**LAND USE LAW**

**FOR THE TOWN OF AMITY, NEW YORK**

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**LAND USE LAW**

**FOR THE TOWN OF AMITY, NEW YORK**

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**LOCAL LAW #\_ - 2016''**

**LAND USE (SITE PLANNING) LAW**

**FOR THE TOWN OF AMITY, NEW YORK**

**CHAPTER 1: INTRODUCTION AND PURPOSE**

**1.1** The Town of Amity has determined that is is necessary t regulate certain aspects of land use in order to manage future development. The Town, respectful of the individual rights of its citizens, seeks to minimize any burden such regulations might impose.

**1.2** The purpose of these regulations is to maintain not only the rural appearance and physical

character of the Town, but also its rural way of life, and social environment. This rural tradition is one in which landowners are free to use their property in any manner that does not harm their neighbors or the Town or region as a whole. The people of Amity desire to allow their town to evolve based upon the changing needs and circumstances they face, rather than upon a pre-determined plan of development.

**1.3** The town of Amity recognizes that almost any “use” of land can be made compatible with any other use of land and can be integrated into its surroundings if the size, scale, design, siting and operation of the use are appropriate. The Town wishes to encourage the growth of small-scale businesses that provide employment without adversely impacting environmental and community resources. The Town is concerned more with integrating development into the landscape than with comprehensively designating specific future uses of land.

**1.4** The following goals are intended to guide the application of the specific regulations contained in this document:

**1.4-1** Strengthen the sense of community and improve communication within the Town.

**1.4-2** Where possible, keep agriculture economically healthy.

**1.4-3** Preserve open space.

**1.4-4** Allow flexibility of uses without harming neighbors.

**1.4-5** Encourage non-polluting small business and industry growth that provides year- round employment.

**1.4-6** Maintain an economically diverse community with affordable housing.

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**1.4-7** Protect the water quality of all water bodies within the Town and other important environmental resources, in accordance with DEC and Corps of Engineers regulations.

**1.4-8** Balance the property rights of individuals with community interests, maintaining rural traditions of freedom of land use.

**1.4-9** Increase citizen involvement in local government.

**1.4-10** Keep the Town rural, with moderate growth.

**1.4-11** Establish a flexible system to regulate development.

**1.4-12** Improve the appearance of the Town.

**1.5** The Town has considered and rejected the idea of adopting a conventional zoning law to implement a physical plan of development. The Town finds that a zoning law based on use districts creates expectations of development and a static vision of the future that are not appropriate for a rural community. Zoning arbitrarily limits flexibility of land use without protecting a town's most important resources and character. The Town of Amity is a dynamic community, and desires to create a system that effectively manages change as it occurs.

**1.6** The purpose of this land use law is to provide a flexible framework for decision making that enables different land uses to coexist productively within the community. Unlike zoning, which seeks uniformity and separation of land use by districts, this land use law fosters and embraces integration and diversity. The economic and social vitality that results from the harmonious mixing of different activities and uses is at the core of the quality of life the Town seeks to preserve.

**1.7** This land use law therefore establishes a case-by-case site plan and special permit decision process to regulate land use changes. This decision process is governed by criteria applied by the Planning Board to specific applications of any construction or land uses regulated by this land use law, enabling an applicant, surrounding landowners and other interested citizens to work together cooperatively to resolve potential conflicts. The Planning Board's function is to oversee this cooperative process, resolve conflicts when parties are unable to do so and assure that the criteria established in this land use law is satisfied.

**1.8** This land use local law is enacted under the powers granted to towns under Article 2 of

the Municipal Home Rule Law (MHRL). This land use law is not intended to be a zoning law as provided for in Sections 261 through 269 of the Town Law of New York state, although some of its provisions may govern matters similar to those covered by zoning. To the extent that any provisions in this land use law may be inconsistent with Sections 261 through 269 of the Town Law, it is the intent of the Town to supersede such provisions of the Town Law under the supersession provisions of Article 2 of the MHRL.

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**1.9** Because this land use law in not a zoning ordinance, has built-in flexibility, and does

not restrict land use in a manner likely to cause unnecessary hardship or practical

difficulties, it contains a provision for a separate Board of Appeals. Under the standards and purposes of this land use law, the Board of Appeals is empowered and

shall be required to grant relief wherever necessary to avoid any unconstitutional

intrusion upon the property rights of landowners. (See Section 8.3 for appeal procedure.)

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**CHAPTER 2: APPLICABILITY**

**This land use law is designed to have minimal impact on single-family or small-scale**

**business uses.** These activities are covered for the most part by the Building Code. Only

those areas identified in Section 2.1 will be reviewed in addition to Building Code requirements and approved by discretion of the town Code Enforcement Officer.

