
LAND USE LAW

OF THE

TOWN OF WESTPORT

ESSEX COUNTY

NEW YORK

Includes Amendments through March 9, 2010

Includes:

Amendment: March 9, 1999 – RT. 9N Highway Commercial

Amendment: Local Law 1 of amended 2001 – various revisions including adding Section 29; Off-Street Parking

Amendment: Town Board Resolution #93 of 2002 1 of amended 2001 – extension of the Village Growth-Residential District

Amendment: Local Law 1 of amended 2004 – various revisions

Amendment: Local Law 1 of amended 2010 – various revisions

WESTPORT LAND USE LAW

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PART ONE: GENERAL AND PROCEDURAL SECTIONS FOR ALL LAND USE DISTRICTS

SECTION 1 INTRODUCTORY PROVISIONS

1.010 Short Title

This local law shall be known as the Land Use Law of the Town of Westport, Essex County, New York. The Town of Westport is hereinafter referred to as the "Town."

1.020 General Object and Legal Context

The general object of this local law is to establish comprehensive controls for the use and development of land within the Town, in order to promote and protect the public health, safety and general welfare.

1.021 This local law is adopted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law. The regulations herein adopted are made in accordance with a comprehensive plan, are designed to serve the purposes set forth in Section 263 of the Town Law and are made with consideration of the character of each district into which the Town is divided and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

1.022 This local law supersedes the Zoning Law of the Village of Westport, originally adopted July 10, 1980. The incorporated Village of Westport was dissolved on December 31, 1992, and its zoning law has remained in effect until the effective date of this local law. It is intended that this local law both replace the Zoning Law of the former Village of Westport and serve as the initial zoning law for the remainder of the Town lying outside the boundaries of the former incorporated Village of Westport.

1.030 Specific Purposes

In addition to the general object and the purposes referred to in Section 1.020, this local law is adopted for the following related and more specific purposes:

- a. To retain the special character of the town, while providing for moderate and carefully distributed new development.
- b. To plan for a stable economic base by providing for land use areas attractive to industry but not detrimental to the character and environment of the community.
- c. To preserve and protect agricultural, forestry and mineral resource lands within the Town.
- d. To recognize the limitations upon development posed by natural conditions such as soils, slopes and hydrology and to limit development according to the capability of natural systems to absorb it without adverse environmental impact.
- e. To preserve the unique visual character of the town through the protection of open spaces and scenic vistas, the location of new development primarily in areas where it can be visually absorbed, and the control of signs.
- f. To minimize water pollution.
- g. To minimize flood damage.
- h. To minimize the need to establish or extend public utilities and services in areas where their provision is uneconomical.
- i. To provide for the growth and development of districts within the Town in a manner compatible with the character of each district.
- j. To preserve identified buildings of historic or architectural significance throughout the Town.
- k. To provide detailed guidelines within the Town Center (formerly the Village of Westport).
- l. To serve as a component of an approved local land use program under the Adirondack Park Agency Act.

1.040 Area of Jurisdiction

This local law regulates the use and development of land throughout the Town.

1.050 Application of Regulations

After the effective date of this local law, no project shall be undertaken and no use shall be maintained except in accordance with all applicable provisions of this local law.

1.060 Governing Provisions

Where this local law is more restrictive than covenants or agreements between parties or other rules or regulations or ordinances or the Adirondack Park Agency Act, the provisions of this local law shall control.

1.070 Severability

The provisions of this local law are severable. If any article, section, subsection, or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, subsection, or provisions adjudged invalid, and the rest of this local law shall remain valid and effective.

1.080 Procedure Upon Adoption; Effectiveness

Within five days after the adoption of this local law by the Town Board, certified copies hereof shall be filed with the Town Clerk and in the office of the Secretary of State, as provided in Section 27 of the Municipal Home Rule Law. This local law shall take effect on January 1, 1995.

1.090 Repeal of Prior Zoning Law

Upon the effective date hereof, the local law known as The Zoning Law of the Village of Westport, New York, adopted July 10, 1980, and as subsequently amended, is hereby repealed.

SECTION 2 REGULATORY FRAMEWORK AND ADMINISTRATION

2.010 Applicability

This local law provides procedures and criteria for the review and approval of land uses and development. It applies to any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. This local law does not apply to interior alterations, repair, maintenance, landscaping, grading, or excavation undertaken in conjunction with an existing use where that use is not expanded or changed.

2.020 Establishment of Districts

The Town of Westport is hereby divided into two classes of districts, "Village" Districts and "Town" Districts. The purpose of this classification is to retain the district regulations in the former Village of Westport Zoning Law, while enabling the Town to create new districts outside the former Village boundaries. These districts are described in Sections 21 (Village) and 31 (Town), which delineate permitted uses and uses that require special permits in each district.

2.030 Structure of this Local Law

This local law is divided into three parts: Part One contains general provisions and procedures applicable throughout the Town. Part Two contains provisions applicable only within the "Village" or "V" zoning districts. Part Three contains provisions applicable only within the "Town" or "T" zoning districts. Definitions are contained in both Parts Two and Three. For activities on land in the Village districts, the definitions in Part Two should be consulted; Town district land is covered by the Part Three definitions.

2.031 Project Permit

All land uses or activities listed in Section 3.020 require a project permit from the Zoning Inspector.

2.032 Certificate of Compliance

Once a project has been completed, a certificate of compliance must be issued by the zoning inspector before the project can be occupied or used. A Temporary Certificate of Compliance with conditions may be issued when a Temporary Certificate of Compliance is issued by the building code officer. (amended 2001)

2.033 Permitted Uses

Uses which require either no Town of Westport permits or only a project permit are listed as "permitted uses" in the applicable district regulations. These uses do not require Planning Board review.

2.034 Special Permit Uses

Some uses require both a project permit from the Zoning Inspector and a special permit from the Planning Board. These are

called "special permit uses." In addition to fulfilling the project permit requirements, an applicant must also comply with the criteria for issuance of a special permit which are contained in Section 5.040. Special permit uses are by nature potentially incompatible with their surroundings. They are therefore only permitted if they can satisfy the compatibility criteria.

2.035 Prohibited Uses

Uses which are not allowed as either permitted or special permit uses in a particular district are prohibited in that district.

2.036 Regional Project Review

Uses which are classified as Class A or Class B Regional Projects (see Appendix A) are additionally subject to the requirements for Adirondack Park Agency Permits contained in Section 9.

2.040 Zoning Maps

Two zoning maps entitled "Westport Town Zoning" and "Westport Village Zoning," dated the effective date hereof, are hereby incorporated into and made a part of this local law. The official zoning maps shall be kept on file in the Office of the Town Clerk and currently accurate copies thereof, bearing the date of the most recent amendment, shall be kept in the Office of the Zoning Inspector.

2.041 Adirondack Park Land Use and Development Plan Map

The boundaries within the town of the land use areas established by the Official Adirondack Park Land Use and Development Plan Map, as may be from time to time amended, pursuant to subdivision 2 of Section 805 of the Adirondack Park Agency Act, are indicated by the separate map entitled "Adirondack Park Land Use and Development Plan Map of the Town of Westport" dated with the effective date of this local law, and which is hereby adopted and declared to be part of this local law, and hereafter known as the "Park Plan Map." Any change of the boundaries within the town of a land use area by an amendment of the Official Adirondack Park Land Use and Development Plan Map pursuant to subdivision 2 of Section 805 of the Adirondack Park Agency Act shall take effect for the purposes of this local law concurrently with that amendment without further action, and the Park Plan Map shall be promptly changed in accordance with that amendment. The amendment provisions of Part One, Section 7 of this local law do not apply to the Park Plan Map, which is amended only pursuant to the provisions of the Adirondack Park Agency Act. Copies of the Park Plan Map which may from time to time be published and distributed are accurate only as of the date of their printing and shall bear words to that effect.

2.050 Interpretation of District Boundaries

The following rules govern the interpretation of district boundaries:

- a. Where the indicated district boundary approximately follows a highway, street, road, trail, or stream, then said boundary shall be construed to be the center line of such highway, street, road, trail, or stream.
- b. Where the indicated district boundary approximately follows a lot line, then said boundary shall be construed to be such lot line.
- c. Where the indicated district boundary approximately follows a shoreline, then such boundary shall be construed to be the shoreline; and, in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
- d. When the indicated district boundary approximately follows a tree line, a substantial change in slope or other linear natural feature, then said boundary shall be construed to be such natural feature.
- e. Where the location of a district boundary is not indicated pursuant to (a), (b), (c), or (d) above, then the location of such boundary, unless the same is indicated by dimensions shown on the Zoning Map, shall be determined by the use of the scale appearing thereon.
- f. In the event that none of the above rules is applicable, or in the event further clarification or definition is considered necessary or appropriate the location of the district boundary shall be determined by the Zoning Board of Appeals.

2.060 Land Use Intensity, Subdivision Calculation, and Recording

2.061 Intent and Purpose

This local law regulates intensity of land use by intensity designations expressed as the number of acres (or fractions thereof) required for each principal building or dwelling unit. This allows flexibility in the use of land by varying lot sizes, while at the same time protecting vulnerable natural and cultural resources by limiting the overall intensity of development.

2.062 Intensity Designations

Intensity designations for each district are established in Section 21 for the Village Districts and in Section 31 for the Town Districts. The total number of principal buildings or dwelling units shall not exceed the number allowed by the intensity designation. No lot shall be smaller than the minimum lot size in the district.

- a. Hunting and fishing cabins and accessory apartments are exempt from intensity designation. (amended 2010)

2.063 Subdivision Calculation and Recording

All subdivisions shall be in accordance with the intensity designations and minimum lot sizes specified in Sections 21 and 31 hereof. The term "unit" as used in this Section 2.063 shall mean "dwelling unit" for the Village Districts and "principal building" for the Town Districts. (amended 2010)

- a. If a parcel is improved with one or more existing units as of August 1, 1973, a lot may be created around the unit and related land or buildings to that unit, such that at a minimum, the created lot satisfies the minimum lot size requirements for the land use district. Such lot and the unit thereon shall not be considered for purposes of the density calculation, which shall apply only to the remaining unimproved land on the parcel.

Where a purely mathematical application of the Town district density requirement to the parcel, minus the land area necessary to create a lot around the preexisting unit(s), results in a fractional number of permissible units, that number shall be rounded to the nearest whole number, which shall be the arithmetically permissible number of units on the parcel.

- b. For a parcel not improved with one or more existing units as of August 1, 1973, it may be subdivided into additional lots, provided that (i) each new unit is placed on a lot which satisfies the applicable minimum lot size requirement, and (ii) the total number of lots does not exceed the number of units allowable with respect to the parcel to be subdivided. The number of units allowable shall be calculated using applicable intensity designations.

Where a purely mathematical application of the Town district density requirement to the parcel, minus the land area necessary to create a lot around the preexisting unit(s), results in a fractional number of permissible units, that number shall be rounded to the nearest whole number, which shall be the arithmetically permissible number of units on the parcel.

- c. The allowable units, as calculated above, shall be allocated among the lots, and as a condition of the approval by the Planning Board of a subdivision plat, each lot thereon shall bear a notation stating the number of units assigned to it.
- d. Within the Town Districts, frontage and setback requirements may be reduced as provided in Section 32.150.
- e. For purposes of calculating minimum lot size, no state-designated wetlands or land located within the road bed of a public highway or a street which is to be maintained by or ceded to the Town shall be counted. However, land located within a V-OSP overlay district may be counted in determining the number of dwelling units which may be developed on adjacent land outside the V-OSP overlay district.
- f. For purposes of intensity designation, no land located within the road bed of a public highway or a street which is to be maintained by or ceded to the Town shall be counted. However, land located within a V-OSP overlay district may be counted in determining the number of dwelling units which may be developed on adjacent land outside the V-OSP overlay district.
- g. The allowable number of units may be increased through the application of the density transfer procedure in Section 32.120.

2.064 Gifts, Devises and Inheritances (amended 2010)

The mere division of land resulting from bona fide gift, devise or inheritance by and from natural persons shall not be subject to review by the Town.

- a. A subdivision map shall be presented to the Chairman of the Planning Board without Planning Board review for his signature to facilitate record keeping of all subdivisions.
- b. In no case shall the use of this regulation create any lot with a substandard minimum lot size.
- c. New land use or development on lots, parcels or sites conveyed by individuals, who on May 22, 1973, owned such land, to members of their immediate families by bona fide gift, devise or inheritance, shall be exempt from the density criteria specified in Section 21 for Village Districts and the intensity criteria specified in Section 31 for Town Districts, for the purpose of constructing one single family dwelling or one mobile home on any such lot, parcel or site, providing the construction of said use is permissible in the district within which it is located. All other permit requirements and restrictions of this local law shall apply, and no exemption from the Town On-Site Wastewater Treatment Local Law is granted.

2.070 Records

The original or a certified copy of all decisions, approvals, rulings, project permits and certificates of occupancy of any board under this local law, or of the Zoning Inspector, shall be promptly furnished by the Zoning Inspector to the Town Clerk for retention as a permanent public record.

2.080 Fees, Escrow Accounts and Performance Guarantees (amended 2001)

The Town Board, by resolution, shall establish and amend a schedule of fees for the applications and permits required or contemplated by this local law indented to cover the routine costs of administrating this law (amended 2001). The current schedule shall be on file with the Zoning Inspector and with the Town Clerk. Payment of such fee[s] shall be required for a complete application. (amended 2004)

The Planning Board is hereby authorized to require that an applicant proposing a project, permit amendment, variance or other activity requiring the board's approval pay into an escrow account funds sufficient to cover the actual costs of the technical and legal services associated with the board's review, including review of the application and inspections of the project site and of the project as it is undertaken and after completion. Such escrow funds shall not be used for any purposes other than those associated with the subject project. Upon issuance of a determination and/or a permit or a certificate of compliance, or upon withdrawal of the application, any unspent funds shall be returned to the applicant. The applicant shall have the right to review any records of expenditures from the escrow account to ascertain that the funds have been properly expended.

The Planning Board is also authorized to require an applicant to post a performance bond or other security to guarantee the satisfactory completion of certain improvements associated with an approved project in accordance with sections 274-a, 274-b and 277 of the Town Law. (amended 2004)

2.081 Additional Fees

In addition to the other fees provided herein, the Zoning Inspector, Planning Board or Zoning Board of Appeals may charge an additional fee to developers of projects requiring legal and/or technical review. The fee charged to the project developer shall reflect the actual costs of reasonable and necessary legal and technical assistance and costs of a public hearing.

2.090 Conflict of Interest

No member of the Town Board, Planning Board, or Board of Appeals shall participate in any board decision in which he/she has a special pecuniary or other personal interest, whether arising out of ownership of real property, business or family interests, or otherwise.

SECTION 3 PROJECT PERMIT AND CERTIFICATE OF COMPLIANCE

3.010 General

No person shall undertake a project for which a project permit is required except pursuant to a valid project permit issued by the Zoning Inspector. A project permit will be issued only when the Zoning Inspector has determined that there is adequate access for emergency vehicles and that all requirements of this local law and of all other applicable local and state laws and regulations are satisfied.

3.020 Project Permits and Exemptions

3.021 The following uses or activities require a project permit from the Zoning Inspector unless exempted by Section 3.022:

- a. The construction, enlargement, or change of use of a building.
- b. The commencement, enlargement, or change of use of or on a tract of land.
- c. Any alteration or other action enumerated in Section 25.040 hereof with respect to a designated landmark building.
- d. A Class A or Class B Regional Project.
- e. The erecting of any sign other than a sign allowable without a permit pursuant to Section 10 hereof.
- f. In flood-prone areas, any alteration of topography, dredging, filling, channel encroachment, the construction of any structure, or any other activity which may affect the flow of water through the floodplain (see Sections 28 and 32.020).

3.022 The following uses and structures do not require a project permit, but are subject to all other applicable requirements of this local law.

- a. A Class A Regional Project subject to Adirondack Park Agency jurisdiction at such time as an APA-approved and locally adopted local land use program is in effect in the Town of Westport; until then, both a town and APA permit are required.
- b. Any accessory use allowed by right, other than a home occupation.
- c. Any accessory structure having less than 100 square feet of land coverage on lots of one acre or less or 300 square feet on lots larger than one acre, except a sign requiring a permit pursuant to Section 10.
- d. Private resource extraction.
- e. Garage, lawn and porch sales not exceeding three days in duration provided prior such sales shall not have taken place on the property except on an occasional basis.
- f. Agricultural and forestry uses, provided that such uses do not involve clearcutting.
- g. Agricultural and forestry use structures and accessory structures, unless such structures are within 200 feet of a residential property belonging to someone other than the owner of the proposed Agricultural or Forestry Use principal or accessory structure.
- h. Non-commercial outdoor recreation uses, except those that involve substantial physical improvements.
- i. The sale of products grown or raised on the land and the construction, alteration and maintenance of agricultural fences, roads, drainage systems, and farm ponds or of a barn silo, produce sales stand, or other nonresidential building or structure customarily found with agriculture.
- j. Any activity for which a permit has been obtained pursuant to a prior zoning law, or which did not require a permit under the prior zoning law and for which substantial on-site work had been completed prior to the effective date of this local law.

3.030 Application Procedure

3.031 Meeting with Zoning Inspector

Any person intending to engage in an activity that may be subject to this local law is urged to meet with the Zoning Inspector as early as possible to determine which, if any, permits may be required.

3.032 A person desiring a project permit shall file with the Zoning Inspector three copies of an application for a project permit, together with the appropriate fee. The application shall be submitted on forms provided for such purpose by the Zoning Inspector, and shall include a plot plan drawn to scale showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this local law. Within 10 days following receipt of an application, the Zoning Inspector shall notify the applicant of any additional information required to make the application complete. If no such notice is timely given, then the application shall be deemed complete as filed. When all additional information is received, the Zoning Inspector shall acknowledge the same in writing.

3.033 Not later than 10 working days after receiving a completed application, the Zoning Inspector shall mail or deliver to the applicant his determination that either:

- a. The proposed project complies with the requirements of this local law and all other applicable and local laws and regulations and requires no special approvals, and accordingly a project permit is issued; or
- b. The proposed project is inconsistent with one or more specified requirements of this local law or other applicable local law or regulation, and a project permit is denied (This ruling may be appealed to the Board of Appeals, or a variance may be sought from the Board of Appeals); or
- c. The proposed project requires one or more specified special approvals before a project permit can be granted. The proposed project may, for example, be for a use allowable by special permit, requiring approval of a special permit by the Planning Board; or the project may be a Class A Regional Project, requiring approval by the Adirondack Park Agency.

3.034 The Zoning Inspector will advise the applicant of the requirements for the special approvals needed, and, to the extent compatible with his other responsibilities, will provide information, advice and assistance in the preparation of the required application. When the required special approvals have been obtained, and all other requirements of local and State law or regulation are met, the Zoning Inspector shall issue a project permit.

3.040 Issuance and Posting

It shall be the duty of the Zoning Inspector to issue a project permit, provided he is satisfied that the project conforms with all requirements of this local law, including, where applicable, the requirements of regional project review, and all other applicable state and local laws and regulations. All project permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. In conjunction with the issuance of a project permit, one copy of the approved plans, bearing the notation "Approved," the signature of the Zoning Inspector and the date, shall be returned to the applicant. No person shall perform any construction or otherwise undertake a project of any kind unless a project permit covering such project is displayed as required above, nor shall any person perform such activities after notification of the revocation of a project permit.

3.050 Revocation

If it shall appear at any time to the Zoning Inspector that an application or accompanying plans are in any material respect false or misleading, or that work being done upon the premises differs materially from that in the project permit, he may forthwith revoke the project permit and it shall then be the duty of the person holding the same to surrender it and all copies thereof to the Zoning Inspector. Where a project permit has been revoked, the Zoning Inspector may, at his discretion, before issuing a new project permit, require the applicant to file a bond in the favor of the Town securing compliance with this local law and all other applicable laws and regulations and in a sum sufficient to cover the cost of removing the use if it does not so comply.

3.060 Lapse and Renewal

A project permit shall lapse one year following the date it was granted if the project has not been commenced. The Zoning Inspector may renew a project permit for a period terminating not later than one year from the date it would have originally lapsed, provided that he finds that the facts upon which the project permit was granted have not substantially changed.

3.070 Site Inspection

The submission of an application for a project permit, or for any other approval or variance, shall constitute consent to the Zoning Inspector and to members or designates of the bodies with authority to grant the required approvals or variance, including the Adirondack Park Agency, to conduct such examinations, tests, and other inspections of the site as such persons deem necessary and appropriate for the purposes of this local law.

3.080 Certificate of Compliance

No use for which a project permit or building permit was issued or required under this local law shall be maintained, except pursuant to a certificate of compliance issued by the Zoning Inspector. The Zoning Inspector, within 10 working days after receipt of request for inspection of a project, shall inspect the same and shall issue a certificate of compliance where he finds that the project has been completed in compliance with all terms of the project permit and with all applicable provisions of this local law and all other applicable State and local laws and regulations. Such certificate shall constitute a permit for the maintenance of the use and shall precisely state the authorized use.

3.090 Recording and Expiration of Permits for Class B Regional Projects

A project permit issued for a Class B Regional Project shall expire within 60 days from the date thereof unless within such sixty-day period such permit shall have been duly recorded by the project sponsor in the Adirondack Park Agency Regional Project Permit Book in the office of the clerk of the county wherein the project is proposed to be located. This requirement is in addition to that imposed on the Zoning Inspector by Section 2.070.

SECTION 4 NONCONFORMITY, NONCOMPLIANCE

4.010 Nonconformity

4.011 Continuance

Subject to the provisions of this Section, a nonconforming use may be continued and maintained in reasonable repair but except as otherwise provided in Section 4.015 below, may not be enlarged. This Section shall not be construed to permit any unsafe use, or to affect any lawful regulation or prohibition of an unsafe use.

4.012 Discontinuance

If a nonconforming use is discontinued for a period in excess of one year, further use of the property shall conform to this

local law.

4.013 Change

If a nonconforming use is replaced by another use, the new use shall conform to this local law.

4.014 Damage or Destruction

If a nonconforming use is damaged or destroyed by any cause to an extent exceeding 75% of either its floor area or of its market value, the future use on the site shall conform to this local law. However, a nonconforming, single family dwelling damaged or destroyed by any casualty may be rebuilt by the person owning such building at the time of the casualty, provided that construction is begun within 24 months after the casualty.

4.015 Enlargement

A nonconforming use may be enlarged up to 25% of its original floor or land area as of January 1, 1995, pursuant to a special permit granted in accordance with Section 5.

4.020 Noncompliance

4.021 Continuance

A noncomplying use may be continued, and maintained in reasonable repair subject to the provisions of this Section.

4.022 Alteration, Enlargement, Conversion

A noncomplying use may be altered, enlarged, or converted to another use, provided that no such activity shall create new noncompliance or increase the degree of existing noncompliance.

4.023 Damage or Destruction

If any noncomplying use is damaged or destroyed by any cause to an extent exceeding 75% of either its floor area or its market value, such use may be reestablished only in accordance with all applicable provisions of this local law. However, a single family dwelling damaged or destroyed by any casualty may be rebuilt as a noncomplying use by the owner of such building at the time of the casualty, provided that the noncompliance is the minimum reasonably necessary under the circumstances and construction is begun within twelve months of the casualty.

4.024 Existing Undersized Lot

Notwithstanding the density regulations and minimum lot sizes established by this local law, if a lawful lot of record on the effective date of this local law, not then in common ownership with an adjacent lot, fails to meet such density or lot size standards, then one single family home may nonetheless be developed on such lot, provided that all other applicable requirements of this local law are met.

