systems, as described in the New York State Individual Residential Wastewater Treatment Systems Design Handbook, shall be designed or approved by a licensed design professional.
- b. The replacement system may include any advanced on-site treatment systems approved by the NYSDOH including raised systems, mounds, intermittent sand filters, evaporation-transpiration (ET) and evapo-transpiration absorption (ETA) systems, non-waterborne systems, and holding tanks.
- c. Alternative design "engineered systems" not addressed in the New York State Individual Residential Wastewater Treatment Systems Design Handbook may be approved by the Town Board (local health department) for replacement systems on a limited

experimental basis on extremely limited sites such as within 200 feet of a lake, stream or wetland.²

- d. All advanced on-site systems plans must include an operation and maintenance manual and all manufacturers' recommendations are to be followed in the installation, operation and maintenance of the system.
- e. An annual inspection by a licensed professional engineer must be completed and submitted to the Town by the property owner. The Town will send a letter annually in June to property owners with the required inspection forms for submittal to the Town within 60 days or prior to September 1st. All remedial measures to assure consistent operation must be implemented by the owner within 5 days if related to equipment or 30 days if related to absorption field. These time limits may be extended upon receipt of a letter from a licensed professional engineer describing the anticipated remedial measures to be implemented.
- f. The project engineer may propose an advanced on-site wastewater disposal field that is smaller than a conventional septic system leach field. A backup absorption field is not required for replacement systems utilizing advanced on-site wastewater treatment.
- g. All information and process requirements of 5.030(A) must be met.

3. Engineer Review:

- a. In reviewing any application for an alternative system, the Town Board acting as the Local Board of Health, may require an independent engineer to evaluate the proposal and the cost of such evaluation shall be borne by the applicant.

C. Wastewater Treatment System Use Certificates:

- 1. It shall be unlawful for any unauthorized person to cover with soil or other material, or utilize, any wastewater treatment system for which a

² Waivers from the substantive requirements (e.g. septic tank sizes, setback distances, etc.) of 10 NYCRR Part 75, are under the jurisdiction of the NYS Department of Health, to be referred to the New York District Health Engineer or County Health Department.

treatment system building permit has been issued unless a treatment system use certificate has been issued therefore.

2. The holder of a treatment system building permit shall notify the Enforcement Officer when the treatment system is ready for inspection. The inspection shall be made as soon thereafter as practicable by the Enforcement Officer. The Enforcement Officer may also make inspections during construction to ensure that the system is being installed in accordance with the terms of the treatment system permit. Any part of any installation which has been covered prior to final approval shall be uncovered upon order of the Enforcement Officer.
3. A treatment system use certificate shall not be granted until the Enforcement Officer has determined that the wastewater treatment system has been installed in compliance with the terms of the treatment system permit. The Enforcement Officer shall make such a determination only after he/she has made an on-site investigation of the system, or received a certification from the design professional that the system conforms to the specifications as set forth in the application and this local law, or an order of the Local Board of Health pursuant to this Article. The Enforcement Officer may withhold a determination until after an on-site investigation has been completed notwithstanding that the system has been certified as properly installed and designed.
4. In the case of multiple family systems or systems serving more than one principal use, the establishment of a proper legal entity, such as a transportation corporation or homeowners association, may be required.

Section 5.040 – Form of Petitions, Applications and Appeals

Unless otherwise stated, all petitions, applications and appeals provided for in this local law shall be made on forms prescribed by the Local Board of Health. Completed forms shall be accompanied by whatever further information, plans or specifications as may be required by such forms.

Section 5.050 – Application Fees

Fees shall be paid upon the submission of applications provided for by the terms of this local law.

Section 5.060 – Appeal from Action of the Local Board of Health

An action, decision, omission or ruling of the Local Board of Health pursuant to this ordinance may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made not later than 60 days from the effective date of the decision or ruling or the date when the action or omission occurred.

Section 5.070 – Site Inspections

- A. In filing an application for a treatment system permit, an applicant shall be deemed to have consented to the Enforcement Officer, and/or other person designated by the Local Board of Health to conduct examinations, tests, and other inspections of the treatment system site. Entrance upon the applicant's property shall be made only at reasonable times and with advance notice to the applicant where possible.

- B. The Enforcement Officer or his/her designee may inspect any wastewater treatment system built after this local law takes effect to ensure that it is being maintained in proper working order. Inspections shall be made, where practical, after reasonable notice to the owner or occupant. Where the Enforcement Officer determines that a system is not being maintained in compliance with this local law or any permit issued hereunder, he/she may order that use of the system cease, and/or that the defects be corrected, and/or misuse abated within a reasonable time. If the prescribed action is not taken within the time fixed by the Enforcement Officer, he/she may revoke the use permit for the system and/or refer the matter to the Local Board of Health for appropriate corrective action.