This law, however, requires Planning Board review of those uses, activities and construction

listed in Sections 2.2 and 2.3, which could have harmful impacts on neighbors or the Town. In addition to the requirements of this land use law, all requirements of the New York State Department of Environmental Conservation, the New York State Uniform Fire Prevention and Building Code as administered through the Town's Code Enforcement Officer, and other Town, County, State and Federal laws and regulations must also be satisfied. This law does not relieve the need for possible additional permits and/or requirements of the Building Code or any other laws or regulations.

**2.1 Low Impact Uses**

These uses include single-family dwellings, small-scale business uses that fall below

the thresholds identified in Section 2.2 and commercial timber harvesting operations that will utilize public roads for removal of forest products.

**2.1-1** Review may be conducted and approved by the Town's Building Inspector in conjunction with Building code review and will include but not be limited to

such things as lot slope and drainage, distance from highway, distance from

adjoining lands, driveway slope and access to highway, soil suitability for

construction and erosion control.

**2.1-2** The Town of Amity is concerned about the impact on public roads of timber

harvesting operations. A Land Use Permit application for each separate timber

harvesting that will utilize a public road for removal of forest products shall

include the location and timing of the operation and be subject to review and

approval of the Town Highway Superintendent.

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**2.2 Uses Allowed by “Site Plan Only” Approval**

The following activities and construction are subject to review of a Site Plan to Assure that they are appropriately planned. (See Chapter 5 for Site Plan Only review requirements and procedure).

**2.2-1** Construction or enlargement of any structure for business or institutional

purposes, containing 2,000 to 6,000 square fee of enclosed floor space. This

shall include enlargement of an existing structure so that it exceeds the 2,000

square foot threshold.

**2.2-2** The use or occupancy of 5,000 to 15,000 square feet of land, whether or not

within structures, for any business or institutional use. For purposes of this

Chapter 2, “occupancy of land” shall refer to land that is being actively used

or is being cleared, graded or otherwise altered for site preparation, operations,

parking or other business or institutional purposes, and shall not refer to portions of a parcel left in a natural or undeveloped condition.

**2.2-3** Multi-family dwellings in new buildings, up to a total of 5 dwelling units per

project, at an overall density no greater than one unit per acre.

**2.3 Special Permit**

The following uses and activities, because of their potential for disruption to neighbors, the environment or others in the community and region are permitted only

upon the granting of a Special Permit. Any use or combination of uses covered by both Sections 2.2 and 2.3 shall require a Special Permit. (See Chapter 6 for Special

Permit requirements and procedures.)

**2.3-1** Solid Waste Management Facilities, as defined in NYCRR Part 360, Subparts

360-2 through 360-14, shall require a Land Use Permit. They shall be reviewed under 6 NYCRR Part 617 (State Environmental Quality Review)

and shall be screened with opaque fences, mature evergreen buffers, earthen

berms or other barriers or enclosures which will render the materials and

activities in the facilities invisible from public roads and adjacent properties. All Solid Waste Management Facilities require a special permit, which permit

shall stipulate that the facilities shall be open for inspection at any time by the

person or persons designated by the Town to monitor the facilities.

**2.3-2** Any business or institution that collects or recycles refuse or hazardous sub-

stances is subject to Special Permit requirements.

**2.3-3** Construction or enlargement of any structure for business or institutional

purposes containing over 6,000 square fee of enclosed floor space. This shall include enlargement of an existing structure so that it exceeds the 6,000 square foot threshold.

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**2.3-4** The use or occupancy of more than 15,000 square feet of land, whether

or not within structures, for any business or institutional use.

**2.3-5** Construction of more than 5 units of multi-family housing, or of less than

10 units at a density greater than one unit per acre.

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**CHAPTER 3: DIMENSIONAL STANDARDS**

**3.1 By-right Dimensional Standards**

(Note: These standards may all be varied by the Planning Board pursuant to

Section 3.2). The Town wishes to provide for separation between adjoining buildings

and uses to avoid disturbance and encroachment, and to protect public health and

safety. In seeking to balance individual property rights with the need for individual

privacy, it has established the following flexible dimensional standards. For protection from road noise, fumes and dust, there hall be a minimum setback of 20 feet from the right-of-way of the road. For privacy, the minimum setback from side lot lines shall be 15 feet and from rear lot lines, 25 feet. The minimum width of the lot at

the front of the principal building shall be 80 feet. To assure road access, the minimum

road access shall be 20 feet. In order to protect groundwater in the surrounding area, the minimum lot size with on-site well and septic systems shall be 2 acres.

**3.2 Modification of Dimensional Standards**

**3.2-1** Any applicant for a Site Plan Only approval, Special Permit or Subdivision

approval may request a modification of the Section 3.1 dimensional standards.

Such a modification shall be approved if it satisfies applicable review criteria

in Chapters 5 or 6 of this Land Use Law or the Land Subdivision Regulations,

as appropriate.

