

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
Town
~~Village~~

of Lumberland

COPY

Local Law No. 1 of the year 1998

A local law Uniform Fire Protection and Building Code Enforcement Law
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~
Town
~~Village~~

of Lumberland as follows:

Copy available in the Town Clerk's Office

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1997 of the ~~(County)~~(City)(Town)(Village) of Lumberland was duly passed by the Town Board on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
the City of _____ having been submitted to referendum pursuant to
the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote
of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on
_____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
of the County of _____, State of New York, having been submitted to
the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of
section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the
qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns
of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that
the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted
in the manner indicated in paragraph _____, above.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or
other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper
proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County
City
Town of _____
Village

Date: _____

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Town
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of Lumberland

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Local Law No. 1 of the year 1998

A local law Uniform Fire Protection and Building Code Enforcement Law
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~
Town
~~Village~~

of Lumberland as follows:

Copy available in the Town Clerk's Office

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1-98 of 19__ of the ~~(County)(City)(Town)(Village)~~ of LUMBERLAND was duly passed by the TOWN BOARD on July 22 1998, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

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(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Christina Bodzareuk

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: July 23, 1998

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Sullivan

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Brian Edwards

Signature

Attorney for Town

Title

County
City of Humboldt
Town
Village

Date: 7/24/98

LOCAL LAW (\), 1998

Town of Lumberland Uniform Fire Prevention
and Building Code Enforcement Law

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF LUMBERLAND AS FOLLOWS:

1.0 DESIGNATION OF CODE ENFORCEMENT OFFICER AS PUBLIC OFFICIAL.

There is hereby designated in the Town of Lumberland a public official to be known as the Code Enforcement Officer, who shall be appointed by the Town Supervisor with the approval of the Town of Lumberland at a compensation to be fixed by it.

2.0 DUTIES AND POWERS OF CODE ENFORCEMENT OFFICER.

Except as otherwise specifically provided by law, ordinance, rule of regulation, the Code Enforcement Officer shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations applicable to plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and to the location, use and occupancy thereof. The Code Enforcement Officer shall also be assigned such responsibilities for enforcement of such laws and regulations of the Town of Lumberland as the Town Board shall designate from time to time.

3.0 RULES AND REGULATIONS.

The Town Board may, after public notice and publication at least five (5) days prior to the effective date thereof in a newspaper of general circulation within the town, adopt such further procedural/administrative rules and regulations as the board deems reasonable to carry out the provisions of this local law. The Code Enforcement Officer may make recommendations to the Town Board to adopt, amend, or appeal such rules and regulations as they may relate to efficient administration and enforcement of the provisions of the Uniform Code. Such rules and regulations shall not conflict with the Uniform Code, this local law, or any other provision of law.

4.0 ACTING CODE ENFORCEMENT OFFICER.

In the absence of the Code Enforcement Officer, or in the case of his inability to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act on behalf of the Code Enforcement Officer and to exercise all the powers conferred upon him by this law.

5.0 APPOINTMENT OF INSPECTORS.

The Town Supervisor, with the approval of the Town Board may appoint one inspector or more, as the need may arise, to act under the supervision and direction of the Code Enforcement Officer and to exercise any portion of the powers and duties of the Code Enforcement Officer as he may direct. The compensation of such inspectors shall be fixed by the Town Board

6.0 RESTRICTIONS ON EMPLOYEES.

The Code Enforcement Officer, Building Inspector or any employee of the Town of Lumberland directly involved in code enforcement, shall not engage in any activity inconsistent with his duties, or with the interests of the Town;

nor shall he, during the term of his employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Town of Lumberland of except that this provision shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by him for his own personal use and occupancy or for the use and occupancy of his immediate family, and not constructed for sale.

7.0 REVIEW BOARD.

7.1 Where unnecessary hardship may result from enforcement of the strict letter of any provision of the Uniform Code, applications for variances consistent with the spirit of the Code may be made to the regional Board of Review in accordance with Part 450 of the New York Code of Rules and Regulations entitled "Uniform Code: Board of Review" as promulgated by the New York Department of State. The Code Enforcement Officer shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters affecting the Town of Lumberland.

7.2 Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this Local Law or any rule or regulation hereunder which provision is not required by the Uniform Code, applications for variances and appeals, consistent with the spirit of such law, rule or regulation, may be made to the Town Zoning Board of Appeals.

8.0 BUILDING PERMITS

8.1 The Code Enforcement Officer shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of ensuring compliance with laws, ordinances, rules and regulations governing building construction or alterations. Agricultural structures shall be exempt from these procedures as provided in New York State law and in the the Town of Lumberland Zoning Law.

8.2 A building permit will be issued when the application has been determined to be complete, when the proposed work is determined to conform to the provisions of the Uniform Code, and when the Code Enforcement Officer has determined that the proposed work is in compliance with the Code of the Town of Lumberland. The permit shall be prominently displayed on the property or premises to which it pertains during construction so as to be readily seen from adjacent thoroughfares, if possible. A building permit application which is not acted upon within thirty (30) days of receipt shall be considered officially denied and any aggrieved party may appeal to the Zoning Board of Appeals.

8.3 A building permit shall be valid for a maximum of twenty-four (24) months from the date of issuance, with a maximum of two (2) six (6)-month extensions for good cause shown. The Code Enforcement Officer shall have authority to grant or deny an extension request within these limits.

9.0 CERTIFICATE OF OCCUPANCY AND/OR COMPLIANCE.

9.1 Purpose: In order to ensure that all work authorized by a building permit complies with the conditions of the permit and the Uniform Building Code and this local law, the Code Enforcement Officer shall conduct a final inspection of work undertaken subsequent to the issuance of a building permit.

9.2 Issuance of Certificate of Occupancy and/or Compliance

9.2.1 A Certificate of Occupancy is required for occupancy and use of a building hereafter erected, altered,

moved or extended or the change in use of an existing building;

9.2.2 A Certificate of Occupancy and/or Compliance shall be issued only if the proposed use of the building or structure conforms to the provisions of the New York State Uniform Fire Prevention and Building Code. The Code Enforcement Officer shall make or cause to have made an inspection of each building or structure for which a Certificate of Occupancy and/or Compliance is to be issued. An application for a Certificate of Occupancy and/or Compliance which is not acted upon within thirty (30) days of receipt shall be considered officially denied and any aggrieved party may appeal to the Zoning Board of Appeals.

9.3 Restrictions: It shall be unlawful for any person, firm corporation to use or occupy any building or structure or portion thereof in violation of any provision of the New York State Uniform Fire Prevention and Building Code, or any amendment hereafter made thereto, as well as any regulation or rule promulgated by the Town Board, or to fail to comply with a notice, order or directive of the Code Enforcement Officer, or to use or occupy any building or structure or part thereof in a manner not permitted by an approved Certificate of Occupancy and/or Compliance.

10.0 INSPECTIONS

10.1 Work for which a building permit has been issued under this local law shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.

10.2 Existing buildings not subject to inspection under subdivision "a" of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: All areas of public assembly as defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings - every twelve (12) months; all buildings or structures open to the general public - every twelve (12) months; all other buildings - every twenty-four (24) months. Notwithstanding any requirement of this subdivision to the contrary, no regular periodic inspections of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

11.0 INSPECTORS.

11.1 The inspections required by Section 9 of this local law must be performed by the Code Enforcement Officer or Inspectors appointed by the Town Board to assist him. The Code Enforcement Officer is authorized to order, in writing, the correction of any condition in violation of the Uniform Code found in, on, or about any building. Such orders shall be served in person upon a responsible party of his authorized agent or by registered mail sent to the address of a responsible party set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. A responsible party who fails to correct the condition within the specified time shall be subject to a penalty as set forth in Section 13 of this local law.

11.2 A person subject to inspection under Section 9 may be required by the Code Enforcement Officer to have such inspection performed at his own cost and expense by a competent inspector acceptable to the Code Enforcement Officer. Such inspector may be a registered architect, licensed professional engineer, other certified Code Enforcement Officer, or other person whose experience and training has been demonstrated to the satisfaction of the Code Enforcement Officer. Such inspector shall certify the results of his inspection to the Code Enforcement Officer. Any person required by the Code Enforcement Officer to have an inspection performed at his own cost and expense shall not be assessed the fees otherwise prescribed by the Town Board.

12.0 DEPARTMENT RECORDS AND REPORTS

12.1 The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the Town of Lumberland, and notices and orders issued. All such reports shall be public information open to public inspection during normal business.

12.2 The Code Enforcement Officer shall annually submit to the Town of Lumberland a written report of all business conducted.

13.0 STOP-WORK ORDERS.

13.1 Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a permit, or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation, or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

13.2 Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state reasons of the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer or that of an assistant or inspector and shall be prominently posted at the work site.

14.0 VIOLATIONS.

14.1 Upon determination by the Code Enforcement Officer that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the Code Enforcement Officer shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by certified mail.

14.2 Any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this local law, or the terms or conditions of any Certificate of Occupancy issued by the Building and Fire Inspector, shall be liable to a civil penalty of not more than \$1000 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Officer.

14.3 Alternatively or in addition to an action to recover the civil penalties provided by subsection B, the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Officer.

15.0 PERMIT REVOCATIONS.

15.1 The Code Enforcement Officer may revoke a building permit theretofore issued and approved in the following instances:

15.1.1 Where he finds that there has been any false statement or misrepresentation as to a material fact in

the application, plans or specifications on which the building permit was based.

15.1.2 Where he finds that the building permit was issued in error and should not have been issued in accordance with the application law.

15.1.3 Where he finds that the work performed under the permit is not being performed in accordance with the provisions of the applications, plans or specifications.

15.1.4 Where the person to whom a building permit has been issued fails or refuses to comply with a stop-work order issued by the Code Enforcement Officer

15.2 Upon revocation of the building permit, it shall be the duty of the person holding the same to surrender it and all copies thereof to the Code Enforcement Officer. After the building permit has been revoked, the Code Enforcement Officer may, in his discretion, before issuing the new building permit, require the application to file an indemnity bond in favor of the Town of Lumberland with sufficient surety conditioned for compliance with this chapter and all laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building or structure if it does not so comply.

16.0 GENERAL PROVISIONS.

16.1 If any section, paragraph, subsection or provision of this law shall be found invalid, such invalidity shall apply to the section, paragraph, subsection, or provision adjudged invalid and the remainder of the law shall remain valid and effective.

16.2 This law shall be effective immediately and any other provision of Town of Lumberland inconsistent herewith is repealed.

16.3 Appearance tickets with respect to violations hereunder may be issued directly by the Code Enforcement Officer, or any other authorized law enforcement officer of the Town of Lumberland and shall be served personally or by registered or certified mail.

16.4 Fees applicable to applications, inspections or other activities, including use of independent professional to evaluate an application or plan, shall be as set forth by the Town Board and amended from time to time by resolution.

Local Law #2-98

Town of Lumberland
Sullivan County, New York

Manufactured Home Law

Prepared for:

Town of Lumberland Town Board

June 16, 1998

Town of Lumberland
Zoning Update Committee

Assisted by:

Shepstone Management Company
100 Fourth Street
Honesdale, PA 18431



This project was assisted by a grant from the
Upper Delaware Council, Narrowsburg, NY 12764

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Copy available in the Town Clerk's Office

Local Law No. 2 of the Year 1998

MANUFACTURED HOME LAW

BE IT ENACTED by the Town Board of the Town of Lumberland, Sullivan County, New York, as follows:

1.0 Purpose.

The purpose of this Law is to promote the general welfare of the Town of Lumberland, including the retention of its rural character, preservation of the qualities of its natural environment and the protection of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of manufactured (mobile) home parks.

2.0 Definitions.

For the purpose of this Law, the following words, terms and phrases shall have the meaning ascribed to them in this section:

- 2.1 **Manufactured (Mobile) Home.** A transportable single-family dwelling unit intended for permanent occupancy which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed on a chassis so that it might be towed, not including a modular or sectional dwelling, recreational vehicle or travel trailer. The terms "manufactured" and "mobile" shall mean the same and may be used interchangeably for purposes of this Law.
- 2.2 **Mobile Home Lot.** A designated site of specific total land area which is located within a mobile home park for the accommodation of one mobile home and its occupants.
- 2.3 **Mobile Home Park.** A parcel or contiguous parcels or land which has been designated and improved for the purpose of placing three (3) or more mobile homes for occupancy as single-family dwellings.
- 2.4 **Mobile Home Stand.** A durable surface located on a mobile home lot which is capable of supporting and which is used for placement of a mobile home.

3.0 Licenses Required for Mobile Home Parks.

- 3.1 No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Lumberland, shall use or allow the use of such land for a mobile home park unless a license has been obtained as herein provided.
- 3.2 Issuance of license.
- 3.2.1 The Town Code Enforcement Officer of the Town of Lumberland shall issue a license after approval of the application by the Town Planning Board. The Board shall apply site plan review and special use criteria contained in the Town of Lumberland Zoning Law as a factor in making a decision on the project but only after the Town Board shall have first created a district for such housing as provided for in that Law. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer and shall be renewed annually based on an inspection by the Code Enforcement Officer as to continued compliance with the standards of this Law.
- 3.2.2 No license shall be issued until the Code Enforcement Officer has received;

- (1) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
 - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
 - (3) Evidence there is a or will be a New York State Approved sewage disposal system designed by a Licensed Professional Engineer.
- 3.2.3 The license shall be transferred to a new owner of a mobile home park provided all of the requirements of this Chapter are met and provided the Town is so notified.
- 3.3 Supplemental license.
- 3.3.1 Any person holding a license for a mobile home park who desires to add additional lots to such park shall file an application for a supplemental license.
- 3.3.2 The application for such supplemental license must be accompanied by four sets of plans and specifications and shall be filed and processed as provided herein for new mobile home parks.
- 3.3.3 When approved, the Town Code Enforcement Officer shall issue a supplemental license which will be effective from the date of issuance and continue until surrender by the licensee or revocation by the Code Enforcement Officer.
- 3.4 The applicant shall pay the Town such a fee(s) as are established by resolution of the Town Board. Fees may be assessed for both the initial license and to cover subsequent inspections on a periodic basis.
- 4.0 Application Procedure.**
- 4.1 Each application for a mobile home park license shall be in writing and signed by the applicant.
- 4.2 Four (4) copies of the application and plans and related information shall be filed with the Code Enforcement Officer on a form supplied by the Code Enforcement Officer. No application shall be deemed filed until all required information shall have been filed with the Town of Lumberland Planning Board. The Planning Board shall advise the applicant of any such deficiencies within thirty (30) days of its receipt thereof.
- 4.3 The Code Enforcement Officer promptly shall transmit copies of the application and plans to the Town Planning Board who shall process the application pursuant to the site plan review and special use requirements of the Town of Lumberland Zoning Law and New York State Town Law.
- 4.4. The Code Enforcement Officer, within ten (10) days of the filing of the Planning Board decision shall issue the license provided approval has been granted and all other requirements of this Law are met.
- 4.5 Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license, in any instance, where the Board has not approved the Site Plan. If the application is disapproved, the applicant shall have the right to appeal pursuant to Article 78 of the Civil Practice Law and Rules.
- 5.0 Application Data.**
- 5.1 Each application shall be accompanied by four complete sets of plans which have been prepared by a

licensed land surveyor or engineer.

- 5.2 Each application shall contain the following information:
- 5.2.1 The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation including principal shareholders (more than 5% ownership).
- 5.2.2 The description of the land that is proposed to be used as a mobile home park, together with a map showing its location in the Town.
- 5.2.3 The number of lots to be provided in such mobile home park.
- 5.2.4 The names and addresses of the owners of the property on which the mobile home park is to be located and a written statement signed by the owners consenting that the premises be used for a mobile home park.
- 5.3 Four copies of a location map shall be presented with the application which shows all land within 300 feet of the park, the location of all streets and roads adjacent to and within the park and the location of all water and sewer lines and utilities adjacent to and within the park.
- 5.4 Proposed development. The application shall be accompanied by four copies of a development plan showing the following:
- 5.4.1 The location and widths of all entrances, exits and streets.
- 5.4.2 The location, size and arrangement of each lot within the park.
- 5.4.3 The method and plan for electric lighting.
- 5.4.4 The location and plan of all proposed structures and improvements.
- 5.4.5 Plans for landscaping.
- 5.4.6 Storm water drainage.
- 5.4.7 Utilities.
- 5.4.8 Off-street parking facilities.
- 5.4.9 Fencing and screening.
- 5.4.10 Signs and other structures.
- 5.4.11 Names of owners of adjoining properties.
- 5.4.12 Recreational facilities.
- 5.4.13 Location and type of trash receptacles.
- 5.4.14 All other applicable information required by the Town Zoning Law.

6.0 Requirements for Mobile Home Parks.**6.1 Site**

6.1.1 The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and free at all times from stagnant pools of water.

6.1.2 The park shall be at least ten (10) acres in size and have at least three-hundred (300) feet frontage on a public road. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new such road may be approved as part of the plan.

6.2 Mobile Home Lots

6.2.1 Each mobile home park shall be marked off into mobile home lots.

6.2.2 Reserved.

6.2.3 Each mobile home lot shall have a total area of not less than 10,000 square feet.

6.2.4 No more than (1) mobile home shall be placed on any mobile home lot.

6.2.5 The lot numbers shall be legibly noted for each lot on the plans submitted

6.3 Mobile Home Placement

6.3.1 All mobile homes shall be parked or otherwise be located:

- (1) At least fifty (50) feet from an adjacent mobile home.
- (2) At least seventy-five (75) feet from an adjacent property line.
- (3) At least seventy-five (75) feet from right of way line of public street or highway.
- (4) At least twenty-five (25) feet from the nearest edge of any roadway located within the park.

6.4 Mobile Home Stand. Each mobile home lot shall have a mobile home stand which will provide for the practical placement on a permanent foundation or the lot of both the mobile home and its appurtenant structures and provide for the retention of the home on the lot in a stable condition.

6.5 Accessibility and Lighting

6.5.1 Each mobile home park shall be accessible from an existing public highway or street.

6.5.2 Where a mobile home park has more than sixteen (16) mobile homes, two (2) points of entry and exit shall be provided.

- (1) Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.

- (2) No individual mobile home shall have direct access to a State, County or Town road without first entering a street or driveway in the mobile home park leading to an exit.
 - (3) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
 - (4) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached and shall be at least fifty (50) feet in width.
- 6.5.3 Each mobile home park shall have roads to provide for the convenient access to all mobile home lots and other facilities within the park.
- (1) The road system shall be so designed to permit the safe and convenient vehicular circulation within the park. All streets shall be provided with safe, dustless macadam surfaces.
 - (2) All roads shall have the following minimum pavement widths:
 - [a] One way traffic movement - 12 feet
 - [b] Two way traffic movement - 20 feet
 - (3) The roads shall be constructed in accord with the requirements set forth in the Town Subdivision Law and Town highway specifications.
 - (4) Except in cases of emergency, no parking shall be allowed on such street unless such street is at least 28 feet wide, in which case parallel parking shall be allowed on one side of the street only.
- 6.5.4 All means of egress, drives and public places shall be adequately lighted.
- 6.5.5 One non-flashing, illuminated sign shall be permitted on the park. Such sign shall not be greater in area than 50 square feet and shall not extend more than eight (8) feet above ground level. Such sign shall be located at least 20 feet from any property line or street right-of-way line.
- 6.6 Parking
- 6.6.1 Two (2) off-street parking spaces shall be provided on each mobile home lot. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet
- 6.6.2 One off-street parking space or common area, readily accessible to the occupants of the mobile homes it is intended to serve, shall be provided for each five (5) mobile home sites to accommodate guests and delivery and service vehicles.
- 6.7 Utilities and Service Facilities
- The following utilities and services shall be provided in each mobile home park in accordance with the regulations and requirements of the New York State Department of Health:
- 6.7.1 An adequate supply of pure water meeting New York State Department of Health standards for drinking and domestic purposes shall be supplied by pipes to mobile home lots and buildings within the park. Documentation of compliance with the Department of Health's requirements in Part 17 of the Sanitary Code shall be provided.

- 6.7.2 Each mobile home lot shall be provided with a sewer, which shall be connected to the mobile home situated on the lot, to receive the waste from the shower, tub, flush toilet lavatory and kitchen sink in such home. The sewer shall be connected to a public or private off-site sewer system meeting New York State Department of Health standards so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.
- 6.7.3 Garbage containers with tight fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The containers shall be kept in sanitary condition at all times. The containers shall be located no farther than two hundred fifty (250) feet from any mobile home lot, shall be stored in covered collecting enclosures and garbage shall be removed and disposed of as frequently as may be necessary to ensure that such containers shall not overflow.
- 6.7.4 Mobile homes which do not contain toilets, lavatory and tubs or showers shall not be permitted in any mobile home park. Service buildings shall be provided as deemed necessary for the normal operation of the park. Such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.
- 6.7.5 Each mobile home lot shall be provided with weather-proof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
- 6.8 Recreation and Open Space
- 6.8.1 Each mobile home park shall provide common open space for the use of the occupants of the park.
- 6.8.2 Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least fifty (50) percent of the gross land area of the park and shall meet the standards for common open space as provided in § 4.4 of the Town of Lumberland Subdivision Law.
- 6.8.3 Any mobile home park or more than ten (10) mobile home sites shall provide, as part of its open space, areas for active recreational use. These recreation areas shall not include any wetlands, steep slopes or other land areas unusable for development and shall consist of contiguous land areas which can be used for active recreational activities such as ballfields. No less than 20% of the open space provided shall be dedicated to such recreational areas and no individual area so designated shall be less than two (2) acres in size. Each mobile home park affected by this section shall provide at least one developed picnic area, including tables and benches, and a system of marked and improved trails or sidewalks connecting each mobile home to the recreation and other open space areas created. Unless the park shall be restricted to senior citizens, it shall also include at least one improved ballfield. These recreational improvements shall be included on the landscaping plans presented as part of the application package.
- 6.9 Landscaping
- 6.9.1 Ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways, roads and parking areas.
- 6.9.2 Screening acceptable to the Planning Board and Code Enforcement Officer shall provide for adequate shade and a suitable setting for the mobile homes and other facilities. It shall include landscaping materials meeting the requirements of § 4.12 of the Town of Lumberland Zoning Law. A side or rear yard adjacent to an existing developed area shall be a minimum width or depth of 100 feet and the 50 feet nearest to the existing developed area shall be planted or screened with materials approved by the Planning Board and

Code Enforcement Officer. Such screening shall be designed to create and maintain a high quality neighborhood character for existing residents as well as new mobile home park residents. Natural landscape buffers shall be required as opposed to fencing or other artificial measures. It shall provide, to the maximum extent practical, for the effective screening of other development from the view of mobile home residents and of all mobile homes and accessory structures from view by adjoining. The Planning Board shall also require and approve a landscaping plan for the interior of the mobile home park to buffer individual mobile homes, provide shade and green areas and ensure a wholesome living environment.