Section 5.080 – Recording or Expiration of Treatment System Permits

Any permit issued pursuant to this local law shall be filed and duly recorded in the Town Office.

Section 5.090 – Expiration of Permits

Unless otherwise provided for in the permit, all permits shall expire within one (1) year of issuance. Once a permit expires, and the treatment system is not completed, a new permit application is required.

ARTICLE VI
ENFORCEMENT

Section 6.010 – Penalty

Any person owning, controlling or managing any building, structure, land, or premises therein or whereon there shall be placed on or there exists a structure or system in violation of this ordinance, or who shall build, erect, construct, or attempt the same, any structure contrary to the plans or specifications submitted to the authorized official and by him/her certified as complying with this local law and any person who shall omit, neglect, or refuse to do any act required by this ordinance, shall be subject to a civil penalty of not more than (\$1,000) to be recovered by the Town Board in any court of competent jurisdiction. Each such person shall be deemed guilty of a separate offense for each day that such violation, 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.

The penalty provisions of DEC regulations may also apply.

Section 6.020 – Alternative Remedies

In case of any violation or threatened violation of any of the provisions of this local law, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use, to restrain, correct or abate such violation to prevent the use of the wastewater treatment system or to prevent any illegal act, conduct, business or use regarding such treatment system.

Section 6.030 – Misrepresentation

Any permit or approval granted under this local law 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 in behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town Board under Sections 6.010 and 6.020 of this ordinance.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.010 – Interpretation

Where the conditions imposed by any provision of this local law are less restrictive than comparable conditions imposed by any other provisions of this ordinance, or of any other statute, ordinance, local law, order, rule, regulations, the provisions which are more restrictive shall govern.

Section 7.020 – Severability

The provisions of this ordinance are severable. If any article, section, subsection or provision shall be invalid, such invalidity shall apply only to the article, section, subsection or provisions adjudged invalid, and the rest of this ordinance shall remain valid and effective.

Section 7.030 – Savings Clause

The adoption of this ordinance shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this ordinance takes effect.

Section 7.040 – Other Authority

No provision of this ordinance shall be construed to limit any State standards for wastewater treatment systems including the provisions of the Adirondack Park Agency Act relating to shorelines and Class A and B projects.

Section 7.050 – Effective Date

This local law shall take effect immediately upon filing with the Secretary of State and completion of the publishing and filing requirements as prescribed by Section 308 of the Public Health Law.

our locality.

APPENDIX I NYS DOH Required Separation Distances

REQUIRED SEPARATION DISTANCES FROM WASTEWATER SYSTEM COMPONENTS

System Components	Well (f) or Suction Line	To Stream, Lake Watercourse (b), or Wetland	Dwelling	Property Line	Drainage Ditch(b),(g)
House Sewer (watertight joints)	25' if cast iron or PVC with O-ring joints, 50' otherwise	25'	3'	10'	---
Septic tank	50'	50'	10'	10'	10'
Effluent line to distribution box	50'	50'	10'	10'	10'
Distribution box	100'	100'	20'	10'	20'
Absorption field	100' (a)	100'	20'	10'	20'
Seepage pit	150' (a)	100'	20'	10'	20'
Dry well (roof and footing)	50'	25'	20'	10'	10'
Raised or Mound System (c)	100'(a)	100'	20'	10'	20'
Intermittent Sand Filter (c)	100'(a)	100'	20'	10'	20'
Evapotranspiration- absorption system (c)	100'(a)	50'	20'	10'	20'
Composter	50'	50'	20'	10'	10'
Sanitary Privy Pit	100'	50'	20'	10'	20'
Privy, Watertight Vault	50'	50'	20'	10'	10'

NOTES:

(a) When sewage treatment systems are located in coarse gravel or upgrade and in the general path of drainage to a well, the closest part of the treatment system shall be at least 200 feet away from the well.

(b) Mean high water mark.

(c) For all systems involving the placement of fill material, separation distances are measured from the toe of slope of the fill.

(d) Any water service line under pressure (i.e., public water supply main, household service line, well to household service line) located within ten feet of any absorption field, seepage pit or sanitary privy shall be installed inside a larger diameter water main to protect the potable water supply.

(e) Any water service line under pressure (i.e., public water supply main, household service line, well to household service line) crossing a sewer shall be installed with one full length of water main centered above the sewer so both water connecting joints are as far as possible from the sewer. Section 8.6 of the GLUMRB Recommended Standards for Water Works, shall be followed for separation of water mains, sanitary sewers and storm sewers.

(f) The minimum separation distance between a septic tank and a community type public water supply well should be 100 feet. Distribution boxes and absorption facilities (e.g., absorption trenches/beds, seepage pits, raised systems, mound systems, etc.) should be located at least 200 feet from community type public water supply wells.

(g) Recommended separation distances.