**3.2-2** Any applicant for a Building Permit or Land Use Permit for a use that is

allowed by a right may file a Site Plan Only review application requesting

a modification of the Section 3.1 dimensional standards. Such a modification

shall be approved if it satisfies applicable review criteria in Chapter 5.

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**CHAPTER 4: SUPPLEMENTAL PROVISONS**

**4.1 Minimum Lot Sizes and Buildable Land Area on a Lot**

Notwithstanding any other provisions of this land use law, any building lot that

requires a site plan or special use permit by this local law must contain a minimum

area of a buildable land. Such buildable land must be contiguous, with a minimum

dimension of 50 feet on all sides, and must be accessible by emergency vehicles

from a public or private road. The minimum buildable area for lots containing

on-site septic disposal systems or wells shall be 15,000 square feet; for lots connected

to off-site septic or sewage disposal and water systems, the minimum shall be 2,500

square feet. Areas covered by the setbacks specified in Chapter 3 may be included in

the buildable area of a lot.

**4.2 Steep Slope Regulations**

The Town finds that the alteration of steep slope areas pose potential risks of erosion,

sedimentation and landslides. Accordingly, the following requirements are hereby

imposed in areas with slopes exceeding fifteen percent (15%):

**4.2-1** No approval of a Site Plan or special Permit that involves the disturbance

of slopes greater than fifteen percent (15%) shall be granted unless conditions

are attached to ensure that:

a. Adequate erosion control and drainage measures will be in place so

that erosion and sedimentation does not occur during or after

construction (see Section 4.9).

b. Cutting of trees, shrubs and other vegetation will be minimized,

except in conjunction with logging operations performed pursuant

to applicable guidelines of the New York State Department of

Environmental Conversation.

c. Safety hazards will not be created due to excessive road or driveway

grades or due to potential subsidence, road washouts, landslides,

flooding or avalanches.

d. Proper engineering review of plans and construction activities will

be conducted by the Town, at the applicant's expenses, to ensure

compliance with this Section.

e. No Certificate of Occupancy will be granted until all erosion

control and drainage measures required pursuant to this Section

have been satisfactorily completed.

**4.2-2** No disturbance, including cutting of vegetation or construction of driveways,

shall be permitted on any slope or thirty percent (30%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with

logging operations performed pursuant to applicable guidelines of the New

York State Department of Environmental conversation.

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**4.2-3** Slope determinations shall be made based upon the topographic information

required for a particular approval, along with such other topographic infor-

mation as the Planning Board shall reasonably require or the applicant shall

offer. In cases of uncertainty or dispute, an engineer retained by the Town,

at the applicant's expense, shall determine the location of regulated slopes.

For purposes of establishing steep slope areas, only contiguous sloped areas

owned by the applicant containing at least 5,000 square feet of slopes over

15% or 30% shall be considered.

**4.3 Protection of Agriculture from Potentially Incompatible Uses**

**4.3-1** 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 Subsection 4.4-3 may also be applied to any

business or institutional development within the jurisdiction of the Planning

Board which abuts agricultural land, at the discretion of the Planning

Board.

**4.3-2** Agricultural Buffers

Wherever agricultural uses and other new uses unrelated to the agricultural operations, abut, buffers, if desired, shall be provided by the proponent of

the non-agricultural use to reduce the exposure of the non-agricultural uses

to reduce the exposure of the non-agricultural uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision and

maintenance 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.

**4.3-3** Agricultural Data Statement

Any Application for a Special Permit, Site Plan approval, or Subdivision

approval for a project that would occur on property within an agricultural

district containing a farm operation, or on property with boundaries within

five hundred (500) feet of a farm operation located in an agricultural district,

shall include an agricultural data statement as defined in Chapter 10. The

Planning Board shall evaluate and consider the agricultural data statement

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in its review of the possible impacts of the proposed project upon therefore functioning of farm operations within the agricultural district.

**4.4 Resource Extraction and Drilling Sites**

**4.4-1** An applicant for a Special Permit for resource extraction shall submit to

the Planning Board copies of all applications and other materials submitted

to the New York State Department of Environmental Conversation (DEC)

in connection with its resource extraction applications.

**4.4-2** In considering whether to grant or deny a resource extraction Special

Permit, the Planning Board shall consider all relevant criteria contained

in Section 5.2

**4.4-3** In issuing a Special Permit for 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:

a. Ingress from and egress to public thoroughfares controlled by

the Town;

b. Routing of mineral transport vehicles on roads controlled by

the Town;

c. Requirements and conditions specified in the permit issued by

the DEC concerning setbacks from property boundaries and public

thoroughfare rights-of-way, natural or man-made barriers to

restrict access, dust control and hours of operation;

d. Enforcement of reclamation requirements contained in any DEC

permit.