SECTION 5 SPECIAL PERMITS

5.010 Purpose and Applicability

It is the policy of the Town of Westport to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the rural and historic character of the Town. Many uses are therefore permitted only upon issuance of a Special Permit by the Planning Board in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria. Accessory uses or structures used in connection with a Special Permit use shall be subject to the same Special Permit approval requirements as the principal structure or use. No Special Permit shall be required for any Special Permit use which is also a Class A Regional Project, or which is a Class B Regional Project proposed prior to the approval of the Westport Local Land Use Program by the Adirondack Park Agency, local enactment of such program, and Agency transfer of Class B regional project jurisdiction.

5.020 Required Plans

Because the impact of Special Permit uses varies greatly, the information required to be submitted for a Special Permit will vary depending upon the scale of the proposed use, i.e., whether it is a Major or Minor Project as defined in Parts Two or Three.

5.021 Major Projects

An applicant for a Major Project shall submit:

- a. A Major Project application form.
- b. A Site Plan, as described in Section 5.060, Review of Site Plans, and an agricultural data statement as defined in Section 30, if required by Section 32.132 of this Local Law.
- c. A narrative report describing how the proposed use will satisfy the criteria set forth in Subsection 5.042, as well as any other applicable requirements relating to the specific use proposed.
- d. A long-form Environmental Assessment Form or Draft Environmental Impact Statement.
- e. The Major Project application fee, as established by the Town Board, and any required escrow deposit for review costs, as required by the Planning Board.

5.022 Minor Projects

An applicant for a Minor Project Special Permit shall submit:

- a. A Minor Project application form.
- b. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined in Section 30, if required by Section 32.132.
- c. A brief narrative describing the proposed use.
- d. A short-form Environmental Assessment Form (EAF) (unless the Planning Board determines that the proposed Special Permit is a Type I action, in which case a long-form EAF shall be required).
- e. The Minor Project application fee as established by the Town Board, and an escrow deposit (if required).

5.030 Procedure

5.031 Application

- a. Application for a Special Permit shall be made to the Planning Board, on forms prescribed by the Planning Board.
- b. If an application is for a parcel or parcels on which more than one use requiring a Special Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of determining whether the application is a Major or Minor Project (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.

5.032 Informal Meeting

Before filing an application, an informal meeting with the Planning Board is recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

5.033 Mediation

At any point in a project review process the Planning Board may, if it deems appropriate and the parties consent, appoint a mediator to work informally with the applicant, neighboring property owners, and other interested parties to address concerns raised about the proposed Special Permit use. Any party may request mediation. Such mediation may be conducted by a member of another municipal board, by the Planning Board's consultant, or any other qualified and impartial person acceptable to the parties and the Planning Board. The mediator shall have no power to impose a settlement or bind the parties or the Planning Board, and any settlement reached shall require Planning Board approval to assure compliance with all provisions of this Local Law. The cost, if any, of such mediation may be charged to the applicant as part of the cost of project review, with the applicant's written consent. Such cost may also be shared by other parties in interest with their written consent.

5.034 SEQRA Compliance

Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Local Law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYCRR Section 617.8(b)(1) or the issuance of a negative declaration.

5.035 Referral to County Planning Board

- a. Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Essex County Planning Board any application for a Special Permit affecting real property within 500 feet of the boundary of the Town of Westport, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.
- b. No action shall be taken on applications referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.
- c. County Disapproval. A majority-plus-one vote of the Planning Board shall be required to grant any Special Permit which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

5.037 Notice and Hearing

- a. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Permit application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.
- b. The Planning Board shall hold a public hearing on a complete Special Permit application within 31 days for a Minor Project and within 62 days for a Major Project. The applicant shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper at least five days prior to the date thereof.

5.038 Action

- a. The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Permit within 62 days after the hearing for a Major Project and within 31 days for a Minor Project. Any decision on a Major Project shall contain written findings explaining the rationale for the decision in light of the standards contained in Section 5.042 of this Local Law.
- b. In permitting the development, undertaking, reconstruction, enlargement or substantial alteration of a use allowable by special permit, the Planning Board may impose any conditions which it considers necessary to protect the health, safety and welfare of the Town and its present and future citizens and the best interests of the surrounding property, the neighborhood or the Town as a whole. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities, and requiring action by the applicant, including the posting of performance bonds and furnishing of guarantees to insure the completion of the project in accordance with the terms and conditions applicable thereto.

5.039 Expiration, Change of Use, Revocation, and Enforcement

- a. A Special Permit shall expire if the Special Permit use or uses cease for more than 24 consecutive months for any reason, if the applicant fails to obtain the necessary Project Permit or fails to comply with the conditions of the Special Permit within 18 months of its issuance, or if its time limit expires without renewal.
- b. A Special Permit shall apply to the use for which it has been granted, as well as to any subsequent use of the property which complies with all terms and conditions of the Special Permit (as determined by the Zoning Inspector in issuing a Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Permit shall require the granting of a new Special Permit or a Special Permit amendment.
- c. A Special Permit may be revoked by the Planning Board if the permittee violates the conditions of the Special Permit or engages in any construction or alteration not authorized by the Special Permit.
- d. Any violation of the conditions of a Special Permit shall be deemed a violation of this Local Law, and shall be subject to enforcement action as provided herein.

5.040 Findings Required

In granting or denying Special Permits, the Planning Board shall take into consideration the scale of the proposed project, the possible impact of the proposed project on the functioning of nearby farm operations, and the rural tradition of freedom of land use where such use does not harm others, as well as any proposed conservation easements, architectural restrictions, or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic and historic character of the Town. Within the Village area, the Planning Board shall consider the need to maintain the historic, close-knit building pattern and the need for compatibility among adjoining land uses.

5.041 Minor Projects

A Minor Project shall be presumed to be acceptable if it complies with applicable health laws and other specific provisions of this Local Law and if no credible expert testimony is presented in opposition to it. Before granting a Minor Project Special Permit, the Planning Board shall determine that the criteria for Major Projects listed in Section 5.042 below are generally satisfied.

5.042 Major Projects

Before granting or denying a Major Project Special Permit, the Planning Board shall make specific written findings as to whether the proposed Major Project:

- a. Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.
- b. Will not be detrimental to adjacent uses.
- c. Will not adversely affect the availability of affordable housing in the Town.
- d. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition, will have appropriate parking, and will be accessible to fire, police, and other emergency vehicles.
- e. Will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.
- f. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- g. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances.
- h. Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.
- i. Will be consistent with the goal of concentrating retail uses in villages and hamlets, avoiding strip commercial development, and locating non-residential uses that are incompatible with residential use on well-buffered properties.
- j. Will comply with the criteria in Section 5.063.
- k. Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, or glare, or any other nuisances.

5.050 Amendments

The terms and conditions of any Special Permit may be amended in the same manner as required for the issuance of a Special Permit, following the criteria and procedures in this Section. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a Special Permit amendment.

5.060 Review of Site Plans

The Planning Board shall review Site Plans for all Major Projects and for those Minor Projects which, because of their scale, intensity, or potentially disruptive nature, require careful layout, design, and placement on a site. The principal purpose of Site Plan review is to ensure compliance of a particular Special Permit use with the purposes and performance criteria contained in this Local Law.

5.061 Required Information for Major Project Site Plan

An application for Site Plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the applicant. Site Plans shall be prepared by a registered professional engineer, architect, or landscape

architect, and shall include the following:

- a. Name of the project, boundaries, date, north arrow, and scale of the plan.
- b. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.
- c. A vicinity map drawn at the scale of 2,000 feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within 500 feet of the property. Such a sketch may be superimposed on a United States Geological Survey map of the area.
- d. A Site Plan drawn at a scale of forty feet to the inch (1" = 40 feet) or such other scale as the Planning Board may deem appropriate, on standard 24" x 36" sheets, with continuation on 8½" x 11" sheets as necessary for written information.
- e. The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.
- f. The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
- g. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- h. The location, height, size, materials, and design of all proposed signs.
- i. The location of all present and proposed utility systems including:
 1. Sewage or septic system;
 2. Water supply system;
 3. Telephone, cable, and electrical systems; and
 4. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- j. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- k. Existing and proposed topography at five-foot contour intervals, or such other contour interval as the Planning Board shall specify. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown, and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.
- l. A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight or more inches in diameter, forest cover, and water sources, and all proposed changes to these features including sizes and types of plants. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas.
- m. Land Use District boundaries within 500 feet of the site's perimeter shall be drawn and identified on the Site Plan, as well as any Overlay or Floating Districts that apply to the property.
- n. Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas, which shall include:
 1. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 2. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 3. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
- o. For new construction or alterations to any structure, a table containing the following information shall be included:
 1. Estimated area of structure to be used for particular uses such as retail operation, office, storage, etc.;
 2. Estimated maximum number of employees;
 3. Maximum seating capacity, where applicable; and
 4. Number of parking spaces existing and required for the intended use.
- p. Elevations at a scale of one-quarter inch equals one foot (1/4" = 1 foot) for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.
- q. For large or environmentally intrusive developments, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.

- r. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
- s. Long-form Environmental Assessment Form or Draft Environmental Impact Statement.

5.062 Waivers

In the case of Major Projects that are likely to have a minimal impact on the surrounding area, the Planning Board may waive information requirements in Section 5.061 above, as it deems appropriate.

5.063 Criteria

The Planning Board, in reviewing Site Plans, shall consider the criteria set forth below. The Planning Board may adopt or recommend illustrated design guidelines to assist applicants in complying with this Section 5.063.

- a. Layout and Design
 - 1. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Town of Westport.
 - 2. Individual structures shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement, and shall harmonize with traditional elements in the architectural fabric of the area.
 - 3. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
 - 4. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.
- b. Landscaping
 - 1. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
 - 2. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Town's environment.
 - 3. Where appropriate, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
 - 4. If deemed appropriate for the site by the Planning Board, shade trees at least six feet tall shall be planted and maintained at 25- to 50-foot intervals along roads, at a setback distance acceptable to the Highway Superintendent.
- c. Parking, Circulation, and Loading
 - 1. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
 - 2. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Planning Board, where appropriate.
 - 3. Off-street parking and loading requirements of this Local Law shall be fulfilled, and parking areas shall be located behind buildings wherever possible.
 - 4. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
 - 5. All structures shall be accessible by emergency vehicles.
- d. Miscellaneous Standards
 - 1. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
 - 2. The light level at the lot line shall not exceed two-tenths (0.2) footcandle, measured at ground level. To achieve this, luminaires shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, light standards shall be restricted to a maximum of 20 feet in height.
 - 3. Drainage of the site shall recharge ground water to the extent practical, and surface waters flowing off-site shall not adversely affect drainage on adjacent properties or public roads.
 - 4. Additional Site Plan requirements and standards for review set forth in other Sections of this Local Law shall be fulfilled.
 - 5. Requirements for proper disposal of construction and demolition waste shall be fulfilled, and any necessary

permits or agreements for off-site disposal shall be provided to the Planning Board.

e. Rural Siting Guidelines

In all Town Districts other than the Hamlet Districts, the following guidelines shall be observed for subdivisions and the siting of residences, businesses, and accessory structures.

1. Wherever feasible, retain and reuse existing old farm roads and country lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
2. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
3. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.
4. Unless buildings are designed traditionally and located close to the road in the manner historically found in the Town, use existing vegetation and topography to buffer and screen them.
5. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
6. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
7. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas. Use best management practices for erosion and sedimentation control, as recommended by the Essex County Soil and Water Conservation District or other natural resource agencies.

SECTION 6 APPEALS AND VARIANCES

6.010 Zoning Board of Appeals

6.011 Establishment

- a. The Town Board shall appoint a Zoning Board of Appeals (ZBA), shall designate its chairperson, and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson. A member of the Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.
- b. Members, except for those appointed to the first Board, shall serve terms of five years. Such terms shall expire at the end of the calendar year. In the creation of the new Zoning Board of Appeals, the appointment of members of the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such member was initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a term which shall be equal in years to the number of members of the Board.
- c. If a vacancy occurs other than by the expiration of a term, it shall be filled by the Town Board for the period of the unexpired term.

6.012 Conduct of Business

- a. The Zoning Board of Appeals may employ such clerical or other staff or consulting assistance as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.
- b. The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this Local Law.

- c. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The concurring vote of a majority of all members shall be necessary to take action on any matter before it.
- d. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every decision. If a member is absent or fails to vote, the minutes shall so indicate. Every rule and regulation, every amendment or repeal thereof, and every order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.

6.013 Powers

The Zoning Board of Appeals shall perform all the duties and powers prescribed by the Laws of New York State and by this Local Law in connection with appeals to review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of this Local Law, generally the Zoning Inspector. An appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town.

6.020 Appeals of Orders, Requirements, Decisions, Interpretations, or Determinations

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this Local Law. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose order, requirement, decision, interpretation, or determination the appeal is taken.

6.030 Appeals for Variance

6.031 Where there are practical difficulties or unnecessary hardships imposed by the strict letter of this Local Law, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Zoning Inspector and after public notice and hearing, to vary or modify the application of any of the provisions of this Local Law relating to the use, construction, or alteration of structures or the use of land, so that the spirit of this Local Law is observed, public safety and welfare secured, and substantial justice done.

6.032 All applications for Variances shall be accompanied by three copies of a plot plan, drawn to scale with accurate dimensions, showing the location of all existing and proposed structures on the lot. An application for a Use Variance may require submission of an agricultural data statement pursuant to Section 32.132.

6.033 Any Variance which is not exercised within one year of the date of issuance shall automatically lapse without further hearing by the Zoning Board of Appeals.

6.034 Use Variances

- a. The Zoning Board of Appeals, on appeal from a decision or determination of the Zoning Inspector, shall have the power to grant Use Variances, authorizing a use of the land which otherwise would not be allowed by this Local Law.
- b. No Use Variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions, as applied to him or her, have caused unnecessary hardship. In order to prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under this local law for the district in which the applicant's property is located:
 - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 3. The requested Use Variance, if granted, will not alter the essential character of the neighborhood; and
 - 4. The alleged hardship has not been self-created.
- c. The Zoning Board of Appeals shall consider any agricultural data statement submitted pursuant to Section 32.132.
- d. The Zoning Board of Appeals, in granting Use Variances, shall grant the minimum Variance that it deems 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.

6.035 Area Variances

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Inspector, to grant Area Variances from the area or dimensional requirements.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the Variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making such determination the Board shall also consider:
 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance;
 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance;
 3. Whether the requested Area Variance is substantial;
 4. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 5. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the Area Variance.
- c. The Zoning Board of Appeals, in the granting of Area Variances, shall grant the minimum Variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

6.036 Imposition of Conditions

The Zoning Board of Appeals shall, in granting Use Variances and Area Variances, impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact the Variance may have on the neighborhood or community.

6.040 Procedures

6.041 Application

Appeals shall be taken by filing a written notice of appeal and any required plans with the Zoning Inspector and the Zoning Board of Appeals, within 60 days after the filing of the order, requirement, decision, interpretation, or determination that is being appealed, on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Local Law involved and shall specify the grounds for the Variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official. The Zoning Inspector shall forthwith transmit all the papers constituting the record of the appeal to the Zoning Board of Appeals. In the case of any variance application involving land, buildings or structures in any land use area including hamlet, including a shoreline restriction, the zoning board of appeals shall submit a copy of the application to the Adirondack Park Agency, together with such pertinent information as the Agency reasonably shall deem necessary.

6.042 Referral to County Planning Board

- a. Requests for Variances affecting real property within 500 feet of the boundary of the Town of Westport, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or (if a Use Variance) the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law shall be referred to the Essex County Planning Board pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.
- b. No action shall be taken on Variances referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed Variance, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.
- c. County Disapproval. A majority-plus-one vote shall be required to approve any Variance which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

6.043 Hearing and Public Notice

- a. If an agricultural data statement has been submitted, the Clerk of the Zoning Board of Appeals shall, upon receipt of the Variance application, mail written notice of the application to the owners of land as identified by the appellant in the agricultural data statement. Such notice shall include a description of the proposed Variance and its location. The cost of mailing the notice shall be borne by the appellant.
- b. The Zoning Board of Appeals shall give notice of a public hearing within fifteen (15) days of receipt of a complete application for a variance.
- c. At least five days prior to the date of such hearing, the Zoning Board of Appeals shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to the Planning Board, to any other property owners in the affected area that the Zoning Board of Appeals may require to be notified, and to the regional park commission having jurisdiction over any State park or parkway within 500 feet of the property affected. A copy of said notice of hearing, together with a description of the application, shall be sent by the Board of Appeals to the County Planning Board and, if required under 6.041 above, to the Adirondack Park Agency simultaneously with the giving of notice under this Section.
- d. At the hearing, any party may appear in person or by agent or by attorney. In cases where notice is required to be given to it, the Adirondack Park Agency shall be a full party of interest, withstanding to participate as a party in any and all proceedings under this Section.
- e. The Zoning Board of Appeals may adjourn the hearing for a reasonable period in order to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in the appeal.

6.044 Action

The Zoning Board of Appeals may, in conformity with the provisions of this Local Law, reverse, affirm, or modify, wholly or in part, the order, requirement, decision, interpretation or determination of the Zoning Inspector in accordance with the provisions of this Chapter.

- a. Any such action shall be decided within 62 days after the final hearing.
- b. Every decision of the Zoning Board of Appeals shall be approved by vote of a majority of the members by resolution which contains a full record of the findings of the Zoning Board of Appeals in the case.
- c. The board shall notify the Adirondack Park Agency, by certified mail, of such decision involving variances covered under Section 6.041 by forwarding a copy of the application, findings, decision, and other pertinent information including maps and photographs. Any such variance except those involving lands classified as Hamlet, granted or granted with conditions shall not be effective until thirty (30) days after such notice to the Agency. If, within such thirty day period, the Agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis, the Agency may reverse the local determination to grant the variance.

6.045 Filing

Every order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals shall be filed immediately in the office of the Town Clerk, and shall be a public record.

6.046 Re-hearing and Review of Prior Decisions

Upon motion initiated by any member and adopted by the unanimous vote of the members present, the Zoning Board of Appeals shall review at a re-hearing held upon notice given as upon an original hearing, any order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals not previously reviewed. Upon such re-hearing, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, requirement, decision, interpretation, or determination reviewed will not be prejudiced thereby, the Zoning Board of Appeals may, upon the concurring vote of all the members then present, reverse, modify, or annul its original order, requirement, decision, interpretation, or determination.

6.047 Court Review of Board Decisions

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals, may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules and Section 267-c of the Town Law.

6.048 Expiration of Appeal Decision

Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary Project Permit within six months of the date of such decision.

6.049 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Inspector certifies for the Zoning Board of Appeals, after the notice of appeal has been filed, that such a stay of proceedings would, in his or her opinion, cause imminent peril to life or property by reason of facts stated in the certificate. In such a case, proceedings shall not be stayed except by a restraining order granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Zoning Inspector for due cause shown.

6.050 Grant of Variance

The grant of a variance shall serve as authorization for the Zoning Inspector to issue a project permit, provided that the project complies with all applicable provisions of this local law and other applicable regulations.

SECTION 7 AMENDMENT

7.010 Initiation

The Town Board, from time to time, upon its own motion or application by one or more property owners, or resolution of the Planning Board or Board of Appeals, may amend this local law as provided herein. A property owner or his agent may apply for amendment to this local law by filing three complete sets of an application with the Town Board, and two complete sets with the Planning Board. The application shall include a description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and the applicable filing fee. In the case of a proposed amendment which would apply only to properties which are not immediately identifiable or to a class of properties including six or more identifiable properties, no properties need be identified as affected.

7.020 Review by Planning Agencies

As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the Town Board shall refer proposed amendments to the Town and County planning agencies as required by this Local Law and by the Laws of New York State.

7.021 Referral to Town Planning Board

Every proposed amendment or change initiated by the Town Board or by petition (but not if initiated by the Planning Board), shall be referred to the Town Planning Board for report thereon prior to public hearing.

7.022 Referral to County Planning Board

- a. Any proposed amendment affecting real property within 500 feet of the boundary of the Town of Westport, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Essex County Planning Board before final action is taken pursuant to General Municipal Law, Article 12-B Sections 239-l and 239-m, as amended.
- b. No action shall be taken on proposals referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed amendment, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.

7.023 Referral to the Adirondack Park Agency

When directed by the town board, the town clerk shall submit a copy of a proposed amendment to the Adirondack Park Agency for a determination as to whether the proposed amendment is subject to Agency approval under Section 807 of the Adirondack Park Agency Act; the town clerk shall simultaneously refer such proposed amendment to the planning board, and where required by Section 239-m of the General Municipal Law, to the county planning agency having jurisdiction, for the report and recommendation by those bodies to the town board.

Such amendments include:

- a. Creation of a new land use district or amendments to existing boundary lines of such districts outside hamlet areas

- on the official map;
- b. Additions to the permitted use lists outside hamlet areas which would allow in any land use area on the official map a use not a primary or secondary compatible use for that area;
- c. Amendments to the shoreline restrictions which would fall below the minimum established in Section 806 of the Adirondack Park Agency Act;
- d. Amendments to provisions relating to administration and enforcement of the zoning regulations;
- e. Amendments to sign or automobile junkyard regulations;
- f. Amendments to controls governing intensity of development outside hamlet areas, such as minimum lot areas;
- g. Amendments which involve the reclassification of projects from Class A to or from Class B Regional Projects, pursuant to Section 810 of the Adirondack Park Agency Act;
- h. Amendments which would repeal any provisions referred to above; and
- i. Any other amendments which involve the provisions of the Land Use and Development Plan. [Regs 582.5(a)]

7.030 Public Hearing and Notice

No proposed amendment shall become effective until after a public hearing thereon, at which the public shall have an opportunity to be heard. The Town Board shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause public notice to be given as required by the laws of New York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and for notice to adjacent municipalities, if necessary.

7.031 Publication of Notice in Newspaper

Notice of the time and place of the public hearing shall be published at least 10 days in advance of such hearing in the official newspaper. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

7.032 Notice to Adjacent Municipalities

Written notice of any proposed amendment affecting property lying within 500 feet of an adjacent town shall be served in person or by mail upon the Clerk of such municipality at least 10 days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

7.040 Adoption

The Town Board may adopt amendments to this Local Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Board as noted below. A copy of the decision shall be promptly sent to the applicant and to the Adirondack Park Agency.

7.041 Local Protest

The favorable vote of three-fourths (i.e., four) of the Town Board members shall be required for passage of any amendment which is subject to a written protest signed by 20% or more of the owners of land in any of the following areas:

- a. The land area included in the proposed amendment.
- b. The land area immediately adjacent to the area proposed to be changed and extending 100 feet therefrom.
- c. The land area directly opposite the area proposed to be changed and extending 100 feet from the road frontage of such opposite land.

7.042 County Disapproval

A majority-plus-one vote of all Town Board members shall be required to pass any proposal which receives a recommendation of disapproval from the County Planning Board because of the referral process specified in Section 7.022 above, along with a resolution setting forth the reasons for such contrary action.

7.050 Effective Date

Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of the State of New York pursuant to the Municipal Home Rule Law of the State of New York.

7.060 Right to Complete Project Inconsistent with Amendment

Where a project for which a project permit has been lawfully issued, but no certificate of compliance has been awarded, would be rendered noncomplying or nonconforming by an amendment of this local law, such project shall have the right to be completed and to be awarded a certificate of compliance pursuant to the provisions in effect when the project permit was issued only if, in the case of a project primarily involving a building, the foundation has been completed prior to the effective date of the amendment, and, in the case of a project not primarily involving a building, a substantial amount of construction has been completed prior to the effective date of the amendment.

SECTION 8 ENFORCEMENT

8.010 Zoning Inspector

This local law shall be enforced by the Zoning Inspector and the Town Board.