APPENDIX II

Absorption Field Diagrams

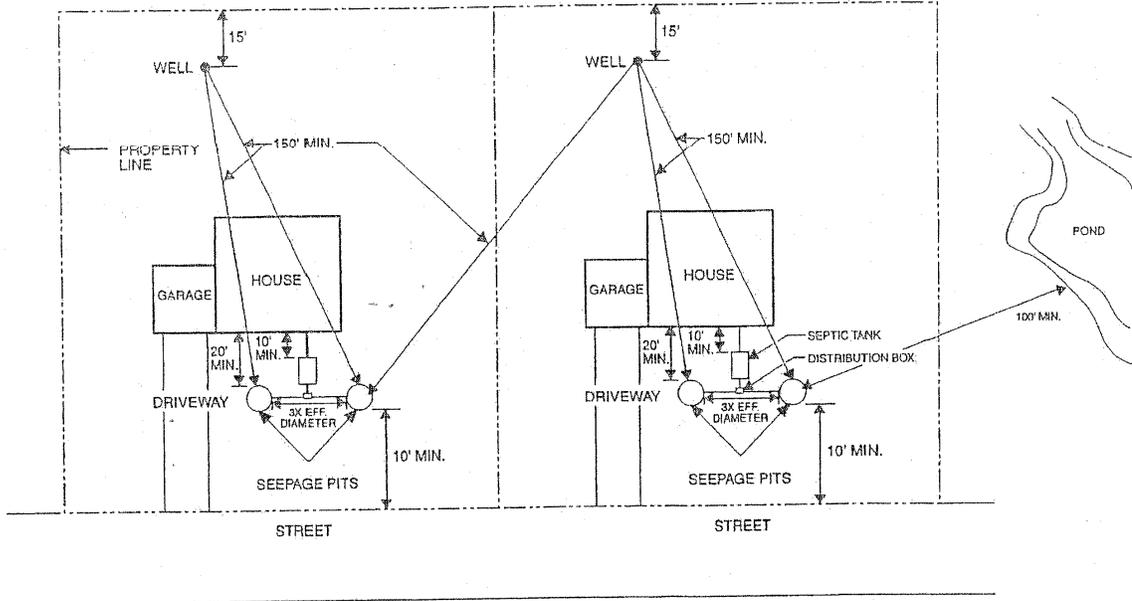


Figure 2
Seepage Pit Separation Requirements

APPENDIX III

Seepage Pit Diagrams for Replacement Systems