- 6.9.3 Skirting acceptable to the Planning Board and Code Enforcement Officer shall be installed along the perimeter of each mobile home, extending from the mobile home stand to the floor of the mobile home unit and fully screening the area beneath the unit from view. The landscaping plan required above shall also address landscaping of individual mobile home sites and ensure effective separation of mobile homes from each other for purposes of privacy as well as aesthetics.
- 6.10 The owner or operator of each mobile home park shall keep a register wherein there shall be recorded the name and permanent address of the owner and occupant of each mobile home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the mobile home or the person bringing the same into the court. Such register shall be open for inspection to the Town Code Enforcement Officer, the Town Planning Board, the Town Board or the Town Assessor at all reasonable times. Registers shall be kept for a period of seven (7) years.
- 6.11 Fire District Approval and Firefighting Requirements
- 6.11.1 No application for a mobile home park license shall be approved unless and until the appropriate officer of the applicable Town fire district shall have reviewed the plans as well as the site and determined the district fire-fighting equipment can provide adequate coverage of the park and that there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a fire hydrant(s), with sufficient capacity to meet the fire-fighting needs associated with the development, located on the site and convenient for easy access. Water storage facilities may be provided as an alternative to hydrants if the same are secured from access by small children.
- 6.11.2 If the fire district approval cannot be obtained because the district lacks the specific services and facilities needed to serve the proposed park, the Town shall be authorized, through its Planning Board and Code Enforcement Officer, to require a condition of special use and site plan approval as well as licensing hereunder, a financial contribution from the applicant toward providing those services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the mobile home park.
- 6.12 No sales of mobile homes for off-site placement shall be permitted within the mobile home park, excepting for previously occupied mobile homes sold individually by residents of the mobile home park. Also, no mobile home shall be used for rental purposes except for temporary periods in those instances where an individual owner of such home, not including the mobile home park operator, shall have placed such home on-site for purposes of personal occupancy and is no longer, for reasons of health or circumstance able to live there.

7.0 Enforcement.

The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right at all reasonable times, to enter and inspect any mobile home park or other premises used for the parking and placing of mobile homes.

- 7.1 If the Code Enforcement Officer finds that a mobile home park for which a license has been issued, is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within 10 days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this Law, be authorized to make periodic inspections of all mobile home parks and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- 7.2 If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Code Enforcement Officer may suspend such license and the holder of the license shall thereupon terminate the operation of such mobile home park provided residents have been afforded adequate opportunities consistent with State and/or Federal law to re-locate.
- 7.3 However, if the owner or operator of such mobile home park shall thereafter correct such conditions and bring the mobile home park into compliance with this Law, such owner may then apply for the issuance of a new license for such park and if the application is approved and a license granted, the applicant shall pay to the Town the fee required by this Law without any credit for the fee paid for the license which was revoked.
- 7.4 Any license which is not used for the purpose intended within two (2) years of the date of issuance as evidenced by placement of the home(s) on the designated site, shall automatically expire.
- 7.5 No license for a mobile home park, or any portion of a mobile home park, shall be issued unless and until all improvements as required herein, including landscaping and screening, have been physically installed, inspected and approved by the Code Enforcement Officer, excepting that roads shall be approved by the Town Highway Superintendent in consultation with the Town Engineer as may be required. In those instances where a mobile home subdivision is to be created and individual lots are to be conveyed for purposes of placing a mobile home, all required improvements will be installed or financially secured pursuant to Section 277 of the Town Law and all other requirements of the Town of Lumberland's Subdivision Law shall be met. Such subdivisions shall be subject to the development standards provided herein and in the Town Zoning and Subdivision Laws. Should the latter development standards and the standards herein conflict the more restrictive standard shall apply.

8.0 Penalties.

- 8.1 Any person, partnership, association or corporation who violates any provision of this Law shall be guilty of an offense against this Law and subject to a fine of not less than one-hundred dollars (\$100) or more than five hundred dollars (\$500). When a violation of any of the provisions of this Law is continuous, each day or portion thereof shall constitute a separate and distinct violation.
- 8.2 In addition to the above provided penalties, the Code Enforcement Officer may maintain a civil action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this Law or to restrain, by injunction, the violation of this Law.

9.0 Exceptions.

None of the provisions of this Law shall be applicable to the following:

- 9.1 The business of mobile home sales, except that where units are used as living quarters, they shall conform with the provisions of this Law
- 9.2 The storage of an unoccupied mobile home, provided, however, that such unoccupied mobile home shall not be parked or located between the street line and the front building line of any premises or within any required yard area.
- 9.3 A mobile home located on the site of a construction project, survey project or other similar work project which is used solely as a field office or work or tool house in connection with such project, provided that such mobile home is removed from such site within thirty (30) days after the completion of such project.
- 9.4 A modular house or manufactured home, other than a double-wide mobile home, which is prefabricated in sections, transported to the building site then fastened together and anchored to a permanent and totally enclosed masonry foundation and which has a minimum width of 24 feet for its entire length and contains a minimum of 960 square feet of usable living space.
- 10.0 Validity and Non-waiver.**
- 10.1 If any section, paragraph, subdivision or provision of this Law shall be found invalid, such validity shall apply to the section, paragraph, subdivision or provision adjudged invalid and the remainder of the Law shall remain valid and effective.
- 10.2 The issuance of any permit or license pursuant to the provision of this Law shall not be deemed to waive compliance; by the holder thereof, by the property owner or by any occupant; of any court or mobile home park statute of the State of New York Law or health regulation of the State of New York or the County of Sullivan or the Town of Lumberland or of any provision of this Law.
- 11.0 Reserved.**
- 12.0 Waivers.**
- 12.1 The Planning Board may, for good cause shown, authorize waivers from the strict interpretation of the provisions of this Law affecting existing mobile home parks and mobile homes, excepting that it shall not waive any requirement which would otherwise require a variance of the Town of Lumberland zoning ordinance and necessarily be handled by the Zoning Board of Appeals.
- 12.2 Procedure for waivers
- 12.2.1 The owner of an existing mobile home park or mobile home outside a mobile home park may apply for a variance by filing an application with the Code Enforcement Officer together with an application for a license setting forth the reasons for the variance.
- 12.2.2 Fees for waiver applications shall be established by resolution of the Town Board.
- 13.0 Separability.**
- Should any section or provision of this Law be decided by the Courts to be unconstitutional or 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.

LOCAL LAW # 3-98

ADOPTED

Town of Lumberland

Sullivan County, New York

SUBDIVISION REGULATIONS

August 19, 1998

Town of Lumberland Town Board

Nicholas Speranza - Supervisor
Paul L. Brennan
Louis Daniels
Anna D. Grundel
Peter Melnyk

Town of Lumberland Zoning Update Committee

Paul L. Brennan - Town Board
Peter Melnyk - Town Board
John Ligreci - Planning Board
Jerome Pichert - Zoning Board of Appeals
Lewis Powell - Zoning Board of Appeals
Richard Hotzler - Code Enforcement Officer



This project was assisted by a grant from the
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Copy available in the Town Clerk's Office

Town of Lumberland

Sullivan County, New York

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DREW, DAVIDOFF & EDWARDS, LLP
ATTORNEYS AT LAW
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MONTICELLO, NEW YORK 12701

THEODORE DREW
MICHAEL DAVIDOFF
BRIAN T. EDWARDS*

(914) 794-5000

FAX: (914) 794-5606

September 17, 1998

*ALSO ADMITTED TO FLORIDA BAR

New York State Department of State
State Records and Law Bureau
162 Washington Avenue
Albany, NY 12232

Re: Town of Lumberland (County of Sullivan)
Local Law #3 for 1998

Dear Sir or Madam:

Please be advised that the undersigned is the attorney for the Town of Lumberland. Enclosed herewith please find one certified copy of Local Law #3 for the year 1998.

Should you require anything further from the undersigned relative to the filing of this Local Law, please do not hesitate to contact the undersigned.

Very truly yours,

DREW, DAVIDOFF & EDWARDS, ESQS.

By: Brian T. Edwards

BTE/pas
3223-036
Encls.

cc: Town of Lumberland (w/ encl.)
Attn: Tina Bodnaruik, Town Clerk
PO Box 417
Glen Spey, NY 12737

via: Certified Mail - Return Receipt Requested

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~
~~CITY~~
Town
~~VILLAGE~~

of ...Lumberland.....

Local Law No.3..... of the year 1998....

A local lawSubdivision Regulations.....
(Insert Title)

Be it enacted by theTown Board.....of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~
Town
~~VILLAGE~~

ofLumberland..... as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1998 of the (County)(City)(~~Town~~)(Village) of LUMBERLAND was duly passed by the Town Board on AUGUST 19 1998, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
f the City of _____ having been submitted to referendum pursuant to
the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote
of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on
_____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
of the County of _____, State of New York, having been submitted to
the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of
section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the
qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns
of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that
the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted
in the manner indicated in paragraph 1, above.

Christina Bodnaruk
Clerk of the ~~County legislative body, City, Town or Village Clerk~~
or officer designated by local legislative body

(Seal)

Date: August 21, 1998

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or
other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Sullivan

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper
proceedings have been had or taken for the enactment of the local law annexed hereto.

Brian J Edwards
Signature

Attorney for Town
Title

County
City of Lumberland
Town
Village

Date: 9/29/98

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1.0 General Provisions

1.1 Authority

- 1.1.1 This Law is adopted under the authority provided to the Town of Lumberland by the New York State Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act.
- 1.1.2 The Town of Lumberland Planning Board shall be authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Town of Lumberland, pursuant to § 276 of the Town Law.
- 1.1.3 The Planning Board shall be also authorized and empowered, to approve the development of those plats, filed in the office of the County Clerk prior to January 8, 1971, where twenty percent or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- 1.1.4 The Planning Board shall be further authorized and empowered, pursuant to § 278 of the Town Law and simultaneously with the approval of a plat or plats, to modify applicable provisions of the Town of Lumberland Zoning Law, subject to the conditions set forth in § 278 and later herein.
- 1.1.5 The regulations which follow have been prepared by the Town of Lumberland Planning Board and are approved and adopted by the Town Board of the Town of Lumberland as local law pursuant to the authority of the New York State Municipal Home Rule Law.

1.2 Purposes

This Law is adopted for the following purposes;

- 1.2.1 Promoting the orderly growth and development of the Town in accordance with the Town of Lumberland's Comprehensive Plan and consistent with its Zoning Law.
- 1.2.2 Affording adequate facilities for the housing, transportation, distribution, comfort, convenience, health and safety of Town residents.
- 1.2.3 Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.
- 1.2.4 Conserving the Town's natural resources and protecting its attractive environment so as to maintain property values and otherwise provide for the general welfare of residents of the Town of Lumberland.

1.3 Jurisdiction

- 1.3.1 Regardless whether or not any formal conveyance by metes and bounds shall be made, when any subdivision of land is proposed and before any offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the subdivider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements

of this Law.

- 1.3.2 It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- 1.3.3 The regulations of this Law shall not apply to lot improvements as defined herein (see § 3.7). The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying plat presented that "These plans are acknowledged by the Town of Lumberland, and for recording purposes only, to represent an exempt lot improvement in accord with Section 3.7 of the Town of Lumberland Subdivision Regulations. No subdivision approval is required or given." No plat so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.
- 1.3.4 The regulations of this Law shall not apply to subdivisions of land which occur by virtue of the bisecting of a single existing parcel by an existing public road. Any lots created by the development of a new road or the subdivision of parcels laying on one of side of an existing road, however, shall be required to comply with these regulations.

1.4 Interpretation, Conflict and Separability

- 1.4.1 The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- 1.4.2 This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board in February, 1983, including all amendments thereto preceding the enactment of this Law as local law.
- 1.4.3 If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

1.5 Waivers

- 1.5.1 Applications for waivers of standards or procedures shall ordinarily be submitted in writing by the subdivider at the time the preliminary plat is filed. The application shall state fully the grounds on which it is made.
- 1.5.2 The Planning Board may, by resolution, authorize a waiver or modification of the regulations of this Law when, in its opinion, unreasonable hardship will result from strict compliance.

- 1.5.3 Waiver applications shall, in those instances where the Planning Board determines they could, if granted, have an impact on adjoining properties, be subjected to a public hearing at the applicant's expense.
- 1.5.4 Any resolution by the Planning Board authorizing a waiver of these regulations shall include the basis for its finding that unreasonable hardship will result from strict compliance with this Law.
- 1.5.5 In authorizing a waiver, the Planning Board shall attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of these regulations. No waiver shall be granted which would substantially change the character of an area or compromise the purposes of these regulations.

1.6 Appeals

Any person or persons, jointly or severally aggrieved by the decision of the Planning Board or Town in regard to the administration of this Law may apply to the supreme court for review under article seventy-eight of the civil practice laws and rules.

1.7 Violations and Penalties

- 1.7.1 Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a final plat has been prepared, approved and recorded in full compliance with the provisions of this Law, shall be deemed to have committed an offense against this Law and shall be liable for such violation.
- 1.7.2 Any person violating this Law shall, upon being found liable or guilty in either a criminal or a civil proceeding, be subject to a fine not exceeding three hundred fifty dollars (\$350) per lot, parcel or dwelling. Such person shall also be subject to imprisonment for up to six (6) months if found guilty in a criminal proceeding. All fines collected for such violations shall be paid over to the Town of Lumberland.
- 1.7.3 Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- 1.7.4 The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- 1.7.5 The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.

1.8 Amendments

Amendments to this Law shall be made pursuant to the New York State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those

specified herein, the State requirements shall prevail.

1.9 Effective Date

This Law shall be effective immediately upon enactment.

2.0 Definitions

2.1 General

As used in this Law, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this Law are defined as mandatory.

2.1.1 For the purpose of this Law, the following terms shall be considered interchangeable:

- (1) The words "Law," "regulation(s)" and "Law."
- (2) The terms "Town" and "Town of Lumberland."
- (3) The terms "subdivider" and "developer" and the terms "subdivision" and "development."
- (4) The terms "State Environmental Quality Review Act" and "SEQRA."

2.1.2 Unless otherwise expressly stated, the following definitions shall, for the purpose of this Law, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.

2.2 Glossary of Terms

The following is a list of specific terms, found elsewhere in the Law, along with definitions of their intended meaning:

ALLEY - A permanent service way providing a secondary means of access to abutting lands.

ALL-WEATHER SURFACED - The surfacing of a street, parking area, access or walkway to a mud-free or otherwise permanently passable condition during all seasons of the year and under adverse weather conditions. Macadam, gravel, crushed stone and shale surfaces will all suffice to meet this test but the depth and installation of the material shall be subject to the approval of the Town Engineer.

APPLICANT - A landowner, developer or subdivider, as hereinafter defined, who has filed an application for subdivision plat approval, including heirs, successors and assigns.

BERM or SHOULDER - That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

BLOCK - A tract of land or a lot or group of lots bounded by streets, public parks, railroad rights-of-way, watercourses, bodies of water, boundary lines of the Town, or by any combination of the above.

BUILDING - A structure formed of any combination of materials which is erected on the ground and permanently affixed thereto, and designed, intended or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind.

CENTRAL SEWAGE or WATER SUPPLY - A sewage system or water supply system designed to serve more than one dwelling unit or building; not including the use of a single well or disposal system for two dwellings on the same parcel of land. See "ON-SITE SEWAGE or WATER SUPPLY" for further information.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

COMMON OPEN SPACE - A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

COMMON PROPERTY - All of the land and improvements part of a subdivision which is to be jointly owned and maintained by the lot owners, lessees and/or members of the subdivision and identified as such by the subdivider on any plat offered to the Town for approval.

CONSERVATION SUBDIVISION - A form of development for single-family residential subdivisions that permits a reduction in lot area and other development standards, provided there is no increase in the number of lots permitted under a conventional subdivision, given the specific site conditions, and no less than 50% of the total land area is devoted to permanent open space.

COUNTY - The County of Sullivan, State of New York, and its planning agency.

CUL-DE-SAC - A minor street providing a single access to a group of lots with a turn-about area at the end of such street.

DEC - The New York State Department of Environmental Conservation

DEVELOPER - The owner, or authorized agent of the owner; including but not limited to, any individual, partnership or corporation that undertakes a subdivision or any of the activities covered by this Law, particularly the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of this project may vary.

DRIVEWAY - A defined private access from an individual lot to a public or approved private right-of-way.

DWELLING - A building arranged, intended, designed, or used, as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

- A. **DWELLING, SINGLE-FAMILY** - A building arranged, designed and intended, for and occupied exclusively by, one family.
- B. **DWELLING, TWO-FAMILY** - A building arranged, designed and intended for and occupied by two families living independently.
- C. **DWELLING, MULTI-FAMILY** - A building arranged, designed and intended for and occupied by three (3) or more families living independently and having no cooking or sanitary facilities in common with any other dwelling unit; including apartment houses, apartment hotels, flats and garden apartments.

EASEMENT - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

FRONTAGE - That side of a lot abutting on a street or way and ordinarily regarded as the front lot, but it shall not be considered as the ordinary side of a corner lot.

LOT - A tract or parcel of land held in single or joint ownership, not necessarily shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed, or required. The term lot shall also mean parcel, plot, site, or any similar term.

- A. **LOT AREA** - The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.
- B. **LOT IMPROVEMENT** - A division or redivision of land wherein lot area is shifted from one parcel to another so to improve the shape or dimension of each.
- C. **LOT WIDTH** - The average of the widths of a lot at the building setback line and the rear lot line.

MAJOR SUBDIVISION - Any subdivision or land development which is not a minor subdivision or lot improvement. Any subdivision which involves the utilization of central sewage disposal systems or water supplies, the construction of any streets, or the utilization of conservation subdivision techniques shall also be considered a major subdivision, regardless of the number of lots.

MINOR SUBDIVISION - A subdivision or development containing not more than ten lots, or a cumulative development on a lot-by-lot basis for a total of ten (10) lots, of any original tract of land of record (i.e., not previously subdivided or developed subsequent to the effective date of this Law, by the owner or the owner's duly appointed agent) where no new streets or accesses are required.

ON-SITE SEWAGE or WATER SUPPLY - Any sewage system designed to; (1) treat sewage by subsurface means or (2) to provide water from a drilled well or spring; within the boundaries of an individual lot. See "CENTRAL SEWAGE or WATER SUPPLY" for further information.

PARCEL - An area of land resulting from the division of a tract of land for the purposes of transfer of ownership, use or improvement.

PAVEMENT - Improvement of the traveled portion of a roadway with a hard, solid surface material conforming to the standards of the Town of Lumberland Road Law.

PERFORMANCE or COMPLETION GUARANTEE - A surety bond, certified check or other security meeting the requirements of Section 277 of the Town Law, and the terms of which are satisfactory to the Town Attorney, guaranteeing the subdivider will install all required or planned improvements.

PERSON - Any individual, firm, trust, partnership, public or private association or corporation, or other entity.

PLAT - A drawing, map, chart, plan or plotting indicating the subdivision or re-subdivision of land, which in its various stages of preparation can include the following:

- A. **SKETCH PLAN** - A general plan, identified as such with the title "Sketch Plan" on the map, indicating existing site features of a tract and its surroundings and the general layout of the proposed subdivision, to be used as a basis for conceptual consideration by the Town, Planning Board site inspection and, in the case of conservation subdivisions, determining allowable density.

- B. PRELIMINARY PLAT** - A complete plan prepared by a registered professional engineer or licensed land surveyor, identified as such with the wording "Preliminary Plat" in the title, accurately showing proposed streets and lot layout and such other information as required by this Law.
- C. FINAL PLAT** - A complete and exact plan, identified as such with the wording "Final Plat" in the title, with a professional engineer's or registered surveyor's seal affixed, and prepared for official recording with modifications as required during the review and approval of the Preliminary Plat.

SECRETARY - The clerk or secretary designated to accept applications, plats, fees and correspondence on behalf of the Town of Lumberland Planning Board.

SUBDIVIDER - Same as DEVELOPER.

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

SURVEYOR - A land surveyor licensed by the State of New York.

TOWN - Town of Lumberland, Sullivan County, New York.

TOWN BOARD - Governing council - the Town of Lumberland.

TOWN ENGINEER - A Professional Engineer licensed as such by the State of New York and appointed or hired on a consulting basis to provide engineering advice to the Town.

TOWN LAW - The New York State Town Law which governs the operation of all Towns within the State.

WATERCOURSE - A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations including intermittent streams but excepting drainage ditches, swales or diversion terraces.

ZONING LAW - The Town of Lumberland Zoning Law, which includes specifications for lot sizes, other development standards, a schedule of permitted uses and supplementary regulations.

3.0 Plan Submission and Review Requirements

3.1 Procedures and Requirements for Minor Subdivisions

The following procedures and requirements shall apply to minor subdivisions only (See Definitions). All other subdivisions and re-subdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified herein.

- 3.1.1 Sketch Plan required. Submission of a sketch plan showing existing site features and a tentative layout of the subdivision shall be required as part of the plat approval process for all minor subdivisions. The Planning Board shall use the sketch plan for determining the number of lots permitted, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District.
- 3.1.2 Application. Any person proposing to create a minor subdivision shall submit along with plans require below, five (5) copies of an application for minor subdivision approval. This application may be in letter form and shall specify and/or be accompanied by:
- (1) The name, address and telephone number of the property owner of record and those of the subdivider, if different.
 - (2) The name or number of the road where the proposed subdivision is to be located.
 - (3) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
 - (4) The type of water supply proposed.
 - (5) The type of sewer system proposed.
 - (6) The required fee or receipt for the same from the Planning Board Secretary.
 - (7) A completed Environmental Assessment as required by SEQRA.
- 3.1.3 Final Plat. The subdivider shall submit seven (7) copies of a Final Plat and required supplementary data for the proposed subdivision. This plat shall be prepared by a Professional Engineer or Surveyor and shall show all the lots proposed to be created. The Final Plat shall meet the following requirements:
- (1) The subdivision plat shall, ordinarily, be not less than 8 1/2" X 11" nor more than 24" X 36" in size.
 - (2) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.
 - (3) The plat shall show the name of the municipality, name of the owner of record, North Point, graphic scale, and date.
 - (4) Soil types found on the site shall be shown unless the lots involved are lot improvements or contain existing sewage systems. Soil Conservation Service

mapping shall be used for this purpose.

- (5) Existing public roads shall be identified by traffic route numbers and private roads by their posted names and numbers.
 - (6) Proposed lot or parcel lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The plat shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider, and show adjacent lots already taken from the parcel.
 - (7) Floodplains, wetlands, water bodies and other significant natural features shall be depicted.
- 3.1.4 Soil tests. Documentation as may be required by the New York State Department of Health, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted.
 - 3.1.5 Street encroachment permits. A completed application to the Lumberland Highway Superintendent, the State Department of Transportation or County Department of Public Works, as the case may be, for a street encroachment permit, shall also be required.
 - 3.1.6 Public Hearing. The Planning Board shall, within sixty-two (62) days of the receipt of a complete Final Plat by the Planning Board Secretary, shall hold a public hearing, advertising such hearing at least once in a newspaper of general circulation in the Town at least five (5) days prior to the hearing and providing such other notice as it deems appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.
 - 3.1.7 Action on Final Plat. The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize signing such plat within sixty-two (62) days of the close of the public hearing, provided it has first acted upon the Environmental Assessment and made a Negative Declaration with respect to environmental impacts. Should the Board be unable to make a Negative Declaration, it shall proceed in the manner provided by New York State Town Law § 276.
 - 3.1.8 Certification, filing and signing of Final Plat. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
 - 3.1.9 Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.

- 3.1.10 Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law
- 3.1.11 Recording of final plats. All final plats shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.
- 3.1.12 County Planning Board review. Applications for preliminary or final plat approval shall be subject to referral to the County Planning Board pursuant to Section 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
- (1) the Town boundaries; or
 - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
 - (3) the right-of-way of any County or State highway, or
 - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or
 - (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
 - (6) the boundary of a farm operation in an Agricultural District.