8.020 Complaints of Violations

Whenever a violation of this local law occurs, any person may make a complaint in regard thereto. All such complaints shall be made to the Zoning Inspector who shall properly record such complaint and immediately investigate and report his findings thereon to the Town Board. The Zoning Inspector shall have authority to serve upon any person owning, leasing, controlling or managing any building, structure or land in which a violation of this local law exists an order to cease or remove such violation.

8.030 Penalty

8.031 Any person owning, leasing, managing or otherwise controlling any building, structure, or land in which a violation of this local law shall exist or is committed and any person who commits or assists in the commission of any violation of this local law or any conditions imposed in any project permit or certificate of compliance, or who undertakes any project contrary to the plans or specifications submitted to the Zoning Inspector and on the basis of which a project permit shall be given; any person who shall omit, neglect, or refuse to do any act required by this local law, and any such person who, having been served with an order to cease or remove such violation, shall fail to comply with such order within 10 days after such service, shall be guilty of an offense and subject to a fine as authorized in Section 268 of the Town Law. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

8.032 For the purposes of this Section 8, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

8.040 Injunctive Relief

In case of any violation or threatened violation of any of the provisions of this local law, or conditions imposed in any project permit or certificate of compliance, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation.

8.050 Misrepresentation

Any project permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void.

SECTION 9 REGIONAL PROJECT REVIEW

9.010 Purpose and Intent of this Section

9.011 Purpose

The purpose of this Section is to establish requirements and administrative procedures for the review of Class B Regional Projects by the Planning Board or the Adirondack Park Agency, and to set forth the Town's role when Class A or Class B Regional Projects are reviewed by the Adirondack Park Agency.

9.012 Special Permit Uses

It is the intention of the Town to avoid duplication of review processes for Special Permit uses. Therefore, if the Adirondack Park Agency reviews any Special Permit use as a Class A or Class B Regional Project, the Town Planning

Board's role shall be limited to that set forth in Sections 9.070 and 9.080 below.

9.013 Use Variances

If the Class A or Class B Regional Project permit involves a use variance, the applicant must apply to the Zoning Board of Appeals and be granted a variance in order to institute the use, regardless of whether this local law has been approved by the Adirondack Park Agency.

9.020 Applicability of this Section

9.021 Prior to approval of the Westport Local Land Use Program by the Adirondack Park Agency and town enactment of all of the program elements pursuant to Section 807 of the Adirondack Park Agency Act, all Class B regional projects shall be subject to the authority of the Adirondack Park Agency, and Sections 9.030 and 9.067 below shall not apply.

9.022 At such time as the Adirondack Park Agency has approved the Westport Local Land Use Program, the town has enacted all of the program elements, and the Agency has authorized the transfer of Class B regional projects authority pursuant to Section 807 of the Adirondack Park Agency Act, no person shall undertake a permitted use, special permit use, or prohibited use for which a variance has been granted pursuant to Section 6 of this local law, which use is also a Class B regional project, unless and until the Planning Board has reviewed and approved, or approved subject to conditions, such project, and the Zoning Inspector has issued a project permit with respect thereto. Sections 9.030 through 9.067 shall apply to all such Class B regional projects.

9.023 No person shall undertake a Class A regional project unless and until the Adirondack Park Agency has reviewed and approved, or approved subject to conditions, such project, and has issued an Agency permit with respect thereto pursuant to the terms of the Adirondack Park Agency Act, applicable Agency Rules and Regulations and the Local Land Use Program.

9.030 Authorization to Approve and Disapprove Class B Regional Projects

9.031 The Planning Board is hereby authorized to approve, approve subject to condition, and disapprove all Class B Regional Projects proposed to be located within the territory of the town pursuant to and in accordance with the requirements and procedures set forth in this Section.

9.032 If a Class B Regional Project is also a Class A Regional Project or Class A subdivision, the project will be deemed to be a Class A Regional Project or Class A subdivision in its entirety, and subject to the review authority of the Adirondack Park Agency.

9.040 Requirements for Class B Regional Project Approval

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

- a. The project will comply with all applicable provisions of this local law.
- b. The project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational, or open space resources of the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the project taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the Development Considerations set forth at Appendix D hereof, and in so doing, the Planning Board shall make a net overall evaluation of the project in relation to the Natural and Public Resource Objectives and Guidelines and Development Activities Objectives and Guidelines set forth therein.

9.050 Application for Class B Regional Project Approval

Application for project approval shall be made to the Zoning Inspector, who shall review the application for completeness, and if, in his reasonable judgment, the application is complete, he shall refer it to the Planning Board. All applications shall be made on forms prescribed by the Planning Board, and furnished by the Zoning Inspector which forms when completed shall include such information as may be reasonably necessary to determine whether the requirements for approval set out in Section 9.040 have been satisfied. In determining the content of these application forms, the Planning Board may provide for different informational requirements for different classes or types of projects, but with each certain class or type of

project, the same information shall be required of every applicant. Such information required by these various application forms may include any or all of the following: a detailed description of the natural features of the project site, a detailed description of the land use plan of the project and its components, including all proposed roads and accesses, water supply and sewage disposal systems, and their relationship to natural features, an analysis with supporting data of the impact of the project on the environment both during construction and thereafter, an analysis with supporting data of the ability of the public to provide supporting services and facilities which can reasonably be anticipated to be required following the approval of the project, and analysis with supporting data of any benefits that might derive from the project, any plans the applicant may have for future development related to the project and information describing the applicant, his or its financial capacity to complete the project as planned, and any professional advisors or consultants engaged in respect to the project. *If the applicant is applying for a Special Permit in connection with a Class B Regional Project, the Special Permit application shall serve as a Class B Regional Project application.*

9.060 Procedure for Review and Decision Regarding Class B Regional Projects

9.061 Not later than 10 days following receipt of a complete application for a Class B Regional Project, the Zoning Inspector shall notify the Adirondack Park Agency and the Zoning Board of Appeals of such receipt, shall furnish to each body a copy of the project application, and shall furnish to the Agency such further pertinent information as the Agency may deem necessary, and shall afford each body the opportunity to comment thereupon. Further pertinent information requested by the Agency shall be provided within 10 days of the Agency's request, and in no case later than 5 days prior to a public hearing.

9.062 If the Class B Regional Project also requires a Special Permit, the Planning Board shall follow the procedures in Section 5.030 instead of those in Subsections 9.063, 9.064, and 9.065 below.

9.063 Not later than 30 days following receipt by the Zoning Inspector of a complete application for a Class B Regional Project, the Planning Board shall review the application and shall determine in its discretion whether a public hearing shall be held in regard thereto. In the exercise of its discretion, the Planning Board shall be guided by the expected level of public interest in the project, the relative size and significance of the project, and the possibility of an eventual disapproval. No Class B Regional Project may be disapproved unless a hearing has been held on the project application. If the Planning Board determines that a public hearing shall be held, the hearing shall be scheduled for a date not less than 15 days thereafter, not later than 30 days following receipt by the Zoning Inspector of the complete application. The Planning Board shall give public notice of the date, time and place of the hearing by causing publication of a notice of such hearing in the official newspaper at least 10 days prior to the date thereof, and shall also mail a copy of the public notice to the Adirondack Park Agency and the Zoning Board of Appeals. The Adirondack Park Agency shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this Section.

9.064 If the Planning Board determines that a public hearing shall not be held, then not later than 62 days following receipt by the Zoning Inspector of the complete application, the Planning Board shall approve the project or approve it subject to conditions.

9.065 If the Planning Board holds a public hearing pursuant to paragraph b) of this Section, then not later than 30 days after the completion of said hearing the Planning Board shall approve, approve subject to conditions, or disapprove the project.

9.066 Every Class B Regional Project decision rendered by the Planning Board shall be in writing, and shall contain such findings of fact as are required by Section 9.040 hereof. The Planning Board in conjunction with its approval of any Class B Regional Project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure that guidelines as to intensity of development as provided in this local law shall be respected, and the imposition of reasonable conditions to insure that the project will be adequately supported by services and improvements made necessary by the project and to insure that the project will be completed in accordance with the terms of the application and any permit, and including, without limitation, the requirements and conditions authorized under Section 5.038 of this local law. In addition, the Planning Board may require that the Zoning Inspector incorporate any such requirements and conditions in any permit issued with regard to such Class B Regional Project.

9.067 Recording and expiration of Permits for Class B Regional Projects. A project permit issued for a Class B Regional

Project shall expire within 60 days from the date thereof unless within such sixty-day period such permit shall have been duly recorded by the project sponsor in the Adirondack Park Agency Regional Project Permit Book in the office of the clerk of the county wherein the project is proposed to be located. This requirement is in addition to that imposed on the Zoning Inspector by Section 2.070.

9.070 Limitation on Adirondack Park Agency Authority to Approve Class A Regional Projects

The Adirondack Park Agency shall not approve a Class A Regional Project unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the project, that the project would comply with all provisions of this local law and with such other ordinances and regulations as shall be components of the town land use program.

9.080 Planning Board Authority Regarding Class A Regional Projects

9.081 The Planning Board is hereby designated and appointed as the appropriate town body to consult with the Adirondack Park Agency with regard to Agency review of Class A Regional Projects.

9.082 As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A Regional Project, the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the project application and formulating advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the town land use program.

9.083 Not later than 45 days following receipt by the Planning Board from the Agency of notice of application completion with regard to a Class A Regional Project, the Planning Board shall, by certified mail, provide to the Agency its advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the town land use program.

SECTION 10 SIGNS

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

10.010 Definitions

For purposes of this Section 10, the following terms shall have the meanings indicated below.

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

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

Indirectly illuminated sign: Any sign illuminated by a lighting device and reflecting the light thereof, but not emitting any light and therefore not a luminous sign.

Level of natural ground: The level of ground prior to any grading or fill done primarily for the purpose of erecting any sign or raising the level of a sign's allowable height.

Off-premise sign: Any sign advertising or calling attention to any business, activity, product, or service not located or available on the same parcel as the sign.

Sign: Any writing (including letter, word, or numeral), pictorial representation (including illustration, decoration, emblem, symbol, or trademark), flag (including banner and pennant), bulletin board, statue, three dimensional figure, symbolic or representational structure, or any other visually communicative or expressive device which:

- a. Is a structure or any part thereof or is attached to, painted on, or in any other manner is represented on or within a building or other structure, and
- b. Is used to announce, direct attention to, or advertise, and
- c. Is visible from a public highway or a water body or water course trafficked by the public. The term shall include any sign currently in disuse but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or hold a sign.

The term shall not include:

- a. Signs of a duly constituted governmental body, including traffic or similar regulatory devices, street identification

- signs and legal notices.
- b. Flags or emblems of a political, civic, philanthropic, educational, or religious organization.
- c. Signs specified or required to be maintained by law or governmental order, rule, or regulation.

Sign area: The total area of all faces or surfaces of a sign anywhere upon which writing or other expressive matter appears, or, in cases where writing or other expressive matter is not set against any face or surface, the total area within a single continuous rectangular perimeter enclosing the extreme limits of such writing or expressive matter. The sign area of a sign having more than one face or surface on which writing or other expressive matter appears shall be the total area of all such faces or surfaces; but if a sign consists of two such faces or surfaces placed back-to-back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.

10.020 Location on Premises

A sign, other than an off-premises sign allowable by special permit pursuant to Section 10.060 hereof, shall be erected and maintained only on the same parcel of land where the subject of the sign is located, and not more than 200 feet from the principal location thereof. For purposes of this regulation, the principal location of the subject of a sign shall be deemed to include the principal private access road connecting the subject with a public highway.

10.030 Signs Not Requiring Project Permit

The following signs may be erected and maintained without a Project Permit, provided that they are less than 4 square feet in sign area and are non-illuminated (except as indicated below):

- a. Signs advertising the sale or rental of the premises upon which the sign is located, limited to two per property.
- b. Signs denoting the architect, engineer, or contractor where construction, repair, or renovation is in progress, limited to one per property.
- c. Professional and trade name plates and home business signs. Such signs may be illuminated by external white light only and shall be limited to one per person or business.
- d. Signs which mark property boundaries, give directions for roads or trails, prohibit trespassing, hunting, fishing, or off-road vehicles, or warn of hazards.
- e. Any sign erected by the federal, state, county, or town government or any department or agency thereof. Such signs are not limited in size.
- f. Signs giving the name of the residents of a dwelling and/or its address. Such signs may be illuminated by external white light only and shall be limited to one per dwelling.
- g. Temporary signs, including banners or pennants, relating to garage, lawn, or other individual, non-recurring sales, or for a church bazaar, political campaign, fund drive, parade, fair, fireman's field day, or other event or undertaking conducted by a political, civic, religious, charitable, or educational organization. Such signs shall be removed by the sponsor within 15 days after the close of the event. Such temporary signs are not limited in size.
- h. A sign placed temporarily to advertise a garage sale of the sale of produce grown or harvested by the property owner where the subject sign is located, limited to one per principal location of the subject of the sign. Such temporary signs shall be removed immediately after the termination of the activity being advertised.
- i. Not more than four advertising signs located on and parallel to the walls, windows, or sides of a building or other structure of a commercial enterprise. Such signs may be internally illuminated.
- j. Temporary signs, customarily of paper or cardboard, placed in the windows of grocery stores and supermarkets to advertise weekly specials. Such temporary signs are not limited in size or number.

10.040 Signs Allowable by Project Permit

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

- a. A freestanding or attached and projecting advertising sign, being perpendicular or approximately perpendicular to the line of a public highway from which it is intended to be seen. No such sign shall exceed 20 square feet in sign area. There shall be not more than one such sign for any commercial enterprise or for any group of enterprises located on a parcel of land under single ownership.
- b. An advertising sign located on and parallel to a wall of a building housing the enterprise advertised. No such sign shall exceed 40 square feet in sign area. There shall be no more than one such sign for any commercial enterprise.
- c. The total sign area for advertising signs must be limited to a maximum of 60 square feet, including those allowed in 10.030i above.

- d. One pole sign may be erected or maintained upon the premises of any gasoline or other automobile service station, at a maximum sign area of 15 square feet.
- e. A sign, including a bulletin board, customarily used by places of worship, libraries, museums, social clubs, and societies, provided that there shall be no more than one such sign per establishment or organization, and that no such sign shall exceed ten square feet in sign area.

10.050 General Sign Regulations

The following regulations apply to signs throughout the Town:

- a. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity, except in the case of digital street clocks and temperature indicators. No luminous sign shall exceed 15 square feet of sign area.
- b. No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause beams of light to be cast upon any public highway, sidewalk, or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall contain any mirror or mirror-like surface, nor any day-glow or other fluorescent paint or pigment.
- c. No sign relating to a permanent commercial enterprise, with the exception of traditional barber poles, shall contain or consist of any banner, pennant, ribbon, streamer, spinner, or other similar moving, fluttering, or revolving device. No sign or part thereof may rotate or move back and forth, except that a sign may be suspended and swing, though not rotate, in the wind.
- d. No permanent sign shall extend more than 15 feet above the natural ground elevation or be located upon or higher than the roof of the associated establishment.
- e. No sign shall be painted or placed upon or supported by any tree, rock, or other natural object other than the ground.
- f. No motor vehicle, trailer, or wagon upon which is painted or placed any sign shall be parked or stationed in a way primarily intended to display the sign.
- g. All signs shall be constructed of durable materials and maintained at all times in good repair.
- h. No advertising sign shall be maintained with respect to an enterprise which, for a period of one year, conducts no business or with respect to a product or service which is no longer offered by the enterprise maintaining the sign.
- i. No sign shall be erected or maintained within the right-of-way nor within 10 feet of the roadbed of any public highway. Such minimum setback shall not apply in the Village Districts or to any signs located on and parallel to a wall of a building entirely housing the business or activity with which the signs are principally associated.

10.060 Off-Premises Signs

The Planning Board, in accordance with the Special Permit procedure set out in Section 5 hereof, may grant approval for an off-premises sign. Such sign shall meet all the requirements of the State Department of Environmental Conservation for the grant of a permit for such sign pursuant to Section 9-0305 of the Environmental Conservation Law. As a condition to approval of an off-premises sign, the Planning Board shall find that the sign:

- a. Meets all the applicable requirements of this Section other than on-premises location.
- b. Will be useful in providing information not otherwise reasonably available to the public.
- c. Will be visually compatible with its surroundings.
- d. Will not pose a traffic hazard or otherwise endanger the health, safety, or welfare of the public.

10.070 Abandoned or Illegal Signs

In the event that a sign is (a) unlawfully erected after the effective date of this local law, (b) is a non-complying sign maintained in violation of Section 10.080 hereof or (c) is maintained in violation of this Section 10, then the Zoning Inspector shall mail to the owner of said sign, if known, at his last known mailing address and to the owner of the parcel of land upon which such sign is situated, at his last known mailing address, an order that the violation be cured within 30 days after the date of the order. If after such date the violation is not cured, the Zoning Inspector may enter upon the land and remove and discard the sign, without liability to the Town or its agents.

10.080 Non-Complying Signs

A sign in existence as of the effective date of this local law which does not comply with the sign regulations hereof shall be brought into compliance or removed by its owner at his cost and expense not later than the latter of (i) December 31, 1995 or (ii) if applicable, the date upon which such sign has been fully depreciated for income tax purposes, which shall in no

case be later than 6 years after the date, prior to the effective date of this local law, that such sign was first erected or last substantially reconstructed. Any sign owner claiming the right to maintain a non-complying sign after December 31, 1995, shall file with the Zoning Inspector appropriate proof of the sign's useful life for income tax purposes on or before such date. Failure to so file shall be deemed a waiver of such sign owner's right to maintain the sign beyond such date.

[SECTIONS 11 THROUGH 19 RESERVED]

PART TWO: WESTPORT VILLAGE DISTRICT REGULATIONS

SECTION 20 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

20.010 Construction of Language

The following rules of construction apply to the text of this local law:

- a. The particular shall control the general.
- b. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- c. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- d. A "building" or "structure" includes any part thereof.
- e. The word "used," when employed in the phrases "used to," "used for" or "used as" includes the following words when employed in similar phrases: "designed," "intended," "maintained," "occupied."
- f. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 2. "Or" indicates that, the connected items, conditions, provisions, or events may apply singly or in any combination.
 3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- g. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

20.020 Definitions

When used in this local law, the following terms shall have meanings set out below.

Accessory Apartment: An accessory apartment is a short-term accessory use to a single family dwelling. It is a separate living space within a single family dwelling to be occupied by family members or caregivers. An accessory apartment shall constitute a principal building however it does not need to comply with the intensity or minimum lot size requirements of the district. (amended 2010)

Accessory use: See use, accessory.

Adirondack Park Agency: The Adirondack Park Agency created by Section 803 of the Adirondack Park Agency Act. Adirondack Park Agency Act: Article 27 (800 et seq.) of the Executive Law. For purposes hereof, the numbering of sections of the Adirondack Park Agency Act is as it appears in the Executive Law.

Agriculture: The use and management of land for the raising of crops, including timber, or livestock. The term includes the sale of products grown or raised on such land and the construction, alteration, and maintenance of fences, agricultural roads, agricultural drainage systems, and farm ponds or of a barn, shed, silo, garage, produce sales stand, or other building, or structure customarily found with agriculture.

Area variance: The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

Automobile junkyard: Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways or in agricultural activities, are held, whether for the purpose of resale of used parts therefrom, the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, the purpose of disposing of the same or for any other purpose. The term shall include any place of storage for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles. For the purpose of this definition, "motor vehicle" shall mean any vehicle propelled or drawn by power other than muscular power originally intended for use on public highways or in agricultural activities.

Board of Appeals: The Board of Appeals of the Town, also referred to as the Zoning Board of Appeals.

Boathouse: A building located at or along a shoreline used principally for the storage or shelter of boats, with or without ancillary recreational uses for people. A boathouse may not contain a dwelling unit.

Building. A permanent, fixed structure (not including a mobile home) having a roof or other overhead cover and intended for the shelter, housing, or enclosure of persons, animals, or other property.

Class A Regional Project. A land use or development which is classified and defined as such in Section 810 of Act, listed in Appendix A of this local law.

Class B Regional Project. A land use or development which is classified and defined as such in Section 810 of Act, listed in Appendix B of this local law.

Class A Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of Act, listed in the Town subdivision regulations.

Class B Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of Act, listed in the Town subdivision regulations.

Commercial use, heavy. Wholesale trade, retail trade dealing primarily with goods not readily moved by hand, auto repair, warehousing.

Commercial use, light: One of the following: retail store or shop dealing primarily in goods which can be hand carried or in services, business or professional office, bank, indoor restaurant, bar.

Conservation easement: A perpetual restriction on the use of land, created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or Section 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural, historic, and scenic resources.

County: Essex County.

County Planning Board: The Essex County Planning Board, established pursuant to Article 12B of the General Municipal Law.

Day: Calendar day, including Sundays and holidays, unless otherwise specified.

Dwelling unit: Any one of the following: single-family dwelling, mobile home, each unit of a two-family dwelling or multi-family dwelling.

Family: Either (a) a single individual occupying a dwelling and maintaining a household or (b) 2 or more occupying a dwelling, living together and maintaining a common household including not more than one boarder, roomer or lodger.

Group home: A residential facility for children or adults who require special care or supervision, such facility being operated by, under contract with or licensed by a state or county agency, and having a capacity of no more than 20 residents.

Guest Cottage: Not more than one residential structure which is associated with an accessory use to a single family dwelling located on a lot that meets the minimum lot size for the district where proposed and which: (a) is used only on an occasional basis; (b) is used only by guests of the resident(s) of the associated single family dwelling; (c) is not for rent or hire separately from the associated single family dwelling; and (d) contains one-half (1/2) or less of the enclosed floor space of the associated single family dwelling or 1,500 square feet, whichever is less. (amended 2010)

Guest house: A lodging, boarding, or rooming house, with or without meals, accommodating no more than 5 guests, lodgers, boarders, or roomers in rooms or units without cooking facilities

Heavy equipment facility: A facility for the repair, maintenance, or storage of heavy equipment or trucks.

Home occupation: A business or profession which (a) is conducted entirely within a dwelling or its accessory buildings, (b) is carried on only by the inhabitants of the dwelling and may involve the employment at one time of not more than two persons not residing on the premises, (c) is clearly incidental to the use of the dwelling as a place of residence, occupying floor area equal to not more than 50% that of the dwelling, (d) except in the case of a garden stand, presents no exterior indication of its existence other than a sign as permitted, and (e) produces no significant noise, vibration, smoke, dust, odor, heat, or glare. A home occupation may, for example, include the office of a physician, dentist, lawyer, real estate broker, architect, or similar professional; a craftsman's, artist's, or photographer's studio or shop; a dressmaker's or seamstress's shop; a barber or beauty shop or an outside garden stand. A home occupation may not include a funeral home, veterinary hospital, or kennel. (amended 2010)

Industrial Spring/Well: A spring or well, its accessory structures, intended to supply a large quantity of water to supply an industrial use. (amended 2010)

Junkyard: Any open lot or area for the dismantling, storage, or sale, as parts, scrap, or salvage, of used or wrecked machinery, scrap metals, waste papers, rags, used or salvaged building materials, or other discarded material.

Major project: A project that requires a Special Permit and that exceeds any of the thresholds for a Minor Project.

Manufacturing: A use consisting of the fabricating, processing, production, or assembly of goods or materials including any on-site waste disposal associated with such use.

Manufacturing, light: Manufacturing which is compatible with adjacent residences because of its low impact on them, due to such characteristics as small scale, low traffic generation, lack of exterior storage and waste areas, attractive appearance of buildings, grounds, and landscaping, minimal emissions of light, sound, vibration, and odor, and limited operating hours (weekday and daytime only).

Marine base: A waterfront commercial facility for the docking, servicing, storage, rental, or sale of boats or water-based aircraft.