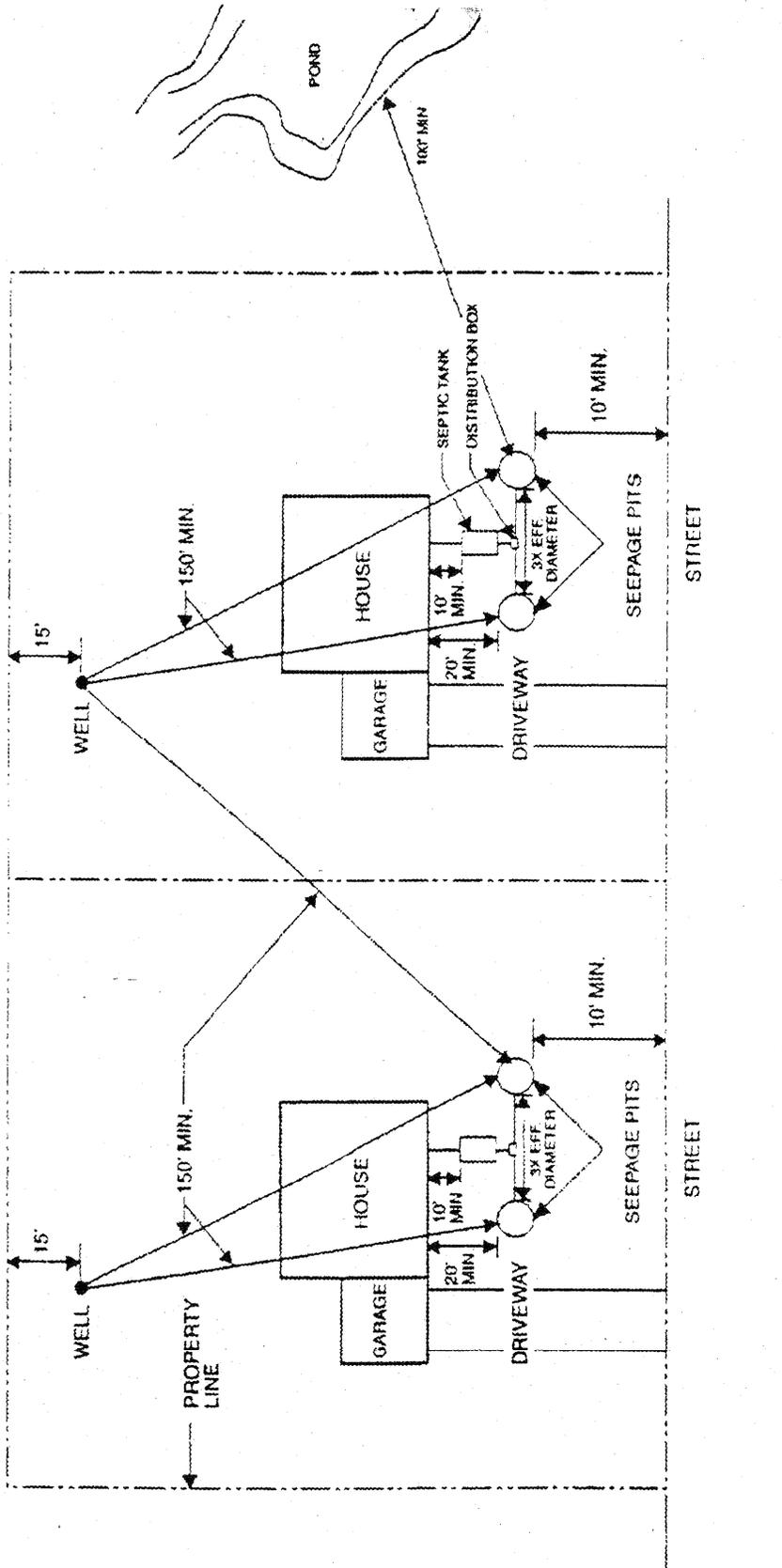
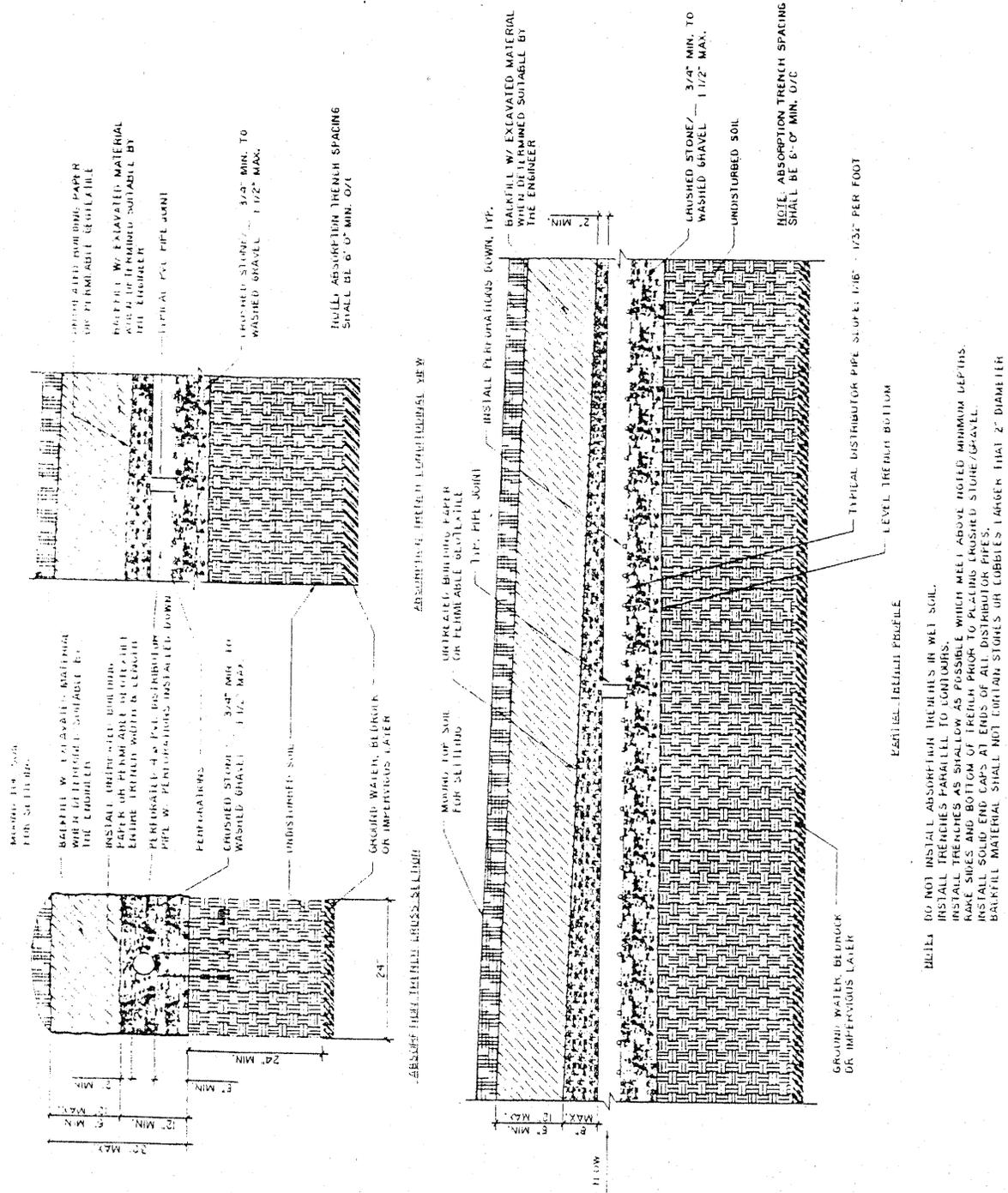


Figure 2
Seepage Pit Separation Requirements

APPENDIX IV

Vertical Separation Diagrams



1 ABSORPTION TRENCH DETAILS

R.T.S.