3.2 Procedures for Major Subdivisions

Major subdivision plat submissions shall be subject to SEQRA review and be processed as follows:

- 3.2.1 Sketch Plan required. Submission of a sketch plan as provided in § 3.3 shall be required as part of the Preliminary Plat approval process for all major subdivisions. This plan shall be used to determine the number of lots permitted, determine whether the subdivision will involve other agencies and make a preliminary classification of the subdivision as a Type I or Unlisted SEQRA action. The Planning Board shall also use the sketch plan for purposes of determining lead agency status, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan and all determinations with respect to the plan shall be made within twenty (20) days of said meeting.
- 3.2.2 When Planning Board is not lead agency or an EIS is required. Should the Planning Board not assume lead agency responsibilities in the SEQRA review of the subdivision, or should an Environmental Impact Statement be required, the provisions contained herein pertaining to public hearings, notices and decisions shall be modified as provided in § 276 of the Town Law.
- 3.2.3 When Planning Board is lead agency and no EIS is required. If the Planning Board acts as lead agency and determines an Environmental Impact Statement is not required, the

subdivider shall complete preparation of the Preliminary Plat as required by § 75-15 and provide Part 1 of the SEQRA Long Form Environmental Assessment. The Planning Board, within sixty-two (62) days of the receipt by the Secretary of a Preliminary Plat which is complete except for a negative declaration filed pursuant to SEQRA, shall hold a public hearing on this Preliminary Plat, advertising such hearing at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and providing such other notice as it may deem appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.

- 3.2.4 Action on Preliminary Plat. The Planning Board shall approve, with or without modifications, or disapprove the Preliminary Plat within sixty-two (62) days of the close of the public hearing, provided a negative declaration has first been filed pursuant to SEQRA.
- 3.2.5 Grounds for action. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat the Planning Board shall state in writing any modifications it deems necessary for submission of the Final Plat.
- 3.2.6 Preliminary Plat certification. Within five (5) business days of the approval of any preliminary plat, such plat shall be certified by the Secretary as approved and a copy of the plat and approval resolution shall be filed in the Secretary's office with a copy of the resolution provided to the subdivider and also filed in the office of the Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- 3.2.7 Time to submit final plat. The subdivider, within six (6) months of the approval of the preliminary plat, shall install or, pursuant to § 3.5, financially guarantee all subdivision improvements and submit the plat in final form as provided in § 3.6. The Planning Board may revoke preliminary plat approval if a final plat is not submitted within six (6) months or grant a limited extension of the preliminary approval provided that no preliminary plat shall remain valid if a final plat has not been submitted within three (3) years.
- 3.2.8 Action on final plat. When the final plat is in substantial agreement with the preliminary plat, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such plat within sixty-two (62) days of its receipt by the Secretary. No additional public hearing shall be required. When the final plat is not in substantial agreement with the preliminary plat, the preliminary plat procedures shall apply to a final plat insofar SEQRA review, public hearing, notices and decision.
- 3.2.9 Certification, filing and signing of final plats. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.

- 3.2.10 Final plats by section. The Planning Board may permit any subdivision for which preliminary plat approval has been granted to be submitted in sections for final plat approval.
- 3.2.11 Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.
- 3.2.12 Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law.
- 3.2.13 Recording of final plats. All final plats shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.
- 3.2.14 County Planning Agency review. Applications for preliminary or final plat approval shall be subject to referral to the County planning agency pursuant to Section 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
- (1) the Town boundaries; or
 - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
 - (3) the right-of-way of any County or State highway, or
 - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or
 - (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
 - (6) the boundary of a farm operation in an Agricultural District.

3.3 Sketch Plans for Major Subdivisions

The Sketch Plan should be at a scale sufficient to show the entire tract on one sheet, and should show or include the following:

- 3.3.1 The location of that portion which is to be subdivided in relation to the entire tract.
- 3.3.2 An existing and natural site features analysis which depicts all structures, wood area, stream, natural features, stone walls, wetlands, outstanding views and other aspects of the property around which a subdivision plan should be designed.
- 3.3.3 The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.
- 3.3.4 All streets or roads, streams, water, sewage and gas and power lines within 500 feet of

the subdivision.

- 3.3.5 The tentative layout of the remainder of the tract owned by the subdivider.
- 3.3.6 North Point, graphic scale, date and name/ address of subdivider and landowner.
- 3.3.7 A location map with sufficient information to enable the locating of the property.
- 3.3.8 Proposed open spaces.
- 3.3.9 Soil tests. Documentation as may be required by the New York Department of Health, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted.

3.4 Preliminary Plat Requirements for Major Subdivisions

- 3.4.1 The Preliminary Plan shall be clearly and legibly drawn and ordinarily shall be not less than 11" X 17" nor more than 24" X 36" in size and should, when possible, show the entire tract to be divided.
- 3.4.2 The Plat shall be based on the concepts presented in the Sketch Plan and contain the following information:
 - (1) Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within Sullivan County. The name and address of landowner and subdivider shall also be provided.
 - (2) Location by Town, County and State. The plan shall also include tax map numbers for affected and adjacent parcels and a 1" = 2000' location map.
 - (3) North point, date and graphic scale.
 - (4) Boundaries of total tract and acreage contained within it.
 - (5) Locations, and where appropriate, dimensions of parks and public grounds, permanent buildings in or adjacent to the subdivision, open space easements, floodplains, wetlands, water bodies and other significant natural features.
 - (6) Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.
 - (7) Names of owners of abutting properties, and lines showing where they intersect.
 - (8) Existing contours at intervals of at least every twenty feet. U.S.G.S. maps may suffice for the basis of this item. The Town reserves the right to request greater detail when the scope or nature of the development demands the same.
 - (9) Proposed layout of streets, alleys and other public rights-of-way, including widths and proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment

Laws, including profiles, cross-sections, and preliminary designs for bridges and culverts.

- (10) The proposed layout, numbering and approximate dimensions and acreage of lots.
- (11) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such.
- (12) Building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown.
- (13) All drainage easements shall be shown and marked as such.
- (14) Approximate final grades in areas of cut or fill shall be shown.
- (15) Any lots designated for uses other than residential shall be indicated.
- (16) Proposed covenants and restrictions.
- (17) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water source. This evidence may be in the form of logs from test wells by the subdivider, or logs from existing wells established by professional well drillers.
- (18) Letters from each utility servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision.
- (19) An erosion and sedimentation control plan indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.
- (20) A storm water management plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development").
- (21) Documentation as may be required by the New York State Department of Health or the Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal.
- (22) All applicable zoning data.
- (23) Completed applications to Town of Lumberland, County of Sullivan or the New York Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.

3.5 Requirements for Guarantee of Improvements

- 3.5.1 After approval of the Preliminary Plat, the subdivider, in a manner consistent with the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to

provide useable and desirable lots). Before requesting Final Plat approval the subdivider must:

- (1) Install all the improvements approved on the Preliminary Plat or required by § 4.0 standards, or
- (2) File with the Town Board a performance guarantee to insure installation and construction of those improvements at the standards required. Such guarantee shall meet with the approval of the Town Attorney as to form and procedure.

3.5.2 The subdivider shall meet with the Town Engineer to develop a schedule, so that at the time each improvement is to be installed and upon its completion, adequate inspections can be made.

3.5.3 This Section is designed to be consistent with § 277 of the New York State Town Law and the Town of Lumberland hereby incorporates all authorities and requirements contained therein as part of this Law.

- (1) Posting - The performance guarantee must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
 - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Board and Town Attorney and meets Town Law § 277 requirements.
 - (b) Be payable to the Town of Lumberland.
- (3) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee. Costs shall be assumed to escalate a minimum of 10% per-year for purposes of determining the amount of a guarantee.
- (4) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Lumberland.
- (5) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the subdivider and the Planning Board, be not more than three (3) years from the date of the Final Plat approval. Should an extension be granted the amount of the guarantee shall be increased as may be required to cover further cost increases as provided in sub-section (3) above. Provisions may also be made, pursuant to the aforementioned Town Law § 277, for completion of improvements in phases.
 - (a) Return - When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements, may be released and returned.
 - (b) Default - In the event of default, the obligor and surety shall be liable

thereon to the Town of Lumberland for the cost of the improvements or parts thereof not installed. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

- (6) Prior to the certification of any improvements or release of any guarantee, the subdivider shall pay all inspection and related costs (for professional services, meetings, advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this Law. Said payment shall be made to the Town of Lumberland.

- 3.5.6 Where improvements are being dedicated to the Town, the subdivider shall comply with the applicable requirements of any other Town Laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to guarantee maintenance and repair of those improvements for eighteen (18) months from the date of dedication. The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board.

3.6 Final Plat Requirements for Major Subdivisions

The Final Plat shall be prepared on one or more sheets of a uniform size coinciding with requirements of the Sullivan County Clerk's office. Final Plat attachments and exhibits shall be numbered and labeled in accordance with the requirements of this Section and a "subdivision checklist" to be developed by the Town. The Final Plat shall include, in addition to the information required for the Preliminary Plat submission, the following:

- 3.6.1 Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- 3.6.2 Complete curve data for all curves included in the Plat.
- 3.6.3 Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- 3.6.4 Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation or drainage easements.
- 3.6.5 Front building lines, shown graphically with dimensions.
- 3.6.6 A final version of all restrictions and covenants, if any, the subdivider intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included.

- 3.6.7 The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted Final Plat sections) are not required to be based upon field survey, and may be calculated. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify the placement of the monuments.
- 3.6.8 The Final Plat shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guarantee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.
- 3.6.9 Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes, unless on-site sewage disposal systems are to be used.
- 3.6.10 Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations off valves and fire hydrants, if any, unless private wells are to be used.
- 3.6.11 Evidence of actual arrangements made with utility companies or agencies for supplying each lot in the subdivision.
- 3.6.12 A key map for the purpose of locating the site to be subdivided, at a scale of not less than 2000 feet to one inch, showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 4000 feet or any part of the property proposed to be subdivided. U.S.G.S. quadrangle maps may suffice as a base for such a key map.
- 3.6.13 Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- 3.6.14 A statement that Erosion and Sedimentation and Storm Water Management Plans, as required, have been prepared and where appropriate approved by the Sullivan County Soil and Water Conservation District.
- 3.6.15 Copies of street encroachment or highway occupancy permits.
- 3.6.16 Detailed landscaping plans for such common areas or improvements as may require new landscaping.
- 3.6.17 Each Final Plat submission shall, in addition to the items required above, include new submissions of Preliminary Plat data in any instance where there has been a change in the plans or the circumstances surrounding them.

3.7 Lot Improvements

Lot improvements shall be exempt from the requirements contained herein provided three (3) copies of a plan prepared by a licensed Land Surveyor or Professional Engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits

the criteria below. To qualify as a lot improvement, the parcels shall:

- 3.7.1 Involve the addition of land to an existing parcel so as to:
 - (1) Improve ability of that parcel to comply with setback or other building standards; or
 - (2) Increase suitability of the parcel for building development; or
 - (3) Add to the availability of open space; or
 - (4) Resolve a boundary line dispute or produce a corrected deed
- 3.7.2 Not substantially reduce the ability of the lot, from which the lot improvement parcel is taken, to comply with the applicable standards of this Law.
- 3.7.3 Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added.

The Planning Board shall, within ten (10) days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should it fail to act in the provided time or find the plans do not meet the criteria, such plans shall be processed as a minor or major subdivision. If it finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Lumberland, and for recording purposes only, to represent an exempt lot improvement in accord with Section 3.7 of the Town of Lumberland Subdivision Regulations. No subdivision approval is required or given." No person shall record plans for any lot improvement without so first obtaining the Planning Board's clearance.

3.8 Fees

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; such fee to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance, as well as the expenses connected with notices and hearings.

4.0 Design Standards

4.1 Application

The design standards and requirements set forth in this Article shall be observed as minimums by the subdivider in the design of each subdivision within Town of Lumberland. The Planning Board shall require more-restrictive standards where necessary to protect health, safety and welfare of the public, and where circumstances unique to the property so dictate.

4.2 General Site Requirements

- 4.2.1 Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.
- 4.2.2 In addition, the Town may rely upon information contained in its Comprehensive Plan and, in determining and evaluating potential hazards use historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies or in professional practice, and Federal, State, or local policies.
- 4.2.3 All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and land-locked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations.
- 4.2.4 In all subdivisions, care shall be taken to preserve natural features such as trees, water courses, views, and historical features which will add attractiveness and value to the remainder of the land. Where a subdivision of land is on a site that has a slope of more than 15% the Planning Board may require larger lot sizes than the minimum standards set forth herein.
- 4.2.5 Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the Planning Board and, where appropriate, DEC.
- 4.2.6 Wherever possible, lot lines shall follow Town boundary lines rather than cross them, and reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands are prohibited.

4.3 Blocks and Lots

- 4.3.1 Blocks shall ordinarily not exceed 1200 feet in length.
- 4.3.2 Pedestrian interior walks or trails may be required, where necessary to assist circulation or provide access to community facilities and open space. Such walks or trails shall have a right-of-way width of not less than 6 feet and be all-weather-surfaced for not less than 3 feet in width.

- 4.3.3 Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier unsubdivided area.
- 4.3.4 Where a subdivision adjoins a major highway (one which is designated and marked for two lanes or more and carries at least 1000 vehicles per day), the greater dimension of the block shall front along said highway, and interior streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five lots or more with frontages averaging less than 300 feet along the highway shall be subject to this requirement, if the Planning Board determines, after inspection, that safety demands restricting access.
- 4.3.5 Cul-de-sac streets, permanently designed as such, shall not exceed 600 feet in length and shall furnish access to not more than 9 dwelling units. Cul-de-sac streets shall have, at the closed end, a turn-around with the right-of-way having an outside diameter of not less than 80 feet and not more than 120 feet and shall be paved to a diameter of not less than 80 feet and not more than 100 feet. An inside landscaped area of not more than 60 feet in diameter shall be encouraged. Drainage of cul-de-sacs shall preferably be toward the open end.
- 4.3.6 All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout.
- 4.3.7 Double frontage lots shall ordinarily not be platted, except as specifically provided herein. In that event, a planting strip of at least 20 feet in width may be required along the back of the lot.
- 4.3.8 If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area or dedicated to open space.
- 4.3.9 Either of the two sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated. All corner lots shall have a curve with a minimum radius of (20) feet joining the intersecting right-of-way lines.
- 4.3.10 All lots shall front on a public or private street (existing or proposed) and the right-of-way of the principal access to any subdivision shall be a minimum of fifty (50) feet in width. However, upon written request by the subdivider, the Town may grant a waiver from this and other street requirements of this Law to permit access to no more than three (3) single-family residential lots from a private drive, provided a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and that the lot in question is not capable of being subdivided further or is so restricted. Evidence of satisfactory shared arrangements for ownership and maintenance of the drive shall also be provided.
- 4.3.11 Monuments shall be placed at perimeter corners and the corner of each street, and markers set at the corner of each lot, consistent with surveyors' professional practice, to permanently and accurately define the metes and bounds of the block and lots created.

4.4 Common Open Space

Except where such area would be less than one acre, not less than 10% of the gross area of the entire tract, exclusive of lakes or ponds, shall be reserved for common open space directly accessible from the lots to be created. Such open space shall be suitable for recreational use of the residents of the subdivision or the general community. The following and similar facilities shall meet this requirement: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas. Such areas as are designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. No portion of the 10% requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise undevelopable areas. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same. The subdivider and the Town may also agree to otherwise provide recreational land for the use of residents pursuant to the authority of § 277 of the Town Law including fees in lieu of dedication.

4.5 Water supply

- 4.5.1 Where a central water supply is available within 1000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, construct a system of water mains tied to such system and provide a connection for each lot.
- 4.5.2 Plans and specifications for central water systems (i.e. extension of an existing system or a proposed new facility) shall be prepared by a professional engineer and shall conform to requirements of the New York State Department of Health and the local fire district(s). Suitable agreements shall also be established for the ownership and maintenance of such distribution system.
- 4.5.3 The applicant must demonstrate ability to provide a minimum of 150 gallons of water per capita per day (GPCD) and/or 400 gallons per day (GPD) for each residential dwelling unit to be serviced. Service to industrial or commercial establishments shall meet standards established by the American Water Works Association or insurance industry underwriting standards.
- 4.5.4 New central water supply wells shall be sited, drilled, and tested under the direct supervision of a professional engineer or a professional groundwater geologist. Wells shall be so located that no potential pollution sources can exist within a 100 foot radius (200 feet if located downslope from the pollution source). Wells shall also be located on reserved parcels.

4.6 Sewage Disposal

- 4.6.1 When a central sewage disposal system is located within 1000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivision and land developments shall be provided with an adequate sewage disposal system(s).
- 4.6.2 All residential lots shall contain suitable areas for on-site sewage disposal systems or be served by an approved central sewage disposal system. Soil test pits shall be used to make this determination and the sites for such testing shall be subject to approval of the Planning Board. Plans and specifications for central systems, as required by DEC,

shall be submitted with all preliminary subdivision plats. Approval of DEC shall be required prior to final plat approval.

- 4.6.3 Central sewage disposal systems are required for all residential lots and non-residential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- 4.6.4 Design standards, materials and specifications for central systems shall meet DEC requirements.
- 4.6.5 Where connection to neither a central water system nor a central sewage system is required, on-site systems shall be provided in accordance with criteria set forth by the New York Department of Health. A site and soils evaluation by the test pit method and favorable report is required prior to preliminary plat approval. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for on-site subsurface sewage disposal.
- 4.6.6 Sanitary sewers shall not be used to carry storm water.

4.7 Erosion and Sedimentation

In the event that any subdivider shall intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include hay bales, silt fences or other provisions or combinations thereof.

4.8 Storm Drainage

- 4.8.1 A storm water drainage plan shall be required for major subdivisions. Such a plan shall be prepared using DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development"), but complying with the following standards.
- 4.8.2 Stormwater drainage facilities shall be designed to accommodate storms of a 25 year frequency unless a more stringent standard shall be required by the Planning Board. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Town may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances. The subdivider shall provide full information, prepared by a professional engineer, regarding the pre-development stormwater flows and estimates at the time of application.
- 4.8.3 The following additional requirements shall apply:
 - (1) Lots shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained.

- (2) The existing points of natural drainage discharge onto adjacent property shall not be altered, nor shall the rate of water runoff be increased because of development, without the written approval of all affected land owners.
- (3) No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions.
- (4) Stormwater calculations and design shall be prepared by a professional engineer, land surveyor, landscape architect or others certified to perform such work.
- (5) Storm drainage facilities should be designed to handle the anticipated peak discharge from the property being subdivided.
- (6) Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement of at least 25 feet to each side of the stream from that stream bank, or such additional width as will be adequate to preserve the unimpeded flow of natural drainage.
- (7) Drainage structures that are located on State highway rights-of-way shall be approved by the New York State Department of Transportation, and evidence of the same shall be provided to the Town prior to final plan approval.
- (8) All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way. The slope of the crown on proposed streets shall be 1/4" per foot away from the center line.
- (9) All proposed surface drainage structures shall be indicated on the preliminary plan.
- (10) Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- (11) Whenever storm drains are required by the Town, such storm sewer systems shall be separate from the sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Town Board determine that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
- (12) Drainage systems shall be designed in accordance with engineering practice, using hydraulic computations to show effects of the flow of water. The general standard shall be that the amount of stormwater leaving the site along any property line after development shall not exceed pre-development stormwater flows for that area. In no case shall any pipe system of less than 15" in diameter be used underneath a street or driveway.
- (13) All drainage systems and structures shall be subject to the approval of the Town Engineer, or any such other qualified person as may be appointed for this purpose by the Planning Board.

4.9 Street Requirements

- 4.9.1 The arrangement, character, extent, width, grade and location of all streets shall conform to the provisions found herein. Every subdivision shall have access to a public right-of-way.
- (1) In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to insure circulation of vehicular and pedestrian traffic.
 - (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this Law.
 - (3) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sacs.
 - (4) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the extension of streets.
 - (5) Streets shall be laid out to intersect as nearly as possible at right angles; in any event, no street shall intersect another at less than sixty (60) degrees. Intersections of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs and other devices as may be required. Streets entering opposite sides of another street shall be laid out directly opposite one another or offset a minimum of one-hundred-twenty-five feet (125').
 - (6) Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
 - (7) Clear sight triangles shall be provided at all street intersections. Within such triangles, no structure or vision-obstructing object other than utility poles, street lights, street signs, or traffic signs shall be permitted which obscures vision above the height of thirty-six (36) inches and below ten (10) feet measured from the centerline grade of intersecting streets. Such triangles shall be established from a distance of seventy-five (75) feet from the point of intersection of the centerlines.
 - (8) Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than twenty (20) tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider shall so indicate in writing on the final plats to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Planning Board as to form.
- 4.9.2 Alleys may be permitted in residential areas under special circumstances, but in no case shall an alley provide the only means of access to a lot. Alleys are required on the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking.
- 4.9.3 Profiles: No street grade shall be less than one (1) percent or exceed the following, with

due allowances for reasonable vertical curves:

Type of Street or Way	Maximum Grade
Major Traffic Streets	6% (up to 8% for 500 feet)
Collector Streets	8% (up to 10% for 500 feet)
Minor Streets	10% (up to 12% for 500 feet)

Streets shall have a grade not to exceed two percent (2%) for a distance within fifty (50) feet of the street right-of-way line of any intersecting street.

- 4.9.4 Cross Section: The cross-section gradients of streets shall be not less than two percent (2%).
- 4.9.5 Minimum vertical and horizontal visibility (measured 3.5 feet eye level to tail lights 1.5 feet above ground level), for curves.

Type of Street or Way	Minimum Visibility Distance
Major Highways	500 feet
Collector Streets	300 feet
Minor Streets	150 feet
Streets shorter than 500 feet	100 feet

- 4.9.6 The minimum right-of-way widths for streets are as follows:

Type of Street or Way	Minimum Right-of- Way Width
Major Streets	50 feet
Collector Streets	50 feet
Minor Streets	50 feet
Alleys	25 feet

- 4.9.7 On all dead-end roads a turn-about area with a eighty (80) foot diameter right-of-way and sixty (60) foot diameter traveled portion shall be provided.
- 4.9.8 The entire width of the travel way of each street in a proposed subdivision shall be graded and suitably prepared for installation of paving and drainage structures, in accordance with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to minimum standards of the Town Road Law.
- 4.9.9 The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

Type of Street	Minimum Shoulder Width	Minimum Clearance Shoulder	Minimum Pavement Width
Major Streets	5 feet	2 feet	24 feet
Collector Streets	5 feet	2 feet	24 feet
Minor Streets	5 feet	2 feet	20 feet

- 4.9.10 The pavement shall be constructed in accordance with specifications and standards contained in the Town Road Law.
- (1) Street shoulders shall be constructed with materials as specified by the Town Road Law. The entire shoulder area shall be uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.
 - (2) Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of three (3) feet horizontally to one (1) foot vertically in a cut or fill section. In special cases, the Town Engineer may require more-rigid standards.
- 4.9.11 In commercial or multi-family subdivisions or any other case where other similar intensive uses exist or are anticipated, curbs may be required, if such construction is deemed necessary for public safety by the Planning Board, based on consultation with the Town Engineer and shall be constructed according to good engineering practice. Curbs shall not be constructed, however, where pavements are less than 22 feet in width.
- 4.9.12 Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Planning Board, and shall be sufficient to support the street or the adjacent land, as the case may be. Where the grade of the street is three (3) feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.
- 4.9.13 All streets, including cul-de-sacs and alleys, shall be constructed as shown on the Preliminary and Final Plat approved by the Planning Board and in conformity with the Town Road Law. Where such Law does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation for local streets.
- 4.9.14 Four-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the subdivider at his own expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not be repeated within the Town and shall be subject to Planning Board approval.
- 4.9.15 Street lighting is the responsibility of the applicant to provide, and the lot owners to maintain and operate. The Town Engineer will determine when and if streetlighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not street lights are initially installed, the

developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.