Minor project: A project that requires a Special Permit and that falls below all of the following thresholds:

- a. Construction of four or fewer multi-family dwelling units.
- b. Construction of facilities or structures for a non-residential use covering no more than 2,000 square feet of building footprint.
- c. Minor alteration of existing structures or expansion of such structures by no more than 1,000 square feet.
- d. Conversion of existing structures to another use.
- e. Alteration and active use of 5,000 square feet or less of land, with or without structures, in connection with the Special Permit use.

Mobile home: A self-contained dwelling unit or modular dwelling of one or more units, not including a travel trailer, designed to be transported to its site and from site to site on its own wheels or those of another vehicle that may contain the same water supply, kitchen facilities, and plumbing, sewage disposal, and electric system as immobile housing and is used for either permanent or seasonal occupancy. A dwelling unit that is fabricated off-site in sections and transported to and assembled on the site with a solid foundation is not considered a mobile home.

Multi-family dwelling: A building, used for residence in separate living quarters with separate cooking facilities by 3 or more families.

Noncomplying use: A use which does not comply with one or more of the regulations of this local law, other than a regulation governing the type of use permitted, and which was fully lawful when established but was rendered noncomplying by this local law, the prior zoning ordinance, or an amendment to either.

Nonconforming use: A use, lawful when established, whether of a building or other structure or of a tract of land, indicated by a use which is not included among the uses designation applying to the district in which the use is located, or which is not otherwise permitted under this local law. A nonconforming use must have been lawfully established either prior to the effective date of this local law or the prior zoning ordinance, or prior to the effective date of an amendment hereto or thereto which rendered such use nonconforming.

Nursing home: A nursing home licensed by the New York State Department of Health.

Person: An individual, corporation, partnership, association, estate, trust, or other legal entity.

Parking space: A level parking space at least 8 x 20 feet, not including any required access.

Planning Board: The Planning Board of the Town.

Prevailing Setback: Nearest distance to the property line of center of roadway of setbacks of existing residences within 100 feet on both sides of the proposed residence. Comparison must be on the same side of the property line or roadway as the proposed residence and must not encroach on the road right of way. Prevailing setback only applies to front yard setback and two or more existing residences constitute prevailing. (amended 2001)

Project: Any of the following:

- a. The construction, enlargement, or change of use of a building;
- b. The commencement, enlargement, or change of use of or on a tract of land,
- c. Any alteration or the actions enumerated in Section 25.040 hereof with respect to a designated landmark building,
- d. A Class A Regional Project,
- e. The erecting of any sign other than a sign allowable without permit pursuant to Section 10 hereof;
- f. Any alteration of topography, dredging, filling, channel encroachment, the construction of any structure, or any other activity the natural consequence of which may be to affect the discharge of water through a flood-prone area (see Section 28).

Public highway: An improved (graded, graveled, or paved) highway, street, or road maintained by the State, County, or Town.

Road bed: The trafficked or trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends furthest.

Self-Storage Facility: A commercial self storage structure open to the public. (amended 2010)

Shore frontage: Continuous land along a shoreline, having a length measured by straight line distances following the general contour of the shoreline,

Shoreline: The shoreline of Lake Champlain at 99.8 feet elevation (amended 2001).

Shoreline lot: A lot including or wholly or partially bounded by shoreline.

Sign: See Section 10.

Single-family dwelling: A detached building, not including a mobile home, used as the living quarters for one family. The term shall include a seasonal cottage, cabin or camp (amended 2001).

State: The State of New York.

Strip commercial development: The layout of a commercial use or uses in separated or common-wall structures along a state highway, with more than one row of parking located between the highway and the commercial building(s), where

parking is visible from the road. The provision of gasoline pumps or other drive-up facilities in front of a building shall be considered to be equivalent to one row of parking. Strip commercial development is contrasted with village center development, which is characterized by two-story or taller buildings set close together and close to the road, with a pedestrian orientation (including sidewalks), and with parking located behind or to the side of buildings.

Structure. Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single-family dwellings, mobile homes, signs, tanks, fences, and poles, and any fixtures, additions, and alterations thereto. (amended 2004)

Subdivision: Any division of land into two or more lots, parcels, or sites, whether adjoining or not, for the purpose of sale, lease, license, or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities, or any other substantial site work preparatory or incidental to any such division).

Subdivision Regulations: The Subdivision Regulations of the Town, as adopted by the Planning Board and approved by the Town Board, with any amendment thereto.

Transient accommodation: Any hotel, motel, resort, tourist court, or similar transient facility used to house the general public, including an accessory restaurant.

Transient unit: Each unit of a transient accommodation.

Travel trailer: Any vehicle, whether self-propelled or towed, including a tent camper, camp trailer, truck camper, or motor home, designed to travel on its own wheels and to be used for temporary living quarters for travel, recreational, or vacation purposes, and which may or may not include accommodations and facilities customarily included in a mobile home.

However, any such vehicle used for residential purposes in one location for more than 30 consecutive days or 45 days in total during any one calendar year shall be considered a mobile home.

Two-family dwelling: A detached building used for residence in separate living quarters with separate cooking facilities by two families.

Use:

- a. Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained, or occupied, or
- b. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land, or
- c. The improvements, including buildings or other structures, associated with a use as defined in (a) or (b) above.

Use, accessory: A use which is incidental to, customarily found in connection with and located on the same lot as a main or principal use. The term shall include the planting and care of a vegetable garden or other small-scale horticultural activity and the keeping of individual pets, provided that no such pet shall be an animal customarily raised as a farm animal or farm fowl.

Use variance: The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

Village: The area comprising the former incorporated Village of Westport, including all Village Districts.

Village Center Park: A landscaped area designed for passive or active recreation, which may contain a broad range of recreational facilities such as play equipment, play fields, athletic courts, skating rink, beach, swimming pool, recreational building; and appurtenant structures such as bath houses, restrooms, and maintenance buildings. It may also contain such other facilities as a band shell; outdoor spaces provided for people to gather for purposes of recreation, education, or other communal activity such as art and craft shows, farmer's markets, or festivals; and its uses may include activities of both for-profit and not-for-profit character such as temporary sales, not to exceed seven days.

Water Bottling Facility: A structure and accessory structures used in packaging water into containers for wholesale sales. Industrial business. (amended 2010)

Wetland: Any land which is subject to continual or periodic inundation by water and commonly referred to as a bog, swamp, or marsh.

Zoning Inspector: The Zoning Inspector of the Town, appointed by the Town Board and principally charged with administering and enforcing this local law, and having the powers and duties set forth in this local law, in the Subdivision Regulations, and as may be further provided by the Town Board.

SECTION 21 VILLAGE DISTRICT REGULATIONS

In the Village Districts, the following regulations apply:

21.010 District V-RES I

- a. Permitted uses: single-family dwelling, garden, home occupation, accessory use, accessory apartment, guest cottage

- (amended 2010)
- b. Uses allowable by special permit: two-family dwelling, guest house, group home, public utility, major public utility (amended 2010)
 - c. Residential density shall not exceed one dwelling unit for each 1.5 acres. The minimum lot size shall be 7,500 square feet.
 - d. Each project shall provide not less than 2 off-street parking spaces per dwelling unit.
 - e. No building shall exceed 30 feet in height, measured from the first floor above the building's foundation to the highest portion of the roof.
 - f. No building or any portion thereof shall be closer than 25 feet from any lot line, nor closer than 50 feet from the near edge of the road bed of a public highway, except that in developed areas where, among existing buildings adjacent to or neighboring the site in question, there is an established pattern of setback from a public highway, then a new building shall follow the established pattern.
 - g. No lot shall have any dimension less than 75 feet.

21.020 District V-RES II, including V-RES II(t) and V-RES II(t)(a)

- a. Permitted uses: single-family dwelling, public park, church, library, gardens, home occupation, accessory apartment; In districts designated V-RES II(t)(a), agriculture. (amended 2010)
- b. Uses allowable by special permit: two-family dwelling, guest house, nursing home, group home; In districts designated V-RES II(t), and V-RES II(t)(a), transient accommodations, guest cottage, public utility, major public utility. (amended 2010)
- c. Residential density shall not exceed one dwelling unit for each 1/2 acre, or one transient unit for each 1/10 acre. The minimum lot size shall be 7,500 square feet.
- d. Each project shall provide not less than 2 off-street parking spaces per dwelling unit, or 1 space per transient unit.
- e. No building shall exceed 30 feet in height, measured from the first floor above the building's foundation to the highest portion of the roof.
- f. No building or any portion thereof shall be closer than 25 feet from any lot line, nor closer than 50 feet from the near edge of the road bed of a public highway, except that in developed areas where, among existing buildings adjacent to or neighboring the site in question, there is an established pattern of setback from a public highway, then a new building shall follow the established pattern.
- g. No lot shall have any dimension less than 75 feet.

21.030 Districts V-RES II-PD(cc) and V-RES II-PD(a)

- a. Permitted uses: single-family dwelling, public park, garden, home occupation, accessory use, accessory apartment, guest cottage; with respect to V-RES II-PD(cc) only, golf course and agriculture; with respect to V-RES II-PD(a) only, agriculture. (amended amended 2010)
- b. Uses allowed by special permit: two-family dwelling, group home, nursing home, transient accommodations, industrial spring/well, public utility, major public utility; with respect to V-RES II-PD (cc) only: multi-family dwelling, commercial recreation facility, restaurant/bar; with respect to V-RES II-PD(a) only, self storage facility. (amended amended 2010)
- c. Residential density shall not exceed one dwelling unit for each 1/2 acre, or 1 transient unit for each 1/10 acre. The minimum lot size shall be 7,500 square feet.
- d. Each project shall provide not less than 2 off-street parking spaces per dwelling unit or 1 space per transient unit.
- e. No building shall exceed 30 feet in height, measured from the first floor above the building's foundation to the highest portion of the roof.
- f. No building or any portion thereof shall be closer than 25 feet from any lot line, nor closer than 50 feet from the near edge of the road bed of a public highway, except that in developed areas where, among existing buildings adjacent to or neighboring the site in question, there is an established pattern of setback from a public highway, then a new building shall follow the established pattern.
- g. Any project involving the construction of one or more buildings shall be deemed to be a subdivision and shall require review pursuant to the Subdivision Regulations.
- h. Unless reduced pursuant the provisions of Subsection 21.030(i) below, no lot shall have any dimension less than 75 feet.
- i. The project sponsor may elect to override the minimum lot size requirement, but detached buildings shall be at least 75 feet apart. Under this option, no building shall be closer than 100 feet from the near edge of the road bed of a public highway, and no building shall be closer than 100 feet from the perimeter of the development. Not less

than 30% of the total project area shall be usable common open space meeting the standards of this subsection. In computing total project area, all land areas within the project shall be counted. The common open space may be of three types:

1. Centrally located major open space serving the entire project, or, in the event the project is divided into large segments, serving each such segment. Such space shall be predominantly left in its natural state and accessible from all dwelling units served.
 2. Satellite open space areas serving groups of dwellings. Each such area shall be useful and attractive for active and passive recreation and readily accessible from the group of dwellings served.
 3. Linear open space connectors, attractively designed and landscaped, linking the various residential and amenity elements of the project.
- j. Such usable common open space shall, at all times, be accessible to all residents of the project, appropriately improved for common use, and protected against any development inconsistent with its common open space character. As a condition of its approval of such a plan, the Planning Board shall require that the project sponsor submit a restrictive declaration for filing in the land records or other suitable guarantee insuring compliance with the above.
- k. The project shall be designed and constructed in a manner sensitive to the topography and other natural resource considerations, and shall reasonably apply the guidelines of the Village Plan. Existing native vegetation shall be retained to the maximum extent feasible. A detailed landscaping plan shall be required with any Special Permit or subdivision application.
- l. To the extent feasible, the parking shall be clustered in common landscaped areas, but not concentrated to an unaesthetic degree.

21.040 District V-RES III

- a. Permitted uses: single-family dwelling, two-family dwelling, public park, church, gardens, home occupation, accessory use, accessory apartment, guest cottage. (amended 2010)
- b. Uses allowable by special permit: group home, nursing home, guest home, public utility, major public utility; the following additional uses within the LM/C Subdistrict only: light commercial, light manufacturing, water bottling facility. (amended 2010)
- c. Residential density shall not exceed one dwelling unit for each 1/4 acre. The minimum lot size shall be 7,500 square feet.
- d. Each project shall provide not less than 2 off-street parking spaces per dwelling unit.
- e. No building shall exceed 30 feet in height, measured from the first floor above the building's foundation to the highest portion of the roof.
- f. No building or any portion thereof shall be closer than 20 feet from any lot line, nor closer than 40 feet from the near edge of the road bed of a public highway, except that in developed areas where, among existing buildings adjacent to or neighboring the site in question, there is an established pattern of setback from a public highway, then a new building shall follow the established pattern.
- g. No lot shall have any dimension less than 75 feet.

21.050 District V-BUS

- a. Permitted uses: single-family dwelling, two-family dwelling, multi-family dwelling, light commercial use, transient accommodation, library, public park, government office, fire station, marine base, gardens, accessory use, home occupation, accessory apartment. (amended 2010)
- b. Uses allowable by special permit: group home, public utility, major public utility. (amended 2010)
- c. Residential density shall not exceed 1 dwelling unit for each 1/4 acre, or 1 transient unit for each 1/10 acre. No lot shall be smaller than 7,500 square feet.
- d. Each project shall provide off-street parking spaces at the rate of not less than (1) 1 space per transient unit or 200 square feet of light commercial space, (2) 1¼ spaces per dwelling unit, provided where application of such rate results in a fractional number, the result shall be adjusted upward to the next whole number.
- e. No building shall exceed 35 feet in height, measured from the first floor above the building's basement to the top portion of the roof.
- f. Building setbacks shall generally follow the established patterns of existing buildings adjacent to or neighboring the site unless, as part of an overall site development plan, a deviation therefrom is reasonable.
- g. The percentage of lot coverage and other criteria related to site design shall be reasonable and appropriate for the site taking into account the character of the surrounding area and other considerations listed in Section 26.042

hereof.

21.060 District V-IND

- a. Permitted uses: heavy commercial use, manufacturing, heavy equipment facility, individual mobile home, railroad station
- b. Uses allowed by special permit: self storage facility, water bottling facility, industrial spring/well, public utility, major public utility, light commercial. (amended 2010)
- c. No building shall exceed 35 feet in height, measured from the first floor above the building's basement to the top portion of the roof.
- d. No building or any portion thereof shall be closer than 25 feet from any lot line, nor closer than 50 feet from the near edge of the road bed of a public highway.
- e. Each project shall provide off-street parking spaces at the rate of not less than (1) one space per 1,000 square feet of non-residential building space, and (2) two spaces per dwelling unit.
- f. Each project application shall demonstrate adequate provision for loading and docking, exterior storage areas, and exterior waste disposal areas, taking into account the particular needs of the project.

21.070 District V-MGT

- a. Permitted uses: agriculture, single-family dwelling, accessory use, home occupation, accessory apartment. (amended 2010)
- b. Uses allowed by special permit: public utility, major public utility. (amended 2010)
- c. Residential density shall not exceed one dwelling unit for each 42 acres. The minimum lot size shall be 7,500 square feet.
- d. No building or any portion thereof shall be closer than 25 feet from any lot line, nor closer than 50 feet from the near edge of the road bed of a public highway.

21.080 District V-FAC

- a. Permitted uses: school public park, fairground, playground, or sewage treatment plant, cemetery, athletic field, Village Center Park (only within the Special Village Center District).
- b. Uses allowed by special permit: public utility, major public utility. (amended 2010)

SECTION 22 SHORELINES

22.010 Purpose

In order to provide adequate protection of the quality of the lakeshore of the Village and the visual quality of its shoreline, the following regulations apply in all districts.

22.020 Shore Frontage

22.021 Standard Residential Lots

Except as provided in Section 22.022, the shore frontage of a shoreline lot shall be at least 75 feet for each dwelling unit located thereon.

22.022 Clustered Residential Development

- a. In the case of a project including two or more shoreline lots, the Planning Board may authorize such lots, or a portion of such lots, to have less shore frontage than that required in Section 22.021, provided that for the project as a whole the ratio of dwelling units to shore frontage is not greater than one per 50 feet of shore frontage and that not less than 50% of the shoreline in question remains undeveloped.
- b. As a condition of permitting such clustering of shoreline development, the Planning Board must find that the applicant will insure, through conservation easement, restrictive covenant, declaration, or other appropriate means, that the undeveloped portions of shore-line, with the land upland of such shoreline to a depth of 150 feet, will be retained substantially unimproved and in its natural state.

22.023 Common Shoreline

In the case of a project where residential lots, sites, or units are afforded deeded or contractual access to shoreline, the following minimum amounts of shore frontage are required in the following cases:

- a. Where fewer than 5 dwelling units are involved, 50 feet.
- b. Where 5 or more but not more than 20 dwelling units are involved, 100 feet.
- c. Where more than 20 but not more than 100 dwelling units are involved, 100 feet plus 3 feet for each such unit in excess of 20.
- d. Where more than 100 but not more than 150 dwelling units are involved, 340 feet plus 2 feet for each such unit in excess of 100.
- e. Where more than 150 dwelling units are involved, 440 feet plus one foot for each such unit in excess of 150.

22.024 Double Counting of Shore Frontage

In the case of a project including both (a) shoreline lots and (b) residential lots, sites, or units having deeded or contractual access to shoreline, no shore frontage counted to satisfy the requirements of Sections 22.021 or 22.022 shall also be counted to satisfy the requirements of Section 22.023.

22.025 Buffer Between Residential and Certain Non-Residential Shoreline Uses

In the case of any marine base involving shoreline, there shall be a minimum of 50 feet of undeveloped shoreline between each edge of such use and any adjoining property improved with dwelling units.

22.030 Building Setback

The minimum setback from a shoreline of all buildings and all accessory structures having in excess of 100 square feet of floor area, except docks and boathouses, shall be 50 feet.

22.040 Removal of Vegetation

- a. Within thirty-five (35) feet of the mean high water mark no vegetation may be removed, except that up to a maximum of thirty percent of the trees in excess of six (6) inches diameter at breast height existing at any time may be cut over any ten-year period.
- b. Within six (6) feet of the mean high water mark no vegetation may be removed, except that up to a maximum of thirty percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to a. above.
- c. Subdivisions (a) and (b) of this Section shall not be deemed to prohibit the removal of diseased vegetation or of rotten or damaged trees or of vegetation that presents a safety or health hazard.

SECTION 23 SIGNS

For Sign Regulations, see Section 10.

SECTION 24 MISCELLANEOUS REGULATIONS

24.010 Travel Trailers

24.011 No travel trailer shall be parked or located overnight within any Village except:

- a. On the property of the owner thereof in conformance with Sections 24.012 and 24.013 below, or
- b. On the premises of a travel trailer sales or rental establishment

24.012 No travel trailer shall be parked or located overnight on the property of the owner thereof, unless such travel trailer is parked in the least conspicuous place possible as viewed from a public highway regularly trafficked by the public, preferably parked in the rear or side yard behind the front face of the principal building, and preferably no closer than six feet to any lot line. A travel trailer so parked shall not block access by emergency vehicles, shall not be used as living quarters and shall not be hooked up to any utilities.

24.013 A visitor to a family may park a travel trailer on the lot of the family being visited subject to the issuance of a

permit by the Zoning Inspector, provided it is located in accordance with the requirements of Section 24.012. Such use of the subject premises shall not exceed 30 consecutive days or 45 days in total during any one calendar year, and shall not be provided pursuant to payment or donation of any fee or equivalent goods or services.

24.020 Motor Vehicle Storage

No motor vehicle, as such term is defined in the Vehicle and Traffic Law, may be stored outdoors within the Village unless such vehicle bears a current New York State Motor Inspection Certificate pursuant to Article 5 of the Vehicle and Traffic Law. This regulation shall not apply to the vehicles of persons currently serving in the Armed Forces of the United States, or to vehicles stored on premises by an automobile dealer or garage.

24.030 Garage or Lawn Sales

Garage or lawn sales may be conducted as an accessory use, but each sale shall require a permit issued by the Zoning Inspector. Such sales shall be subject to the following regulations:

- a. No family shall hold more than 3 such sales annually.
- b. Each sale shall be limited to 3 days duration, and such days shall run consecutively.
- c. Upon the termination of a sale, the operator thereof shall erase all evidence of the sale within 24 hours.

24.040 Abandoned Projects

Where a project, other than a project involving the construction or alteration of a single-family dwelling or involving agriculture, once begun, has had no substantial progress for 12 months or more, then the project shall be deemed abandoned, and the Zoning Inspector may order (1) the premises to be cleared of rubbish, building materials, and any other unsightly accumulations, and (2) any excavation to be filled or completely enclosed by a substantial fence at least 6 feet high.

24.050 Fences

Fences may be erected as an accessory use and shall require a permit issued by the Zoning Inspector. Such fences shall be subject to the following regulations:

- a. No fence, free-standing wall or hedge shall be located within the right of way of any public highway.
- b. No fence, free-standing wall or hedge shall be located so that it substantially interferes with the visibility from a public highway of an intersecting public highway, private road, or driveway.

24.060 Automobile Junkyards and Junkyards

No new automobile junkyards or junkyards shall be permitted within any Village District. Any such junkyards in existence shall not be protected under the provisions of Section 4, and within 5 years of the effective date of this local law or its predecessor (July 1980) all existing automobile junkyards and junkyards shall be removed and their sites cleaned of all materials associated therewith.

24.070 Waste Disposal Areas; Exterior Storage Areas

All waste disposal areas and exterior storage areas associated with uses permitted in the V-BUS, V-IND, and V-FAC Districts shall be maintained in a neat and orderly condition and located in so far as possible out of sight of any public highway. In situations where waste disposal areas cannot be so located, then they shall be screened by an opaque fence or substantially opaque plantings. Any such fences shall be constructed of such material (preferably wood) that it in itself is not an eyesore.

24.080 Animals

24.081 In accordance with the definition of "agriculture," animals may be kept in Village Districts where agriculture use is permitted.

24.082 In accordance with the definition of "use, accessory," the keeping of individual pets, provided that no such pet shall be an animal customarily raised as a farm animal or farm fowl, is permitted.

24.083 Notwithstanding the prohibitions of Sections 24.081 or 24.082 above, animals may be kept, pursuant to a Special Permit issued in accordance with the procedures of Section 5, in those areas of the Village where the owner has proper buildings or enclosures for this purpose, and no significant noise, odor, or other nuisance is discernable off the premises.

24.090 Guest Houses, Nursing Homes, and Group Homes

24.091 Guest Houses

A guest house may be established only in an existing building and shall have one on-site parking space for each guest room. Such parking shall be located substantially behind or to the side of the principal building.

24.092 Nursing Homes and Group Homes

Nursing homes and group homes shall have on-site parking sufficient for staff and visitors.

24.100 Accessory Apartments (amended 2010)

24.101 The intent of this section is to allow separate living space within an existing single family dwelling to be occupied by family members or caregivers and to ensure that this use is conducted in a manner that protects and preserves neighborhood character and property values.

24.102 Notwithstanding the maximum intensity of development and the minimum lot size specified for the particular zoning district, an accessory apartment shall be allowed in a single family dwelling in all Village districts except for V-IND and V-FAC, provided that the following conditions are found to be satisfied in Site Plan Review by the Planning Board.

- a. The Town will maintain a list of all accessory use apartments in current use.
- b. The landowner, or their agent, is required annually to renew the permission to continue the accessory apartment and provide documentation that all provisions of this section are in compliance. Failure to renew the use will result in the termination of the approval for the accessory apartment and require the removal of the kitchen facilities stated in Section (c).
- c. When the purpose or the authorization for the accessory apartment expires or is invalidated, the kitchen facilities of the apartment, including any refrigerator, stovetop or range, dishwasher, and microwave, shall be removed within 60 days.