APPENDIX V

SEASONAL HIGH GROUNDWATER DETERMINATION

The seasonal high groundwater table shall be determined by observing its elevation and evidence of soil mottling in a deep hole test pit dug to a depth of at least five feet deeper than the anticipated depth of the invert of the subsurface absorption system and/or by methods employed by a qualified soil scientist or engineer. The soil mottles are spots or blotches of different color, or shades of color, interspersed with the dominant background soil color. Oxidation (bright colors) and reduction (dull colors) are caused by alternating aerobic and anaerobic conditions attributable to a seasonal fluctuating groundwater table, or intermittent presence of a perched water table. Soil mottles indicate a zone in which the soil is saturated for at least a two week period during the average water year. Water which seeps into test pit only indicates the current status of the water table and is not a reliable method of predicting the seasonal high groundwater table, particularly if the test pits are dug outside of the normally high groundwater period of March 15 to June 30.

The applicant may be required to retain the services of a qualified soil scientist or design professional engineer to determine the seasonal high groundwater table.

APPENDIX VI

SOIL PERCOLATION TEST PROCEDURE

INSTRUCTIONS

Procedure: (1) At least two percolation tests shall be performed within the proposed absorption area by the contractor, soil scientist or professional engineer. At least one percolation test should also be performed within the proposed absorption system expansion area.

(2) Dig each hole with vertical sides approximately 12 inches in diameter. If an absorption field is being considered the depth of test holes should be 24 to 30 inches below final grade or at the projected bottom of trenches in shallower/deeper systems. If a seepage pit must be used percolation tests should be conducted at one-half the projected depth and at the full estimated depth of the seepage pit. The sides of the percolation holes should be scraped to avoid smearing. Place washed aggregate in the lower two inches of each test hole to reduce scouring and silting action when water is poured into the hole.

(3) Presoak the test holes by periodically filling the hole with water and allowing the water to seep away. This procedure should be performed for at least four hours and should begin one day before the test, except in clean, coarse sand and gravel. After the water from the final presoaking has seeped away, remove any soil that has fallen from the sides of the hole.

(4) Pour clean water into the hole, with as little splashing as possible, to a depth of six inches above the bottom of the test hole.

(5) Observe and record the time in minutes required for the water to drop from the six inch depth to the five inch depth.

(6) Repeat steps (4) and (5) a minimum of three times until the time for the water to drop from six inches to five inches for two successive tests is approximately equal. The longest-time interval to drop one inch will be taken as the stabilized rate of percolation.

(7) If different results are obtained for multiple holes in a proposed absorption area, the slowest stabilized rate shall be used for system design.

I _____ the undersigned certify that the percolation tests were conducted by me or under my direction in accord with the above procedure. The data and results are true and correct.

Date:

Signature: _____

PERCOLATION TEST DATA

See instructions on page
Development/Site: _____

(T/V/C): _____

County: _____

Date: _____

Tests Conducted By: _____

Test Hole No.	Test Hole Depth (Inches)	Lot No.	Soil Profile	Pre-soaking Date & Time	Time	Percolation		
						1	2	3
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			

1. Begin time, end time and result in minutes for a water elevation change from 6" to 5" above the bottom of the test hole.

DOH 1327 (1/95)

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.010 – Interpretation

Where the conditions imposed by any provision of this local law are less restrictive than comparable conditions imposed by any other provisions of this ordinance, or of any other statute, ordinance, local law, order, rule, regulations, the provisions which are more restrictive shall govern.

Section 7.020 – Severability

The provisions of this ordinance are severable. If any article, section, subsection or provision shall be invalid, such invalidity shall apply only to the article, section, subsection or provisions adjudged invalid, and the rest of this ordinance shall remain valid and effective.

Section 7.030 – Savings Clause

The adoption of this ordinance shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this ordinance takes effect.

Section 7.040 – Other Authority

No provision of this ordinance shall be construed to limit any State standards for wastewater treatment systems including the provisions of the Adirondack Park Agency Act relating to shorelines and Class A and B projects.

Section 7.050 – Effective Date

This local law shall take effect immediately upon filing with the Secretary of State and completion of the publishing and filing requirements as prescribed by Section 308 of the Public Health Law.