**4.4-4** In issuing a Special Permit for resource extraction uses not subject to

regulation by DEC, the Planning Board may require additional conditions

as it deems necessary.

**4.4-5 Drilling Sites**

Pursuant to Environmental Conservation Law Section 23-0303(2) which

declares that New York State's regulatory program for oil, gas and solution

mining “supersedes all local laws or ordinances relative to the regulations of the oil, gas or solution mining industries: but shall not supersede the local

government jurisdiction over local roads or the rights of the local govern-

ments under the the real property ta law,” the following criteria shall be met:

a. The operator of the Drilling site and accessory sites, such as

staging areas, shall enter into a Road Use Agreement with therefore Town to plan routes and to protect and repair road damage caused

by high volumes of truck traffic to and from the Drilling Site.

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**4.4-6 Dormitory**

a. Dormitories shall be located a minimum of 150 feet from the edge

of the right of way of any public road and shall not be closer than a

minimum of 50 feet to any property line or 100 feet from a buildings on an adjacent property or 150 feet from a residence.

b. At a minimum, one parking space shall be provided per each

occupant plus one parking space for each on-duty employee.

c. Parking shall be located at the side or rear of the structure and shall

not be closer than 20 fee to any property line.

d. The parking lot must be paved or gravel and in either case must be

designed to prevent storm water runoff to adjoining properties or

roadways through use of swales, retention ponds, etc. Storm water

runoff from structures must also be controlled.

e. The dormitory must meet all NYS Building Codes and all codes

for drinking water and waste disposal.

f. Trash facilities such as garbage cans or dumpsters shall be

screened from public view.

g. Landscaping materials shall be of appropriate size, quantity, and

character to provide an attractive setting for dormitory residents,

neighbors, and those passing by.

h. Contact information for the manager and the owner of the

dormitory shall be on file with the Town Code Enforcement Officer.

i. There hall be in plaice either a reclamation plan or a transition plan.

A reclamation plan will show how the site will be returned to a

natural state should the structures be removed. A transition plan

will detail how the structures on the site will be put to another use

or, if the structures are to removed, how the site will be changed

to another use such as a single-family homes or any other use as

allowed by law.

**4.4-7 Industrial Storage Yard**

a. Nothing shall be stored within 150 feet of the edge of the right-of-way of any public road.

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b. Nothing shall be stored within 50 feet of any property line, 100

feet of any building on an adjacent property or 150 feet of any

residence.

c. Any repairs and maintenance shall be either conducted in an

enclosed structure or an impervious surface with an appropriate

storm water drainage and detention plan in place so as to minimized infiltration of chemicals or petroleum product fluids in the ground.

d. Natural vegetation shall be retained as much as possible and efforts

shall be made to control dust.

e. Any entrance to or an exit from the site shall have 250 feet of site

distance and shall be no closer than 50 feet to any intersection or

any other entrance/exit.

f. New or proposed roads and driveways shall be suitably located,

of sufficient width, and adequately constructed to accommodate

expected normal traffic and to allow access for snow removal, road

maintenance, and emergency equipment.

g. Driving surfaces within the site shall be adequate to prevent

spreading of mud to public roads and stormwater shall not drainage on to public roads or adjoining properties.

h. Items stored on site shall be kept in a neat, orderly, and safe

manner. Any scrap material no longer intended or in condition for use shall be removed from the site.

i. Contact information for the site shall be on file with public safety

officials in case of spills, fires, or other incidents that may occur

when no employees are on site.

**4.4-8 Commercial Recreational Vehicle (RV) Park**

a. No recreational vehicles space shall be sited within 150 feet of therefore right of way of any road.

b. No recreational vehicle shall be parked within thirty (30) feet of

another recreational vehicle or a property line and 100 feet of any

building on an adjacent property or 150 feet from any residence on

an adjacent property.

c. No parking or loading, or maneuvering incidental to parking or

loading, shall be permitted on a public road.

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d. New or proposed roads and driveways within a commercial

recreational vehicle park shall be suitably located, of

sufficient width and adequately constructed to accommodate

expected normal traffic and to allow access for snow removal,

road maintenance, and emergency equipment. Roads within a

commercial recreational vehicle park shall afford safe and

convenient access to all spaces and facilities, and shall provide

all-weather access to sites. Road surfaces should be adequate to

prevent the spread of soil to public roads and dust shall be

controlled.

e. Natural vegetation should be retained to the maximum extent

practicable.

f. Drinking water supplies, waste disposal, and electrical supply

shall meet all New York State codes. Appropriate hookups shall

be provided at each site.

g. Dumpsters or trash receptacles shall be screened from view of park

guests and the general public.

h. The park shall be maintained in a neat and orderly manner.

i. Contact information for the park manager or owner shall be on

file with the Town Code Enforcement Officer.