24.103 Standards and Requirements

- a. The owner(s) of the property shall occupy at least one of the dwelling units on the premises as a principal residence.
- b. No more than one accessory apartment is permitted on a lot.
- c. Modification to an existing building to accommodate an accessory apartment shall comply with all provisions contain in this zoning law except for the density allowance provided in accordance with this section.
- d. An accessory apartment shall not exceed 750 square feet in size of the floor space.
- e. If the total habitable floor space of all dwelling structures on the lot exceeds 3500 square feet, no new habitable space may be constructed on the lot.
- f. Off-street parking shall be available for the occupant(s) of the accessory apartment and the primary single family dwelling.
- g. Sites within the wastewater district will be connected to the district wastewater system.
- h. Site served by existing on-site wastewater treatment system shall meet all applicable State and Town standards for wastewater systems.
- i. The building containing the accessory apartment shall meet all applicable Standards of the State Building Code and Local Law.
- j. The property may be served by only one meter for each water and electric utility supplied.
- k. No more than two (2) people may reside in the accessory apartment.
- l. No money may be received by the property owner in exchange for occupancy of the accessory apartment.

24.104 Procedures for Approval of Accessory Apartments

Approval by the Planning Board of a proposed accessory apartment shall require notice to the public and a public hearing conducted under the Site Plan Review procedures and requirements described in this Local Law.

24.110 Standards for Industrial Spring/Well (amended 2010)

The following specific standards apply in connection with the review and approval of an industrial spring/well

- a. Precipitation recharge to the aquifer system being tapped must safely exceed the proposed maximum quantity of groundwater (or spring water) to be extracted. In addition, the daily withdrawal of water from the site shall not be allowed to have an undue adverse environmental impact on nearby wells, surface water or the storage capacity of the aquifer. It shall be the responsibility of the project sponsor to retain the services of a qualified geologist or hydrogeologist to certify that this condition has been satisfied based on results of the site specific studies and/or investigations.

SECTION 25 LANDMARK PRESERVATION

25.010 Findings and Purpose

It is hereby found and declared that, as documented in the Westport Village Development and Preservation Program, there are within the Village particular buildings or other improvements of special character or special historical or aesthetic interest or value, and that the conservation and protection of the same is a public necessity and is required in the interest of the prosperity and welfare of the people. The purpose of this Section is to:

- a. Accomplish the conservation and protection of such improvements;
- b. Safeguard the historic, aesthetic, and cultural heritage of the Village;
- c. Stabilize and improve property values in the Village;
- d. Foster civic pride in the beauty and noble accomplishments of the past;
- e. Protect and enhance the Village's attractions to tourists and visitors and the support and stimulus to business and commerce thereby provided.

25.020 Application of Regulations

The regulations contained in this Section apply to landmarks, as designated on the Zoning Map. The landmark designation reflects buildings or other improvements of special character or special historical or aesthetic interest or value designated on the Zoning Map.

25.030 Preservation Advisory Board

There shall be a Preservation Advisory Board for the Village. Such board shall consist of not less than 3 nor more than 5 Village residents, not members of the Planning Board or Board of Appeals, named by the Town Board for terms not to exceed 5 years, provided that the terms of no more than 2 of the members shall expire during any 12-month period. In the case of a member's resignation or inability to serve, the Town Board shall appoint a person for the unexpired portion of such member's term. No member may serve for more than 2 consecutive terms. The Preservation Advisory Board shall, to the extent feasible, include persons skilled or knowledgeable in architectural history, architecture, real estate, carpentry, and masonry. The Preservation Advisory Board shall make recommendations to the Planning Board in its consideration of special permits pursuant to Section 25.040 hereof, and perform such other duties in aid of historic preservation within the Village as the Town Board may request. The Preservation Advisory Board shall serve without compensation, except that actual expenses of members incurred in connection with official duties may be reimbursed out of appropriations of the Town Board for such purposes. The Preservation Advisory Board shall establish rules of procedure and shall select a chairman and secretary from among its members.

25.040 Alterations or Demolition

25.041 Requirement of Special Permit

With regard to a landmark,

- a. No alteration, including painting or resurfacing to a different color or material, significantly affecting its appearance as seen from a public highway, and
- b. No demolition of all or any portion thereof visible from a public highway shall be undertaken except pursuant to a special permit issued by the Planning Board, in contemplation of the recommendations of the Preservation Advisory Board. Anything in this provision to the contrary notwithstanding, nothing herein shall prevent the demolition and clearance of any building which the Zoning Inspector determines poses a clear and present danger to health and safety.

25.042 Application

An application for a special permit under this Section shall be filed in 5 copies with the Zoning Inspector, and shall include the address, one or more photographs of the property in question, and

- a. In the case of a proposed alteration, a full description of the work proposed, including, where appropriate, color or material samples and, where feasible, architectural elevations, or
- b. In the case of a proposed demolition, material relevant to the finding required for demolition pursuant to Subsection 25.043(b) hereof. The application also shall contain any available information, including drawings and photographs, as to the history and prior appearance of the property in question.

25.043 Procedure and Required Finding

- a. Upon receipt of an application, the Zoning Inspector shall refer the application to the Planning Board and the Preservation Advisory Board. The Planning Board and the Preservation Advisory Board may require the applicant to furnish additional material or information. The preservation Advisory Board, within 30 days after receipt of a complete application, shall submit to the Planning Board in writing its evaluation of the appropriateness of the proposed work or demolition in light of the objectives of this Section. Specifically, in the case of a proposed alteration, the report shall evaluate the scale, color, materials, general design and arrangement, architectural detailing, and other features of the proposed work in light of the individual history and style of the building in question. In the case of a proposed demolition, the report shall evaluate the landmark in light of the demolition finding in Subsection 25.043(b) below. For a proposed alteration, the report shall contain a summary recommendation as to the appropriateness or inappropriateness of the proposed work, together with, in the case of a proposal deemed inappropriate, recommendations as to how the proposed work could be modified to render it appropriate.
- b. In order to grant a special permit under this Section, the Planning Board shall find
 1. that in the case of a proposed alteration, that such alteration is, taking into account fundamental needs of the owner of the property in question, satisfactorily consistent with the historic and/or architectural character of the landmark, or
 2. in the case of a proposed demolition, that the landmark in its present condition or as it may be rehabilitated or altered, is incapable of earning a reasonable return. In considering such finding, the Planning Board shall explicitly take into consideration the report of the Preservation Advisory Board. In the case where the Planning Board shall reject the recommendation of the Preservation Advisory Board, the report of the Planning Board on its action shall explicitly state the reason for such rejection.
- c. Except as otherwise provided in this Section, the procedure followed as to notice, hearing, and similar matters in connection with a special permit pursuant to this Section shall be that set out in Section 5.030 hereof, provided that no public hearing shall be scheduled until 30 days following the referral of an application to the Preservation Advisory Board.

SECTION 26 SPECIAL VILLAGE CENTER DISTRICT

26.010 Findings and Purpose

It is hereby found and declared that the visual quality of and distribution of land uses within the Village center is of special importance to the prosperity and welfare of the Village and its citizens. The purpose of this Section is to establish special regulations governing the distribution of uses and configuration of buildings within the Village center.

26.020 General

26.021 Application of Regulations

The regulations contained in this Section apply within the Special Village Center District, as designated on the Zoning Map.

26.022 Relation to Other Districts

The Special Village Center District is a special purpose district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

26.030 Development Guidelines Isometric

The Village Center Development Guidelines Isometric, derived from the Westport Village Development and Preservation Program, is hereby incorporated into this Section as reference material.

26.040 New Construction

26.041 Special Permit

Within the Special Village Center District, construction of any new, or substantial enlargement or substantial alterations of any existing building shall be only pursuant to a special permit issued by the Planning Board in accordance with this Section.

26.042 Regional Finding

The Planning Board shall issue such special permit where it finds that, to the extent feasible and appropriate, the proposed construction is compatible with the Westport Village Development and Preservation Program, as expressed in the Development Guidelines Isometric. In particular, the Planning Board shall consider the proposed construction's conformity with the Development Guidelines Isometric with respect to the following:

- a. Building location, configuration, and scale, including height, roofline, and set back (if any) from street
- b. Facades including crenellation, materials, transparency, porches
- c. Character and location of uses including ground floor retail, residential uses, and proposed inn
- d. Preservation of landmark buildings
- e. Preservation of view corridors
- f. Road extensions
- g. Beach-promenade easement
- h. Street and sidewalk improvements
- i. Open space improvements

26.043 Application

An application for a special permit under this Section shall be filed in 5 copies with the Zoning Inspector, and shall include a site plan of the property in question drawn to scale and plans for the proposed new building.

26.044 Procedure

The procedure for a special permit under this Section shall be that set out in Section 5.030 hereof.

SECTION 27 SPECIAL OPEN SPACE DISTRICT (V-OSP)

27.010 Findings and Purpose

It is hereby found and declared that

- a. There are within the Village particular open spaces which are of special visual and scenic significance and value to the public as open space, or which are so located or of such character that their development in most cases would present unacceptable adverse environmental consequences,
- b. That the conservation and protection of such open spaces is a public necessity and is required in the interest of the health, safety, and welfare of the people. The purpose of this Section is to conserve and protect the visual and environmental quality of the Village through the conservation and protection of such open spaces.

27.020 General

27.201 Application of Regulations

The regulations contained in this Section apply within the Special Open Space District which appears on the Zoning Map over open spaces having special visual or environmental character.

27.022 Relation to Other Districts

The special Open Space District is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

27.030 Projects Within District

27.031 Special Permit

Within the Special Open Space District, no person shall undertake a project except pursuant to a special permit issued by the Planning Board.

27.032 Required Finding

The Planning Board shall issue such special permit only where it finds

- a. The project cannot feasibly be located at a site not within the Special Open Space District;
- b. Within the Special Open Space District, the project is located and designed so that its visual impact is minimized; and
- c. Independent of visual considerations, the project will be located, designed, constructed, and operated such that it will have no substantial adverse impact on the environment, public health or safety.

27.033 Application

An application for a special permit under this Section shall be filed in 5 copies with the Zoning Inspector, and shall include:

- a. A plan of the property in question drawn to scale and showing topographic and manmade features,
- b. A detailed plan of the project proposed, and
- c. Information enabling the Planning Board to consider the findings stated in Section 27.032 hereof.

27.034 Procedure

The procedure for a special permit under this Section shall be that set out in Section 5.030 hereof.

SECTION 28 FLOOD-PRONE AREAS

28.010 Special Flood-Prone Areas

Construction on and alteration of flood-prone lands is subject to the provisions of Local Law Number ___ of the Year 1987 of the Town of Westport.

SECTION 29 OFF-STREET PARKING

29.010 Purpose

The purpose of this section is to ensure the provision of adequate parking while minimizing both the burdens placed on property owners to provide on-site parking on small village lots and the negative impacts of excessive parking lot construction. Large and highly visible parking lots tend to damage the historic layout and architectural fabric of a village, harm the natural environment and visual character of the village, interfere with pedestrian safety and accessibility, and reduce the quality of life. Excessive parking requirements can make it difficult or impossible for business to locate on the Village Business District.

29.020 Minimum Off-Street Parking Required for Residential Uses

- a. For single-family or two-family dwelling: 2 spaces per dwelling unit.
- b. For multi-family dwelling: One-and-one-half spaces per dwelling unit (fractions shall be rounded up).
- c. These requirements may be reduced for dwelling units with less than 1,000 square feet of floor space, senior citizen housing, mixed-use development, or other appropriate circumstances if the Planning Board determines that such reductions are warranted.

29.030 Parking Requirements for Non-residential Uses

Because non-residential uses vary widely in their need for off street parking, parking requirements shall be based on the specific operational characteristics of each proposed use. The provisional parking standards in Subsection 29.031 below shall be applied and may be varied by the Planning Board to the criteria in Subsection 29.032 below.

29.031 Provisional Parking Standards

- a. Retail or service business uses: Four spaces per 1,000 square feet of enclosed floor space.
- b. Industrial/warehouse uses: One space per 1,000 square feet of enclosed floor space.
- c. Office uses: Three spaces per 1,000 square feet of floor space.
- d. Transient Accommodation: One space for each bedroom plus one space for each non-resident employee and one space for every 200 square feet of floor space for meetings and functions.
- e. Restaurants, theaters, and other places of public assembly: One space for every three seats.
- f. Uses not listed above: As appropriate to the circumstances.

29.032 Criteria for Applying Provisional Standards

In applying or modifying the provisional parking standards for any proposed use, the Planning Board shall consider:

- a. The nature of the previous use of the same property. If the proposed use has no greater parking demand than the previous use, it shall be deemed to require no additional parking spaces. If the new use requires more parking than the previous use, it shall be obligated to provide only the number of spaces by which its parking demand exceeds the demand of the previous use. For example, if a restaurant requiring 10 spaces replaces a retail store that required only 5 spaces, the restaurant would be responsible for either supplying 5 additional spaces or showing that such spaces are not needed or already exist within the Village parking supply.
- b. The maximum number of vehicles that actually be parked at the use at times of peak usage Parking shall be sufficient to satisfy 85 % of the anticipated peak demand. The likelihood of people walking, bicycling, or carpooling to the proposed use shall be taken into consideration. The likelihood that people would park in one place in the Village and visit the proposed use as one of several destinations shall also be taken into account
- c. The size of the structure(s) and the property.
- d. The environmental, scenic, or historic sensitivity of the site. In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the Planning Board may require a reduction in the size of the structure so that the available parking will be sufficient
- e. The availability of safely usable on-street parking in front of the use.
- f. The availability of off-site off-street public parking lots within 1,000 feet, where such parking lots generally have spaces available.
- g. The availability of off-site off-street parking within 1,000 feet that is owned, leased, or controlled by the applicant or available on shared-use basis, provided that the applicant either dedicates such off-site land for public parking or demonstrates a legal right to its use.
- h. The requirements for parking for the disabled as prescribed by the Americans with Disabilities Act.

29.033 Fee in Lieu of Parking Space

Where the required spaces cannot be provided on-site, on the street, or in existing public or private parking lots, the applicant shall pay a fee in lieu of providing one or more required spaces, in an amount established by the Town Board sufficient to cover the estimated cost of providing additional public parking spaces. Such fee shall be kept in a dedicated fund for municipal parking purpose and shall be used for such purpose within three years or returned to the applicant (or the applicant's successor).

29.040 Design of Parking Areas

29.041 Location and Screening

Ail off-street parking shall be located behind or to the side of the principal building. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining parking areas shall be connected directly to one another or to service road or alley wherever feasible to reduce turning movements onto roads.

29.042 Landscaping

Parking lots shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them onto separate parking areas divided by tree lines, alleys, pedestrian areas, or buildings. At least one 3-inch minimum caliper shade tree shall be provided per eight spaces.

29.043 Lighting

Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cut-off luminaries designed to minimize glare and light pollution. Design of poles and luminaries shall be compatible with the style of the architecture and adjoining streetscape treatment.

29.050 Parking Lot as Accessory Use to Residential Dwelling

Parking spaces may be made available for non-residential uses on residential lots on the V-BUS District by Special Permit. Such spaces shall be screened from adjoining properties and roads, and shall not exceed six spaces per lot.

29.060 Existing Uses and Structures

The provisions of the Section 29 shall not apply to any use in existence on Feb 13, amended 2001 (date of enactment of Section 29). Expansion of existing uses and new uses located in existing structures shall be brought into conformity with this Section to the extent practical.

PART THREE: WESTPORT TOWN DISTRICT REGULATIONS

SECTION 30 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

30.010 Construction of Language

The following rules of construction apply to the text of this local law:

- a. The particular shall control the general.
- b. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- c. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- d. A "building" or "structure" includes any part thereof.
- e. The word "used," when employed in the phrases "used to," "used for" or "used as" includes the following words when employed in similar phrases: "designed," "intended," "maintained," "occupied."
- f. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 2. "Or" indicates that, the connected items, conditions, provisions, or events may apply singly or in any combination.
 3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- g. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

30.020 Definitions

When used in this local law, the following terms shall have meanings set out below. Any term used in this local law which is not defined in this Section or elsewhere in this local law shall carry its customary meaning as defined in a generally accepted dictionary.

Accessory Apartment: An accessory apartment is a short-term accessory use to a single family dwelling. It is a separate living space within a single family dwelling to be occupied by family members or caregivers. An accessory apartment shall constitute a principal building however it does not need to comply with the density or minimum lot size requirements of the district. (amended 2010)

Accessory Use. A use of a structure, lot, or portion thereof that is customarily incidental and subordinate to and does not change the character of the principal use to which it is accessory, including in the case of residential structures a home occupation.

Adirondack Park. Land lying within the area described in subdivision one of Section 9-0101 of the Environmental Conservation Law of the State of New York including any future amendments thereto.

Adirondack Park Agency or Agency. The Adirondack Park Agency created by Section 803 of Article 27 of the Executive Law of the State of New York.

Adirondack Park Agency Act. Article 27 of the Executive Law of the State of New York, including any future amendments thereto, and may be hereafter referred to as the "Act."

Agricultural Data Statement. An identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which a Special Permit, use variance, or subdivision is proposed, as provided in Section 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed Subdivision relative to the location of farm operations identified in the agricultural data statement.

Agricultural Service Use. A use directly and customarily related to the supply and service of agriculture, including a milk processing plant, feed storage and supply facility, farm machinery or equipment sales and service facility, or storage and processing facility for fruits, vegetables, and other agricultural products.

Agriculture. The use and management of land for the raising of crops or livestock. The term includes raising of cows, horses, pigs, poultry, and other livestock, beekeeping, horticulture, orchards, the sale of products grown or raised directly on such land, the construction, alteration, or maintenance of barns, sheds, stables, silos, garages, produce sales stands, fences, agricultural roads, agricultural drainage systems, farm ponds, and other buildings or structures customarily associated with agriculture.

Area variance: the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

Automobile Junkyard. Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered vehicles, no longer intended or in condition for legal use on the public highways or in agricultural, forestry, or mining activities, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles provided; however, the term junkyard shall not be construed to mean an establishment having facilities for processing iron, steel, or non-ferrous scrap for sale for remelting purposes only. For the purpose of this definition, "motor vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways or in agricultural, forestry, or mining activities.

Bed and Breakfast. An owner-occupied residence offering overnight accommodations in the principal building or an accessory structure, with no more than four bedrooms in the residence for transient use, and serving no meals other than breakfast.

Board of Appeals. The Board of Appeals of the Town, also referred to as the Zoning Board of Appeals.

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

Building. A permanent, fixed structure (not including a mobile home) having a roof or other overhead cover and intended for the shelter, housing, or enclosure of persons, animals, or other property.

Campground. An area designated for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar facility designated for temporary shelter. This term includes a travel trailer camp and related facilities.

Cemetery. A place for burial of the dead, including crematory facilities and morgues as accessory or commercial uses. Commercial uses may require a permit.

Class A Regional Project. A land use or development which is classified and defined as such in Section 810 of Act, listed in Appendix A of this local law.

Class B Regional Project. A land use or development which is classified and defined as such in Section 810 of Act, listed in Appendix B of this local law.

Class A Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of Act, listed in the town subdivision regulations.

Class B Regional Subdivision. A subdivision which is classified and defined as such in Section 810 of Act, listed in the town subdivision regulations.

Clearcutting. Any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle, involving four or more contiguous acres of land.

Commercial, Large Scale. A commercial use which occupies more than 10,000 square feet of floor area or more than one acre of land.

Commercial Resource Extraction. Any extraction from the land of more than 50 cubic yards in any two-year period of sand, gravel, topsoil, or other mineral deposit.

Commercial Resource Extraction Structure. Any mine hoist; ore reduction, concentrating, sintering, or similar facilities and equipment; administrative buildings; garages or other main buildings or structures.

Commercial Use. Any use involving the sale or rental or distribution of goods, services, or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. The term shall not include uses of the above nature which are separately defined in this local law.

Community Water/Sewage Disposal Facility. Water and/or sewage disposal system shared by a group of property owners, owned privately by the property owners or another entity under applicable provisions of State Law.

Community Facility. Any facility, college, school, library, hospital, animal hospital, place of worship, museum, playground, firehouse, meeting hall, park, post office, group home, nursing home, municipal office, meeting hall, or similar facility maintained by a public or by a not-for-profit association primarily for social, recreational, welfare, or educational needs of the community.

Conservation Easement. A perpetual restriction on the use of land, created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or Section 247 of the General Municipal Law, for the purposes of

conservation of open space, agricultural land, and natural, cultural, historic, and scenic resources.

County. Essex County.

County Planning Board. The Essex County Planning Board, established pursuant to Article 12B of the General Municipal Law.

Day. Calendar day, including Sundays and holidays, unless otherwise specified.

Dwelling Unit. Any one of the following: single-family dwelling, mobile home, each unit of a two-family dwelling or multi-family dwelling.

Family. A single individual occupying a dwelling, or two or more individuals occupying a dwelling and maintaining a common household.

Farm Operation. Land used in agricultural production, farm buildings, equipment, and farm residential buildings.

Forestry. Use or management, including logging, of a forest, woodland, or tree plantation, and related research and educational activities, including the construction, alteration, or maintenance of roads, skidways, landings, fences, forest drainage systems, barns, sheds, garages, and research, educational, or administrative buildings or cabins directly and customarily associated with forestry use.

Group Camp. Any land or facility for seasonal housing and recreational, educational, or business related use by private groups or semi-public groups, such as boy or girl scout camp, fraternal lodge or university, or college conference center.

Group Home. A residential facility for children or adults who require special care or supervision, such facility being operated by, under contract with, or licensed by a state or county agency.

Guest Cottage: Not more than one residential structure which is associated with an accessory use to a single family dwelling located on a lot that meets the minimum lot size for the district where proposed and which: (a) is used only on an occasional basis; (b) is used only by guests of the resident(s) of the associated single family dwelling; (c) is not for rent or hire separately from the associated single family dwelling; and (d) contains one-half (1/2) or less of the enclosed floor space of the associated single family dwelling or 1,250 square feet, whichever is less. (amended 2010)

Home Occupation. Professional office or business use of a residential property by the occupant, conducted within the residence or an accessory structure, occupying no more than 3,000 square feet of floor space and/or outdoor yard space, which does not change the residential character of the premises or employ more than 5 non-resident employees.

Hunting and Fishing Cabin: A cabin, camp, lean-to or other similar structure designed and used only for occasional occupancy and primarily for hunting, fishing and similar purposes that (a) is a one-story structure but may include a sleeping loft; (b) is built on posts or piers and does not have a permanent foundation; (c) is served by a sanitary pit privy or chemical toilet and does not have a conventional, on-site waste water treatment system; (d) does not have pressurized or indoor plumbing except for a kitchen sink with appropriate graywater leach pit; (e) is not connected to any public utilities such as electric, phone, cable television, water or sewer systems; (f) is less than 500 square feet in size (g) not more than one (1) is allowed per 20 acres; and (h) meets a 150 foot shoreline building setback. (amended 2010)

Industrial Spring/Well: A spring or well, its accessory structures, intended to supply a large quantity of water to supply an industrial use. (amended 2010)

Industrial Use. Any manufacturing, production, or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills, and similar wood-using facilities. An industrial use may include product display, wholesale, warehousing, and retail operations as accessory uses, provided such activity is incidental and subordinate to the principal use to which it is accessory. This term shall not include uses of the above nature which are separately defined in this local law.

In Existence. With respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed.

Junk Automobile. Any unregistered, old, or second hand motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, "motor vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways or for use in agricultural, forestry, or mining activities.