APPENDIX VIII

WASTEWATER TREATMENT SYSTEM PERMIT APPLICATION

The information requested below is necessary to expedite the review and permitting of proposed systems.

APPLICANT

ADDRESS

PHONE

Type of Use

(Residence, multi-family dwelling, commercial, etc.)

New System

Alteration/Repair

Water Supply-Type (drilled well, dug well, e.g.) Distance from absorption system

Number of Bedrooms Spa Garbage grinder

Estimated Wastewater Flow gal/day

Soil investigation results and dates conducted

Percolation test #1: min./in. Percolation test #2: Date
Depth to: groundwater, mottling, bedrock, impermeable soil Date
Name of person who performed soil tests

System Components

Septic tank capacity (gallons)
Multiple compartments (yes/no) Gas deflection baffle (yes/no)
Aerobic treatment unit, rated capacity (gal/day)
Make Model No. NSF approved (yes/no)
Gravity distribution Pump dosing Siphon dosing Pressure distribution

Absorption System (conventional):

Trenches, number length (ft.)
Shallow trenches, number length (ft.) depth to bottom of trench
Gravelless trenches, number length (ft.) product type
Deep trenches, number length (ft.) depth to bottom of trench
Absorption bed dimensions number of laterals

Absorption System (alternative):

Raised system Mound Other engineered system
Name of design professional
Signature of design professional Date signed
Applicant's signature

Application must include site plan

APPENDIX IX

ADIRONDACK PARK AGENCY

GUIDELINES FOR ON-SITE SEWAGE DISPOSAL SYSTEMS

March 25, 1991

This document sets forth guidelines for the design and installation of on-site sewage disposal systems for projects requiring a permit from the Adirondack Park Agency. These guidelines apply to pre-existing lots and lots on which a system is being replaced, but, in these cases, alternative systems may be allowed (see Pre-Existing Lots and Failing Systems, p. 6). These guidelines supersede Chapter 22 (Sewage Disposal) of the Adirondack Park Agency publication Development in the Adirondack Park, 1977. These guidelines deal with site evaluation, design specifications and installation requirements for both individual and small multi-family on-site sewage disposal systems with a flow rate of less than 1000 gallons per day.

LEGAL EFFECT OF THESE GUIDELINES

These are guidelines, not rules. Failure to meet them will not automatically result in disapproval of an application. Each application will be judged on its particular merits, including all other aspects of its impact on the resources of the Adirondack Park and mitigation measures or offsets proposed. If these guidelines are not met, the Project Review Officer assigned to the application will consult with the Agency's technical staff, and may, depending on the individual case, recommend that a public hearing be held to further examine sewage disposal methods.

SITE EVALUATION AND RESOURCE REQUIREMENTS

The soil and slope factors listed here are described in detail in the Adirondack Park Agency Soils Handbook (August 1990). To ensure the information provided to the Agency is consistent, the Handbook prescribes standard methods for performing percolation tests and for describing soils.

All applications for new development and subdivisions requiring a permit from the Adirondack Park Agency and subject to these guidelines must demonstrate that each proposed building lot meets these minimum site requirements.

Flood Areas:

No on-site sewage disposal systems shall be allowed in areas within a 10-year flood plain.

Horizontal Separation Distances:

The table below sets forth the minimum horizontal separation distances required, measured from the finished graded edge of the sewage disposal area (see System Extent p. 4) to each listed feature:

Minimum Horizontal Separation Distances	
Individual Drilled Well	100 feet
Community Drilled Well	200 feet
Dug Well	150 feet
Wetland	100 feet*
Lake George	200 feet
Other waterbodies	100 feet**
Property line	25 feet
Dwellings	20 feet
Soil Depth to: Bedrock \leq 48"	25 feet
Impervious Layer \leq 48"	25 feet
SEASONAL HIGH GROUNDWATER TABLE \leq 24"	25 feet***
25 % Slopes	25 feet
* May require a greater separation distance where low nutrient bop are present. ** The shoreline setback requirement includes both: 1. Intermittent streams with a defined bed and bank, regardless of navigability (9 NYCRR 575.1 [c]). 2. Within 200 feet of the shoreline of a lake, pond, river or stream: if the percolation rate is 0 to 3 minutes per inch, a leaching facility will not be permitted (9 NYCRR Appendix Q4). ***Seasonal High Ground Water Table.	

For features not listed in the above table, use Table 2 in the Design Standards for Wastewater Treatment Works 1988, NYS Department of Environmental Conservation, 1980, revised 1988.

Slope:

Conventional in-ground absorption trenches shall only be permitted on natural slopes of 15% or less. All other acceptable on-site sewage disposal systems shall only be permitted on natural slopes of 8% or less. For the purpose of these guidelines, the slope is measured as the ratio of the maximum vertical rise or fall of the land in 50 feet of horizontal distance and is expressed as a percentage.