**4.5 Signs**

Signs shall require a Land Use Permit from the Land Use Officer (LUO)

unless exempted by Section 4.5-1 or 4.5-3. Where a sign is erected in conjunction

with a project that is a subject to Site Plan or Special Permit review, the proposed

sign shall be reviewed by the Planning Board as part of the approval process, and

shall not require a separate Land Use Permit.

**4.5-1** Non-illuminated signs less than 16 square feet per side shall not require a

Land Use Permit. However, no more than two such signs per buildings shall be permitted without a Land Use Permit.

**4.5-2** Commercial signs 16 square feet per side or larger shall require a Landscaping Use Permit in accordance with the following standards:

a. Signs shall not project into a public way.

b. Free-standing signs shall not interfere with visibility of pedestrians

or vehicles.

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c. No free-standing sign may be larger than one hundred (100) square

feet per side.

d. Signs shall not interfere with street and traffic lighting nor cause

off-premises glare.

e. No signs shall be placed in the highway right of way without a

permit from the Highway Superintendent.

**4.5-3** Non-commercial signs shall be permitted in any location and be in any

media without a Land Use Permit, subject to the restrictions in

Section 4.5-2.

**4.6 Storm Water and Erosion Control**

The Storm Water and Erosion Control Guidelines of the New York State

Department of Environmental Conservation shall apply to the following activities:

**4.6-1** Excavation within 50 feet of any stream, lake or pond.

**4.6-2** Excavation, grading, or construction on slopes over 8% or in any area in

excess of 20,000 square feet.

**4.6-3** Any project subject to Site Plan Only, Subdivision, or Special Permit

approval.

**4.6-4** Agriculture, unless conducted pursuant to an approved current US

Department of Agriculture Natural Resources Conservation Service

Conservation Plan.

**4.7 Driveways**

All driveway entrances shall comply with regulations of the New York Statement

Department of Transportation or the Allegany County Department of Public

Works or the Town of Amity, whichever applies. The applicant shall obtain

a permit that is required to establish an entrance to a State, County, or Town of

Amity road.

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**CHAPTER 5: “SITE PLAN ONLY” REVIEW**

The Town has established in Chapter 2 a three-tiered system of reviewing land use and

development. Most small-scale uses require a Land Use and/or Building Permit, with site

plan review issued by the Land Use Officer. The Land Use Officer shall use the Planning

Board as an advisory board for this review. Larger-scale projects (listed in Section 2.2)

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require Planning Board review of a site plan only, to assure that such projects will be

compatible with their surroundings. Very large projects (listed in Section 2.3) must

follow the Special Permit requirements in Chapter 6.

**5.1 Contents of a “Site Plan Only” applications**

An applicant for a Site Plan Only approval shall submit:

**5.1-1** A Site Plan application form

**5.1-2** A site plan drawn to scale with accurate dimensions providing information

sufficient to enable the Planning Board to make an informed decision, an

agricultural data statement as defined in Chapter 10; and a vicinity map of

appropriate scale showing adjacent lots and annotated with the names of

adjacent lot owners. The Planning Board may require additional

information as appropriate to the specific application.

**5.1-3** A brief narrative describing the proposed use.

**5.1-4** A short-form Environmental Assessment Form (EAF) (unless therefore Planning Board determines that the proposed Site Plan approval is a

Type I action under the State Environmental Quality Review Act

(SEQRA), in which case a long-form EAF shall be required).

**5.1-5** The Site Plan Only application fee as established by the Town

Board, and an escrow deposit if required to cover reasonable

professional review costs.

**5.2 Procedure**

**5.2-1 Application**

a. Application for a Site Plan Only approval 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 Site Plan Only review 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 requires

Site Plan Only or Special Permit approval (and the SEQRA

compliance), all proposed uses on a single parcel or related uses on

nearby or contiguous parcels shll be considered together.

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**5.2-2 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 determined the information that will need to be submitted.

**5.2-3 Mediation**

At any point in a project review process the Planning Board may, if it deems

appropriate and the applicant consents, appoint a mediator to work informally

with the applicant, neighboring property owners, and other interested parties

to address concerns raised about the proposed 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 require Planning Board approval to assure compliance with

all provisions of this land use law. The cost of such mediation will be

charged to the applicant as part of the cost of the project review. Such cost

may also be shared by other interested parties with their written consent.

**5.2-4 SEQRA Compliance**

Upon receipt of application materials it deems completed, 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

twenty (20) days. Where 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 land use 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.

The Planning Board may prepare the DEIS at the applicant's expense,

with the applicant's consent.

**5.2-5 Referral to County Planning Board and Adjacent Municipalities**

Upon receipt of application materials it deems to be complete, the Planning

Board shall refer to Allegany County Planning Board any application for Site

Plan approval or Special Use approval affecting the real property within five

hundred (500) feet of the boundary of the Town of Amity, the boundary of any existing or proposed County, 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

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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.