Junkyard. Any open lot or area for dismantling, storage, or sale, as parts, scrap, or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, or other discarded material.

Land. The earth, on or below the surface of the ground, including water and air above, the flora and fauna.

Land Use Area. Those areas delineated on the official Adirondack Park Land Use and Development Plan Map adopted under Article 27 of the Executive Law of the State of New York and designated thereon as "Hamlet," "Moderate Intensity Use," "Low Intensity Use," "Rural Use," "Resource Management," and "Industrial," and such portions of those areas as are located within the town, and delineated on the Adirondack Park Land Use and Development Plan Map.

Land Use or Development. Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping, grading, or excavation which is not intended to be used in connection with another land use, or ordinary repairs or

maintenance or interior alterations to existing structures or uses.

Major Project: A project that requires a Special Permit and that exceeds any of the thresholds for a Minor Project.

Major Public Utility Use. Any electric power transmission or distribution line and associated equipment of a rating of more than fifteen kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing twenty-five or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone, or other communication transmission tower, any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility, or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service fifty or more principal buildings.

Manufacturing. A use consisting of the fabricating, processing, production or assembly of goods or materials including any on-site waste disposal associated with such use.

Marina. A waterfront commercial facility for the docking, servicing, storage, rental, or sale of boats or water-based aircraft.

Minor Project: A project that requires a Special Permit and that falls below all of the following thresholds:

- a. Construction of four or fewer multi-family dwelling units.
- b. Construction of facilities or structures for a non-residential use covering no more than 3,000 square feet of building footprint.
- c. Minor alteration of existing structures or expansion of such structures by no more than 1,000 square feet.
- d. Conversion of existing structures to another use.
- e. Alteration and active use of 5,000 square feet or less of land, with or without structures, in connection with the Special Permit use.

Mobile Home. A self-contained dwelling, not including a travel trailer, that is designed to be transported to its site on its own wheels or those of another vehicle, that may contain the same water supply, kitchen facilities and plumbing, sewage disposal, and electric system as immobile housing, and that is designed to be used exclusively for residential purposes. A modular home or other dwelling unit that is constructed off-site in two or more main sections and transported to and permanently assembled on the site on a permanent foundation is not considered a mobile home.

Mobile Home Court. A parcel of land in one ownership used in whole or in part to provide sites, generally on a year-round basis, for two or more mobile homes used as dwellings, whether occupied as permanent residences or as vacation homes.

Multi-family Dwelling. Any structure containing more than one dwelling unit, including the conversion of an existing single-family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

Noncomplying Use or Structure. A use or structure which does not comply with one or more of the regulations of this local law, other than a regulation governing the type of use permitted, and which was fully lawful when established but was rendered non-complying by this local law or amendment thereto or by any prior zoning law.

Nonconforming Use. A use, lawful when established, whether of a building or other structure or of a tract of land, which is not a permitted use in the district in which the use is located. A nonconforming use must have been lawfully established prior to the effective date of this local law or any prior zoning ordinance or an amendment which rendered such use nonconforming. A pre-existing use allowed by special permit under this local law shall be considered a non-conforming use until such time as a special permit is granted for it.

Nursing Home. a nursing home licensed by the New York State Department of Health.

Outdoor Recreation. Use of land (with or without a fee) for hiking, backpacking, snowmobile, horse and cross country ski trails, hunting, fishing, trapping, parks and picnic areas, golf courses, sports facilities, playgrounds, or similar non-residential uses.

Person. An individual, corporation, partnership, association, estate, trust, or other legal entity.

Planning Board. The Planning Board of the Town of Westport.

Prevailing Setback: Nearest distance to the property line of center of roadway of setbacks of existing residences within 400 feet on both sides of the proposed residence. Comparison must be on the same side of the property line or roadway as the proposed residence and must not encroach on the road right of way. Prevailing setback only applies to front yard setback and two or more existing residences constitute prevailing. (amended 2001)

Principal Building. Any one of the following (but not an accessory structure):

- a. A single-family dwelling constitutes one principal building.
- b. A Mobile Home constitutes one principal building.
- c. A tourist cabin or similar structure for rent or hire involving 300 or more square feet of floor space constitutes one principal building.
- d. Each dwelling unit of a multi-family dwelling constitutes one principal building.
- e. Each motel unit, hotel unit, or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space constitutes one-tenth of a principal building.

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

Private Resource Extraction. Any extraction from the land of sand, gravel, topsoil, or other natural mineral deposits of up to 50 cubic yards in any two-year period.

Project: any of the following:

- a. The construction, enlargement, or change of use of a building.
- b. The commencement, enlargement, or change of use of or on a tract of land.
- c. A Class A Regional Project.
- d. The erecting of any sign other than a sign allowable without permit pursuant to Section 10 hereof.
- e. Any alteration of topography, dredging, filling, channel encroachment, the construction of any structure, or any other activity the natural consequence of which may be to affect the discharge of water through a flood-prone area.

Public Highway. An improved (graded, graveled, or paved) highway, street, or road maintained by the State, County, or Town.

Public Utility Use. Any public utility use, equipment, or structure which is not a "major public utility use." A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to article seven or article eight of the Public Service Law.

Road Bed. The trafficked or trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends furthest.

Self Storage Facility: A commercial self storage structure open to the public. (amended 2010)

Shoreline: The shoreline of Lake Champlain at 99.8 feet elevation. (amended 2001)

Shoreline Building Setback. The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond, and the shorelines of any river designated to be studied as a wild, scenic, or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoe.

Shoreline Lot. A lot including or wholly or partially bounded by a shoreline.

Shoreline Lot Width. The distance, measured along the shoreline between the boundary lines of a lot as they intersect the shoreline of any lake or pond, and the shorelines of any river designated to be studied as a wild, scenic, or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoe.

Single-Family Dwelling. A detached building, not including a mobile home, used as the living quarters for one family. The term shall include a seasonal cottage.

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

Sportsmen's Camps, Clubs, Preserves. The use or management of land or structures for seasonal hunting or fishing purposes, which use does not change the general open space character of the area.

State. The State of New York.

Strip Commercial Development: The layout of a commercial use or uses in separated or common-wall structures along a state highway, with more than one row of parking located between the highway and the commercial building(s), where parking is visible from the road. The provision of gasoline pumps or other drive-up facilities in front of a building shall be considered to be equivalent to one row of parking. Strip commercial development is contrasted with village center development, which is characterized by two-story or taller buildings set close together and close to the road, with a pedestrian orientation (including sidewalks), and with parking located behind or to the side of buildings.

Structure. Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single-family dwellings, mobile homes, signs, tanks, fences, and poles, and any fixtures, additions, and alterations thereto.

Subdivision. The division of any parcel of land into two or more lots, plots, sites, or other division of land, with or without streets, for the purpose of immediate or future sale, lease, or building development. Such division shall include resubdivision of plats already filed in the office of the County Clerk.

Subdivision Regulations. The Subdivision Regulations of the Town of Westport.

Tourist Accommodation. Any hotel, motel, inn, resort, tourist court, or similar transient facility used to house the general public, including an accessory restaurant. Excludes Bed and Breakfast (see separate definition).

Travel Trailer. Any vehicle, whether self-propelled or towed, including a tent camper, camp trailer, truck camper or motor home, designed to travel on its own wheels and to be used for temporary living quarters for travel, recreational, or vacation purposes, and which may or may not include accommodations and facilities customarily included in a mobile home. However, any such vehicle used for residential purposes in one location for more than 30 consecutive days or 45 days in total during any one calendar year shall be considered a mobile home.

Travel Trailer Camp. A parcel of land under single ownership which is designed and improved for use by two or more travel trailers.

Use Variance: the authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

Waste Disposal Area. Any area for the disposal of garbage, refuse, and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

Water Bottling Facility: A structure and accessory structures used in packaging water into containers for wholesale sales. Industrial business. (amended 2010)

Watershed Management or Flood Control Project. Any dam, impoundment, dike, rip-rap, or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds.

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

Wood-using Facility. Sawmills, chipping mills, pallet mills, and similar uses. A wood-using facility may include product display, wholesale, warehouse, and retail operations as accessory uses, provided such activity is incidental and subordinate to the principal use to which it is accessory.

Zoning Inspector: the Zoning Inspector of the Town, appointed by the Town Board and principally charged with administering and enforcing this local law, and having the powers and duties set forth in this local law, in the Subdivision Regulations, and as may be further provided by the Town Board.

SECTION 31 TOWN DISTRICT REGULATIONS

The Town districts have been divided into groups of related districts that share common goals and policies. Each section below describes the location, goals, and policies underlying each district grouping, and then presents specific regulations for each individual district. Lot size, setback, and road frontage requirements contained in this Section 31 may be modified using the flexible development provisions of Section 32.150.

31.010 Hamlet Districts (H)

Description: The Hamlet of Wadhams.

Land Use Goals: Maintain existing community centers as viable and attractive places to live. Maintain their mixed-use character; their function as a center of business and community services and facilities; and the attractiveness of their overall appearance and public spaces.

Land Use Policies: Allow mixed-use development which is contextual and compatible with the scale and character of the existing hamlet.

31.011 Wadhams Commercial/Public Center District

- a. Permitted uses:
 - < single-family dwelling
 - < community facility
 - < home occupation

- b. Uses allowable by special permit: (amended 2010)
 - < multi-family dwelling
 - < industrial use
 - < wood using facility
 - < agricultural service use
 - < industrial spring/well
 - < tourist accommodation
 - < bed & breakfast
 - < restaurant
 - < commercial use
 - < self-storage facility

- < water bottling facility
- < public utility
- < accessory apartment
- < major public utility

c. Dimensional Requirements

Intensity:	0.5 acre per principal building
Minimum lot size:	0.25 acre
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	15 feet
Minimum road frontage:	80 feet
Minimum shoreline frontage:	
In Hamlet areas:	50 feet
In Resource Management areas:	300 feet (Boquet Recreational River area)
Minimum setback from the shoreline:	
In Hamlet areas:	50 feet
In Resource Management areas:	150 feet (Boquet Recreational River area)

31.012 Wadhams Residential District

a. Permitted uses:

- < single-family dwelling
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < agricultural use & structure
- < bed & breakfast
- < public utility
- < self-storage facility except in lands classified as Resource Management
- < industrial spring/well as a Class A Regional project except in lands classified as Hamlet
- < water bottling facility as a Class A Regional project except in lands classified as Hamlet
- < major public utility as a Class A Regional project except in lands classified as Hamlet
- < community facility
- < commercial use
- < accessory apartment
- < guest cottage

c. Dimensional Requirements

Intensity:	0.5 acre per principal building
Minimum lot size:	0.25 acre
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	15 feet
Minimum road frontage:	80 feet

31.020 Agricultural Lands District (AL)

Description: Lands possessing the best potential in the town for agricultural use; lands that are important to the agricultural sector of the local economy and generally are within Agricultural Districts.

Land Use Goals: Maintain these lands as generally large, undeveloped landholdings for their economic and natural resource value to the town. Recognize that historically agricultural land use has been one of the most important forces creating the beautiful rural landscape of the town, and this quality, juxtaposed with the attractive community centers of Wadhams and Westport Village, is among the Town's most valuable assets for a healthy economic future. Recognize, too, the economic pressures on farmers, and the necessity for profitable use of their land if they are to continue in their traditional role as stewards of the rural areas of the town.

Land Use Policies: Maintain low intensity development. Provide for the possibility of economic diversification by farmers and other rural landowners. Through Subdivision Review, insure that residential lots on agricultural land are designed in a way that preserves the most important agricultural areas of the parent landholding and avoids visually intrusive

development.

31.021 Agricultural Lands District

a. Permitted uses:

- < single-family dwelling
- < agricultural use & structure
- < forestry use & structure
- < private resource extraction
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < mobile home
- < wood-using facility
- < hunting and fishing cabin
- < public utility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project
- < outdoor recreation
- < agricultural service use
- < bed & breakfast
- < accessory apartment
- < guest cottage

c. Dimensional Requirements

Intensity:	42.7 acres per principal building
Minimum lot size:	1.0 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet
Minimum shoreline frontage:	200 feet (300 feet in Boquet Recreational River area)
Minimum setback from shoreline:	100 feet (150 feet in Boquet Recreational River area)

31.030 Forest Lands District (FL)

Description: Lands which are rugged (i.e., inhospitable to intensive development), generally remote and forested; and which are important (or potentially important) to the forestry sector of the local and regional economy.

Land Use Goals: Preserve these lands as generally large, undeveloped land holdings so that this resource base for the economy of the town is protected.

Land Use Policies: Maintain low intensity development. Allowable uses generally should be uses which are consistent with forest management and the wood products industry.

31.031 Forest Lands District

a. Permitted uses:

- < agricultural use & structure
- < forestry use & structure
- < private resource extraction
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < single-family dwelling
- < mobile home
- < wood-using facility
- < campground
- < sportsman's camps, clubs preserves (amended 2001)
- < commercial resource extraction
- < outdoor recreation
- < bed & breakfast
- < group camp

- < accessory apartment
- < public utility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project
- < hunting and fishing cabin
- < guest cottage

c. Dimensional Requirements

Intensity:	42.7 acres per principal building
Minimum lot size:	2 acres
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet
Minimum shoreline frontage:	200 feet
Minimum setback from shoreline:	100 feet

31.040 Rural Residential Districts (RR)

Description: The remaining lands outside of Wadhams and Westport village, which are not (based on their physical characteristics, ownership patterns, and historic land use) part of the Forest Lands or Agricultural Lands resource base of the town. Varying development capability of these areas is the main determinant of allowable intensity.

Land Use Goals: Use such lands, which are not particularly well-suited to modern commercial agricultural or commercial forest management, to provide opportunities for residents of the town who desire a relatively quiet, private, low density residential setting with the possibility of using a portion of their land for a wood lot, small scale agriculture use, and/or recreation.

Land Use Policies: Allow development consistent with land capability. Continue the existing pattern of low density residential land use with or without associated woodland or agricultural land. Allow home-based economic activities that do not adversely impact adjoining properties, and are not unsightly as viewed from adjoining private properties, and publicly accessible places such as roads.

31.041 Rural Residential - 3.2 District

a. Permitted uses: (amended 2010)

- < single-family dwelling
- < mobile home
- < agricultural use & structure
- < guest cottage (amended 2010)
- < forestry use & structure
- < private resource extraction
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < mobile home court
- < campground
- < commercial resource extraction
- < outdoor recreation
- < accessory apartment
- < public utility
- < industrial spring/well as a Class A Regional project
- < major public utility as a Class A Regional project
- < agricultural service use
- < tourist accommodation
- < bed & breakfast
- < restaurant
- < group camp
- < hunting and fishing cabin
- < self-storage facility

c. Dimensional Requirements

Intensity:	3.2 acres per principal building
Minimum lot size:	1 acre

Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	100 feet
Minimum shoreline frontage:	125 feet
Minimum setbacks from shoreline:	75 feet

31.042 Rural Residential - 5 District

a. Permitted uses:

- | | |
|--------------------------------|--------------------------------|
| < single-family dwelling | < private resource extraction |
| < agricultural use & structure | < home occupation |
| < forestry use & structure | < guest cottage (amended 2010) |

b. Uses allowable by special permit: (amended 2010)

- | | |
|--|----------------------------|
| < multi-family dwelling | < agricultural service use |
| < mobile home | < bed & breakfast |
| < outdoor recreation | < accessory apartment |
| < hunting and fishing cabin | < public utility |
| < industrial spring/well as a Class A Regional project | |
| < major public utility as a Class A Regional project | |

c. Dimensional Requirements

Intensity:	5 acres per principal building
Minimum lot size:	1 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	150 feet

31.043 Rural Residential - 8.5 - North District

a. Permitted uses:

- | | |
|--------------------------------|--------------------------------|
| < single-family dwelling | < private resource extraction |
| < agricultural use & structure | < home occupation |
| < forestry use & structure | < guest cottage (amended 2010) |

b. Uses allowable by special permit: (amended 2010)

- | | |
|---|----------------------------|
| < multi-family dwelling | < outdoor recreation |
| < mobile home | < agricultural service use |
| < wood using facility | < bed & breakfast |
| < campground | < group camp |
| < commercial resource extraction | < accessory apartment |
| < hunting and fishing cabin | < public utility |
| < industrial spring/well as a Class A Regional project | |
| < water bottling facility as a Class A Regional project | |
| < major public utility as a Class A Regional project | |

c. Dimensional Requirements

Intensity:	8.5 acres per principal building
Minimum lot size:	1 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet

Minimum road frontage:	200 feet
Minimum shoreline frontage:	150 feet
Minimum setback from shoreline:	75 feet

31.044 Rural Residential - 8.5 - South District

a. Permitted uses:

- | | |
|--------------------------------|-------------------------------|
| < single-family dwelling | < forestry use & structure |
| < mobile home | < private resource extraction |
| < agricultural use & structure | < home occupation |
| < guest cottage (amended 2010) | |

b. Uses allowable by special permit: (amended 2010)

- | | |
|---|---|
| < multi-family dwelling | < outdoor recreation |
| < mobile home court | < agricultural service use |
| < wood use facility | < bed & breakfast |
| < campground | < group camp |
| < commercial resource extraction | < sportsman's camps, clubs preserves (amended 2001) |
| < accessory apartment | < hunting and fishing cabin |
| < public utility | |
| < industrial spring/well as a Class A Regional project | |
| < water bottling facility as a Class A Regional project | |
| < major public utility as a Class A Regional project | |

c. Dimensional Requirements

Intensity:	8.5 acres per principal building
Minimum lot size:	1 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet

31.045 Lakeshore Residential - 8.5 - District

a. Permitted uses:

- | | |
|--------------------------------|-------------------------------|
| < single-family dwelling | < private resource extraction |
| < agricultural use & structure | < home occupation |

b. Uses allowable by special permit: (amended 2010)

- | | |
|--|---|
| < multi-family dwelling | < tourist accommodation |
| < forestry use & structure | < bed & breakfast |
| < campground | < restaurant |
| < outdoor recreation | < group camp |
| < agricultural service use | < sportsman's camps, clubs preserves (amended 2001) |
| < accessory apartment | < hunting and fishing cabin |
| < public utility | |
| < guest cottage | |
| < major public utility as a Class A Regional project | |

c. Dimensional Requirements

Intensity:	8.5 acres per principal building
Minimum lot size:	1 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet
Minimum lake frontage:	200 feet
Minimum setback from lake:	150 feet

31.050 Village Growth - Residential District (VG-R)

Description: Area(s) adjacent to the former Village of Westport where residential growth can be best accommodated.

Land Use Goals: Village Growth - Residential areas should be either served currently by municipal water and sewer facilities, or close enough to the village that utility extension is feasible. Such areas should not consume viable agriculture land. Ideally, such areas should possess attractive views, and offer some degree of screening from highways.

Land Use Policies: Because this is a "village growth" area intensity of development will be higher than in Rural Residential areas, although lower than village-center intensity. The only area fitting these criteria which is currently mapped is the area adjoining the northern boundary of the village, an area which adjoins a potential growth area in the village identified in the village planning report (October 1977).

31.051 Village Growth - Residential District

a. Permitted uses:

- < single-family dwelling
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < agricultural use & structure
- < forestry use & structure
- < tourist accommodation
- < bed & breakfast
- < guest cottage
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project
- < restaurant
- < group camp
- < community facility
- < commercial use
- < accessory apartment
- < public utility

c. Dimensional Requirements

Intensity:	2 acre per principal building
Minimum lot size:	7,500 square feet with municipal water and sewer; 20,000 square feet without municipal water and sewer
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	15 feet
Minimum road frontage:	60 feet
Minimum shoreline frontage:	150 feet
Minimum setback from shoreline:	75 feet

31.060 Highway Commercial District (HC)

Description: Land near the Northway interchange which has businesses serving the traveling public.

Land Use Goals: Provide for the needs of the traveling public for gasoline, lodging, food and "convenience" items at an

existing location in the town.

Land Use Policies: Allow existing uses to continue with some expansion potential. In order to avoid the possibility of unsightly, strip development, review site plans for expansion of existing or new development.

31.061 Highway Commercial District

a. Permitted uses:

- < single-family dwelling
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < outdoor recreation
- < agricultural service use
- < tourist accommodation
- < accessory apartment
- < self-storage facility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project
- < bed & breakfast
- < restaurant
- < community facility
- < commercial use
- < public utility

c. Dimensional Requirements

Intensity:	North side of Rt. 9N: 3.2 areas per principal building (amended 1999) South side of Rt. 9N: 8.5 areas per principal building (amended 1999)
Minimum lot size:	0.5 acre
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	150 feet

31.070 Preservation District (PRES)

Description: Land-owned by land preservation organizations which, because of its characteristics, should not be developed but rather preserved in its natural condition.

Land Use Goals: Maintain open-space characteristics of land suitable for preservation because of outdoor recreation and/or environmental values.

Land Use Policies: Allow resource-based uses such as forestry, agriculture, and outdoor recreation, with minimal development of structures, roads, or other "development".

31.071 Preservation District

a. Permitted uses:

- < agricultural use & structure
- < forestry use & structure

b. Uses allowable by special permit: (amended 2010)

- < outdoor recreation
- < major public utility as a Class A Regional project
- < public utility

c. Dimensional Requirements

Intensity:	42.7 acres per principal building
Minimum lot size:	2 acres
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet
Minimum shoreline frontage:	200 feet (Located in Boquet Recreational River area)
Minimum setback from shoreline:	150 feet

31.080 Village Growth - Recreation District (VG - REC)

Description: Area adjacent to the former Village of Westport which is part of the southern Agricultural Lands and Rural Residential - 8.5 South, but is currently in outdoor recreation use (i.e., golf course).

Land Use Goals: Recognize existing pattern of use as desirable for the economic welfare of the community.

Land Use Policy: Create a sub-district which accommodates the existing pattern of development as an allowed use. Transfer of development rights into this subdistrict from its larger surrounding districts creates the possibility for more intensive, recreation-oriented development.

31.081 Agricultural Lands - Village Growth Recreation District

a. Permitted uses:

- < single-family dwelling
- < private resource extraction
- < agricultural use & structure
- < home occupation

b. Uses allowable by special permit:

- < multi-family dwelling
- < outdoor recreation
- < forestry use & structure
- < bed & breakfast
- < accessory apartment
- < public utility
- < major public utility as a Class A Regional project except in lands classified as Hamlet

c. Dimensional Requirements

Intensity:	42.7 acres per principal building
Minimum lot size:	0.5 acre
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	15 feet
Minimum road frontage:	80 feet

31.090 Agricultural Lands - Airport/Commercial, Industrial District

Description: Area within the Southern Agricultural Land District with a development cluster consisting of former Airport Inn Restaurant and gas station, former DIPAK, and airport.

Land Use Goals: Recognize existing pattern of use as desirable to the economic and social welfare of the community.

Land Use Policy: Create a sub-district which accommodates the existing pattern of development as an allowed use.

31.091 Agricultural Lands - Airport/Commercial Industrial District

a. Permitted uses:

- < agricultural use & structure
- < private resource extraction

- < self-storage facility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project

c. Dimensional Requirements

Intensity:	5 acres per principal building
Minimum lot size:	2 acres
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet

SECTION 32 MISCELLANEOUS REGULATIONS

32.010 Additional Requirements for Special Permit Uses

In order to approve a special permit for the uses governed by this Section, the Planning Board shall find, in addition to the findings required by Section 5.050, that the applicable specific requirements set forth in this Section for that use have been met.