Soil Percolation Rate:

In order to be approved for conventional in-ground absorption trenches or beds or for shallow absorption trenches, soil percolation rates shall be between 1 to 60 minutes per inch. No on-site sewage disposal systems shall be allowed in soils where the percolation rate is less than 1 minute per inch or exceeds 60 minutes per inch. Also, within 200 feet of the shoreline of a lake, pond, river or stream: if the percolation rate is 0 to 3 minutes per inch, a leaching facility will not be permitted (9 NYCRR Appendix Q-4).

Note: Aquifer Protection in Fast Perc Soils

In areas with percolation rates faster than 10 minutes per inch that overlie aquifers designated by New York State as Principal Aquifers, or other aquifers that meet the criteria defined in NYS Department of Environmental Conservation, Division of Water Technical and Operational Guidance Series 2.13, Primary and Principal Aquifer Determinations, April 1, 1987, additional protection will be required to prevent degradation of groundwater quality. In such cases, the absorption system design shall be modified to provide enhanced treatment of the wastewater by the soil system, or additional treatment provided prior to subsurface discharge. The Agency staff should be consulted before substantial sums are spent on design.

Soil Test Pit:

A soil test pit is required to examine the soil to a depth of at least 7 feet or 5 feet below the bottom of the proposed system, whichever is deeper. Soil test pits must be described by a qualified soil scientist as defined by the New York Department of Agriculture and Markets Rules and Regulations (1 NYCRR 370.2 [v]).

Soil Depth to Seasonal High Groundwater Table (SHGWT):

The depth of the undisturbed and natural soil measured from the soil surface (minus the surface organic forest floor layers) to the top of the seasonal high water table must be 24 inches or more. This depth shall also be determined by a qualified soil scientist.

Soil Depth to Bedrock or Other Impervious Layer:

The depth of the undisturbed and natural soil measured from the soil surface (minus the surface organic forest floor layers) to the top of bedrock or other impervious layer must be 48 inches or more (72 inches if the bedrock is fractured). In addition, the bottom of any sewage disposal system shall be at least four feet above bedrock or impervious strata. An impervious strata is defined as any layer with a percolation rate of slower than 60 minutes per inch.

Filled Areas or Disturbed Sites:

Sewage disposal systems are generally not allowed on sites where the natural soil materials have been disturbed by excavation, removed or covered by more than 12 inches of fill. Where proposed on such sites, intensive sub-surface investigation will be required. The Agency staff should be consulted prior to conducting such an investigation.

DESIGN STANDARDS

Design Flow and Replacement Area:

All proposed lots for new subdivisions subject to these guidelines are required to have an area of suitable site conditions large enough to accommodate a sewage system designed for a minimum of 500 gallons per day flow rate (4 bedroom house) and a reserve area capable of installing a 100 percent replacement system according to the specifications in this document.

System Extent:

The sewage disposal area includes the area of the leaching facilities and, if required by the design, the area covered by fill used to grade around the system and the up-slope diversion ditch (curtain drain). This area is the finished graded edge of the sewage disposal system used for the measurement of horizontal separation distances.

Piping Distances:

In general the piping of sewage to an on-site sewage disposal system serving one or two single family dwellings a distance of 250 feet or more or across wetlands, waterbodies, right-of-ways, property lines or a soil with any limiting feature, is not allowed. Review of such proposals will be on a case-by-case basis and alternative lot configurations will likely be suggested.

Mounding Analysis:

Where site conditions are marginal, an analysis will be required to predict the extent of groundwater mounding that will occur when the system is in operation and how this discharge will affect groundwater levels downgradient.

Other:

All other standard design features are the same as in Sewage Standards for Wastewater Treatment Works 1988, DEC, revised 1988, unless otherwise noted herein.

ACCEPTABLE SEWAGE DISPOSAL SYSTEMS for New Development

The sewage disposal systems defined herein are the same systems used in Sewage Standards for Wastewater Treatment Works 1988 DEC, revised 1988, and are described in further detail by that publication. The design standards in that publication are applicable, but the site conditions used herein may in some instances be more restrictive, and represent the minimum site conditions necessary in order to recommend the approval of a lot for new development without a public hearing.

Conventional Absorption Trenches and Beds:

Conventional Absorption Trenches and Beds are in-ground sewage disposal systems which may be used only with the following site conditions:

- Percolation rate: 1 to 60 minutes/inch
- Slope: $\leq 15\%$ for Trenches
 $\leq 8\%$ for Beds
- Depth to SHGWT: ≥ 48 inches
- Depth to Bedrock: ≥ 72 inches

Such systems are constructed wholly within the existing native soil, yet are able to maintain a 24 inch vertical separation distance between the bottom of the system and the top of the seasonal high water table, and 48 inches to bedrock. Conventional absorption beds differ from trenches in that they are up to 15 feet wide, while trenches are generally 2 feet wide. Cross-sections for trenches and beds are from the 1988 DEC publication set forth in Appendix A and Appendix B.