- 4.9.16 Shade trees and other natural buffers along any proposed street right-of-way shall be retained to the maximum extent possible and cuts and fills which would necessitate removing such cover shall be minimized. Wide swath cuts or removal of natural vegetation shall not be permitted without compelling safety reasons.
- 4.9.17 No driveway, street or drainage facility or structure shall be constructed or altered within a state right-of-way, and no drainage facility of the New York State Department of Transportation shall be altered or connected onto without first obtaining a permit from the New York State Department of Transportation. No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Lumberland shall be altered or connected onto without first obtaining a permit from the Town of Lumberland Highway Superintendent.
- 4.9.18 Individual driveways serving only one single-family each shall not be subject to street improvement requirements of this Law or on the Town Road Law. Also, private drives to service no more than three (3) single-family dwellings shall be permitted provided the Town is given satisfactory evidence, in the form of declaration of restrictive covenants, that the private status of said road is permanent and the following standards are met:

Type of Street or Way	Minimum Right-of- Way Width
Minimum Right-of-Way	50 feet
Minimum Pavement Width	16 feet
Minimum shoulder Width	3 feet

Pavement may consist of any all-weather surface satisfactory to the Town Engineer. If there is a potential for re-subdivision of either of the lots to be serviced by private drive such that eventually more than two lots might result, the subdivider shall provide additional right-of-way as necessary to serve the maximum potential number of lots. All drainage plans shall be subject to approval of the Town Engineer.

4.10 Multi-Family Residential Subdivisions

Multi-family dwelling projects shall be considered major subdivisions and processed accordingly. The standards of Section 5.6 of the Town of Lumberland Zoning Law shall also apply.

4.11 Conservation Subdivisions

Proposed conservation subdivisions shall be processed as major subdivisions and in accord with Section 5.5 of the Town of Lumberland Zoning Law.

local law # 4-98

Town of Lumberland

Sullivan County, New York

ZONING LAW

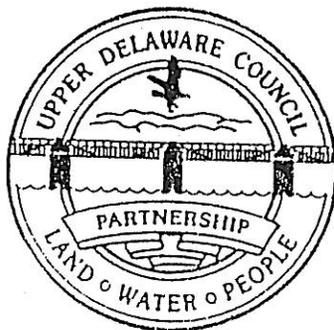
August 19, 1998

Town of Lumberland Town Board

Nicholas Speranza - Supervisor
Paul L. Brennan
Louis Daniels
Anna D. Grundel
Peter Melnyk

Town of Lumberland Zoning Update Committee

Paul L. Brennan - Town Board
Peter Melnyk - Town Board
John Ligreci - Planning Board
Jerome Pichert - Zoning Board of Appeals
Lewis Powell - Zoning Board of Appeals
Richard Hotzler - Code Enforcement Officer



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ZONING DISTRICT MAP

1.0 GENERAL PROVISIONS

1.1 Title.

This document shall be known and may be cited as the "TOWN OF LUMBERLAND ZONING LAW."

1.2 Purpose.

The purpose of this Zoning Law, its regulations, and its zoning districts as outlined on the zoning map is to provide for orderly growth in accordance with a comprehensive plan, to lessen congestion in streets, to secure safety from fire, flood, and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to make provision for, in so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, and to promote the health, safety, and general welfare of the public.

1.3 Repeal and Replacement.

This law, upon its effective date, shall repeal, in its entirety, the Town of Lumberland Zoning Law adopted in 1985 and all subsequent amendments thereto, replacing said Law with this new Zoning Law.

1.4 Effective Date.

This law shall take effect immediately upon filing in the Office of Secretary of State.

1.5 Authority and Supersession.

This law regulates, by district, the use of land, buildings and structures in the Town of Lumberland in the County of Sullivan. It further provides for the administration and enforcement of these regulations and fixes penalties for this violation. It is adopted under the authority of Article 16 of the New York State Town Law as well as the Municipal Home Rule Law and shall be known as the "Town of Lumberland Zoning Law". It is also, pursuant to the authority granted under Section 10 of the Municipal Home Rule Law, the intent of this local law to amend and supersede Sections 130, 274(a), 274(b), 267, 276, 277 and 278 of Town Law to permit the coordinated and comprehensive regulation of mobile homes and mobile home parks, campgrounds and recreational parks, multi-family dwellings, planned unit developments, junkyards and conservation subdivisions and specifically to allow:

- 1.5.1 The coordination and combination of subdivision and zoning controls as they pertain to multi-family dwellings, planned unit developments and conservation subdivisions.
- 1.5.2 The integration of junkyard, campground and recreational vehicle park and mobile home park regulations adopted pursuant to Section 130 of the Town Law with site plan and special use review criteria adopted pursuant to Sections 274(a) and 274(b) of the Town Law.
- 1.5.3 The establishment of procedures for the creation of floating zones for planned unit developments.
- 1.5.4 The establishment of special and site plan review procedures which provide for SEQRA action following public hearings rather than before, the use of preliminary site plans and

employment of renewable special use permits.

1.5.5 Authorization for the Planning Board to require the use of the conservation subdivision technique.

1.5.6 Establishment of a procedure for designation of alternate members on the Zoning Board of Appeals.

1.6 Conflicts and Interpretation.

In the interpretation and the application of the provisions of this law, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other laws, rules, regulations, laws or private covenants, provided that where this law imposes greater restrictions upon the use of buildings or premises or upon the height or bulk or a building or requires larger open spaces, the provisions of this law shall apply. In the event of a conflict in any terms or conditions of this law, the more restrictive provisions shall apply.

1.7 Severability.

Should any provision of this law be judged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this law and it is hereby declared that the Town Board would have enacted the remainder of this law had such provision not been included.

1.8 Amendments.

This law may be amended from time to time by the Town Board pursuant to the provisions of the New York State Town Law and the Municipal Home Rule Law.

2.0 DEFINITIONS

Accessory Building - any building which is subordinate to and whose use is incidental to the use of the principal building on the same lot or an adjoining lot under the same ownership.

Accessory Use - a use subordinate to the main use. In no case shall such use dominate in area, extent or purpose, the principal use. Any accessory uses are not subject to Planning Board review.

Acre - for the purpose of calculating lot area under this Law, an acre shall be considered to consist of 43,560 contiguous square feet.

Agriculture - shall include the cultivation of the soil for food products or other useful or valuable growths of the field or garden, tillage or husbandry; but shall not include dairying, raising of livestock, fowl or birds where the same is carried on as a business or gainful operation.

Alteration - a change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height.

Animal Husbandry the care and breeding of domestic animals, including but not limited to cattle, hogs, horses, poultry and sheep. For purposes of this Law, operation of a kennel shall be considered animal husbandry. Animals

for educational or cultural projects and individual household pets such as dogs and cats are exempted.

Area of Special Flood Hazard - the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

Architect - a professional architect licensed to practice in the State of New York.

Approved - shall mean approved by the Code Enforcement Officer under the regulations of this Law, or approved by an authority designated by law or this Law.

Automobile, Vehicle and Equipment Sales - The use of any building, land area or other premise for the display and sale, under license by the State of New York, of new and used automobiles of presently operable condition; panel trucks or vans; mobile homes or trailers; recreational vehicles; or farm and construction equipment; including any warranty repair work and other repair service as an accessory use. This term is meant to include auto sale lots but such lots shall be restricted automobile and non-commercial truck sales. It shall also include other automotive uses as may be allowed in each district. None of these terms, however, shall under any circumstance be deemed to include junkyards, collectors of itinerant vehicles or vehicle dismantling operations for other than routine repairs.

Base Flood - the flood having a one percent change of being equalled or exceeded in any given year.

Basement - that space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the established curb level or finished grade of the ground adjoining the building.

Bed and Breakfasts - An existing residence which is used, in the manner of a home occupation, to provide overnight lodging with breakfast as part of the consideration and involving shared bath and dining facilities, also including youth hostels.

Board of Appeals - a local body appointed by the Town Board whose responsibilities is to hear appeals from decisions of the local zoning law administrative office and to consider requests for variances permissible under terms of the zoning law.

Boarding House - a dwelling or part thereof, other than a hotel, motel, or restaurant having not more than six guest rooms and housing not more than fifteen persons for compensation. Meals may or may not be provided. No to include rest homes or homes for the aged.

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

Building Height - the vertical distance measured from the average elevation of the property finished grade to the highest point of the roof.

Building Setback Line - shall mean the line, designated on a plan, beyond which no part of a building, other than parts expressly permitted, shall extend.

Business and Professional Offices - offices in which an occupation or vocation requiring training and advanced study in a specialized field is practiced. Examples are medical, law and real estate offices.

Campground - a general term describing a parcel of land providing sites for portable sleeping accommodations for compensation. Usually preceded with a prefix designating type and extent of development.

Canoe Livery - a suitable parcel of land upon which related facilities exist for the leasing or renting of water-borne

vessels (primarily canoes) for outdoor water-based recreation.

Cellar - that space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

Cemetery - an area of land set aside as permanent open space for a final resting place.

Certificate of Occupancy and/or Compliance - a form of protection afforded the owner or occupant of a structure by serving as proof of compliance or alteration.

Children's Camps - a facility including buildings for eating and sleeping and amenities such as swimming pools, base ball fields, and tennis courts which are available for use by youths for a fee.

Clearcutting - denuding the land vegetation, expressly trees, excluding commonly accepted agricultural activities.

Club - shall mean any organization catering exclusively to members and their guest, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required for the membership and purposes of such clubs; it shall include fraternal, social and service organizations.

Commercial Recreation - a parcel of land which may include facilities or equipment for recreational purposes, utilized by the public for a fee. Activities include but are not limited to bowling alleys, ski slopes, canoe liveries, campgrounds, tennis courts, theme parks and golf courses.

Condominium - an apartment house or houses, the apartments of which are individually owned, each owner receiving a deed enabling him to sell, mortgage or exchange his apartment independent of the owners of the other apartments in the building or buildings. All condominium subdivisions must be filed with the State prior to sale of lots.

Cooperative - an ownership arrangement under which a person has a shared interest in a residential building complex. Under this type of ownership both the individual unit and common elements are owned by the cooperative, and are covered under one mortgage. As with condominiums, cooperative ownership can take a variety of building forms.

Day Care Centers - facilities, both residential and non-residential, that provide supervision and care of six (6) or more children for period of less than twenty-four (24) hours per day.

Development of Area of Special Flood Hazard - any man-made change to improve or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations within the area of special flood hazard.

Directional Sign - a sign, either on or off premises, limited to providing information on the location of activity, business or event.

Dwelling - a building designed or used as the living quarters for one or more families. The term dwelling shall include seasonal homes, modular homes, and mobile homes, provided that they meet all of the requirements of this Law, the Town of Lumberland Building Code, and all other regulations or laws applicable to dwellings.

Dwelling, one-family - a building containing only one dwelling unit, and occupied by one family.

Dwelling, two-family - a building designed for and occupied exclusively as a home or residence for not more than

two families.

Dwelling, multiple-family - shall mean:

- a. building containing three or more dwelling units;
- b. building containing living, sanitary and sleeping facilities, occupied by one or two families and more than four lodgers residing with either one of such families;
- c. building with one or more sleeping rooms, other than a one or two family dwelling, used or occupied by permanent or transient paying guests or tenants;
- d. building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses.
- e. building used or occupied as a convalescent, old-age or nursing home, but not including private or public hospitals or public institutions.

Dwelling Unit - a building or entirely self-contained portion thereof containing housekeeping facilities for only one family, including any domestic employees employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) and no cooking or sanitary facilities in common with any other "Dwelling Unit." A boarding house, dormitory, hotel, inn, nursing home or other similar structure shall not be deemed to constitute a dwelling unit.

Eating and Drinking Establishments - facilities primarily used for the sale of prepared food or beverages for public consumption.

Educational Institutions - an institution, either public or private, providing full time day instruction and a course of study which meets with the requirements of the New York State Education Law, or a nursery, day care, or kindergarten which meets all pertinent requirements set by the New York State Education Law and the New York State Health Code.

Enclosed Manufacturing - Any process whereby the nature, size or shape of articles or shape of articles of raw materials are changed, or where articles are assembled or packaged in quantity. All processes shall be done inside of a building without producing excessive noise, smoke or glare. All raw materials and finished articles shall be stored in said building.

Engineer - a professional engineer licensed to practice in the State of New York.

Family - one or more persons occupying a single dwelling unit. No more than five persons unless related by legal adoption, blood, or marriage shall occupy a single family dwelling unit.

Farm - any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry, dairy products and cultivation and harvesting of trees. It includes necessary farm structures within the prescribed limits and the storage of equipment used.

Farm Stand - a business operated on a seasonal basis to sell regionally grown farm products.

Flood or Flooding - a general or temporary condition of partial or complete inundation or normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map - the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Free Standing Sign - any sign not attached or part of any building, but separate and permanently affixed by any other means, in or upon the ground; including but not limited to pole signs, pylon signs, and masonry wall-type signs.

Forest Management - management of natural vegetation, including but not limited to timber harvesting, firewood, wildlife habitat improvement, and water quality.

Forest Management - management of natural vegetation, including but not limited to timber harvesting, firewood, wildlife habitat improvement, and water quality.

Funeral Parlors - a final viewing place for the dead.

Habitable Floor Area - space occupied by one or more persons for living, sleeping, eating or cooking. This does not include space used for kitchenettes, pantries, bath, toilet, laundry, stairs, storage, utility, heater and boiler rooms, closets, and other spaces for services and maintenance of the building.

High Water Mark of River - The point where substantial vegetation begins at the water's edge.

Home-Based Business - shall mean a subordinate use of a non-residential nature which is conducted within a dwelling unit, or building accessory thereto, by an occupant of the dwelling unit, which is clearly incidental and accessory or secondary to the use of the property for residential purposes, and which meets the following additional conditions:

- a. the occupation or activity shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- b. not more than two (2) persons outside the resident household shall be employed in the occupation or as assistants.
- c. there shall be no exterior display, or sign except as permitted under this Law; no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- d. no offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced.
- e. the home occupation shall not generate traffic in any greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this Law.
- f. the habitable floor area of the home occupation shall not exceed the habitable floor area of the principal use.

In particular, a home-based business includes, but is not limited to the following: art studio, dressmaking, teaching (with musical instruction limited to a single pupil at a time), and the professional office of a physician, surgeon, dentist, lawyer, engineer, architect, real estate broker or insurance agent within a dwelling occupied by the same.

Hotel - shall mean the building containing rooms occupied for sleeping purposes by guests and where as general kitchen and dining room are provided within the building or in an accessory building.

House of Worship - shall mean any structure used for worship or religious instruction including social and administrative rooms thereto.

Illuminated Signs - any sign illuminated by electricity, or other artificial light, including reflective or phosphorescent light.

Impervious Surface - any material which reduces and prevents the absorption of storm water into previously undeveloped land.

Light Industrial Use - an establishment, other than a home occupation, used for the assembly, manufacturing, or processing of goods, not including farming.

Livestock Unit - for purposes of this Law a livestock unit shall be one cow or two calves or two horses or two ponies or two pigs or two goats or two sheep or one-hundred fowl or fifty rabbits or equivalent.

Lot - a parcel of land occupied or unoccupied.

Lot Area - the total horizontal area included within lot lines.

Lot, Building - land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Law, having not less than the minimum area and width required by this Law for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for a building on such land.

Lot, Cleared - the percentage of the lot area that natural vegetation is removed and is covered.

Lot Coverage - the percentage of the lot area that is occupied by the ground area of a building, its accessory buildings, and other impervious surfaces.

Lot Line - any boundary of a lot. Any lot line not a rear line nor a front line shall be deemed a side line.

Lot Width - the distance from one side lot line to the other, measured parallel to the front street line at the building setback line.

Major Mineral Extraction - operations extracting greater than 750 yards or 1,000 tons per year of material such as gravel, rock, stone, sand, fill or minerals from the site, or an operation two acres of active face at one time plus an area equal in size to the active face necessary for accessory use.

Minor Mineral Extraction - operations extracting less than 750 yards or 1,000 tons per year of material such as gravel, rock, stone, sand, fill or materials from the site, and not to exceed two acres of active face at one time plus an area equal to in size to the active face necessary for accessory use.

Manufactured Home/Mobile Home - a factory-built one-family dwelling constructed on a chassis to facilitate its transportation to the site. Such structures shall be at least 12 feet wide and ~~not less~~ than 720 square feet, a self-contained single unit (excludes modular homes), and shall meet the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and applicable standards of the New York State Building Code. A mobile home shall not be construed to be a travel trailer or a recreational vehicle.

Motel - a building or group of buildings which: (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve each accommodation.

Non-conforming Use - a building, structure or use of land lawfully existing at the time of enactment of this Law which does not conform to the regulations of the district or districts in which it is located.

Off Premises Sign - a sign unrelated to a business or a profession conducted or to a commodity or service sold or

offered upon the premises where such sign is located.

Oil and Natural Gas Drilling - Any oil or natural gas exploration activities such as drilling or seismic testing, or any new operation which extracts petroleum related products such as crude oil or natural gas from the earth.

Open Space - A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

Outdoor Recreation - any recreational use particularly oriented to and utilizing the outdoor character of an area including, but not limited to, a snowmobile, trail bike, jeep and all terrain vehicle trails; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground, picnic area, or similar use in which no physical alteration to the land occurs.

Performance Bond - a guarantee through a bond which has been approved by the Town Board after a review by the Planning Board that certain improvements will be instituted in the future by the developer.

Planned Unit Development - a development design technique concentrating buildings on specific areas of a site to allow the remaining land to be used for recreations, open space, and preservation of environmentally sensitive features.

Principal Permitted Use - for purpose of this Law, any use which is allowed by right in a zoned district without review by the Planning Board.

Private Garage - an enclosed or open structure which stores vehicles owned by the occupant of the property.

Private Stable - a stable for horses used primarily by the owner or occupant of the property.

Professional Office - See definition "Business and Professional Office."

Public Facilities and Utilities - land set aside for the development and maintenance of services provided for the public good by governmental agencies.

Public Parks and Recreation Facilities - land in public ownership set aside for public use which may or may not have developed recreational facilities such as playgrounds, tennis courts, baseball fields, picnic areas, and/or lavatories.

Public Stable - a stable for horses whose use is primarily by others who do not own the property.

Recreation Equipment - includes motorized boats, boat trailers, trailers, pickup campers or coaches (designed to be mounted on automotive or truck vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Retail Store - enclosed store for sale of retail goods, personal service shop, department store; shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

Service Establishment - a store or office offering the following types of services:

- a. personal convenience services, including, but not limited to, barber shops, beauty shops, shoe repair,

- and dry cleaning shops.
- b. specialty services, including but not limited to, photo studios, tailors, taxidermists, and catering services.
 - c. financial services, including, but not limited to, banks, credit units, and other financial institutions.
 - d. funeral parlors.

Service Station - any garage other than a private garage available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, fueling, or equippings of automobiles or other motor vehicles.

Sign - any material, structure or device, or part thereof, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public.

Temporary Sign - a sign related to a single activity or event having a duration of no more than thirty (30) days.

Window Sign - a sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window.

Sign Area - the entire area within a single continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display.

Special Use - a use which because of its unique characteristics requires individual consideration through a review procedure established by the Planning Board, and may require certain conditions and safeguards before being granted a Special Use Permit.

Start of Construction - the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any associated work. Permanent construction shall include land preparation, such as clearing, grading, and filling, the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations for the erection of temporary forms; and the installation on the property of accessory buildings, such as garages or sheds. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Structure - anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Subdivision - means the division of any parcel of land into two or more lots, blocks, or sites, with or without streets or highways, and includes re-subdivision. A condominium, or two house development, constitutes a subdivision.

Substandard Lot - any lot on record in the office of the County Clerk which does not meet the minimum area, width, or yard requirements for the district in which that lot is located.

Substantial Improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition "substantial improvements" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

Surveyor - a land surveyor licensed to practice in the State of New York.

Swimming Pools - a structured in-ground or above-ground pool of more than two (2) feet in height or six (6) inches in depth that is intended primarily for use in bathing, wading or swimming.

Town House - an attached dwelling where the owner owns the structure and the land directly under the building in fee. Town houses differ from condominiums in that a condominium owner only owns what is within the walls of the dwelling unit.

Variance - a modification of a provision of this Law by the Zoning Board of Appeals where strict enforcement of said provisions would cause undue hardship, owing to circumstances unique to the individual property on which the variance is sought.

Wildlife Management - management of natural wildlife and associated habitats with the intent of enhancing such to include both big and small game hunting and fishing activities.

Yard, Front - an open space extending across the entire width of the lot between the building line or front main wall of a building and the center line of the street or road right-of-way and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

Yard, Rear - an open space extending across the entire width of the lot between the rear wall of the principal building and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

Yard, Side - an open space extending across the entire length of the lot between the side wall of the principal building and the side line of the lot and extending through from the front yard to the rear yard, and into which space there shall be no extension of building parts other than eaves with an overhang, rain water leaders, window sills,

steps, open porches, cornices and similar fixtures. Side yards shall be measured in a line perpendicular to side lot lines.

3.0 DISTRICT REGULATIONS

3.1 Establishment of Districts

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Lumberland, the Town is hereby divided into the following types of districts;

- (1) Hamlet District (HD)
- (2) Rural Residential District (RR)
- (3) Lake District (LD)
- (4) Residential Forest District (RF)
- (5) River District (RD)
- (6) PUD District (PUD)

3.2 District Boundaries

3.2.1 Zoning Map

The boundaries of each of the Districts listed in Section 3.1 are hereby established as shown upon the duly adopted Zoning Map which accompanies this Law, and which with all notations, references, and other matters shown thereon, is hereby declared a part of this Law and shall be kept on file in the office of the Town Clerk.