In addition, the Planning Board shall give notice to any adjacent

municipality, as required by Section 239-nn of the NYS General

Municipal Law or amendments thereto.

**5.2-6 Notice and Hearing**

a. The Planning Board shall hold a public hearing on a completed Site Plan Only application within 62 days. At least seven (7)

calendar days prior to the date thereof, the applicant shall notify

all of the following of the hearing by registered mail, return

receipt requested and shall give public notice of such hearing by

causing publication of a notice of such hearing in the official

newspaper:

1. Owners of al real property as shown on the current tax

map, located within 200 feet in all directions of the

property which is the subject of the hearing.

2. The clerks of all adjoining municipalities whose

boundaries are located within 200 feet of the property

which is the subject of the hearing.

3. The County Planning Board where the hearing concerns

property adjacent to an existing county road or proposed

road shown on the official county map, adjoining other

county land or situated within 500 feet of a municipal

boundary.

4. The State Commissioner of Transportation where therefore hearing concerns an application for development of property

adjacent to a state highway.

b. The cost of mailing the notices shall be borne by the applicant.

**5.2-7 Action**

a. The Planning Board by a majority vote of the full Board, shall grant,

deny, or grant subject to conditions, the application for a Site Plan Only

approval within sixty-two (62) days of its first meeting after receipt

of the completed application or sixty-two (62) days after the hearing.

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Any decision shall contain written findings explaining the rationale

for the decision in light of the standards contained in this land use

law.

b. A copy of the decision shall be immediately filed in the Town Clerk's

office and mailed to the applicant. A resolution of either approval

or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the

applicant's compliance with applicable conditions and the submission

requirements stated therein.

c. If the Planning Board's resolution includes a requirement that

modifications be incorporated in the Site Plan, conformance with these

modifications shall be considered a condition of approval. If the Site

Plan is disapproved, the Planning Board may recommend further study

of the Site Plan and resubmission to the Planning Board after it has

been revised or redesigned.

d. Within six (6) months after receiving Site Plan approval, with or

without modifications, the applicant shall submit four copies of the Site

Plan to the Planning Board for stamping and signing. The Site Plan

submitted for stamping shall conform strictly to the required revisions

or other modifications and hall be accompanied by the following

additional information:

1. Record of application for an approval status of all necessary

permits from Local, County, State, and Federal officials.

2. Detailed sizing and final material specification of all required

improvements.

3. An estimated project construction schedule. If a performance

guaranty pursuant to Subsection 5.2-8 is to be provided by the

applicant for all or some portion of the work, a detailed site

improvements cost estimate shall be included.

4. Proof of payment of the Planning Board's reasonable review costs.

e. Upon stamping and signing the Site Plan, the Planning Board shall

forward a copy of the approved Site Plan to the Code Enforcement

Officer and the applicant. The Code Enforcement Officer may then

issue a Building Permit or Certificate of Occupancy if the projects conforms to all other applicable requirements.

**5.2-8 Performance Guaranty**

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No Certificate of Occupancy shall be issued until all improvements shown

on the Site Plan are installed or a sufficient performance guaranty has been

posted for improvements not yet completed. Such performance guaranty

shall be posted in accordance with the procedures specified in Section 277

of the Town Law relating to subdivisions. The amount and sufficiency of

such performance guaranty shall be determined by the Planning Board

after consultation with the Town Attorney, the Land Use Officer, other

local officials or its designated consultants.

**5.2-8 Request for Specialized Services**

The town may require the cost of expert or specialized services in therefore event it is decided by the Town Board or the Planning Board that advice or

expertise is required in order to supplement analysis, inspections, or otherwise matters in determining or deciding certain aspects or portions of an

application for land use meet required standards. In such case an estimate of costs shall be provided to the applicant together with explanation of

such services to be provided, and the applicant shall deposit with the

Town such amounts toward such costs as shall be determined by such

Board. Failure to provide such services may result in a rejection of an

application at any stage.

**5.2-9 Inspection of Improvements**

The Land Use Officer shall be responsible for the inspection of site

improvements including coordination with the Town's consultants and

other local officials and agencies, as may be appropriate.

**5.2-10 Expiration, Change of Use, Revocation and Enforcement**

A Site Plan approval shall expire if the approved use or uses cease for

more than twenty-four (24) consecutive months for any reason, if therefore applicant fails to obtain the necessary Building Permit or Land Use or to

comply with the conditions of the Site Plan approval within twelve (12)

months of its issuance, or if its time limit expires without renewal.

a. A Site Plan approval 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 Site Plan approval

(as determined by the Code Enforcement Officer / Land Use Officer

in issuing a Building Land or Land Use Permit) and which does not involve any new construction, enlargement, exterior alteration of

existing structures or changes use of outdoor areas. Any other change

to a use allowed by Site Plan approval shall require the granting of a

new Site Plan approval or a Site Plan amendment.