32.011 Campgrounds

a. Location

A campground shall be located on a level, forested site. The site should have seasonal secondary road access.

b. Components

A campground shall consist of and be divided into (1) designated camping sites, (2) common service areas, and (3) common open space, including usable common open space.

c. Density

The overall density of a campground shall not exceed one camping site per 7,500 square feet of gross area of the campground.

d. Camping Sites

Each camping site shall have a total area of not less than 5,000 square feet, with a minimum dimension of 50 feet. No camping site shall accommodate more than one self-propelled four-wheeled vehicle. No camping site shall be located closer than 200 feet to the near edge of the roadbed of a public highway or any shoreline or any lot line. Each camping site shall have a level, well-drained cleared area which will provide for the practical placement on and removal from the site of a standard size passenger automobile and travel trailer or tent.

e. Open Space

A campground shall include usable common open space in an amount not less than 1,000 square feet per camping site. Such usable common open space may be in one or more locations, but the number of locations shall not exceed one for each ten camping sites. All usable common open space shall be accessible from all camping sites and shall be of such a character as to be attractive and useful for active or passive recreation. No more than 40 percent of such open space shall be within 100 feet of the near edge of the roadbed of a public highway. Streets within the campground shall not be counted as usable open space.

f. Utilities and Service Facilities

1. A campground shall be provided with potable cold water taps at the rate of not less than one tap per ten camping sites, each tap located conveniently to the served sites. The waste from such taps shall be emptied into an appropriate disposal system, such as a dry well.
2. Separate toilet facilities for males and females shall be provided not nearer than 50 feet nor further than 200 feet from any camping site.
3. Waste from all buildings and campsites shall be discharged into a sewage disposal system meeting the standards of the Town Sanitary Code.

- g. Access and Circulation Plan
 - 1. Each campground shall have graveled or paved access to a public highway.
 - 2. Where a campground has more than 30 camping sites, two points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed four. Such entrances and exits shall be designated and strategically located for the safe and convenient movement into and out of the campground, and to minimize interference with the free movement of traffic on the adjacent public highway. All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with travel trailers attached.
 - 3. Each campground shall have clearly defined and convenient access to all camping sites and other facilities within the campground. The street system shall be so designed to permit safe and convenient vehicular circulation within the campground. Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety. All streets shall intersect at right angles. All streets shall have the following minimum widths:
 - (a) One-way traffic movement: 12 feet
 - (b) Two-way traffic movement: 20 feet
- h. Landscaping and Screening
 - 1. Native ground cover, shrubs, and trees shall be provided or retained in those areas not used for camping sites, buildings, walkways, roads, active recreation areas, or parking areas.
 - 2. Landscaping, by preservation of existing vegetation or by planting of native species of vegetation, shall be provided to ameliorate or screen objectionable views of and within the campground at all seasons of the year. Views which shall be screened include sanitary facilities and garbage storage and collection areas. In addition, the campground itself shall be substantially screened with native vegetation at all seasons of the year from any public highway or water body or water course regularly trafficked by the public or adjacent property zoned for residential use.
- i. Length of Occupancy

No individual, tent, or travel trailer, shall occupy a site or a succession of sites within a campground for a period or periods aggregating more than 180 days within any calendar year.

32.012 Commercial Resource Extraction

- a. Commercial resource extraction shall be allowed only in a substantially undeveloped area.
- b. Any excavation associated with commercial resource extraction shall not adversely affect the natural drainage of adjoining properties not in the same ownership, or the structural safety of buildings on such adjoining properties; the top of any slope of the excavation shall not be closer than 50 feet from the boundary line of any adjoining property not in the same ownership, nor closer than 200 feet of any public highway or water body or water course.
- c. Within the above setbacks natural vegetation shall be left undisturbed, except for planting pursuant to the requirements hereof. The Planning Board may in its discretion require additional measures to provide suitable screening of the excavation, such as planting or fencing.
- d. An applicant for a Special Permit for commercial resource extraction shall submit to the Planning Board copies of all applications and other materials submitted to the New York State DEC in connection with its commercial resource extraction application.
- e. In issuing a Special Permit for commercial resource extraction, the Planning Board shall impose conditions designed to protect the public health, safety, and welfare. Such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions:
 - 1. Ingress from and egress to public thoroughfares controlled by the Town;
 - 2. Routing of mineral transport vehicles on roads controlled by the Town;
 - 3. Requirements and conditions specified in the permit issued by the DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or manmade barriers to restrict access, dust control, and hours of operation;
 - 4. Enforcement of reclamation requirements contained in any DEC permit.
- f. In issuing a Special Permit for commercial resource extraction uses not subject to regulation by DEC, the Planning Board may impose such additional conditions as it deems necessary.
- g. The Planning Board shall deny a Special Permit for commercial resource extraction for any project which, when subjected to the allowable conditions in Subsection 32.012(e) above, does not satisfy the requirements of this Section 32.012 or Section 5.040.

32.013 Tourist Accommodations

Tourist accommodations shall be subject to the following additional requirements:

- a. For each motel, hotel, or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire containing less than 300 square feet of floor space, the minimum land area necessary shall be not less than one-tenth of an acre. The minimum land area for a tourist cabin or similar structure for rent or hire larger than 300 square feet shall be the minimum lot area in Section 31 hereof for the zoning district in which the cabin or structure is to be located.
- b. Off-street parking shall be provided at the rate of not less than one and one-half spaces per accommodation unit. Each parking space shall have a minimum dimension of 8 feet by 20 feet.
- c. Landscaping, by preservation of existing vegetation or by planting of native species of vegetation, shall be provided to buffer or screen views of and within the motel, hotel, or tourist accommodation at all seasons of the year. Views which shall be buffered or screened include parking facilities, garbage storage and collection areas, and other service areas or service buildings associated with the motel, hotel, or tourist accommodation.
- d. No portion of a motel, hotel, or tourist accommodation shall be closer than 50 feet from the boundary line of any adjoining property not in the same ownership, nor closer than 125 feet from the shore of any lake or pond.
- e. Where a motel, hotel, or tourist accommodation involves the shoreline of any lake or pond, or any river or stream navigable by boat, including canoe, the following shoreline lot widths shall be required per room or unit, unless the minimum shoreline lot width in Section 31 hereof for the zoning district involved is greater, in which case the greater lot width shall be required: 100 feet for one to ten accommodation units; for each additional unit up to twenty units, eight additional feet; for each additional unit, up to forty units, five additional feet; for each additional unit thereafter, three additional feet.

32.014 Multi-family Dwellings

Multi-family dwellings shall be subject to the following additional requirements:

- a. The minimum land area necessary per each individual dwelling unit shall be the minimum lot area in Section 31 hereof for the zoning district in which the multi-family dwelling is to be located.
- b. Off-street parking shall be provided at the rate of not less than one and one-half spaces per dwelling unit. Each parking space shall have a minimum dimension of 8 x 20 feet.
- c. Landscaping, by preservation of existing vegetation or by planting of native species of vegetation, shall be provided to buffer or screen views of parking facilities and garbage collection and storage areas.

32.015 Public Utility and Major Public Utility Uses

Such uses shall not be located in the Town Character Development District or in other visually and ecologically vulnerable areas, as determined from the natural and man-related resource maps on file with the Planning Board, site inspection, and the public hearing. This shall not apply to local public utility distribution lines.

32.016 Commercial and Industrial Uses

- a. Vehicular and pedestrian access and circulation should be adequate, including safe and well-designed points of ingress and egress, and traffic flow along public highways should not be impeded.
- b. The character of the town should be protected as much as possible by the location, design, height, finish materials, and coloration of buildings and signs, and by landscaping and plantings, including minimal disturbance of existing vegetation.
- c. All waste disposal areas and exterior storage areas should be maintained in a neat and orderly condition and located in so far as possible out of sight of any public highway. In situations where they cannot be so located, then they should be screened by an opaque fence (preferably wood) or substantially opaque plantings.
- d. Above ground utility lines should be minimized.
- e. Parking and delivery areas should be adequate and made as attractive as possible.
- f. Conditions that create fire hazards should be avoided.
- g. Dust, odor, noise, light, radio/television interference, and other nuisance conditions, and the impacts thereof on the surrounding areas, should be minimized.
- h. Existing community services and facilities should not be overtaxed. If new or expanded community facilities or services will be needed for the proposed use, the cost of such facilities should be justified by the economic return of

the project to the community.

- i. Commercial, Industrial, and Research Parks should be designed in accordance with site planning guidelines as recommended by the Urban Land Institute or similar source.

32.020 Special Flood-Prone Areas

Construction on and alteration of flood-prone lands is subject to the provisions of the Local Floodplain Law adopted on April 7, 1987 (Local Law Number ___ of the Year 1987 of the Town of Westport).

32.030 Special Shoreline Regulations: Applicability

The regulations set forth in Sections 32.031 through 32.033 shall be applicable in all Town zoning districts.

32.031 Special Shoreline Regulations: Minimum Setback for On-Site Sewage Facilities

In the case of all lakes, ponds, rivers, and streams, or any swamp, marsh, or wetland, the minimum setback of any on-site sewage drainage field or seepage pit shall be 100 feet from the mean high-water mark irrespective of zoning district or land use area classification. The local body or officer having jurisdiction, or the Adirondack Park Agency in its review of a Class A or Class B Regional Project, shall have authority to require a greater setback, upon a determination that soils or other environmental conditions require such greater setback to protect water quality.

32.032 Special Shoreline Regulations: Cutting Restrictions

In the case of the shorelines of all lakes and ponds and the shorelines of any river designated to be studied as a wild, scenic, and recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoe, the removal of vegetation, including trees, shall be permitted on shorefront lots provided the following standards are met:

- a. Within 35 feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of 30 percent of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.
- b. Within six feet of the mean high-water mark no more than 30 percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to a) above.
- c. The above cutting standards shall not prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.

32.033 Special Shoreline Regulations: Minimum Shoreline Frontage for Deeded or Contractual Access

In the case of the shorelines of all lakes and ponds and the shorelines of any river designated to be studied as a wild, scenic, or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoe, the following minimum shoreline frontages shall be required for deeded or contractual access to all such lakes, ponds, rivers, or streams for five or more lots, parcels, or sites or multi-family dwelling units not having separate and distinct ownership of shore frontage:

- a. Where five to twenty lots or multi-family dwelling units are involved, a total of not less than 100 feet.
- b. Where more than twenty and not more than one hundred lots or multiple dwelling units are involved, a minimum of three feet for each additional lot or multiple dwelling unit in excess of twenty.
- c. Where more than one hundred and not more than one hundred fifty lots or multiple dwelling units are involved, a minimum of two feet for each additional lot or multiple dwelling unit in excess of one hundred.
- d. Where more than one hundred fifty lots or multiple dwelling units are involved, a minimum of one foot for each additional lot or multiple dwelling unit in excess of one hundred fifty.

32.040 Individual Junk Automobiles

No individual junk automobiles shall be so located as to be visible from public roads, trails, or boat or canoe routes, or from neighboring properties.

32.050 Automobile Junkyards and Junkyards

- a. As of the effective date of this local law, no new automobile junkyards or junkyards shall be permitted within the Town.
- b. Within 1 year of the effective date of this local law, all existing automobile junkyards and junkyards shall be screened by an opaque fence so as to be substantially invisible from a public highway. Such fence shall be

- constructed of such material (preferably wood) that is in itself not an eyesore.
- c. Within 5 years of the effective date of this local law all existing automobile junkyards and junkyards shall be removed and their sites cleaned of all materials associated therewith if (b) has not been complied with (amended 2001).

32.060 Travel Trailers

- a. No travel trailer shall be parked or located overnight within the town except:
 1. On the property of the owner thereof in conformance with Subsections 32.060(b) and (c) below;
 2. In a travel trailer camp; or
 3. On the premises of a travel trailer sales or rental establishment.
- b. No travel trailer shall be parked or located overnight on the property of the owner thereof, unless such travel trailer is parked so as to minimize its visibility from a public highway, preferably in the rear or side yard behind the front face of the principal building, and preferably no closer than six feet to any lot line. A travel trailer so parked shall not block access by emergency vehicles, shall not be used as living quarters and shall not be hooked up to any utilities.
- c. A visitor to a family may park a travel trailer on the lot of the family being visited subject to the issuance of a project permit by the Zoning Inspector, provided it is located in accordance with the requirements of Subsection 32.060(b) above. Such use of the subject premises shall not exceed 30 consecutive days or 45 days in total during any one calendar year, and shall not be provided pursuant to payment or donation of any fee or equivalent goods or services.

32.070 Private Resource Extraction

32.071 Private resource extraction is subject to the following conditions:

- a. Any excavation associated with private resource extraction shall not adversely affect the natural drainage or land stability of adjoining properties not in the same ownership; the top of any slope of the excavation shall not be closer than 50 feet from the boundary line of any adjoining property not in the same ownership, nor closer than 100 feet of any public street of any public highway or water body or water course.
- b. Within the above setbacks natural vegetation shall be left undisturbed.
- c. During and after cessation of excavating operations, the land involved must be reclaimed to insure soil and slope stabilization and revegetation.

32.072 Improper Operation

In the event a private resource extraction operation is in violation of the provisions of this Section, the Zoning Inspector shall mail to the owner of the parcel of land upon which the private resource extraction exists, at his last known mailing address, an order that the violation be cured within 30 days after the date of mailing of said order.

32.080 Home Occupation

All home occupations shall comply with the following requirements:

32.081 No objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall be produced.

32.082 Traffic generated shall not be in greater volume than would be normally expected in the neighborhood.

32.083 Parking shall be provided off-street and shall not be located in the front yard.

32.090 Town Character Development District (TCD)

32.091 Findings and Purpose

It is hereby found and declared that (a) there are within the Town particular open spaces which are of special visual and scenic significance and value to the public as open space, or which are so located or of such character that their development in most cases would present unacceptable adverse environmental consequences, (b) that the conservation and protection of such open spaces is a public necessity and is required in the interest of the health, safety, and welfare of the people. The purpose of this Section is to conserve and protect the visual and environmental quality of the town through the conservation and protection of such open spaces.

32.092 General

a. Application of Regulations

The regulations contained in this Section apply within the Town Character Development District which appears on the Zoning Map over open spaces having special visual character.

b. Relation to Other Districts

The Town Character Development District is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

32.093 Special Permit Requirement

Within the Town Character Development District, any new land use and development other than agricultural use shall require a Special Permit from the Planning Board.

a. Required Findings

The Planning Board shall grant a Special Permit where it finds:

1. The land use and development, if it is not a residential or agricultural use, cannot reasonably be located at a site outside the Town Character Development District;
2. Within the Town Character Development District, the land use and development is located and designed so that its visual impact is minimized, and it is in harmony with the natural surroundings and existing land uses in the area; and
3. The open-space character of the area is protected as much as possible by the location, design, height, finish materials, and coloration of buildings and signs, landscaping, and plantings, and minimal disturbance of existing vegetation.

b. Application and Procedure

The application and procedure for a Special Permit under this Section shall be that set out in Section 5.

32.094 Density Transfer

Density may not be transferred into the Town Character Development District pursuant to Section 32.190. Density transfer from the Town Character Development District into other areas within the underlying zoning district is encouraged by the density bonus provision in Section 32.095.

32.095 Density Bonus

Owners of land in the TCD District shall be entitled to a 50% increase in the allowable number of units allocated to such TCD land pursuant to Section 2.063, provided that:

- a. Such units are constructed outside the TCD District;
- b. Such units are not visible from any public roads passing through the TCD District; and
- c. A permanent restriction on developing such land in the TCD District is recorded pursuant to Section 32.123.

32.100 Individual Mobile Homes

- a. An individual mobile home shall be placed on a mobile home stand which will provide for the retention of the home on the lot in a stable condition.
- b. The stand shall be of sufficient size to fit the dimensions of the mobile home and any appurtenant structures or appendages.
- c. The stand shall be constructed of an appropriate material which is durable and adequate for the support of the maximum anticipated load.
- d. The stand shall be suitably graded to permit rapid surface drainage.
- e. The stand shall be equipped with an anchor or tie-down at each corner thereof to provide adequate security for the mobile home against wind loading.
- f. The mobile home shall be enclosed with a desirable and attractive skirt made of sturdy materials, which will hide all wheels, chassis, and other appurtenances under the mobile home.

32.110 Mobile Home Courts

Mobile Homes in Mobile Home Courts shall be set back at least 50 feet from adjoining properties and 100 feet from public roads, and shall not be visible in any season from such properties or public roads. At least 10% of any Mobile Home Court

parcel shall be set aside for recreational purposes.

32.120 Density Transfer

The Town of Westport wishes to encourage flexibility in the layout of development, within the overall intensity standards of this local law. The Town therefore will permit residential density to be transferred from one parcel (the "sending parcel") to another (the "receiving parcel") within the same zoning district, as provided below.

32.121 Procedure

All density transfers require a Special Permit from the Planning Board. A Special Permit application for density transfer must be signed by the owners (or their authorized representatives) of both the sending and receiving parcels. In reviewing an application for density transfer, the Planning Board shall first determine the number of allowable dwelling units permitted on the receiving parcel pursuant to Section 2.063. The Planning Board shall then determine the number of dwelling units available to transfer from the sending parcel(s). In order to approve a density transfer the Planning Board shall comply with all of the requirements for issuing Special Permits contained in Chapter 5.

32.122 Findings Required

The Planning Board shall not approve any residential density transfer unless it finds that:

- a. The addition of the transfer units to the receiving parcel will not adversely affect the area surrounding the receiving parcel, and will benefit the Town by protecting open space resources located on the sending parcel(s).
- b. The density transfer will not detract from the fulfillment of the purposes of the zoning district.
- c. As a condition of approval of the density transfer, a conservation easement on the sending parcel(s) satisfying the requirements of Section 32.123 below will be executed and recorded in the County Clerk's Office, reducing the number of allowable units on the sending parcel(s) by the number of dwelling units transferred.

32.123 Permanent Preservation of Sending Parcel by Perpetual Conservation Easement

- a. A perpetual conservation easement restricting development of the sending parcel, allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of special permit approval. The Planning Board may require that such conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's Office prior to or simultaneously with the granting of any Special Permit for density transfer or the filing of any final subdivision plat of the receiving parcel in the County Clerk's Office.
- b. The conservation easement shall limit development of the sending parcel to the number of allowable dwelling units remaining on the sending parcel after deducting the units transferred to the receiving parcel.

32.130 Protection of Agriculture

32.131 Agricultural Buffers

Wherever agricultural uses and other new uses unrelated to the agricultural operations abut, buffers shall be provided to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.

32.132 Agricultural Data Statement

Any application for a Special Permit, Use Variance, or Subdivision approval requiring municipal review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Section 30. The Planning Board or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

32.133 Required Disclosure

In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration." This disclosure shall be required as a note on a Subdivision Plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting or letter of notification. This Section 32.133 may also be applied to any commercial development within the jurisdiction of the Planning Board which abuts agricultural land, at the discretion of the Planning Board.

32.140 Signs

For sign regulations, see Section 10.

32.150 Flexible Development

32.151 The Planning Board may, in the course of Subdivision approval, modify the road frontage and front, side, and rear setback requirements of this Local Law in order to permit development that harmonizes with the rural and historic character of the Town. Where, in the judgment of the Planning Board, a Flexible Development plan is appropriate in order to implement the Rural Siting Guidelines in Subsection 5.063(e) or to protect a natural, environmental, scenic, or historic resource, the Planning Board may approve a Flexible Development plan containing such modified frontages and setbacks. (For lot size reductions, see Section 32.155 below.)

32.152 Frontage and setback modifications shall be permitted in the Wadhams Hamlet District only if the Planning Board finds that the modifications requested reflect the historic frontage and setback patterns that exist within the hamlet neighborhood.

32.153 Within other districts, frontage and setback modifications shall be permitted only if the Planning Board finds that the modifications requested (including rear lots with no road frontage) will help maintain the rural character of the Town by complying with the Rural Siting Guidelines in Subsection 5.063(e).

32.154 Such frontage and setback modifications may not increase the underlying density permitted by this Local Law, and may not result in the creation of any lot which lacks feasible and safe vehicular access. No lot frontage shall be reduced to less than 20 feet.

32.155 If an applicant for a flexible development provides community water and/or sewage disposal facilities (which may include individual septic tanks with common leach fields), the minimum lot size requirements may also be reduced, provided that such lots comply with all requirements of the Public Health Law and are controlled by management entities which the Planning Board deems sufficient to protect public health.

- a. Community water system: 75% of the minimum lot size in the district, but no smaller than 20,000 square feet.
- b. Community sewage disposal: 60% of the minimum lot size in the district, but no smaller than 10,000 square feet.
- c. Community water and sewage disposal: 30% of the minimum lot size in the district.

32.160 Accessory Apartments (amended 2010)

32.161 The intent of this section is to allow separate living space within an existing single family dwelling to be occupied by family members or caregivers and to ensure that this use is conducted in a manner that protects and preserves neighborhood character and property values.

32.162 Notwithstanding the maximum density of development and the minimum lot size specified for the particular zoning district, an accessory apartment shall be allowed in a single family dwelling in all Town districts except PRES, AI-AIR/COMM,IND & RR-5-COMM, IND districts provided that the following conditions are found to be satisfied in Site Plan Review by the Planning Board.

- a. The Town will maintain a list of all accessory use apartments in current use and not allow greater than 43 accessory apartments at any one time within the Town.
- b. The landowner, or their agent, is required annually to renew the permission to continue the accessory apartment and

provide documentation that all provisions of this section are in compliance. Failure to renew the use will result in the termination of the approval for the accessory apartment and require the removal of the kitchen facilities stated in Section (c).

- c. When the purpose or the authorization for the accessory apartment expires or is invalidated, the kitchen facilities of the apartment, including any refrigerator, stovetop or range, dishwasher, and microwave, shall be removed within 60 days.

32.163 Standards and Requirements

- a. The owner(s) of the property shall occupy at least one of the dwelling units on the premises as a principal residence.
- b. No more than one accessory apartment is permitted on a lot.
- c. Modification to an existing building to accommodate an accessory apartment shall comply with all provisions contain in this zoning law except for the density allowance provided in accordance with this section.
- d. An accessory apartment shall not exceed 750 square feet in size of the floor space.
- e. If the total habitable floor space of all dwelling structures on the lot exceeds 3500 square feet, no new habitable space may be constructed on the lot.
- f. Off-street parking shall be available for the occupant(s) of the accessory apartment and the primary single family dwelling.
- g. Sites within the wastewater district will be connected to the district wastewater system.
- h. Site served by existing on-site wastewater treatment system shall meet all applicable State and Town standards for wastewater systems.
- i. The building containing the accessory apartment shall meet all applicable Standards of the State Building Code and Local Law.
- j. The property may be served by only one meter for each water and electric utility supplied.
- k. No more than two (2) people may reside in the accessory apartment.
- l. No money may be received by the property owner in exchange for occupancy of the accessory apartment.

32.164 Procedures for Approval of Accessory Apartments

Approval by the Planning Board of a proposed accessory apartment shall require notice to the public and a public hearing conducted under the Site Plan Review procedures and requirements described in this Local Law. The Planning Board shall mail a copy of the decision to the Adirondack Park Agency within 14 days

32.170 Standards for Industrial Spring/Well (amended 2010)

The following specific standards apply in connection with the review and approval of an industrial spring/well

- a. Precipitation recharge to the aquifer system being tapped must safely exceed the proposed maximum quantity of groundwater (or spring water) to be extracted. In addition, the daily withdrawal of water from the site shall not be allowed to have an undue adverse environmental impact on nearby wells, surface water or the storage capacity of the aquifer. It shall be the responsibility of the project sponsor to retain the services of a qualified geologist or hydrogeologist to certify that this condition has been satisfied based on results of the site specific studies and/or investigations.