3.2.2 Interpretation

- (1) Generally. The District boundary lines, unless shown otherwise, are intended generally to follow street centerlines, railroad right-of-way boundary lines, or their centerlines, other similar right-of-way lines, or lot lines or boundaries of subdivisions, or Town boundary lines, all as shown on the Zoning Map. Where a District boundary line does not follow such a line, but is shown parallel to such a line on the Zoning Map, the distance between the parallel lines shall be as dimensioned on the Zoning Map. Such dimensions shall be construed to read from the centerline of all rights-of-way rather than from their outside edges.
- (2) Inaccurate street layouts. Where the street layout actually on the ground varies from the street layout as shown on the Zoning Map for the particular area in question.
- (3) Scaling. When the location of a District boundary line cannot be otherwise determined, the determination thereof shall be made by scaling the distance on the Zoning map from a line of known location to such District boundary line.
- (4) Interpretation by Board of Appeals. In the case of uncertainty as to the true location of a District boundary line in a particular instance, an appeal may be taken to the Board of Appeals, as provided in this Law.
- (5) Division of lot. When a District boundary line divides a lot in a single ownership at the effective date of the Law or any subsequent amendment thereto, the Board of

Town of Lumberland Zoning Law - Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards
<p>HD Hamlet District: This district is intended to provide areas within the Town for the development of neighborhoods and more intensive land uses of a commercial nature, subject to the limits imposed by a lack of infrastructure.</p>	<p>1 & 2 family dwelling units on 15% slope or less. Forest management Wildlife management Business and professional offices Outdoor recreation Public facilities and utilities recreational facilities</p>	<p>1 & 2 family dwelling units on greater than 15% slope. Educational institutions Houses of worship Multi-family dwelling units Commercial recreation (excluding theme parks) Service establishments Retail and service establishments Eating and Drinking Establishments Hotels and motels Motels Minor mineral extraction Light industrial uses Service stations Canoe liveries Clubs Planned unit developments Condominiums Co-operatives Mobile home parks Funeral parlors Bed and breakfasts Public stables Agriculture and animal husbandry</p>	<p>Private garages Home-based businesses Farm stands Swimming pools Private stables Other customary uses & buildings, provided such uses are clearly incidental to the principal use and do not include activity commonly conducted as a business</p>	<p>Minimum lot sizes: Lot area shall be size adequate to support on-site sewer and water, but not less than 1 acre Minimum lot width: Lot width shall be not less than 100 feet* Maximum % of lot to be occupied 75% Maximum % of lot to be cleared 100% Maximum building height: 35 feet** Minimum yard dimensions: Front: 75 ft. from center of road and 50 ft. from property line, i.e. road bounds Side: 35 ft. Rear: 35 ft.</p>
<p>RR Rural Residential District: This district is intended to provide areas within the Town for a wide range of uses compatible with residential development at generally low densities. It recognizes that substantial portions of the Town are developable for such special uses if carefully controlled through site plan review.</p>	<p>1 & 2 family dwelling units on 15% slope or less. Agriculture and animal husbandry Forest management Wildlife management Business and professional offices Outdoor recreation Public facilities and utilities Public parks and recreational facilities</p>	<p>1 & 2 family dwelling units on greater than 15% slope. Multi-family dwelling units Commercial recreation Mobile homes Major & minor mineral extraction Oil and natural gas drilling Educational institutions Houses of worship Retail & service establishments which produce less than 250 trip-ends traffic Eating & drinking establishments Light industrial uses Hotels and motels Bed and breakfasts Campgrounds Mobile home parks Cemeteries Canoe liveries Clubs Public stables</p>	<p>Private garages Home-based businesses Farm stands Swimming pools Private stables Other customary accessory uses & buildings, provided such uses are clearly incidental to the principal use and do not include activity commonly conducted as a business</p>	<p>Minimum lot sizes: Lot area shall be size adequate to support on-site sewer and water, but not less than 2 acres Minimum lot width: Lot width shall be not less than 100 feet* Maximum % of lot to be occupied 25% Maximum % of lot to be cleared 75% Maximum building height: 35 feet** Minimum yard dimensions: Front: 75 ft. from center of road and 50 ft. from property line, i.e. road bounds Side: 35 ft. Rear: 35 ft.</p>

*Note: Lot width is not lot frontage (see Definitions section)
** Up to 40 ft. as Special use

<p>LD Lake District: This district is intended to provide for reasonable development of lake-side areas for residential and recreational purposes while protecting the natural characteristics of and quantities of such areas.</p>	<p>1 & 2 family dwelling units on 15% slope or less. Forest management Wildlife management Outdoor recreation Public facilities and utilities Public parks and recreational facilities</p>	<p>Manufactured homes 1 & 2 family dwelling units on greater than 15% slope. Houses of worship Bed and breakfasts Clubs Children's camps Planned unit developments Mobile homes Commercial recreation Business & professional offices Manufactured homes</p>	<p>Private garages Swimming pools Farm stands Private stables Home-based businesses Other customary uses & buildings, provided such uses are clearly incidental to the principal use and do not include activity commonly conducted as a business</p>	<p>Minimum lot sizes: Lot area shall be size adequate to support on-site sewer and water, but not less than 2 acres Minimum lot width: Lot width shall be not less than 100 feet* Maximum % of lot to be occupied: 25% 75% cleared Maximum building height: 35 feet** Minimum yard dimensions: Front: 75 ft. from center of road and 50 ft. from property line, i.e. road bounds Side: 35 ft. Rear: 35 ft.</p>
<p>RF Residential Forest District: This district is intended to provide areas within the Town for the development of single-family and two-family residential development at low densities and to protect the residential integrity of such areas by excluding incompatible uses and preserving open spaces.</p>	<p>1 & 2 family dwelling units on 15% slope or less. Agriculture and animal husbandry Forest management Wildlife management Outdoor recreation Public facilities and utilities Public parks and recreational facilities</p>	<p>1 & 2 family dwelling units on greater than 15% slope. Educational institutions Houses of worship Hydro-electric generation and related facilities Clubs Children's camps Public stables Planned unit developments Commercial recreation Bed and breakfasts</p>	<p>Private garages Private stables Farm stands Swimming pools Home-based businesses Other customary uses & buildings, provided such uses are clearly incidental to the principal use and do not include activity commonly conducted as a business</p>	<p>Minimum lot sizes: Lot area shall be size adequate to support on-site sewer and water, but not less than 5 acres Minimum lot width: Lot width shall be not less than 100 feet* Maximum % of lot to be occupied: 15% 50% cleared Maximum building height: 35 feet** Minimum yard dimensions: Front: 75 ft. from center of road and 50 ft. from property line, i.e. road bounds Side: 50 ft. Rear: 50 ft.</p>
<p>RD River District: This district is intended to complement the designation of the Upper Delaware River as a National Scenic and Recreational River and to help implement the River Management Plan to which the Town is party.</p>	<p>1 & 2 family dwelling units on 15% slope or less. Agriculture and animal husbandry Forest management Wildlife management Outdoor recreation Public facilities and utilities Public parks and recreational facilities</p>	<p>1 & 2 family dwelling units on greater than 15% slope. Multi-family dwelling units (limited to 1 unit per 2 acres average density) Commercial recreation (excluding theme parks) Mobile homes Minor mineral extraction Oil and natural gas drilling Educational institutions Houses of worship Eating & drinking establishments Outdoor recreation Planned unit developments Hotels & motels Bed and breakfasts Boarding houses Business & professional offices Canceo liveries Campgrounds Children's camps Clubs Manufactured homes</p>	<p>Private garages Home-based businesses Farm stands Swimming pools Private stables Other customary accessory uses & buildings, provided such uses are clearly incidental to the principal use and do not include activity commonly conducted as a business</p>	<p>Minimum lot sizes: Lot area shall be size adequate to support on-site sewer and water, but not less than 2 acres Minimum lot width: Lot width shall be not less than 100 feet* Maximum % of lot to be occupied: 25% 40% cleared Maximum building height: 35 feet** Minimum yard dimensions: Front: 75 ft. from center of road and 50 ft. from property line, i.e. road bounds Side: 35 ft. Rear: 35 ft. Minimum setback from high-water mark of river: 100 feet</p>

Appeals may permit extension into one District of a lawful conforming use existing in the other District as hereinafter provided.

- (6) Underwater lands. All lands within the Town that are underwater shall be considered to be zoned in accordance with those district regulations applied to the upland adjacent to them and as if any district boundary line shown on the zoning map as intersecting the water's edge was projected across such water body to its interception of the Town boundary line, or other district boundaries.

3.3 Special Use Procedures.

The Town of Lumberland Planning Board is authorized, in accordance with Sections 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove Special Uses and site plans connected therewith. Site plan review shall be required for all Special Use permits and such other uses as the Town Board may from time to time designate by local law. The following procedures shall apply:

- 3.3.1 Preliminary Site Plan. An applicant for a Special Use permit may submit a preliminary site plan for review and advice by the Planning Board. Such a preliminary site plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements both existing and proposed and any site features which could have a bearing on the project including the general topography and existing ground cover. This preliminary plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any preliminary site plan but may use it to schedule a public hearing, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act ("SEQR").
- 3.3.2 Application and Site Plan Required. The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a Special Use permit application until formal application has been made on forms provided by the Board and a detailed site plan providing the following information has been submitted:
 - (1) The location of all existing watercourses, wooded areas, rights-of-way, roads, structures or any other significant man-made or natural feature, if such feature has an effect upon the use of said property.
 - (2) The location, use and floor or ground area of each proposed building, structure or any other land use, including sewage disposal and water supply systems.
 - (3) The location of all significant landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
 - (4) The location, dimensions and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or regrading involved.

- (6) The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
- (7) The location and identification of proposed open spaces, parks or other recreation areas.
- (8) The location and design of buffer areas and screening devices to be maintained.
- (9) The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
- (10) The location of public and private utilities, including maintenance facilities.
- (11) The specific locations of all signs existing and proposed, including a visual depiction of the latter.
- (12) Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
- (13) A completed SEQR Long-Form Environmental Assessment.
- (14) Any other information required by the Planning Board which is clearly necessary to ascertain compliance with the provisions of this law and limited to such information.

3.3.3 Waivers. The Town of Lumberland Planning Board shall, pursuant to Section 274-a(5) of the Town Law, have the right to waive, when reasonable, any of the requirements of this article for the approval, approval with modifications or disapproval of Special Use permits and site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are inappropriate to a particular site plan. Any such waiver shall be subject to the following conditions:

- (1) No waiver shall result in allowing a use not permitted within the applicable Zoning District.
- (2) No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals.
- (3) Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed regrading or water supply data.
- (4) An applicant for site plan approval who desires to seek a waiver of certain of the above-referenced requirements pertaining to such applications shall submit a preliminary site plan as provided above. The Planning Board shall review the preliminary site plan, advise the applicant as to potential problems and concerns and

determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.

- (5) Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.
- 3.3.4 Hearing and Decision. The Planning Board shall fix a time, within sixty-two (62) days from the day an application for a Special Use permit or site plan approval is made, for the hearing of any matter referred to under this section. It shall give public notice of such hearing at least five (5) days prior to it in a newspaper of general circulation in the Town and decide upon the application within sixty-two (62) days after such hearing. It shall not, however, grant approval before a decision has been made with respect to environmental impacts pursuant to SEQR. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant within five (5) business days after such decision is rendered.
- 3.3.5 Conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental the proposed Special Use permit or site plan. Upon approval of said permit and/or plan, any such conditions shall be met prior to the actual issuance of permits by the Town. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to Section 274-a(6) of the New York State Town Law.
- 3.3.6 Referrals. The Planning Board is authorized to refer Special Use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of Section 239-m of the General Municipal Law regarding review by the Sullivan County Planning Department are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.
- 3.3.7 Appeals. Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- 3.3.8 Effect of site plan approval. The site plan as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan shall require re-submission and reapproval by the Planning Board. The site plan shall remain effective, as an authorization to establish the use, for a maximum of two (2) years from the date of approval unless the Planning Board shall have granted an extension in writing. Absent such an extension the Special Use shall be deemed to have expired. A Special Use which has been discontinued for a period of two (2) or more years shall also be deemed to have lapsed.
- 3.3.9 Renewal of permits. The Planning Board may require, at the time it is initially granted, that any Special Use approval be renewed periodically. Such renewal shall be granted following public notice and hearing and may be withheld only upon a determination that the conditions attached to any previous approval have not been met. A period of sixty-two (62) days shall be granted the applicant in such cases to make remedies and bring the use into full compliance with the terms of the Special Use approval. Should the applicant fail to make such remedies,

the Special Use approval shall be revoked and the use immediately discontinued.

3.3.10 The Planning Board, in reviewing the site plan, shall consider its conformity to the Town of Lumberland Comprehensive Plan and the various other plans, laws and laws of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:

- (1) Building design, lighting, location and signs insofar as suitability for the use intended and impact on and compatibility with the natural and man-made surroundings.
- (2) Storm drainage, flooding and erosion and sedimentation control.
- (3) Adequacy of community services and utilities including police protection, emergency services and the educational system.
- (4) Environmental impacts in any form.
- (5) Impacts on housing availability.
- (6) The potential for nuisance impacts such as noise, odors, vibrations or glare.
- (7) The adequacy of the trees, shrubs and other landscaping to buffer or soften a use in terms of visual or other impacts on adjoining property owners, Town residents and those visitors on whom the local economy often depends.
- (8) Impacts on nearby property values.
- (9) Any other factors which reasonably relate to the health, safety and general welfare of present or future residents of the Town of Lumberland.

3.3.11 The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the Special Use permit application connected therewith taking into consideration not only the criteria contained above but also the following:

- (1) Whether the proposed use will result in an overconcentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.
- (2) Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Lumberland.
- (3) If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.

- (4) Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
- (5) Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire-district expenses.
- (6) Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this law and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

4.0 GENERAL SUPPLEMENTARY REGULATIONS

4.1 Exceptions to District Regulations

4.1.1 Existing Lots

Notwithstanding the limitations imposed by any other provisions of this Law, the building inspector shall issue a building permit for the construction of a building or structure on a lot, which does not meet the minimum area, width, or yard requirements of this law, provided such substandard lot was on record in the office of the County Clerk prior to November 4, 1985.

Any such substandard lot must conform to and comply with all New York State Health Department requirements and certification of such compliance by a licensed engineer is mandatory. Adjacent substandard lots may be combined by the making and recording of a single deed in order to meet the minimum lot size. An exception to the minimum lot size shall be made in cases where self-contained sewage systems which meet the New York State Health Department Standards are installed provided there is no sewage flow into the ground or water.

4.1.2 Height Exceptions

The height limitations of these regulations shall be waived for barns and silos, private home antennae, spires, bellfries, cupolas, water tanks, ventilators, chimneys, solar energy devices, windmills, transmission towers, flag poles, skylights, or other opportunities usually required be placed above the roof level and not intended for human occupancy.

4.1.3 Yard Requirements

The following structures are exempted from the yard requirements indicated in Article IV:

- (1) Chimneys, open trellis, uncovered steps, or a terrace not higher than one foot from ground level.

- (2) Overhanging roof not in excess of two (2) feet.
- (3) Awning or moveable canopy not extending more than ten (10) feet into required yard.
- (4) Fences or walls.
- (5) If two or more existing dwellings are located within 200 feet on each side of a proposed dwelling and on the same side of the street within the same block and district, said proposed dwelling need not have a front yard greater than the average setback of all existing dwellings so located.

4.1.4 Corner Lots.

- (1) Front yard setbacks are required on both street frontages and one yard other than such front yards shall be deemed to be the rear yard and the other a side yard.
- (2) No obstructions to vision, including but not limited to fences, walls, signs, brush, landscaping, dense low trees, or earth, shall be permitted at street intersections within the triangle formed by the intersections of street center lines and a line drawn between points along such lines 75 feet distant from their point of intersection.

4.1.5 Substandard Lots Created by Governmental Action.

Notwithstanding the limitations imposed by any other provision of the Zoning Law adopted on November 4, 1985, the building inspector shall issue a building permit for the construction of a building or structure on a lot, which does not meet the minimum area, width or yard requirements of this law, provided such substandard lot was created by an action and date of a governmental agency such as, but not limited to taking of a portion of a lot for road construction, taking a portion of a lot for a park, or similar type situations.

Any such substandard lot must conform to and comply with all New York State Health Department requirements and certification of such compliance by a licensed engineer is mandatory. Adjacent substandard lots may be combined by making and recording of a single deed in order to meet the minimum lot size requirement.

4.1.6 Cul-de-sac Lots.

The minimum lot width of new lots fronting on cul-de-sacs may be reduced to seventy-five (75) feet at the edge of the right-of-way provided the width at the building setback line meets the lot requirements contained on the Schedule of District Regulations.

4.2 Access to Structures

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. Every lot hereafter created shall be a minimum of fifty (50) feet in width at the highway right-of-way line, except for existing lot improvements, well lots and similar parcels not intended for building purposes on a stand-alone basis.

4.3 Accessory Buildings

A permitted accessory building, except for farm purposes may be located in any required side or rear yard provided:

- (1) Such building shall not exceed twenty (20) feet in height;
- (2) Such building shall be set back ten (10) feet from any lot line and at least ten (10) feet from the main building.

4.4 Fences and Walls

- (1) Shall not exceed eight (8) feet in height from ground level, and the unfinished side shall face the property owner.
- (2) Shall conform to corner lot requirements where applicable.
- (3) Shall provide for emergency equipment access.
- (4) The use of barbed wire is prohibited except on RF Residential Forest and RR Rural Residential District lots of 25 acres or more in conjunction with the raising of large animals such as cows and horses.

4.5 Temporary Building Permits

A permit for a temporary building may be authorized by the Code Enforcement Officer for uses and structures incidental to construction on the premises. Such uses and structures may include the storage of building material and equipment, a real estate office for the sale of property on the premises, and a construction office for work being done on the premises. Such permit shall be authorized for a period of one year and may be extended for two similar periods when the Code Enforcement Officer finds such work has been diligently pursued.

4.6 Calculation of Lot Cleared

In determining the percentage of lot cleared of a lot all areas with vegetation including grass, fields, gardens other man altered flora shall be included. Wooded or natural areas shall not be included.

4.7 Abandonment of Construction or Excavation

- 4.7.1 Within three months following a construction project or the demolition or abandonment of a building or structure, all construction materials shall be removed from the site and excavation filled to normal grade by owner.
- 4.7.2 Unfenced excavation shall not be carried out for period in excess of sixty days.

4.8 Minimum Habitable Floor Area

- 4.8.1 One-family and two-family dwellings shall have a habitable floor area of at least 720 square feet per dwelling units.
- 4.8.2 No habitable rooms are permitted in basements or cellars of multiple family dwellings unless

a separate outside entrance way is provided to all habitable areas.

4.9 Residential Front Yard Grade

Surface grade of residential front yards, measured the mid-point of a residence front wall, shall be at least one foot above the elevation of street center line, unless adequate site drainage is provided.

4.10 Swimming Pools

4.10.1 Swimming pools, whether permanent or portable, that are accessory to single-family dwellings, shall be located not closer than twenty (20) feet to a front lot line. These regulations shall not apply to portable pools that do not exceed three two (2) feet in height or six (6) inches in depth.

4.10.2 Swimming pools that are part of a non-residential use, whether commercial or non-commercial, such as hotels, motels, clubs, campgrounds, day-use recreational facilities or institutions shall be of permanent construction and shall be located not closer than one-hundred (100) feet from any lot line.

4.10.3 All fencing associated with swimming pools shall comply with the New York State Uniform Fire Prevention and Building Code requirements for the same.

4.11 (Reserved)

4.12 Landscaping Standards

4.12.1 The Planning Board shall, to assure an acceptable buffer between adjacent residential and non-residential uses and create a healthy, safe and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any Special Use application. Such a plan shall also be required whenever any non-residential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and other uses.

4.12.2 The landscape plan shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate how building materials, colors, and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall, too, be provided as part of the plan.

4.12.3 Landscape plans shall be prepared by a licensed landscape architect or other design professional qualified to perform such services and include consideration of all man-made and natural features, including signs.

4.12.4 The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals and seek the non-binding advice of interested civic organizations concerned with community beautification. The Board shall also specifically consider the following before approving, approving with modifications or disapproving the Special Use:

- (1) The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement

the character of the surrounding area.

- (2) The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
- (3) The plant material selected should be of complementary character to buildings, structures and native plant species and be of sufficient size and quality to accomplish its intended purposes.
- (4) The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
- (5) The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to climate planting zone 4 as the designation is used in the nursery industry.

4.12.5 Landscaping Standards. All new landscaping required shall meet the following minimum specifications:

- (1) The minimum branching height for all shade trees shall be six (6) feet.
- (2) Shade trees shall have a minimum caliper of two and one-half (2-1/2) inches (measured 1 foot above grade) and be at least twelve (12) feet in height when planted.
- (3) Evergreen trees shall be a minimum of six (6) feet in height when planted.
- (4) Shrubs shall be a minimum of 24" in height when planted. Hedges shall form a continuous visual screen within two (2) years after planting.
- (5) A buffer screen at least fifteen (15) feet in width along any residential lot line shall be provided. It shall include, at a minimum, an opaque wooden stockade fence six (6) feet in height and one (1) evergreen tree for every fifteen (15) linear feet of property line. An additional row of evergreens meeting these standards and off-set such that each row serves to place trees between the gaps of the other, shall be permitted as a substitute for the stockade fence. No stockade or similar fence, however, shall exceed eight (8) feet in height or be placed in such a way as to purposely interfere with the views from or admission of light and air to an adjoining residential property, nor shall barbed wire fences be used between residential properties.
- (6) A landscape strip at least fifteen (15) feet in width, that includes at least one (1) deciduous tree for every 35 linear feet of perimeter lot line shall be required for any non-residential use. Such deciduous trees shall also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use. The width of this buffer may be reduced along the rear and side lot lines for good cause, but not along the front lot line.
- (7) All lot area (except where existing vegetation is preserved) shall be landscaped with grass, ground cover, shrubs, or other appropriate cover.

- (8) The preservation of a majority of mature shade trees shall be required within designated yard areas. These may be used to meet requirements of this section provided the Code Enforcement Officer or Planning Board, as the case may be, determines the purpose of this section is achieved.
- 4.12.6 Where it is determined that a proposed Special Use would not have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be appropriately modified but not be waived unless no new construction is involved.
- 4.12.7 A performance guarantee in the amount of one-hundred-twenty-five percent (125%) of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one (1) full year and any required fencing is properly maintained. The Code Enforcement Officer shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Code Enforcement Officer shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunned or infested plant materials. The requirement to maintain such fencing and landscaping shall continue beyond the period of the guarantee and the Code Enforcement Officer may proceed as provided herein to remedy any deficiencies in this regard.
- 4.12.8 All applicable requirements of these landscaping regulations shall be fully met prior to the Code Enforcement Officer granting a Certificate of Occupancy for a new building or use subject to these regulations.

4.13 Performance Standards

Wherever a commercial or manufacturing or other non-residential use, with the exception of agricultural activities and home occupations, is proposed as a Special Use, the following performance standards shall apply and be an additional basis for review of the Special Use application. The Code Enforcement Officer shall ensure these standards are met prior to issuing a Certificate of Occupancy for the use and may require the applicant(s) to provide documentation of compliance.

- 4.13.1 Where a commercial or manufacturing use is contiguous to an existing residential use in any District (including those situated on the opposite side of a highway), the Planning Board may require that the minimum front, side and rear yards be increased by up to fifty percent (50%). The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or a twenty (20) feet wide dense evergreen planting not less than six (6) feet high be maintained, unless the properties are in the same ownership or the full width of the yard is already wooded.
- 4.13.2 All activities involving the manufacturing, production, storage, transfer or disposal of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Fire-fighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require that greater front, side and rear yards and/or fencing.
- 4.13.3 No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such

disturbance.

- 4.13.4 All activities shall comply with the Town of Lumberland Noise Law.
- 4.13.5 No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
- 4.13.6 All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source. Light sources shall comply with the following standards:

Type of Light Source	Maximum Illumination Permitted at Property Line	Maximum Permitted Height of Light
Globe light	0.20 Footcandles	15 Feet
>90% Cutoff	0.75 Footcandles	25 Feet
<90% Cutoff	2.00 Footcandles	30 Feet

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.

- 4.13.7 No emission shall be permitted on a regular or continuing basis from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.
- 4.13.8 No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.
- 4.13.9 All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.
- 4.13.10 Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a Special Use, or as an expansion of an existing non-conforming use, the following additional performance standards shall apply:
- (1) All mechanical and body repair work shall be performed within buildings.
 - (2) All automobile or vehicle parts, new or used, shall be stored within buildings.
 - (3) Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.
 - (4) Storage and/or disposal of wastes materials shall be in accord with local and/or State requirements pertaining to the same and industry best practices.