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b. A Site Plan approval my be revoked by the Planning Board if therefore permittee violates the conditions of the Site Plan approval or

engages in any construction or alteration not authorized by the Site

Plan approval.

c. Any violation of the conditions of a Site Plan approval shall be

deemed a violation of this land use law and shall be subject to enforcement action as provided herein.

**5.2-11 Amendments**

The terms and conditions of any Site Plan Only approval may be amended

in the same manner as required for the issuance of a Site Plan Only approval,

following the criteria and procedures in this Chapter. Any enlargement,

alteration, or construction of accessory structures not previously approved

shall require a Site Plan amendment.

**5.3 Findings Required**

In order to grant a Site Plan Only approval, the Planning Board must find that

the proposal:

**5.3-1** Will not cause undue traffic congestion, unduly impair pedestrian or

vehicular safety or overload existing roads, considering their current

width, surfacing and condition, and will have appropriate parking and

be accessible to fire, police, and other emergency vehicles. Road access

points will have sufficient distances to assure visibility of vehicles.

**5.3-2** Will not overload any public water, drainage, or sewer system, or any

other municipal facility or degrade any natural resource or ecosystem

**5.3-3** 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.

**5.3-4** Will not result in excessive noise, dust, odors, liquid or solid waste,

or glare, or create any other nuisances.

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**CHAPTER 6: SPECIAL PERMITS**

**SPECIAL PERMIT REVIEW PROCEDURES**

The application requirements, planning board review, SEQR review, referral, notice and hearing procedures as described in Chapter 5 (“Site Plan Only” Review) are hereby

incorporated in Chapter 6 for Special Permit Review and shall apply for the issuance, modification, denial, or enforcement of Special Permits, with the exception that a hearing shall be required for the special permit review process.

All time period requirements, notice, filings, findings and other requirements for   
“Site Plan Only” Review shall apply to Special Permit Review as well as Findings Required as contained in Section 6.1.

In recognition that large-scale uses tend to have the greatest impacts on the Town and its environment, such uses shall be allowed only upon the granting of a Special Permit as described below:

**6.1 Findings Required**

**6.1-1** Will comply with all the provisions and requirements of this and other local

laws and regulations, and will fulfill the purposes of this land use law as

stated in Chapter 1.

**6.1-2** Will not result in excessive noise, dust, odors, solid waste or glare to create

any other nuisances, and will satisfy the General Land Use Performance

Standards in Section 4.1.

**6.1-3** 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.

**6.1-4** Will not cause undue traffic congestion, unduly impair pedestrian or

vehicular safety or overload existing roads, considering their current

width, surfacing and condition and will have appropriate parking and be

accessible to fire, police and other emergency vehicles. Road access

points will have sufficient sigh distances to assure visibility of vehicles.

**6.1-5** Will not overload any public water, drainage or sewer system or any other

municipal facility or degrade any natural resource “ecosystem.”

**6.1-6** 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,

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historic and scenic resources of the Town. Where water and sewer

services are available, the Planning Bard may require development

to be clustered in the pattern of a traditional village or hamlet with

visually or environmentally important open space preserved by a deed

restriction or conservation easement. Where water and sewer utilities

are not available, the Planning Board shall encourage such a pattern

to the extent feasible.

**6.1-7** Will be consistent with the goals of concentrating retail uses in

hamlets and incorporated villages, avoiding strip commercial

development and residential sprawl development and locating non-

residential uses that are incompatible with residential use in well-

buffered rural locations.

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**CHAPTER 7: NON-CONFORMING USES, STRUCTURE AND LOTS**

**7.1 Continuation of Non-Conforming Uses and Structures**

Any lawful structure or use existing at the time of the enactment or amendment of this land use law (pre-existing use or structure) which becomes non-conforming as a result

of such enactment or amendment may be continued.

**7.2 Structures and Uses**

A non-conforming structure, use or characteristic of use shall be treated as follows:

(a) Expansion – A non-conforming structure or use shall not be expanded

in any way.

(b) Unsafe Structures – A non-conforming structure declared unsafe by a

proper authority may be restored to a safe condition.

(c) Restoration – A non-conforming building destroyed or damaged may be

rebuilt on the same location to the same dimensions.

(d) Discontinuance – When a non-conforming use or characteristic of use has

been discontinued for a period of one (1) year, it shall not thereafter be

re-established; use of such premises shall be in conformity with the

provisions of this law.

(e) Changes – When non-conforming premises are brought into conformity

with this law, they shall not allowed again to become non-conforming.

(f) Moving – A structure that is moved from one lot to another shall conform with the laws for the district in which it is located after such move.