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APPENDIX A
CLASS A REGIONAL PROJECTS

A. HAMLET AREAS

1. All land uses and development, except subdivisions of land, involving wetlands.
2. All land uses and development, except subdivisions of land, involving one hundred or more residential units, whether designed for permanent, seasonal or transient use.
3. All structures in excess of forty feet in height, except residential radio and television antennas.
4. Commercial or private airports.
5. Watershed management and flood control projects.
6. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

B. MODERATE INTENSITY USE AREAS

1. All land uses and development, except subdivision of land, located in the following critical environmental areas:
 - a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law during the period of such designation;
 - b) involving wetlands;
 - c) at elevations of twenty-five hundred feet or more;
 - d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto.Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number eight below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.
2. All land uses and development, except subdivisions of land, involving seventy-five or more residential units, whether designed for permanent, seasonal or transient use.
3. Commercial or agricultural service uses involving ten thousand or more square feet of floor space.
4. All structures in excess of forty feet in height, except residential radio and television antennas.
5. Tourist attractions.
6. Ski centers.
7. Commercial or private airports.
8. Timber harvesting that includes a proposed clearcutting of any single unit of land or more than twenty-five acres.
9. Sawmills, chipping mills, pallet mills and similar wood-using facilities.
10. Mineral extractions.
11. Mineral extraction structures.
12. Watershed management and flood
13. Sewage treatment plants.
14. Major public utility uses.
15. Industrial uses including water bottling facility and industrial spring/well. (amended 2010)
16. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

C. LOW INTENSITY USE AREAS

1. All land uses and development, except subdivision of land, located in the following critical environmental areas:
 - a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law during the period of such designation;
 - b) involving wetlands;
 - c) at elevations of twenty-five hundred feet or more;
 - d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as

wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto.

Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number eight below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

2. All land uses and development, except subdivisions of land, involving thirty-five or more residential units, whether designed for permanent, seasonal or transient use.
3. Commercial or agricultural service uses involving five thousand or more square feet of floor space.
4. All structures in excess of forty feet in height, except residential radio and television antennas.
5. Tourist attractions.
6. Ski centers.
7. Commercial or private airports.
8. Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
9. Sawmills, chipping mills! pallet mills and similar wood-using facilities.
10. Mineral extractions. .
11. Mineral extraction structures.
12. Watershed management and flood control projects.
13. Sewage treatment plants.
14. Waste disposal areas.
15. Junkyards.
16. Major public utility uses.
17. Industrial uses including water bottling facility and industrial spring/well. (amended 2010)
18. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

D. RURAL USE AREAS

1. All land uses and development, except subdivision of land, located in the following critical environmental areas:
 - a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law during the period of such designation;
 - b) involving wetlands;
 - c) at elevations of twenty-five hundred feet or more;
 - d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto;
 - e) within one hundred fifty feet of the edge of the right-of-way of federal or state highways, except for an individual single-family dwelling and accessory uses or structures thereto;
 - f) within one hundred fifty feet of the edge of the right-of-way of county highways designated by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine of the Adirondack Park Agency Act, as major travel corridors by the agency, except for an individual single-family dwelling and accessory uses or structures thereto.

Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number 9 below and sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right-of-way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right-of-way of the above-described travel corridors), open space recreation uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.
2. All land uses and development, except subdivision of land, involving twenty or more residential units, whether designed for permanent, seasonal or transient use.
3. Commercial and agricultural service uses involving twenty-five hundred or more square feet of floor space.
4. All structures in excess of forty feet in height, except residential radio and television antennas.
5. Tourist attractions.
6. Ski centers.
7. Commercial seaplane bases.
8. Commercial or private airports.

9. Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
10. Sawmills, chipping mills, pallet mills and similar wood-using facilities.
11. Mineral extractions.
12. Mineral extraction structures.
13. Watershed management and flood control projects.
14. Sewage treatment plants.
15. Waste disposal areas.
16. Junkyards.
17. Major public utility uses.
18. Industrial uses including water bottling facility and industrial spring/well. (amended 2010)
19. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent of the original square footage of such structure.

E. RESOURCE MANAGEMENT AREAS

1. All land uses and development, except subdivisions of land, located in the following critical environmental areas:
 - a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law during the period of such designation;
 - b) involving wetlands;
 - c) at elevations of twenty-five hundred feet or more;
 - d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single-family dwelling and accessory uses or structures thereto;
 - e) within three hundred feet of the edge of the right-of-way of federal or state highways, except for an individual single-family dwelling and accessory uses or structures thereto;
 - f) within three hundred feet of the edge of the right-of-way of county highways designated as major travel corridors by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine of the Adirondack Park Agency Act, except for an individual single-family dwelling and accessory uses or structures thereto.

Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number 9 below and sand and gravel pits associated with such uses located within three hundred feet of the edge of the right-of-way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within three hundred feet of the edge of the right-of-way of the above-described travel corridors) , open space recreation uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.

2. Campgrounds involving fifty or more sites.
3. Group camps. .
4. Ski centers and related tourist accommodations.
5. Agricultural service uses.
6. All structures in excess of forty feet in height, except residential radio and television antennas.
7. Sawmills, chipping mills and pallet mills and similar wood-using facilities.
8. Commercial sand and gravel extractions.
9. Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
10. Mineral extractions.
11. Mineral extraction structures.
12. Watershed management and flood control projects.
13. Sewage treatment plants.
14. Major public utility uses.
15. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.
16. Industrial uses including water bottling facility and industrial spring/well. (amended 2010)

F. INDUSTRIAL USE AREAS

- 1 Mineral extractions.

- 2 Mineral extraction structures.
- 3 Commercial sand and gravel extractions.
- 4 Major public utility uses.
- 5 Sewage treatment plants.
- 6 Waste disposal areas.
- 7 Junkyards.
- 8 Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

G. Any amendment to the Class a regional project list in section 810 (1) of the Adirondack Park Agency Act subsequent to the adoption of this local law shall be deemed to effect a corresponding change in this Appendix A without action by the town, except so far as that amendment affects the delineation of subdivisions which are Class a regional projects.

APPENDIX B
CLASS B REGIONAL PROJECTS

A. MODERATE INTENSITY USE AREAS

1. Multiple-family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Commercial or agricultural service uses involving less than ten thousand square feet of floor space.
6. Tourist accommodations.
7. Marinas, boat yards and boat launching sites.
8. Golf courses.
9. Campgrounds.
10. Group Camps.
11. Commercial seaplane bases.
12. Commercial sand and gravel extractions.
13. Land use or development, except subdivisions of land, involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
14. Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for moderate intensity use areas as set forth in Appendix C of this local law.
15. An individual single-family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
16. All land uses and development, except subdivisions of land, within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law, other than those navigable by boat, during the period of such designation.
17. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

B. LOW INTENSITY USE AREAS

1. Multiple-family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Commercial or agricultural service uses involving less than five thousand square feet of floor space.
6. Tourist accommodations.
7. Marinas, boat yards and boat launching sites.
8. Golf courses.
9. Campgrounds.
10. Group camps.
11. Commercial seaplane bases.
12. Commercial sand and gravel extractions.
13. Land use or development, except subdivision of land, involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
14. Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for low intensity use areas as set forth in Appendix C of this local law.
15. An individual single-family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
16. All land uses and development, except subdivision of land, within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law, other than those navigable by boat, during the period of such designation.
17. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

C. RURAL USE AREAS

1. Multiple-family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Marinas, boat yards and boat launching sites.
6. Golf courses.
7. Campgrounds.
8. Group camps.
9. Commercial sand and gravel extractions.
10. Land use or development, except subdivisions of land, involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
11. All land uses and development, except subdivision of land, within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law, other than those navigable by boat, during the period of such designation.
12. Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for rural use areas as set forth in Appendix C of this local law.
13. Commercial and agricultural service uses involving less than twenty-five hundred square feet.
14. An individual single-family dwelling within one-eighth mile of tracts of forest preserve land or water described in paragraph (d), subparagraph (1) of Appendix A or within one hundred fifty feet of a travel corridor described in such paragraph.
15. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

D. RESOURCE MANAGEMENT AREAS

1. Single-family dwellings.
2. Individual mobile homes.
3. Forestry use structures.
4. Hunting and fishing cabins and hunting and fishing and other private club structures involving five hundred or more square feet of floor space.
5. Land use or development, except subdivision of land, involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided in the shoreline restrictions.
6. Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for resource management areas as set forth in Appendix C of this local law.
7. Municipal roads.
8. Golf courses.
9. An individual single family dwelling within one-eighth mile of tracts of forest preserve land or waters described in paragraph (3), subparagraph (1) of Appendix A or within three hundred feet of a travel corridor described in such paragraph.
10. Campgrounds involving fewer than fifty sites.
11. All land uses and development, except subdivisions of land, within one-quarter mile of rivers designated to be studied as wild, scenic and recreational in accordance with the Environmental Conservation Law, other than those navigable by boat, during the period ~ of such designation.
12. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.

E INDUSTRIAL USE AREAS

1. Sawmills, chipping mills, pallet mills and similar wood using facilities.
2. Industrial uses.
3. Commercial uses.
4. Agricultural service uses.
5. Public and semi-public buildings.
6. Municipal roads.
7. Any land or development not now or hereafter included on either list of primary uses or the list of secondary

- uses for industrial use areas as set forth in this local law.
8. Any material increase or expansion of an existing land use or structure included on this list that is 25 percent or more of the original size of such existing use or 25 percent or more of the original square footage of such structure.
- F. Any amendment to the Class B regional project list in Section 810 (2) of the Adirondack Park Agency Act subsequent to the adoption of this local law shall be deemed to effect a corresponding change in this Appendix B without action by the town, except so far as that amendment affects the delineation of subdivisions which are class B regional projects.

APPENDIX C COMPATIBLE USE LISTS

The following compatible uses are listed in the Adirondack Park Land Use and Development Plan for the purpose of guiding development in the Adirondack Park. Any use not listed below is considered to be a Class B regional project requiring a permit under Article 9 of this local law.

MODERATE INTENSITY USE

Primary Compatible Uses:

- Accessory uses and structures to any use classified as a compatible use.
- Agricultural uses.
- Agricultural use structures.
- Cemeteries.
- Forestry uses.
- Forestry use structures
- Game preserves and private parks.
- Hunting and fishing cabins and hunting and fishing and other private club structures.
- Individual mobile homes.
- Open space recreation uses.
- Private roads.
- Private sand and gravel extractions.
- Public utility uses.
- Single-family dwellings.

Secondary Compatible Uses:

- Agricultural service uses.
- Campgrounds.
- Commercial or private airports.
- Commercial sand and gravel extractions.
- Commercial seaplane bases.
- Commercial uses.
- Golf courses.
- Group camps.
- Industrial uses.
- Major public utility uses.
- Marinas, boat yards and boat launching sites.
- Mineral extractions.
- Mineral extraction structures.
- Mobile home courts.
- Multiple-family dwellings.
- Municipal roads.
- Public and semi-public buildings.
- Sawmills, chipping mills, pallet mills & similar wood-using facilities.
- Sewage treatment plants.
- Ski centers.
- Tourist accommodations.
- Tourist attractions.
- Watershed management and flood control projects.

LOW INTENSITY USE

Primary compatible Uses:

- Accessory uses and structures to any use classified as a compatible use.
- Agricultural uses.
- Agricultural use structures.
- Cemeteries.

Forestry uses.
Forestry use structures
Game preserves and private parks.
Hunting and fishing cabins and hunting and fishing and other private club structures.
Individual mobile homes.
Open space recreation uses.
Private roads.
Private sand and gravel extractions.
Public utility uses.
Single-family dwellings.

Secondary Compatible Uses:

Agricultural service uses.
Campgrounds.
Commercial or private airports.
Commercial sand and gravel extractions.
Commercial seaplane bases.
Commercial uses.
Golf courses.
Group camps.
Industrial uses.
Junkyards.
Major public utility uses.
Marinas, boat yards and boat launching sites.
Mineral extractions.
Mineral extraction structures.
Mobile home courts.
Multiple-family dwellings.
Municipal roads.
Public and semi-public buildings.
Sawmills, chipping mills, pallet mills & similar wood-using facilities.
Sewage treatment plants.
Ski centers.
Tourist accommodations.
Tourist attractions.
Waste disposal areas.
Watershed management and flood control projects.

NORMAL USE

Primary compatible Uses:

Accessory uses and structures to any use classified as a compatible use.
Agricultural uses.
Agricultural use structures.
Cemeteries.
Forestry uses.
Forestry use structures
Game preserves and private parks.
Hunting and fishing cabins and hunting and fishing and other private club structures.
Individual mobile homes.
Open space recreation uses.
Private roads.
Private sand and gravel extractions.
Public utility uses.
Single-family dwellings.

Secondary Compatible Uses:

- Agricultural service uses.
- Campgrounds.
- Commercial or private airports.
- Commercial sand and gravel extractions.
- Commercial seaplane bases.
- Commercial uses.
- Golf courses.
- Group camps.
- Industrial uses.
- Junkyards.
- Major public utility uses.
- Marinas, boat yards and boat launching sites.
- Mineral extractions.
- Mineral extraction structures.
- Mobile home courts.
- Multiple-family dwellings.
- Municipal roads.
- Public and semi-public buildings.
- Sawmills, chipping mills, pallet mills & similar wood-using facilities.
- Sewage treatment plants.
- Ski centers.
- Tourist accommodations.
- Waste disposal areas.
- Watershed management and flood control projects.

RESOURCE MANAGEMENT

Primary compatible Uses:

- Accessory uses and structures to any use classified as a compatible use.
- Agricultural uses.
- Agricultural use structures.
- Forestry uses.
- Forestry use structures
- Game preserves and private parks.
- Hunting and fishing cabins and hunting and fishing and other private club structures involving less than five hundred square feet of floor space.
- Open space recreation uses.
- Private roads.
- Private sand and gravel extractions.
- Public utility uses.

Secondary Compatible Uses:

- Agricultural service uses.
- Campgrounds.
- Commercial sand and gravel extractions
- Golf courses.
- Group camps.
- Hunting and fishing cabins and hunting and fishing and other private club structures involving less than five hundred square feet of floor space.
- Individual mobile homes.
- Major public utility uses.
- Mineral extractions.
- Mineral extraction structures.
- Municipal roads.
- Sawmills; chipping mills, pallet mills & similar wood-using facilities.
- Sewage treatment plants.
- Single-family dwellings.

Ski centers and related tourist accommodations.
Watershed management and flood control projects.

INDUSTRIAL USE

Primary Compatible Uses:

Accessory uses and structures to any use classified as a compatible use.
Agricultural uses.
Agricultural use structures.
Commercial sand and gravel extractions.
Forestry uses.
Forestry use structures Hunting and fishing cabins and hunting and fishing and other private club structures.
Industrial uses.
Major public utility uses.
Mineral extractions.
Mineral extraction structure.
Open space recreation uses.
Private roads.
Private sand and gravel extractions.
Public utility uses.
Sawmills, chipping mills, pallet mills & similar wood-using facilities.

Secondary Compatible Uses:

Agricultural service uses.
Commercial uses.
Junkyards.
Municipal roads.
Public and semi-public buildings.
Public and semi-public buildings.
Sewage treatment plants.
Waste disposal areas.

APPENDIX D

I. DEVELOPMENT CONSIDERATIONS

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

A. NATURAL RESOURCE CONSIDERATIONS

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

B. HISTORIC SITE CONSIDERATIONS

1. Historic Factors
 - a) Historic sites or structures.

C. SITE DEVELOPMENT CONSIDERATIONS

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

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

D. GOVERNMENTAL CONSIDERATIONS

- 1. Governmental Service and Finance Factors
 - a) Ability of government to provide facilities and services.
 - b) Municipal school or special district taxes or special district user charges.

E. GOVERNMENTAL REVIEW CONSIDERATIONS

- 1. Governmental control Factors
 - a) Conformance with other governmental controls.

II. NATURAL AND PUBLIC RESOURCE OBJECTIVES AND GUIDELINES

A. SOILS

- 1 Soils, General

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

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

Objective: Conserve viable agricultural soils.

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

B. TOPOGRAPHY

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

C. SURFACE WATERS

- 1. Water Quality and Eutrophication

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

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

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

General Guideline: Minimize alterations to existing drainage patterns and drainage courses; preserve drainageways in their natural state; and provide natural retention of storm water runoff if development includes a significant area of impervious surface.
- 3. Floodplains

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

General Guideline: Avoid the placement of buildings intended for human habitation, commercial use and industrial use within floodplains; avoid the use of fill to create elevated sites; and within any floodway special zoning district and any floodway fringe special zoning district conform all development plans to the floodplain regulations contained in Article 6 hereof.

D. GROUNDWATER

- Objective: Preserve quality, infiltration rate, and levels of groundwater.

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

E. SHORELINES

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

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

F. MINERAL RESOURCES

Objective: Conserve existing known mineral resources.

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

G. AIR QUALITY

Objective: Maintain or enhance existing air quality.

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

H. NOISE LEVELS

Objective: Limit additions to noise levels.

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

I. WETLANDS

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

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

J. AQUATIC COMMUNITIES

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

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

K. TERRESTRIAL VEGETATION

1. Vegetation, General

Objective: Preserve or quickly restore terrestrial vegetation.

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

2. Rare and Endangered Terrestrial Plant Species

Objective: Preserve rare and endangered terrestrial plant species.

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

3. Productive Commercial Forest Land

Objective: Conserve productive forest lands.

General Guideline: Avoid impairment of productive forest lands for commercial forest production by employing

sound forestry practices and by employing such planning techniques as clustering of development.

L. FRAGILE ECOSYSTEMS AT HIGHER ELEVATIONS

Objective: Minimize disturbance of fragile ecosystems at higher elevations.

General Guideline: Avoid development at elevations of 2,500 feet or more.

M. TERRESTRIAL WILDLIFE

1. Terrestrial wildlife, General

Objective: Maximize the preservation of terrestrial wildlife species.

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

2. Rare and Endangered Terrestrial wildlife Species

Objective: Preserve rare and endangered terrestrial wildlife species.

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

N. AESTHETICS

1. Aesthetics, General

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

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

2. Scenic Vistas

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

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

J. Travel Corridors

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

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

O. OPEN SPACE

1. Open Space, General

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

General Guideline: Preserve vegetative screening and existing topography and employ clustering and careful siting methods where appropriate to minimize the impact of development activities and land use alterations on open space; and preserve undeveloped areas as large as possible in view of project objectives.

2. Outdoor Recreation

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

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

P. ADJOINING AND NEARBY LAND USES

1. Surrounding Land Uses, General

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

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

2. Adjacent state Land

Objective: Preserve the wild and natural character of adjacent state lands designated as wilderness, primitive or

canoe by the Adirondack Park state Land Master Plan.

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

O. WILD, SCENIC AND RECREATIONAL STUDY RIVERS

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

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

P. HISTORIC SITES

Objective: Protect archaeological sites, historic sites and unique historical structures for their educational and cultural value to the area, region or state.

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

S. SPECIAL INTEREST AREAS

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

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

T. GOVERNMENT CONSIDERATIONS

1. Service and Finance

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

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

2. Regulation

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

General Guideline: Comply with all applicable ordinances, rules and regulations of all governmental agencies with responsibilities for such activities, including those of towns and villages, counties, the state departments of Health and Environmental Conservation' and the Adirondack Park Agency.

U. PUBLIC UTILITIES AND COUNTY RESOURCES

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

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

III. DEVELOPMENT ACTIVITIES OBJECTIVES AND GUIDELINES

A. STREET AND ROADS

Objective: Design and construct roads and streets to provide safe and convenient access without causing undue adverse impacts on natural and public resources.

General Guideline: Conform street and road alignments with existing topography and vegetation; avoid steep slopes, abrupt curves and excessive cuts and fills; provide adequate road surfacing and roadbed drainage; preserve existing drainage patterns; and design streets and roads so as to minimize the impacts of construction and maintenance practices.

B. SITING AND CONSTRUCTION OF BUILDING

Objective: Design, site and construct buildings to best serve their intended functions and to minimize impact on existing natural and public resources.

General Guideline: Blend buildings with existing topography and their surrounding environs; avoid steep slopes; minimize grade alterations; and avoid complex and costly engineering solutions of site problems with potentially excessive environmental impacts.

C. SEWAGE DISPOSAL

Objective: Select, design and locate sewage disposal system to provide adequate treatment of effluent and to avoid contamination of surface or groundwater.

General Guideline: Comply with all state and local health standards, adhere at a minimum to the Adirondack Park Agency Act's setback requirements for water bodies; employ proven design criteria for sewage disposal systems in proper working order.

D. STORM DRAINAGE

Objective: Design, locate and construct storm drainage systems so as to maintain existing drainage patterns in a natural state and to minimize adverse hydrologic effects.

General Guideline: Provide adequate drainage for building sites and roads; avoid altering drainage patterns to the extent possible; utilize natural drainageways for handling storm water runoff and preserve all natural surface water retention areas such as wetlands, bogs and marshes; and minimize runoff by such other methods as preserving vegetative cover and avoiding the creation of unnecessary or extensive impervious surfaces.

E. WATER SUPPLY

Objective: Locate, design and construct water supply systems so as to provide an adequate supply of potable water without adversely affecting existing water usage patterns or creating adverse effects with regard to aquifers and sub-surface drainage patterns.

General Guideline: Comply with all state and local health standards with regard to the design, location, construction and maintenance of water supply system.

F. SOLID WASTE DISPOSAL

Objective: Provide for the storage, collection, transportation and disposal of solid waste in a manner which will minimize air, water and visual pollution and in a manner which will not create hazards to the health and welfare of people or wildlife.

General Guideline: Comply with all applicable state and local standards for the disposal of solid waste, utilize community solid waste disposal areas and recycling facilities; adequately screen disposal areas; locate disposal areas on deep, moderately permeable, well-drained soils and at sufficient distances from water bodies so as to prevent contamination thereof; and avoid locating disposal areas on steep slopes.

G. PESTICIDES AND HERBICIDES

Objective: Avoid all use of pesticides, herbicides and other biocides potentially detrimental to natural systems.

General Guideline: Strictly adhere to applicable regulations regarding type, quantity and techniques of application of pesticides, herbicides and other biocides; and prevent direct application of pesticides, herbicides and other biocides to surface waters or wetlands or in a manner which may cause contamination thereto.

H. SHORELINE DEVELOPMENT

Objective: Design and construct development along shorelines so as to maintain existing aesthetic and ecological characteristics thereof and to avoid all significant impairment of these qualities.

General Guideline: Adhere at a minimum to the shoreline restrictions of the Adirondack Park Agency Act and the provisions of the Environmental Conservation Law and all local laws; maximize preservation of undeveloped shorelines by such methods as clustering and preservation of shoreline vegetation; minimize construction of docks

and boathouses on shorelines; minimize aesthetic alterations to shorelines as viewed from water bodies and surrounding areas.

I. NOISE

Objective: Minimize noise insofar as practicable.

General Guideline: Employ such measures as appropriate site selection, appropriate construction methods and maintenance of natural cover for a buffering effect; adhere at a minimum to applicable governmental noise level standards.

J. SIGNS

Objective: Avoid signage that detracts from aesthetic and scenic qualities.

General Guideline: Limit signs to the extent necessary to adequately inform viewer concerning the activities to which they relate; utilize signs which are appropriate to the character of the area in which they are located; avoid use of signs of excessive size, of signs that are insufficiently set back from natural and man-made travel corridors, and of signs containing moving parts or flashing lights.

K. UTILITIES

Objective: Locate, design, construct and maintain utilities so as to efficiently accomplish project objectives and preserve natural and public resources.

General Guideline: Locate utilities underground if feasible and in such a way that alignments are compatible with existing topography and vegetation; minimize visual impacts on surrounding areas by maintaining and preserving as much vegetative cover as possible and utilizing existing topography; and minimize maintenance practices such as herbicide spraying which could have adverse environmental impacts on terrestrial and aquatic ecosystems.

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