4.14 Areas of Special Flood Hazard

4.14.1 Establishment and Delineation of Areas of Special Flood Hazard.

4.14.2 Permitted Uses

The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within Special Flood Hazard Areas to the extent that these uses do not constitute development or substantial improvement to a structure and are not otherwise prohibited by any other Law.

- (1) Agricultural uses such as pasture or grazing as long as they do not require development within the flood plain.
- (2) Private and public recreational areas such as swimming areas, open space, wildlife or natural preserves, hunting and fishing areas, hiking and horseback trails as long as they do not require development within the flood plain.
- (3) No uses shall diminish or constrict the capacity of the channel or floodway of any watercourse, or any tributary to the main stream, or any other watercourse, drainage ditch or any other facility or system to discharge the waters from the base flood.

4.14.3 Issuance of Building Permits

- (1) No building shall hereafter be erected, relocated or altered as to outside dimensions or so to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefore has been issued. For purposes of this section, mobile homes or any other structure permanently affixed to a foundation shall be deemed a building.
- (2) Permits will not be necessary for minor repairs, unenclosed patios, painting, plumbing, new roofs and accessory structures at the discretion of the Code Enforcement officer with the approval of the Planning Board.
- (3) Upon receipt of the application for building permit, the Code Enforcement Officer shall determine if the location of such proposed building falls within the Special Flood Hazard Area. Appeals to such determination shall be made to the Zoning Board of Appeals.

4.14.4 Building Standards for Variances

All development uses within the Special Flood Hazard area as identified in Federal Insurance Administration Flood Insurance Rate Maps for the Town of Lumberland, New York, except those uses permitted by right under this provision, are allowed only in compliance with these regulations. Variances and allowed uses must meet the following standards:

- (1) New construction or substantial improvement of any residential structures shall have the lowest habitable floor, including basement, elevated to at least one foot above the base flood elevation at that point.
- (2) New construction or substantial improvement of any non-residential structures shall

either have the lowest floor including the basement, elevated to, or above, the base flood level, or together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting external water pressure and effects of buoyancy. The design of flood proofed structures may include the following measures or techniques as appropriate:

- (a) Anchorage to resist flotation and lateral movement.
- (b) Reinforcement of walls to resist water pressure.
- (c) Installation of watertight doors, bulkheads and shutters.
- (d) Use of paints, membranes, or mortars to reduce seepage of water through walls.
- (e) Addition of mass or weight to resist flotation.
- (f) Installation of pumps to lower water levels in structures.
- (g) Pumping facilities to relieve water pressure on external walls and basement floors.
- (h) Elimination of gravity flow drains.
- (i) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (3) Mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top frame ties to ground anchors. Specifically:
 - (a) Over-the-top ties shall be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations, except that a mobile home less than 50 feet in length requires only one additional tie per side.
 - (b) Frame ties shall be provided at each corner of the mobile home with five additional ties per side at intermediate points, except that a mobile home less than 50 feet long need have only four additional ties per side.
 - (c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - (d) Any additions to the mobile home shall be similarly anchored.
- (4) All new construction or substantial improvements of buildings and other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate:

- (a) Anchored to prevent flotation, collapse, or lateral movement of structure.
 - (b) Constructed with materials and utility equipment resistant to flood damage.
 - (c) Constructed by methods and practices that minimize flood damage.
 - (d) Public facilities and utilities such as sewer, electrical, and water systems located and constructed to minimize flood damage.
 - (e) Adequate drainage provided to reduce exposure to flood damage.
 - (f) New and replacement water supply designed to minimize or eliminate the infiltration of flood waters into the system. Design of such water supply, sanitary sewage, and on-site waste disposal systems shall be in compliance with the State Sanitary Code (Public Health Law Section 225; 10 NYCRR Section 1.1 et seq.), and, where applicable, with County and Town health or sanitary codes.
 - (g) New and replacement sanitary sewer systems designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters. Design shall be in compliance as above.
 - (h) On-site waste disposal systems located to avoid impairment to them or contamination from them during flooding. Design shall be in compliance as above.
- (5) Where elevation of the first floor or basement floor above the base flood elevation is required, fill deposited shall extend at least 15 feet beyond the limits of any structure or building erected thereon, and such fill shall be protected against erosion by riprap, vegetation, bulkheads, or other forms of cover.

4.14.5 Encroachments

In all areas of special flood hazard in which base flood elevation data has been provided, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1 foot at any point.

4.14.6 Local Submission, Filing, and Public Record

- (1) Application for a variance within a Special Flood Hazard Area shall, in addition to standards set forth in Section 4.14.6, be accompanied by written certification of either a professional engineer or architect licensed to practice in the State of New York that the appropriate standards of Section 4.14.6 have been met, and all necessary permits have been obtained from those federal, state, and local governmental agencies from which prior approval is required. Such application shall be kept on file with the Town Clerk and shall be available for public inspection.
- (2) The Code Enforcement Officer shall obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structure contains a basement. He shall also obtain, verify,

and record the actual elevation to mean seal level to which any new or substantially improved non-residential structures in a Special Flood Hazard Area have been flood proofed. All such records shall be maintained for public inspection.

4.14.7 Subdivision Proposals

For the purpose of maintenance of the provisions of this Law, the Planning Board shall require that all subdivision proposals and other proposed new developments within a Special Flood Hazard Area include within such proposals base flood elevation data.

4.14.8 Watercourse Alteration

To maintain in compliance with those regulations pertaining to Areas of Special Flood Hazard, the Planning Board shall notify, in riverine situation, adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Administrator, and shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

4.15 Non-conforming Uses

4.15.1 Rights to Continue Nonconforming Uses.

- (1) A use, building, lot or structure lawfully in existence as of the effective date this law and non-conforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Code Enforcement Officer may issue Certificates of Non-Conformance to owners or operators of bona fide non-conforming uses, buildings or structures who desire confirmation of their rights hereunder.
- (2) It is the purpose of this Section to limit the injurious impact of non-conforming uses, buildings, lots and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of non-conforming uses, buildings or structures may not be contrary to the public interest or the general purpose of this Zoning Law, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
- (3) It is further the purpose of this Article to set forth those standards which are to be applied by the Town in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Town review and approval shall be required for such actions.
- (4) The protections extended by this Article to existing non-conforming uses, buildings, lots or structures, commonly known as "grandfathering", shall not extend to any non-conforming activity occurring subsequent to the effective date of this law, as amended.

4.15.2 Normal Maintenance and Repairs.

- (1) Normal maintenance and repair activities, such as painting, replacing a roof or fixing

gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased non-conforming use of a building, lot or structure.

- (2) Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one year, shall be permitted, junkyards excepted, provided they do not eliminate parking spaces, unoccupied open spaces or accesses required by this law. Notwithstanding this provision, however, the Planning Board, in reviewing any Special Use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety and welfare.

4.15.3 Restoration, Reconstructions or Re-establishment.

- (1) If less than 75% of the floor area of any non-conforming use, building or structure is damaged, it may be restored or reconstructed within eighteen (18) months of the date of the damage, with an extension in time allowable where proven necessary to the Planning Board. If more than 75% is affected, then the replacement or reconstruction shall be permitted by Special Use permit.
- (2) A non-conforming use, building or structure may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension in time allowable where proven necessary to the Planning Board.
- (3) A non-conforming use, building or structure shall be considered abandoned under the following circumstances:
 - (a) The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or
 - (b) The building has not been occupied for one (1) year or more; or
 - (c) The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town; or
 - (d) The equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises.
- (4) The Code Enforcement Officer, on determining these circumstances exist, shall, by certified mail, so notify the property owner of record, informing the owner the use is considered abandoned and may not be re-established once a period of twelve (12) additional months has expired. If an owner cannot be reached through the mail, the Code Enforcement Officer shall publish the notice once in a newspaper of general circulation in the Town and the owner shall be presumed to have been notified.

4.15.4 Changes and Additions.

Excepting for activities provided for in 4.15.2 above and accessory uses, all changes and additions to non-conforming uses shall be considered Special Uses, and permits for alterations, changes in use or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied.

- (1) There shall be no expansion in the amount of land area outside a non-conforming facility which is used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined 4.15.2 above and sub-section (2) below.
- (2) Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.
- (3) No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located in any material way. Moreover, no change of use shall be to one of less restrictive classification, as determined by the Planning Board. A non-conforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
- (4) There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this law. The U.S.D.A. Soil Conservation Service, a Professional Engineer or other appropriate professional may be relied upon to recommend appropriate measures to control storm water runoff. Such measures shall be attached as conditions of approval by the Planning Board.
- (5) In no case will a change, addition or extension of a non-conforming use be allowed which would result in a traffic increase of 50% or more, the diversion of traffic closer to a nearby residence or a violation of any of the parking and unloading requirements of this law. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.
- (6) The use may only be expanded or extended onto another property of record if; that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this law or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.
- (7) Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

4.16 Parking, Loading, Access and Traffic Standards.

- 4.16.1 Off-street parking, loading and unloading facilities shall be provided as necessary in connection with every use. Single-family and two-family residential uses shall be provided with two (2) or more off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required

shall be based on the following factors:

- (1) Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.
- (2) The characteristics of the proposed customers, residents, occupants or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
- (3) The expected occupancy rates, traffic levels and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
- (4) Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
- (5) The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand and the hours of operation as compared to other neighborhood activities.

4.16.2 Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces.

4.16.3 Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.

4.16.4 All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following minimum layout standards shall apply:

- (1) No more than twelve (12) parking spaces shall be allowed in a continuous row uninterrupted by landscaping. Raised planting beds shall be located at intervals of twelve (12) spaces and at the end of each row. Such beds shall be a minimum of five (5) feet in width and each planted with at least one (1) shade tree of 1 - 1/2 inch caliper. The remainder of the bed shall be surfaced with flowers, grass, groundcover, low maintenance shrubs and/or mulches (no crushed stone or chips). Such landscaping shall conform with requirements of § 4.1.4 (2) pertaining to traffic visibility.
- (2) Planting beds meeting the above standards shall also be required along the perimeter of all parking areas and between parking areas and buildings. The area between a parking area and any building shall be a minimum of ten (10) feet in width, however.

- (3) No parking areas shall be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area shall be minimized and limited to connections from one lot to another and to the public highway or through road.
- (4) All parking spaces associated with commercial uses shall be located not more than three-hundred (300) feet distant from the nearest entrance to the inside of the structure wherein the enterprise is situated.
- (5) Parking areas shall generally be located in the rear yard of any use, with the principal building situated at or near the front lot line. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.

4.16.5 Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet.

4.16.6 Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:

- (1) Access drives shall not open upon any public right-of-way within (80) feet of the nearest right-of-way line of any intersecting public street or highway or where the sight distance in either direction would be less than two-hundred (200) feet. Access drives onto state highways shall be subject to New York Department of Transportation standards.
- (2) There shall be no more than one entrance and one exit to any business or parking area on any one highway unless safety considerations should demand it. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits. In no case shall one entrance and exit be located within 80 feet of any other on the same property or adjoining property along the same public right-of-way. Non-conforming lots, however, shall be exempt from this requirement.

4.16.7 All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth.

4.16.8 The Planning Board, at its discretion, may require a traffic impact study with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat

Fast-food restaurant		23.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. gross floor area	
Supermarket	177.6 trip-ends per 1,000 sq. ft. gross floor area	
Car wash		108.0 trip-ends per car stall
Offices		6.0 trip-end per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. gross floor area	
Institutional uses		4.0 trip-ends per employee
Other uses		See "Trip Generation" - Institute of Transportation Engineers

The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQR submission.

5.0 SPECIAL SUPPLEMENTARY REGULATIONS

5.1 Manufactured Homes and Parks.

Manufactured (a/k/a "mobile") homes and manufactured home parks shall be subject to the requirements of the Town of Lumberland Manufactured Home Law (see § 6.2.3 and § 6.8.2 thereof for density requirements) and the following standards and review criteria.

5.1.1 Individual manufactured homes shall be subject to all the regulations applicable to other single-family detached dwellings. They may be installed in Lake (LD), River (RD) or Rural Residential (RR) Districts, on a single lot not in a manufactured home park, provided they meet the following specific standards."

5.1.2 Standards applicable to individual manufactured homes.

- (1) Every manufactured home, whether sited individually or situated in a manufactured home park shall have not less than twelve (12) feet in width and 720 square feet of living area. This standard shall not be met by including any living area later added to the basic manufactured unit.
- (2) All manufactured homes shall be sited on a reinforced slab or a masonry foundation, which foundation and the area up to the floor level of the manufactured home shall be screened from view from the highway and from adjoining properties by skirting acceptable to the Planning Board. The Planning Board may individually approve such skirting and associated landscaping plans or adopt appropriate standards for use of the Code Enforcement Officer in administering this provision.
- (3) All manufactured homes and associated structures shall comply with the New York State Uniform Fire Prevention and Building Code to the extent that such Code is applicable.

5.1.3 Manufactured Home Park Special Use and Site Plan Review Criteria

The Planning Board shall, in reviewing and acting upon Special Use applications for manufactured home parks, apply the requirements of the Town of Lumberland Mobile Home Law and the following standards and review criteria:

- (1) The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control such that the amount of water leaving the site after development shall not be greater than prior to development.
- (2) There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Centrally supplied centralized sewage treatment and water supply facilities shall be provided.
- (3) The park shall be designed to provide maximum open space consistent with the minimum mobile home lot size requirements of the Mobile Home Law and offer buffering of individual mobile home from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.
- (4) Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
- (5) Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
- (6) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.
- (7) All roadways shall be constructed to standards which will facilitate dedication to the Town of Lumberland.
- (8) There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed.
- (9) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing Urban Development regulations under the Manufactured Housing Act.
- (10) Mixed-use residential developments wherein mobile homes and other single family detached dwellings are both provided shall be encouraged where the other criteria contained herein can be met. All other single-family detached development, however, shall comply with the requirements of this law and the Town of Lumberland Subdivision Law.
- (11) The manufactured home park shall not result in an over-concentration of such uses in a particular area of the Town.
- (12) The manufactured home park shall not have a detrimental or negative impact on adjacent properties or the general welfare of the residents of the Town of Lumberland.

- (13) If a proposed park is one judged to present detrimental impacts, the Planning Board shall consider whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
- (14) The Planning Board shall also consider whether the park will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation and the application shall comply fully with the requirements of the State Environmental Quality Review Act.

5.2 Mineral Extraction

Removal of over 750 yards or 1,000 tons of soil, sand, gravel or quarried stone for sale, except when incidental to, or connected with, construction of a building on the same premises shall require issuance of a Department of Environmental Conservation (D.E.C.) permit. In addition, stripping of topsoil for sale or use on other premises, except as may be incidental, and no more than is necessary, to a construction project, is prohibited within the Town without the issuance of a special permit by the Planning Board. Removal of 250 yards or more of soil, sand, gravel or quarried stone shall require a Special Use permit.

5.3 Clearcutting

No clearcutting of forest land shall be allowed in the Town without a Special Use permit issued by the Planning Board and no individual lot shall be cleared in excess of the maximum clearing requirements contained on the Schedule of District Regulations. Clearcuts of more than 2 and 1/2 acres shall, at the discretion of the Planning Board, require a professional forester's plan.

5.4 Signs

5.4.1 Exempt signs.

The following signs are permitted in any district:

- (1) Direction or information signs not exceeding four (4) square feet.
- (2) Signs necessary for public safety or welfare erected by any federal, State, County or Town agencies.
- (3) Signs identifying a construction project and the specialists concerned, not exceeding eight (8) square feet for a dwelling and ten (10) square feet for other buildings.
- (4) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or non-profit organizations; not to exceed six (6) square feet in area.
- (5) Flags and insignia of any government, except when displayed in connection with commercial promotion.
- (6) Name and number plates, identifying residents, which may be mounted on a post,

- house, apartment, or mailbox. Numbers shall not be less than four (4) inches in height and clearly marked.
- (7) Lawn signs identifying residents, not to exceed one (1) square foot in area, or two (2) square feet if double-faced.
 - (8) Non-illuminated warning, private drive, posted or no trespassing signs, not to exceed two (2) square feet per face.
 - (9) One on-premise sign, either free standing or attached, in connection with any residential building in any zoning district, for permitted professional offices or home occupations, not to exceed five (5) square feet and set back at least ten (10) feet from the highway right-of-way. Such sign shall state name and location only. Illumination shall not produce a direct glare beyond the limits of the property line.
 - (10) Private-owner merchandise sale signs for garage sales and auctions, not to exceed four (4) square feet for a period not to exceed seven (7) consecutive days in any thirty (30) day period except with a sign permit.
 - (11) Temporary non-illuminated "For Sale", "For Rent", real estate signs and signs of a similar nature, concerning the premises upon which the sign is located. In any zoning district one sign not to exceed eight (8) square feet per side in area, set back at least fifteen (15) feet from all property lines is permitted. All such signs shall be removed within ten (10) days after the sale, lease or rental of the premises.
 - (12) One temporary sign for a roadside stand selling agricultural produce providing that such sign not exceed ten (10) square feet in area and be set back at least ten (10) feet from the public right-of-way.
 - (13) Temporary, non-illuminated window signs and posters providing such do not exceed twenty-five (25) percent of the window surface.
 - (14) Holiday decorations, including lighting may be displayed in any district without a permit.
 - (15) At gasoline stations:
 - (a) Integral graphics or attached price signs on gasoline pumps.
 - (b) Two (2) auxiliary signs per station, each not exceeding two (2) square feet in area.
 - (c) One (1) portable sign per station, not exceeding twelve (12) square feet in area, and four (4) square feet in height.
 - (16) Political posters, banners, promotional devices and similar signs, not exceeding four (4) square feet in area and in residential district nor sixteen (16) square feet in area in the business district providing:
 - (a) Placement shall not exceed thirty (30) days and any and all such signs must be removed within ten (10) days following the event which was promoted.

If a sign is left posted after the ten (10) day expiration, it will be considered as litter.

- (b) The name and address of the sponsor and of the person responsible for removal is identified.

5.4.2 Additional Permitted Signs in Hamlet District (HD)

Business signs are permitted with total area not to exceed two (2) square feet for each one lineal foot of building frontage.

5.4.3 Prohibited Signs

- (1) No off premises signs such as billboards and advertising signs shall be allowed other than as specifically permitted herein.
- (2) Flashing, oscillating and revolving signs are not permitted, unless necessary for public safety or welfare.
- (3) Signs or graphics which impair or cause confusion of vehicular or pedestrian traffic, by design, color or placement. No sign shall obstruct the sight distance of the motorist at a street corner or intersection by placement and location within twenty-five (25) feet of the intersection of the street or highway lines.
- (4) Signs placed upon the roof of any building.
- (5) Signs consisting of banners, pennants, ribbons, streamers, spinners or similar moving fluttering or revolving devices.
- (6) Advertising messages spread over more than one sign placed along a street or highway.
- (7) Sign with more than two (2) faces.
- (8) Portable signs, except as otherwise permitted herein.
- (9) Signs attached with nails, spikes, staples or similar devices to utility poles or trees not on the sign owners property, and without his or her permission.

5.4.4 Signs Requiring a Sign Permit

The following signs are permitted after issuance of a sign permit:

- (1) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, or other public oriented buildings and utilities not to exceed thirty-two (32) square feet in total sign area for all signs on premise.
- (2) One (1) on premise sign identifying recreational areas such as day camps, golf clubs, ski areas, and similar facilities not to exceed thirty-two (32) square feet in total sign area and set back at least twenty (20) feet from any public road.

- (3) One (1) on premise sign identifying apartment complexes and mobile home parks not to exceed thirty-two (32) square feet in total area and set back at least 20 feet from any public road.
- (4) One (1) business sign on premise in areas other than residential hamlet district with total area not to exceed two square feet for one lineal foot of building frontage.
- (5) Where groups of four (4) or more contiguous stores are located, together in a shopping center, one sign shall be permitted, not exceeding one-hundred (100) square feet in area with the bottom panel not less than eight (8) feet above the grade, and the top of the panel no more than twenty (20) feet maximum height, denoting the name of the shopping center and the stores contained in it.
- (6) A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a portable sign not exceeding standards applicable for a permanent sign for a period of not more than sixty (60) days or until installation of a permanent sign, whichever shall occur first.

5.4.5 Special Signage Requirements for River District (RD)

Due to the recognized need to maintain the scenic quality of the Town the following additional requirements pertain to all signs:

- (1) All signs should be subdued in appearance, harmonizing in design and color with surroundings.
- (2) All commercial business or businesses are limited to only one identification sign located on premises only and related to use.
- (3) All directional signs for commercial buildings or businesses shall comply with any uniform signage identification program established through the cooperation of local, state, and federal governmental agencies.

5.4.6 Construction Standards for Signs

The following standards are directed at assuring that all signs in the municipality are constructed in a manner to assure the safety of the community:

- (1) All signs installed after the effective date of this local law shall have attached to the sign, a name plate giving the sign permit number, if any, and the name and address of the owner, person or corporation responsible for the general requirement and maintenance as outlined in this law.
- (2) All internally illuminated signs shall be constructed in conformance with the "Standards for Electric Signs (U.L. 48) of Underwriters Laboratories, Inc.," and bear the seal of Underwriters Laboratories, Inc.
- (3) If such sign does not bear the Underwriters Laboratories Label, the sign shall be inspected and certified by a Town approved electrical inspection agency. All transformers, wires and similar items shall be concealed. All wiring to free standing signs shall be underground.

- (4) All free standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area, or winds of eighty (80) miles per hour.
- (5) All signs shall be securely anchored.
- (6) All signs, sign finishes, supports, and electric work shall be maintained clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.
- (7) All signs shall employ acceptable safety material.
- (8) Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of ten (10) feet.
- (9) No free standing sign shall be more than twenty-five (25) feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the elevations of the highest point of the sign, including supporting structures.
- (10) No free standing sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
- (11) All free standing signs shall be at least ten (10) feet from any street line, and least twenty (20) feet from any other lot line.
- (12) Signs may be illuminated by a steady light, provided that lighting does not illuminate adjacent property. Sign illumination shall not impair or cause confusion of vehicular or pedestrian traffic.

5.4.7 Non-Conforming Signs

- (1) No non-conforming sign shall be enlarged or replaced by another non-conforming sign.
- (2) No alteration or repair shall be made to a non-conforming sign involving a cost in excess of 50 percent of the value of the sign.
- (3) A non-conforming sign may be temporarily removed for painting or other normal maintenance for a period not to exceed one (1) month.
- (4) Within sixty (60) days after the effective date of this law, owners of all non-conforming signs shall apply for a permit to continue use of a non-conforming sign.

5.4.8 Procedure for a Sign Permit

- (1) Application for a sign permit shall contain or have attached thereto the following information and material:

- (a) A fee as established by the Town Board.
 - (b) Drawings at an appropriate scale as necessary to show the design, dimensions, and colors of the graphics and sign structure, details of any illumination sources, and placement of the sign relative to the building or structure on which it is located and/or in relation to nearby buildings, structures, street lines and property lines.
 - (c) Such other information as the Code Enforcement Official may reasonably require to determine full compliance with this and other laws, laws and regulations.
- (2) The Code Enforcement Officer or designated official shall transmit one copy of the application and accompanying material to the Planning Board for their information and files.
 - (3) If a sign authorized by a permit is not completed and in place within 6 months, said permit shall become null and void.
 - (4) Design, construction, and placement of a sign shall not deviate in any substantial manner from the plans approved for issuance of permit.
 - (5) The Code Enforcement Officer or designated official may, at his discretion, have the Planning Board review individual sign application permits for their comments and suggestions concerning recommendations for approval or denial of such application.