Shallow Absorption Trenches

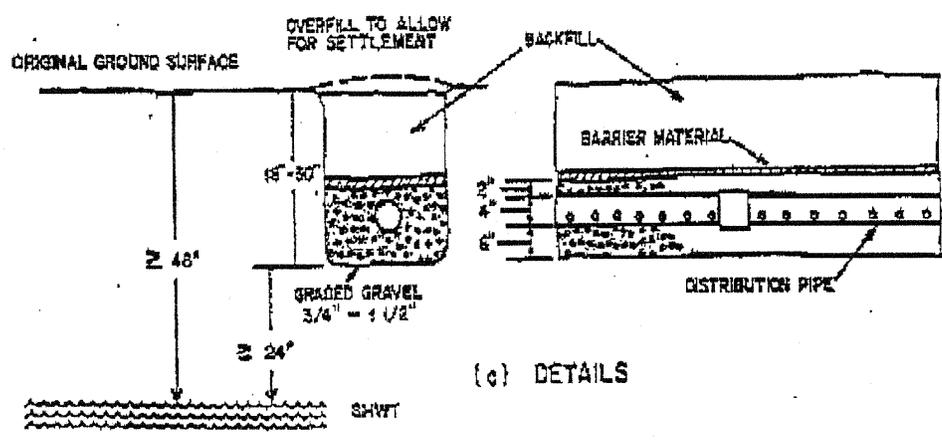
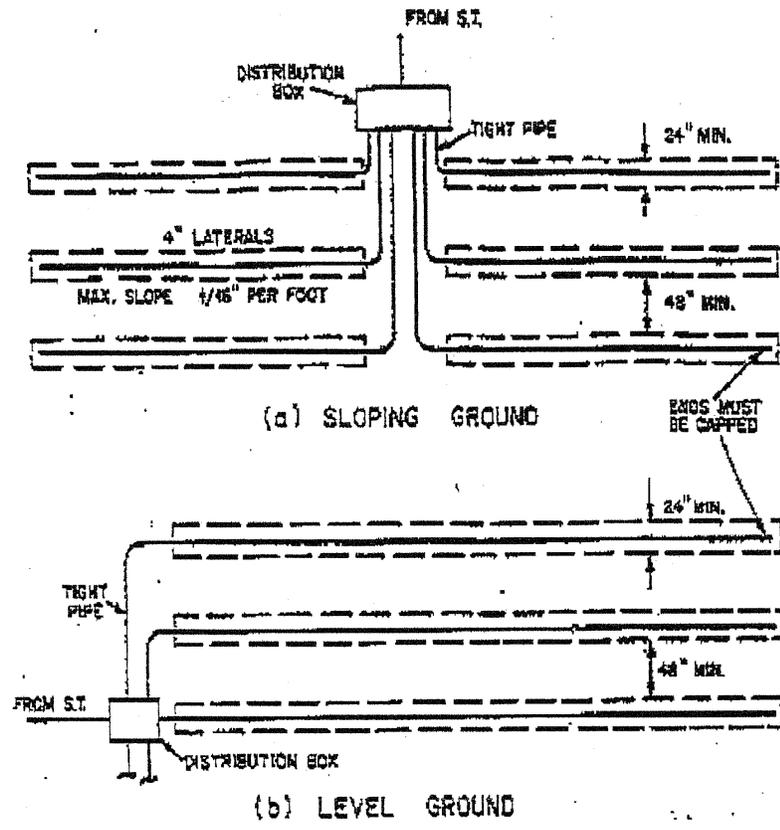
Shallow Absorption trenches are sewage disposal systems which may be used only with the following site conditions:

Percolation rate:	1 to 60 minutes/inch
Slope:	$\leq 8\%$
Depth to SHGWT:	24 to 48 inches
Depth to Bedrock:	≥ 48 inches

Such systems are constructed with the bottom of the system wholly within the existing native soil. Fill is required to grade over the sides and top of the system. The total height of the system above the original soil surface is 1 to 24 inches, depending on the system design, slope and depth to the seasonal high water table. A cross-section from the 1988 DEC publication is set forth in Appendix C. All shallow absorption trenches shall be designed and certified as to their proper installation by a licensed Professional Engineer.

PRE-EXISTING LOTS and FAILING SYSTEMS

If a pre-existing lot does not meet the minimum site requirements in this document, Agency staff will consider, on a case-by-case basis, acceptability of alternative systems. If an existing on-site sewage disposal system is failing, Agency staff will consider proposals of demonstrated new technology or alternative systems, such as, but not limited to mounds or non-waterborne systems, as designed by a licensed Professional Engineer. Holding tanks will not be allowed for year-round usage on a permanent basis, however.



APPENDIX A CONVENTIONAL ABSORPTION TRENCH