5.4.9 Removal of Signs

Any sign, existing on or after the effective date of this law, which no longer advertises an existing business conducted or product sold shall be removed according to the following procedures:

- (1) If the Code Enforcement Officer shall find that any sign regulated in the law is not used, is abandoned, unsafe or insecure, or is a menace to the public, he shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within 30 days from the date of the notice. If the sign is not removed or repaired within the time period, the Code Enforcement Officer shall revoke the permit issued for such sign if any, and may remove or repair the sign and shall assess all costs incurred for such service against the owner of the property on which the sign is located.
- (2) The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.
- (3) If the sign is in good repair, the owner has 90 days from the time the sign no longer advertises an existing business conducted or product sold to either change the advertisement to advertise a new business or product sold, or remove the sign.

5.5 Conservation Subdivisions.

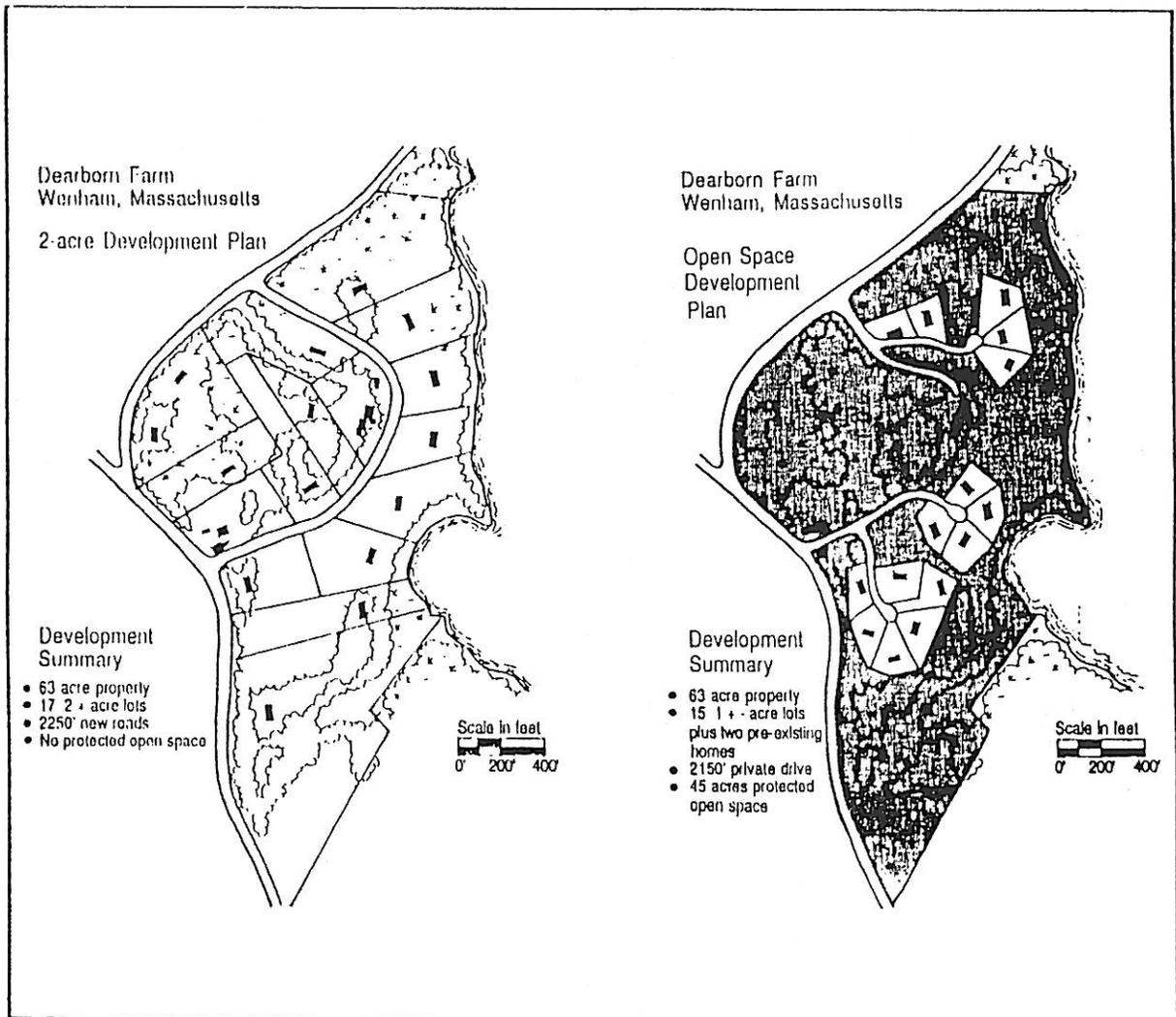
- 5.5.1 The Town of Lumberland Planning Board shall be authorized, pursuant to § 278 of the Town

Law and simultaneously with the approval of plats under the Town of Lumberland Subdivision Regulations, to modify applicable provisions of this Zoning Law so as to accommodate conservation subdivision projects. Also known as "cluster development", conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. They shall be allowed anywhere within the Town of Lumberland and be processed pursuant to subdivision plat approval procedures.

- 5.5.2 The Planning Board may require conservation subdivisions, as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts.
- 5.5.3 Conservation subdivisions provide for single-family dwelling units wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings. Illustrations of such design follow. Proposed developments shall be processed in the same manner as a major subdivisions and in accord with the standards below.

CONSERVATION SUBDIVISION DESIGN

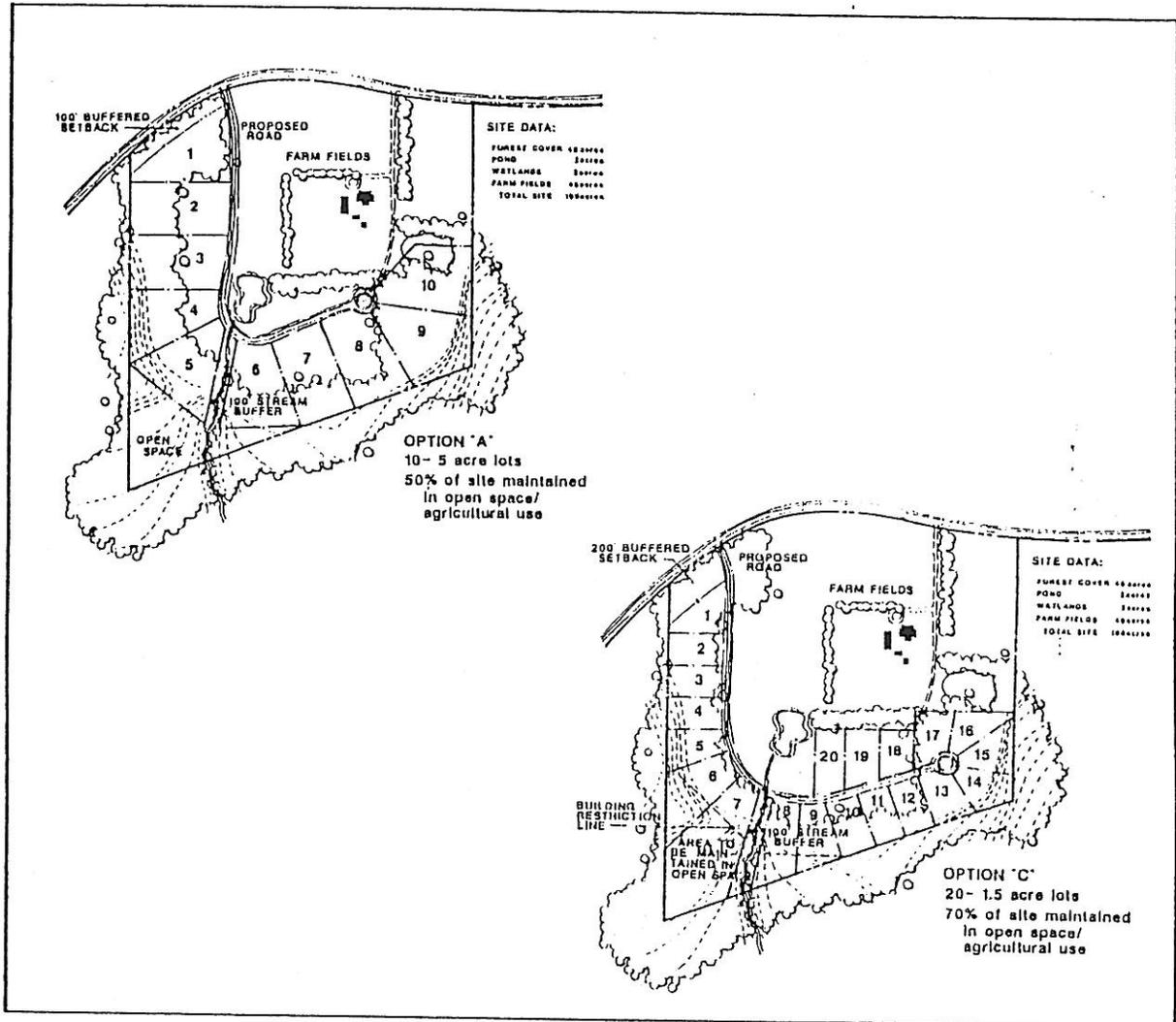
ILLUSTRATION NO. 1



These two plans produce the same lot yield (15 new lots plus 2 existing homes on larger parcels) yet the right-hand example preserves two-thirds of the open space. It is also important to remember that, because all lot buyers also purchase rights to the open space, total land values will be at least as high as in the left-hand example and probably higher due to the enhanced usability of that open space. Source: "Rural by Design", 1994, American Planning Association.

CONSERVATION SUBDIVISION DESIGN

ILLUSTRATION NO. 2



These two sketches illustrate different designs for open space preservation, both of which could be appropriate but the right-hand version of which offers the better plan because it preserves more open area, makes maintenance of the farming operation more realistic as an option and keeps housing setback into the wooded area where it will be less intrusive and preserve the "feel" of the open space. It also produces more housing opportunities, saving open space elsewhere. Source: "Rural by Design", 1994, American Planning Association.

5.5.4 Conservation subdivisions shall include at least five (5) lots and 10 acres of land and the Planning Board shall have the authority to require an alternative Sketch Plat, for any subdivision of ten (10) lots or more, depicting how the property might be developed using this technique. If this alternative Sketch Plat is determined to provide a superior design in accord with the purposes of this Law and the same density can be achieved the Planning Board may than require use of this technique.

5.5.5 The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:

- (1) All areas within the rights-of-way of any existing or proposed streets; and
- (2) All areas occupied by public utility easements.
- (3) All wetlands, floodplains, slopes of 15% or more, water bodies and other undevelopable areas.

The net figure shall then be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.

5.5.6 Only single-family detached and two family dwellings shall be employed in this concept. All other dwelling types shall be considered multi-family dwellings.

5.5.7 Development standards for lot size, lot width and lot depth may be reduced, provided no dwelling structure (single-family or two-family) is located on less than 43,560 square feet of land where on-site sewer and water facilities are to be provided or 21,780 square feet of land where centrally supplied sewer and water facilities are to be provided; and further provided the total density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivisional plan designed in accord with this Law, as determined from the basic Sketch Plan submission. Yard requirements may also be reduced, but in no instance to less than forty (40) feet from the front yard and thirty (30) feet for the side and rear yards.

5.5.8 No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection. No less than 50% of the total land area of the conservation subdivision shall be dedicated to permanent open space and at least 50% of the such open space shall be usable for active recreational activities and not include water bodies, wetlands, floodplains, slopes over 15% in grade or other undevelopable areas.

5.5.9 The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement and generally titled to a property owner's association (POA) prior to the sale of any lots or dwelling units by the subdivision. Membership shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of that majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost and the POA must be able to file

liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.

5.6 Multi-Family Residential Uses.

5.6.1 Multi-family dwelling projects shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Town in the manner provided under Town Subdivision Regulations. The subdivider shall also submit all information required by such Regulations plus the following additional data;

- (1) An application for multi-family dwelling approval on a form to be supplied by the Town or, in the absence of such form, by a letter or brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.
- (2) A proposed plot plan prepared by a Professional Engineer, Licensed Architect or Licensed Land Surveyor showing the approximate (generally within five feet) locations of all buildings and improvements including parking areas, planting strips (if any), signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in Town of Lumberland. Setbacks from property lines, improvements and other buildings shall also be indicated.
- (3) A schedule or plan and proposed agreement(s) either with the Town or a property owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either; (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.

5.6.2 The Planning Board shall act on the Preliminary Plat and Special Use application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary Plat, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval. This requirement notwithstanding, the building permit application shall be made with the Preliminary Plat and shall, if granted, be valid for a period equal to that for Preliminary Plat approval. If the Preliminary Plat shall be rejected no building permit shall be granted.

- 5.6.3 Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Plat approval. No Certificate of Occupancy (where the same is required) shall, however, be issued until such time as; (1) Final Plat approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Code Enforcement Officer.
- 5.6.4 Complete final building plans shall also be submitted as part of the Final Plat Application.
- 5.6.5 No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Plat approval shall have been granted (unless the improvements shall have been guaranteed), and the Plan has been recorded in the Office of the Sullivan County Clerk.
- 5.6.6 Multi-family dwelling density shall be granted a 100% density bonus above the number of dwelling units per acre which would be permitted within the district if the parcel on which the units are to be constructed were to be developed for single-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages;
- (1) Land contained within public rights-of-way;
 - (2) Land contained within the rights-of-way of existing or proposed private streets. (where formal rights-of-way are not involved, the width of the street shall be assumed as fifty (50) feet wide);
 - (3) Land contained with the boundaries of easements previously granted to public utility corporations providing electrical or telephone service; and dividing by the number of proposed units; and
 - (4) All wetlands, floodplains, slopes of 15% or greater grade, water bodies and other undevelopable areas.
- 5.6.7 All areas of a multi-family development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:
- (1) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in sub-section (2) below. They

shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.

- (2) Land designated simply as open space shall be permanently maintained as open space and may not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future development" on all plats. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "pre-approved plan" if density or other zoning requirements shall have been modified to preclude such development.
 - (3) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by either one or both of the following mechanisms:
 - (a) Dedication to a property owners association which assumes full responsibility for maintenance of the open space.
 - (b) Deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.
 - (c) Whichever mechanism(s) may be used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Plat approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.
 - (d) Developments of 50 units or more shall provide one-half acre of playground area per 50 units unless restricted to adult occupancy only.
- 5.6.8 All multi-family developments shall be served with centrally supplied sewage facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.
- 5.6.9 The following design criteria shall apply to multi-family developments;
- (1) There shall be no more than eight (8) dwellings in each multi-family building.
 - (2) No structure shall be constructed within fifty (50) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area.

- (3) Access roads through the development shall comply with Town street requirements as specified in the Town Subdivision Regulations and by the Highway Superintendent and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
 - (4) No multi-family development shall be served by more than one entrance and one exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
 - (5) Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.
 - (6) No more than sixty (60) parking spaces shall be provided in one lot, nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct light in away from residences.
 - (7) No structure shall be erected within a distance equal to its own height of any other structure.
 - (8) All multi-family structures shall be a minimum of 100 feet from any of the exterior property or boundary lines of the particular project involved and 75 feet from any public right-of-way.
 - (9) Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
 - (10) Multi-family developments shall be subject to the stormwater management requirements of the Subdivision Regulations and facilities shall be designed to accommodate storms of a 25 year frequency unless a more stringent standard shall be recommended by the Town Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Town Engineer may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances.
 - (11) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
- 5.6.10 Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include

financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.

- 5.6.11 The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses which the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project as well as enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a Certified Public Accountant review such financial data for purposes of determining that proposed fees are, in fact, adequate to secure maintenance on a continuing basis.
- 5.6.12 The developer shall, in filing a Preliminary Plat, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance and care of the units and common facilities during any sales program, based on which the Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer and/or with the occupants.
- 5.6.13 Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall;
- (1) Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;
 - (2) Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by the total number of expected purchasers.
- 5.6.14 If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this sub-section such certification shall suffice as to conformance with these requirements.
- 5.6.15 Conversions of motels, hotels or other existing structures to multi-family dwelling use regardless of whether such conversions involve structural alterations, shall be considered subdivisions and, moreover, be subject to the provisions of this Law. If the proposed project does involve structural alterations, the Preliminary Plat shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than two (2) residential units shall be exempt from these requirements, unless such

units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code or other portions of the Town Zoning Law as they may pertain to such activities or density.

5.7 Planned Unit Development

5.7.1 Purpose

It is the intent of this section to permit the establishment of a use classification entitled "Planned Unit Development" (PUD) where the following objectives shall be sought:

- (1) Creation of a more desirable community environment than would be possible through strict application of zoning regulations found elsewhere in this Law.
- (2) Preservation and enhancement of community natural resources such as water bodies, wetlands, forests, significant topographic and geologic features, and other areas of scenic and ecological value.
- (3) Efficient use of a site to facilitate adequate and economical construction and maintenance of streets and drainage facilities, and water supply and sewage systems.
- (4) Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure, and housing cost.
- (5) Open space allocation and maintenance by private initiative as an integral part of residential development.

5.7.2 Site Area and Location

- (1) The minimum site area for a planned unit development shall be 30 contiguous acres.
- (2) Not less than 50 percent of the gross area of a PUD District shall be devoted to common open space. Such land is to be owned or controlled jointly by all residential property owners with the PUD District and is to be used for recreational purposes or preserved in its natural state. The common open space shall include lands having significant ecological, aesthetic, and recreational characteristics, with topography, shape, dimension, location, access, and improvements suitable for its intended purpose.

5.7.3 Permitted Uses

- (1) Residential; may be any type, including related accessory uses as provided elsewhere in this local law.
- (2) Non-residential; may be permitted, or required, where such uses are designed to serve primarily the residential of the PUD District.

5.7.4 Intensity of Use

The maximum number of dwelling units that may be approved in a PUD shall be computed by multiplying the total gross acreage of the site by the appropriate number of dwelling units

per acre for the district in which such site is located as provided in Article IV, Schedule of District Regulations. The maximum number of dwelling units shall not be approved if in the judgment of the Planning Board the site plan does not indicate adequate design and management of open space areas according to the following criteria.

- (1) provision of recreation facilities;
- (2) protection or enhancement of wildlife habitats;
- (3) protection of surface water quality; and
- (4) protection or enhancement of scenic quality.

5.7.5 Other Zoning Regulations

With the exception of the minimum lot areas, the PUD shall comply with all other provisions of this Law.

5.7.6 Utilities

All uses situated in a PUD shall be served by central water and sewer systems. All water, sewer, and gas lines, and all other lines provided power and communication service, shall be installed underground in the manner prescribed by the state and local agencies having jurisdiction.

5.7.7 Ownership

- (1) The land proposed for a PUD may be owned, leased or controlled either by an individual, corporation, or by a group of individuals or corporations. The applications shall be filed by the owner, or jointly by all owners of the property included in the application. In the case of multiple ownership the approved plan shall be binding on all owners.
- (2) Restrictions and Covenants shall be established and filed of record prior to conveyance of any lots. No buildings or structures may be erected on such common lands except as shown on the approved site plan.

5.7.8 Organization

A PUD shall be organized as one of the following:

- (1) A Homeowners' Association approved by Federal Housing Administration for mortgage insurance as a Planned Unit Development, and the Town Board
- (2) A Homeowners' Association approved by the Town Board upon recommendation of the Town Attorney. Whenever a Homeowners' Association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and charter of said Homeowners' Association, and to insure that the intent and purpose of this section are carried out.
- (3) Any other arrangement approved by the Town Board, upon recommendation of the

Town Attorney, as satisfying the intent of this section, including condominiums and special districts.

5.7.9 Homeowners' Association

When considering the application, the Planning Board shall in the part, require the Planned Unit development to meet the following conditions:

- (1) Be established as an incorporated non-profit organization operating under recorded land agreements through which each lot owner and any succeeding owner is automatically a member, and each lot is automatically subject to a charge as provided in the charter of the Homeowner's Association.
- (2) Title to all common property, exclusive of land set aside for public schools, shall be placed in the Homeowners' Association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.
- (3) Each lot owner shall have equal voting rights in the Association and shall have the right to the use and enjoyment of the common property.
- (4) Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the Homeowners' Association.
- (5) Dedication of all common land areas shall be recorded directly in the Subdivision Plat, or shall be referenced on the Plat to a dedication in a separately recorded document. Re-subdivision of such areas is prohibited. The dedication shall:
 - (a) save the title to the common property to the Homeowners' Association free of any cloud of implied public dedication,
 - (b) commit the developer to convey the areas to the Homeowners' Association at the approved time to be determined by the Planning Board,
 - (c) grant easements of enjoyment over the area to the lot owners,
 - (d) give the Homeowner's Association the right to borrow for improvement upon the security of the common areas, and,
 - (e) give to it the right to suspend membership rights for non-payment of assessment or infraction of published rules.
- (6) The Homeowner's Association life shall be perpetual and it shall purchase insurances, shall pay taxes, shall specify in its charter and by-laws an annual homeowner's fee and provision for assessments, and shall establish that all such charges become a lien on each property in favor of said Association. The Association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it also shall have the right to commence action against any member for the collection of any unpaid assessments in any court of competent jurisdiction.

- (7) The developer shall assume all responsibilities as previously outlined for the Homeowners' Association until a majority of the dwelling sites are sold, at which time the Homeowners' Association shall be established automatically.

5.7.10 Deeds

Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications, and other restrictions (including assessments and the provisions for liens for non-payment of such).

5.7.11 Site Plan Approval

- (1) Prior to the issuance of a building permit in a planned unit development, a site plan shall be submitted to and approved by the Planning Board in accordance with Section 5.7.
- (2) Nothing contained in this section shall relieve the owner or his agent, or the developer of a proposed planned unit development from receiving Subdivision Plat Approval in accordance with the Town Subdivision Regulations.
- (3) Prior to Site Plan Approval the developer shall file with the Planning Board a performance bond to insure the proper installation of all park and recreations improvements shown on the site plan, and a maintenance bond to insure proper maintenance of all common lands until the Homeowners' Association is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution, and surety shall be approved by the Town Attorney and the Planning Board.

5.7.12 Approval of PUD

A PUD may be approved only by resolution adopted by the Town Board upon recommendation of the Planning Board.

5.8 Campgrounds

The following additional standards must be provided for in the site plan before a special permit for a campground can be issued:

- 5.8.1 Evidence that all State Health Department regulations of campgrounds will be met. Independent on-site sewage disposal and water supply systems shall not be permitted on individual campsites.
- 5.8.2 A 25 foot planted or natural landscaped border will be provided for on all perimeters of the campground property.
- 5.8.3 A minimum of ten acres of land shall be required for the campground. No more than 8 campsites per acre in gross density shall be permitted.
- 5.8.4 None of the provisions of this section shall be applicable to the following:
 - 1) The business of recreational vehicle sales.

- 2) The storage of a recreational vehicle not being used on premises occupied as the principal residence by the owner of such recreational vehicle; provided, however, that such unoccupied recreational vehicle shall not be parked or located between the street line and the front building line of such premises.
- 3) Camping by the owner on his or her own property provided a permit of no more than 2 weeks in consecutive days has been issued by the Code Enforcement Officer pursuant to this law, appropriate sanitary facilities and/or sewage disposal systems are in place to serve the unit and the lot on which the unit is to be placed is a minimum of fifty (50) feet in width. The Code Enforcement Officer shall develop and enforce a permit system which shall be applicable to all such camping. No permit, however, shall be required for tent camping by owners in the rear or side yard of any residence for a single night.

5.8.5 Permanent occupancy of campsites shall be strictly prohibited.

5.9 Animal Husbandry

The following additional standards must be provided for in conducting animal husbandry:

- 5.9.1 No offensive odor or dust producing substance or any use producing incessant odor or dust may be permitted within 100 feet of any property line.
- 5.9.2 In districts where animal husbandry is allowed a special use permit is necessary where animal husbandry is in excess of one-quarter livestock unit per acre of land.
- 5.9.3 Any animal husbandry use shall require a minimum of 2 acres.

5.10 Home-Based Businesses

5.10.1 Home-based businesses, including businesses which rely upon attraction of the general public (e.g. retail sales) are permitted as Accessory Uses in some districts and as Special Uses in others, provided they do not detract from the residential character, appearance, or make-up of the neighborhood in which the business is located. Because of the need these types of businesses may have for advertising and display, and the unpredictability of traffic generation, owners of such businesses must be very cautious about how they operate their business to ensure they do not adversely impact the surrounding neighborhood. The following factors shall be used to determine if a home-based business will comply with or is in violation of this law. The determination can be made on any one, or a combination, of these factors and shall be made by the Code Enforcement Officer in consultation with the Planning Board in those instances where the Code Enforcement Officer chooses to seek such advice.

- 1) Extent of the business - whether or not the residential use is still the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the property used for the business and the amount of time the business is operated on a daily basis.
- 2) Appearance from an adjacent street - whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a non-illuminated, permanent identification sign no larger than two (2) square feet in size attached to the

principle structure, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principal structure is obscured from the street, or the structure is setback more than fifty (50) feet from the property line, a non-illuminated sign not to exceed four (4) square feet may be used. Factors for evaluating this standard shall be that the residential dwelling not be altered to change its residential appearance, and no activity related to the conduct of the home-based business shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract attention to the business or adversely impact the residential character of the neighborhood.

- 3) Impact on the neighborhood - whether or not the business activity is causing a nuisance to surrounding property owners; is adversely impacting the peace, health, or safety of neighborhood residents; and/or is causing a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
 - (a) Traffic - whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A home-based business will be allowed to generate no greater than twenty-five (25) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, and the number of children present.
 - (b) Parking - whether or not parking problems could result from the business use. Factors which shall be used to evaluate this criteria include, but are not limited to the following: 1) parking required for the business shall be provided on-site; 2) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than the ground, in which case a gravel surface shall be provided; 3) no home-based business shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.
 - (c) Nuisance - whether or not the business activity is causing a nuisance to surrounding property owners or is deviating from the residential character or appearance of the neighborhood.

5.10.2 No home-based business, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home-based business to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on-site is strictly prohibited unless the business is then moved.

5.11 Communication Structures.

5.11.1 Special Definitions.

ANTENNA - A device used to collect or transmit telecommunications or radio signals. Examples are: panels, microwave dishes, and single pole known as whips.

TELECOMMUNICATIONS FACILITY - Consists of the equipment and structures involved in receiving or transmitting telecommunication or radio signals, but limited to those facilities with respect to which the State and Federal governments have not, under public utility laws, strictly pre-empted the Town from regulating.

TELECOMMUNICATIONS EQUIPMENT BUILDING - The building in which the electronic receiving and relay equipment for a telecommunications facility is housed.

TOWER - A structure that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures includes monopoles and lattice construction steel structures.

5.11.2 Design and location standards. The following design and location standards shall apply to all telecommunications facilities:

- (1) The location of the tower and equipment building shall comply with all natural resource protection standards of this law.
- (2) An evergreen screen consisting of a row of evergreen trees planted ten (10) feet on center maximum, shall be located around the perimeter of the security fence and existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (3) An eight (8) foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.
- (4) The tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended.
- (5) A soil report prepared by a Professional Engineer shall be submitted to the Planning Board to support the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
- (6) Towers and antennae shall be designed to withstand wind gusts of at least 100 miles per hour.
- (7) An antenna may not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- (8) Telecommunications facilities shall be permitted as a sole use on any lot in a RF or RR District subject to Special Use procedures and the following:
 - (a) Minimum lot size. Five (5) acres
 - (b) Minimum setback requirements. Two-hundred (200) feet

- (c) Maximum height. Tower - Two-hundred (200) feet
Equipment building - Thirty (30) feet
- (9) A telecommunications facility shall be permitted on a property with an existing use subject to the following conditions:
- (a) The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
- (b) Minimum lot area. The minimum lot area required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum lot area for the district.
- (c) Minimum setbacks. The minimum yards required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum yards for the district.
- (d) Access. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- (e) Maximum height: Tower - Two-hundred (200) feet
Equipment building - Thirty (30) feet
- (10) Where an antenna for a telecommunications facility is to be attached to an existing structure or building it shall be subject to the following conditions:
- (a) Maximum height. Fifty (50) feet above the existing building or structure.
- (b) If the applicant proposes to locate the telecommunications equipment in a separate building, the building shall comply with the minimum setback requirements for the subject zoning district, an eight (8) foot high security fence shall surround the building, a buffer yard shall be planted as required above and vehicular access to the building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (c) Elevations of existing and proposed structures showing width, depth, and height, use statistical data on the antenna and support structure shall be presented.
- (11) Notwithstanding minimum yards provided for above, any tower shall be setback from all property lines a distance that is at least equal to the height of the tower. The tower shall also be setback from any active recreation facilities or fields a distance that is at least equal to the height of the tower.
- 5.11.3 Special Use review criteria. Telecommunications facilities shall be subject to all the ordinary review criteria applicable to Special Uses in general plus the following:
- (1) The applicant shall demonstrate that the tower for the telecommunications facility is the minimum height necessary for the service area. The applicant shall also demonstrate that the facility must be located where it is to serve the company's system.

- (2) The applicant shall present documentation that the tower is designed in accordance with the standards cited in this law for telecommunications towers.
- (3) The applicant shall demonstrate that the proposed tower complies with all state and federal laws and regulations concerning aviation safety.
- (4) The need for additional buffer yards and visual impact treatments shall be evaluated.
- (5) Where the telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement for the proposed facility and that vehicular access is provided to the facility.
- (6) Free-standing pole-type communications structures shall be given preference over towers supported by guy wires.
- (7) All communications structures shall be lighted for safety in a manner consistent with industry best practices.
- (8) All property owners and adjacent municipalities within five-hundred (500) feet of the outside perimeter of the communications structure, including guy wires, shall be notified by certified mail prior to the Planning Board taking action. This responsibility shall be the applicant's proof of notification shall be provided as part of the final application.
- (10) The Town may as a condition of approval of the Special Use require a financial guarantee to ensure the removal of a communications structure which has been abandoned or has been out of use for a period of twenty-four (24) months or more.
- (11) An applicant for approval of a communications structure land development shall include with the application evidence of written notification to all wireless service providers who supply service within the Towns for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.

5.12 Junkyards

- 5.12.1 Purpose. These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Lumberland as well as controlling their location so as to limit problems of incompatibility with other activities. The regulations contained are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.
- 5.12.2 Scope. These regulations shall apply to all junkyards now existing or hereafter proposed in the Town of Lumberland. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense.
- 5.12.3 Exemptions. The following land uses shall be exempt from these requirements provided they

are not maintained in the manner of a junkyard and do not include a junkyard operation:

- (1) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
- (2) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
- (3) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

No right to establish or continue a junkyard operation shall be conveyed by the existence of a State license or the presence of any of the above activities on a site.

5.12.4 Definition. The term "junkyard" shall mean:

- (1) An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
- (2) Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Lumberland Code Enforcement Officer(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Code Enforcement Officer's determination.

5.12.5 License Required. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Lumberland, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and special use approval hereunder. The Code Enforcement Officer shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to criteria contained herein. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer and shall be renewed annually based on an inspection by the Code Enforcement Officer as to continued compliance with the standards of this Law. No license shall be issued until the Code Enforcement Officer has received;

- (1) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
- (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.

5.12.6 Transfers of License. The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law are met and provided the Town is so notified.

- 5.12.7 Disapprovals. Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval.
- 5.12.8 Right to Enter and Inspect. The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- 5.12.9 Orders to Correct. If the Code Enforcement Officer finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order.
- 5.12.10 Suspension of License. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Code Enforcement Officer may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- 5.12.11 Expiration of License. Any license which is not used for the purpose intended within two (2) years of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
- 5.12.12 Standards Applicable to New Junkyards

All new junkyards shall conform to the following standards:

- (1) If a junkyard is to be located adjacent to a federal aid primary highway, it shall comply with all regulations of the Federal Highway Administration and the New York State Department of Transportation and provide evidence of the same to the Town of Lumberland.
- (2) Junkyards shall be located no closer than five-hundred (500) feet to an existing public right-of-way or five-hundred (500) feet to any adjoining property.
- (3) Junkyards shall, moreover, be permitted only in Residential Forest (RF) Districts.
- (4) All new junkyards must erect and maintain a eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
- (5) No junkyard or portion of a junkyard shall be located on a slope exceeding twelve percent (12%) in grade or so situated on a bluff as to be unscreenable (visible from an adjacent public highway or residence located above or below the level of the junkyard).

- (6) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
- (7) All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in improved parking areas specifically designated for this purpose.
- (8) The Planning Board, in acting upon the Special Use application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and 8 of the General Municipal Law.
- (9) All waste oils and similar waste products shall be stored and/or disposed of consistent with local and State requirements and best industry practices.

5.12.13 Standards Applicable to Existing Junkyards

All existing junkyards shall conform to the following standards:

- (1) Existing nonconforming junkyards shall, within a period of one (1) year following the effective date of this Law, be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
- (2) Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this Law.
- (3) Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan prepared by a Professional Engineer depicting the existing operation and any planned improvements as may be required by this Law.
- (4) The plan shall comply with the requirements applicable to new junkyards to the maximum extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. An eight (8) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.
- (5) All fencing must be approved by the Town of Lumberland Planning Board and produce a screen through which one generally cannot see. Various materials, including evergreen screening, may be used. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- (6) The license application and site plan for the existing non-conforming junkyard shall be processed in a manner identical to that for special use applications and shall include other information as may be required to determine compliance with these regulations. The Planning Board, in acting upon the application, shall consider the

following:

- (a) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (b) The degree to which the use can economically be made to comply with requirements for new junkyards.
 - (c) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - (d) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- (7) Existing junkyards shall not be expanded except in conformance with the regulations contained herein for new junkyards, and in no case will any change in an existing junkyard which would lessen its conformity with these regulations be permitted.
 - (8) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

5.12.14 Site Plan for Establishment or Expansion; Notification of Nonconformity; Fee Schedule.

- (1) Any person or persons proposing to establish or expand a junkyard in the Town of Lumberland shall prepare site plans of the same to be submitted to the Planning Board under special use/site plan review procedures.
- (2) Existing junkyards shall be identified and notified of any non-conformities with this Law within sixty (60) days of the effective date of this Law. The Code Enforcement Officer shall be responsible for this procedure and shall, additionally, inform all owners of existing non-conforming junkyards of the action which must be taken to comply with this Law, the time available to take those actions and the consequences of violations.
- (3) The Town Board may establish and, from time to time, revise a fee schedule for junkyard plan submissions.

5.13 Adult Oriented Businesses.

Adult oriented businesses, which shall be permitted as Special Uses in the RF Rural Forest District, can have serious negative impacts on surrounding areas, including declines in property values, degradation of neighborhoods, increases in crime and deterioration of community character. This has been substantiated by a number of studies conducted throughout the United States. The Town of Lumberland has considered the findings of these studies and those incorporated in the cases of; a) City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); b) Young v. American Mini Theatres, 426 U.S. 50 (1976); and c) Northend Cinema, Inc. v Seattle, 585 P.2d 1153 (Wash.1978). The Town's

intent in enacting this section is not to restrict speech protected by the First Amendment but rather to provide for it in a way which is consistent with the demands of the U.S. Constitution, as expressed in the referenced cases. It is also, however, intended to address, in a practical way, the very real secondary affects of adult-oriented businesses on the peace, good order and safety of Town residents. So as to limit these impacts, such uses shall be subject to the following standards:

- 5.13.1 Because adult oriented businesses can lend themselves to ancillary unlawful and unhealthy activities they shall be separated from other uses which could be severely impacted by their presence or which, in combination with the adult oriented business, accentuate the negative impacts on the area. Adult oriented businesses, therefore, shall not be located within one-thousand (1,000) feet of any residence, residential facility, institution, health facility, church, synagogue, school, public or semi-public use, public park or recreation facility, any other establishment which sells alcoholic beverages or any other existing adult oriented business. This setback is consistent with the open rural character of the Town within which numerous locations exist that can meet this standard. All yard requirements applicable to the lot in question shall also be doubled.
- 5.13.2 Sale of alcoholic beverages at an adult oriented business shall not be permitted unless the business is being operated as a bona-fide restaurant or eating and drinking establishment.
- 5.13.3 No exterior display or interior display which is visible from outside the business shall be made to identify or portray the type of activity which occurs at an adult oriented business excepting for one (1) approved ground sign not to exceed a surface area of twenty-two (22) square feet for both sides combined. Such sign shall be subject to all other limitations applicable to signs. It shall not incorporate any obscene material but shall be otherwise unlimited as to message.
- 5.13.4 No non-conforming building or lot shall be used for an adult oriented business. No other existing building, lot or use shall be added to, enlarged, expanded in size or program or converted for purposes of conducting an adult oriented business unless application to do so has been made pursuant to this section and Planning Board approval has been given.
- 5.13.5 Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity, the following activities shall not permitted in any adult oriented or other business or any other public place within the Town of Lumberland:
 - (1) Public appearance by a person knowingly or intentionally engaged in sexual intercourse, deviate sexual conduct or the fondling of the genitals of himself or another person.
 - (2) The knowing and intentional public appearance of a person in a state of nudity. Nudity means the showing of the human male or female genitals, pubic area, buttocks or breasts with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

These prohibitions are further based on the findings of the U.S. Supreme Court in the case of *Banes v. Glen Theatre*, 501 U.S. 560, 115 L.Ed 2d 504 (1991) and are intended to fulfill purposes identical to those upheld in that case. Moreover, there exists within Sullivan County substantial experience with these activities which indicates they, indeed, have the types of negative impacts on the community that the Indiana statute was designed to address and produce general deterioration of the character of the area in which they were located, leading to commercial and residential blight.

5.14 Upper Delaware River Area.

All Special Uses within the RD River District shall be subject to review against those criteria, goals, objectives and recommendations of the Upper Delaware River Management Plan adopted by the United States Secretary of the Interior.

6.0 ADMINISTRATION AND ENFORCEMENT

6.1 Code Enforcement Officer.

The Town Board shall provide for the services of a Code Enforcement Officer to enforce the provisions of this Law and the Uniform Fire Prevention and Building Code. Such Code Enforcement Officer shall examine all applications for permits, issue permits and/or certificates of occupancy for construction and uses which are in accordance with the requirements of this Law, record and file all applications for permits with accompanying plans and documents and make such reports as may be required. Permits requiring site plan review and Special Use approval, however, shall only be issued with approval of the Town of Lumberland Planning Board. Likewise, permits requiring variances of this Law shall only be issued with approval of the Town of Lumberland Zoning Board of Appeals.

- 6.1.1 No person shall construct, erect, alter, convert or use any building or structure, or part thereof, nor change the use of any land, subsequent to the adoption of this Law, until a building permit and/or Certificate of Occupancy has been issued by the Code Enforcement Officer. Applications for such permits shall be made to the Code Enforcement Officer prior to any construction activity and/or change in the use of land. The Officer shall review such applications and act upon them according to the requirements of this Law, taking no action, however, until the Planning Board and/or Zoning Board of Appeals has first taken action, should the approval of either Board be required. A building permit shall authorize the applicant to proceed with construction proposed.
- 6.1.2 Prior to use of the structure or the change in use of the land, a Certificate of Occupancy shall be required and shall be issued by the Officer, provided all construction has been in accord with the building permit granted and/or the proposed use is in compliance with this Law. The Code Enforcement Officer shall be authorized to make such inspections as he deems necessary to ensure that construction does, in fact, comply with this Law.
- 6.1.3 The Code Enforcement Officer, with approval of the Town Board, may issue a temporary permit for an otherwise non-conforming structure or use which will promote public health, safety or welfare, provided such permit shall be of limited duration and the use or structure shall be completely removed within ninety (90) days of expiration of the activity for which it was granted. A temporary permit shall not be valid for more than two (2) years from the date of issuance.
- 6.1.4 The Code Enforcement Officer shall ensure that all water supply and sewage disposal facilities proposed in connection with any building permit or Certificate of Occupancy application shall conform with New York State Department of Health guidelines.
- 6.1.5 It shall be the duty of the Code Enforcement Officer to issue a building permit, provided that he is satisfied that the structure, building, sign and the proposed use conform with all requirements of this Law, and that all other reviews and actions, if any, called for in this Law have been complied with and all necessary approvals secured therefor.

- 6.1.6 When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirements of this Law, he shall refuse to issue a building permit or Certificate of Occupancy, as the case may be, and the applicant may appeal to the Zoning Board of Appeals.
- 6.1.7 A building permit or Certificate of Occupancy may be revoked by the Code Enforcement Officer upon a finding that information provided in the application was inaccurate or invalid or that the construction or use has proceeded in a manner not consistent with the permit(s) granted.
- 6.1.8 No change of use shall be made in any building, structure or premises now or hereafter erected or altered that is not consistent with the requirements of this Law. Any person desiring to change the use of his premises shall apply to the Code Enforcement Officer for a Certificate of Occupancy. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Law, without first procuring a Certificate of Occupancy; provided, however, that an Certificate of Occupancy, once granted, shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.
- 6.1.9 Though compliance with the development and use standards of this Law will still be required, the following activities shall not demand permits, except as may be required by the New York State Uniform Fire Prevention and Building Code:
- (1) Signs not requiring permits pursuant to Section 5.4.4 hereof.
 - (2) Patios, fences and landscape improvements.
 - (3) All non-structural accessory uses of a residential or temporary nature (30 days or less).
- 6.1.10 All applications shall be made on forms as shall be developed and periodically updated by the Code Enforcement Officer. Applications shall include plot plans and such other information as is required to determine compliance with the requirements of this Law.
- 6.1.11 A zoning permit shall expire after twenty-four (24) months if the applicant fails to complete the improvements as approved, with a maximum of two 6-month extensions for good cause shown.

6.2 State Environmental Quality Review Act Compliance.

All actions taken with respect to this Law shall comply with the New York State Environmental Quality Review Act ("SEQRA") and applicants shall be responsible for providing such data as may be required to determine the significance of any environmental impacts associated with such actions.

6.3 Violations and Penalties.

- 6.3.1. Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. Nothing herein shall, however, restrict the right of the Code Enforcement

Officer to act on a violation absent a complaint.

- 6.3.2 Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this Law, the Town Board or the Code Enforcement Officer, in addition to other remedies, may institute an appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- 6.3.3 A violation of this Law is hereby declared to be an offense punishable by a fine not exceeding three-hundred-fifty dollars (\$350) for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine of not less than three-hundred-fifty dollars (\$350) nor more than seven-hundred dollars (\$700) and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven-hundred dollars (\$700) nor more than one-thousand dollars (\$1,000). Each day's continued violation shall constitute a separate additional violation.
- 6.3.4 The Code Enforcement Officer or acting Code Enforcement Officer, as the case may be, is hereby authorized to issue appearance in the enforcement of this or any related laws of the Town of Lumberland.

6.4 Fees.

The Town Board shall, by resolution, establish and periodically update a schedule of uniform fees, charges and expenses associated with the administration and enforcement of this Law. Such schedule may provide for the assessment to applicants of professional costs incurred in the processing and/or review of the applications made pursuant to this Law.

7.0 ZONING BOARD OF APPEALS

7.1 Establishment and Membership.

- 7.1.1 There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Town Law. Said Board shall consist of five (5) members, including a chairperson, appointed by the Town Board. Appointments shall be in accordance with the New York State Town Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Town Board appointment of a chairperson the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may also provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper. In making such appointments, the Town Board may further require Board of Appeals members to complete training and continuing education courses.
- 7.1.2. The Town Board shall also supersede the New York State Town Law pursuant to the Municipal Home Rule Law and, during the annual reorganization meeting of Town Board, may appoint one (1) alternate member of the Zoning Board of Appeals to serve for a term of one (1) year or until a successor is appointed. Such alternate member shall attend meetings and act in the capacity of a full member whenever regular members cannot attend or must

recuse themselves due to conflicts of interest. An alternate member shall not participate in the Board's deliberation of any matter in which he or she is not called upon to act in replacement of a full member.

7.2 Powers and Duties.

7.2.1 The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official(s) charged with the enforcement of this law and to that end shall have all powers of the administrative official(s) from whose order, requirement, decision, interpretation or determination the appeal is taken.

7.2.2 Use variances.

- (1) The Board of Appeals, on appeal from the decision or determination of the administrative officials charged with the enforcement of this law, shall have the power to grant use variances, as defined herein.
- (2) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable regulations and restrictions of this law have caused unnecessary hardship. In order to prove such unnecessary hardship the applicable shall demonstrate to the Board of Appeals that;
 - (a) under this zoning law the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
 - (b) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (c) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) the alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

7.2.3 Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this law, to grant area variances as defined herein.
- (2) In making its determination, the 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 by such grant. In making such determination the Board of Appeals shall also consider:

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

7.2.4 The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

7.3 Procedures.

- 7.3.1 All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- 7.3.2 Meeting of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- 7.3.3 Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. Every decision of the Board of Appeals shall be made by resolution and include findings establishing the basis of the decision.
- 7.3.4 The Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. It shall also have authority to refer matters to the Town Planning Board for review and recommendation prior to making a decision.
- 7.3.5 Except as otherwise provided herein, the jurisdiction of the Board of Appeals shall be appellate

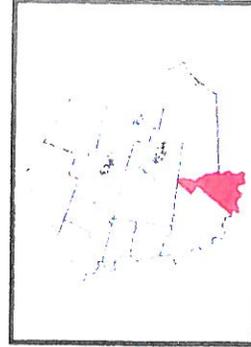
only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative officials charged with the enforcement of this law. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.

- 7.3.6 Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the administrative officials charged with the enforcement of this law by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- 7.3.7 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such law or local law, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative office, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- 7.3.8 The Board of Appeals shall fix a reasonable time, no more than sixty-two (62) days following application, for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney. The hearing shall be conducted in accordance with rules of the Board of Appeals. Such rules shall permit cross-examination by parties, provide for evidentiary procedures and allow for rehearings on the unanimous vote of the members present.
- 7.3.9 The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Board.
- 7.3.10 The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- 7.3.11 At least five (5) days before such hearing, the Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal; and to the Sullivan County Planning Department, as required by Section 239-m of the General Municipal Law. No Board of Appeals decision shall be made except in conformance with such 239-m procedures including requirements for an affirmative vote of no less than four (4) members of the Board if it shall determine to approve an application which the County has recommended it disapprove or modify.

Zoning Districts Twn of Lumberland

LEGEND:

- Zoning Districts:
- HD Hamlet
 - RR Rural Residential
 - RF Residential Forest
 - LD Lake
 - RD River
 - Parcel Boundary
 - Municipal Boundary
 - Hamlet
 - Interstate Highway
 - State/County Route
 - Local Road
 - Waterbody
 - Stream



**FOR VISUAL
REFERENCE ONLY***

Prepared by the Sullivan County
Division of Planning and Community Development
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