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**7.3 Lots**

A non-conforming lot of record shall be treated as follows:

(a) In a district where dwellings are allowed, a non-conforming undeveloped

lot or record having a lesser area or width than the minimum required,

may be used for not more than one (1) single family dwelling, for whichever no variance need to be obtained, providing that:

(1) such lot does not adjoin any other lot held by the same

owner, the aggregate area of which lots is equal to or

greater than the minimum lot area required; and,

(2) the area of such lot I not less than five thousand (5,000)

square feet; and,

(3) such dwelling shall be built with side yards not less than five (5)

feet deep and with the set back not less than the average of the

adjoining front yards.

(b) Any undersized lot of record may be subdivided only if each and every

subdivision of such lot shall be acquired by the owner of adjoining lots

and added to their lot becoming one parcel, thereby increasing the size

of such adjoining lots.

**7.4 Construction Started Prior to This Land Use Law**

Any non-conforming structure for which construction has begun prior to thereafter effective date of this land use law, or of any amendment thereto, may be completed

and used in accordance with the approved plans and specifications for such

structure. Any non-conforming structure for which construction has not begun

pursuant to approval plans shall be subject to the provisions of this land use law

and any amendments thereto, even if all approvals previously required have been

granted.

Prior Permits given for the commercial construction and operation of Wind Power

Facilities may be completed without application of this law.

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**CHAPTER 8: ADMINISTRATION AND ENFORCEMENT**

**8.1 The Land Use Permit**

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In order to assure compliance with this land use law, it is necessary for the Town to be aware of proposed development activities. A Land Use Permit designates that the

proposed development complies with these Regulations. All work shall be consistent

with the permit. During the course of the work, the Land Use Officer (LUO) shall

inspect the site to ensure compliance with the Permit. Most such activities already

require a Building Permit under the New York State Uniform Fie Prevention and

Building Code (“Building Code”), administered by the Code Enforcement Officer.

**8.1-1** This Law shall be enforced by the Land Use Officer (LUO) who shall be appointed by the Town Board. No Building Permit or Certificate of

Occupancy shall be issued by the LUO unless all provisions of this law have

been complied with. The LUO shall serve separately from the Town Code

Enforcement Officer.

**8.1-2** Land Use Permit Types

Under the terms of this law the following classes of Permits may be issued

by the LUO:

A. Permitted Use - No Land Use permit is needed for a “By Right” use

as defined in Section 2.1.

B. Site Plan Only – A Land Use Permit for a Site Plan Only Land Use

may be issued by the LUO after review and approval by the Planning

Board following procedures defined in Chapter 5 of this law.

C. Special Permit – A Land Use Permit for projects requiring Special

Permits may be issued by the LUO after review and approval by the

Planning Board following procedures defined in Chapter 6 of this law.

D. Permits After Appeal – Building and/or Land Use Permits may be issued by the LUO upon the order of the Planning Board and after

a public hearing held by the Planning Board for the purpose of deciding

upon the appeal.

**8.1-3** No building or structure, including accessory buildings and signs, shall be

erected, moved, enlarged, or extended, nor shall any new commercial use

of land be initiated or excavation of land be begun until a Building Permit

and/or Land Use Permit as required has been issued by the Code Enforcement

Officer and/or Land Use Officer.

**8.1-4** Commercial activities that are not covered by the Building Code require a

town “Land Use Permit,” which shall be granted if the proposed use complies

with this Land Use Law. Land Use Permits shall be required only in

situations where a Building Permit is not required or has not yet been issued,

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including erection of free-standing sign, land disturbance (including

excavation, grading and site clearing) on more than 2,000 square feet

of land or business or institutional uses not involving buildings.

**8.2 Violations**

**8.2-1 Penalties**

A violation of this Land Use Law is an offense punishable by a fine not

to exceed two hundred fifty dollars ($250.00) or imprisonment for a

period not to exceed fifteen (15) days, or both for conviction of a first

offense.

Conviction of a second offense, committed within five (5) years of the first offense, is deemed a Class B misdemeanor and is punishable by a

fine not less than three hundred fifty dollars ($350.00) nor more than

five hundred dollars ($500.00) or imprisonment for a period not to exceeding three months, or both.

Conviction of a third or subsequent offense committed within a period of

five (5) years is deemed to be a Class A misdemeanor and is punishable by

fine of not less than seven hundred dollars ($700.00) nor more than one

thousand dollars ($1,000.00), or imprisonment for a period not to exceed

six (6) months, or both.

Each week's continued violation shall constitute a separate violation.

**8.2-2 Complaints of Violations**

Whenever a suspected violation of this land use law occurs, any person

may file a signed complaint reporting such violation to the Land Use

Officer. All such complaints must be in writing (unless the suspected

violation threatens life, health or safety, in which case the Land Use

Officer is authorized to act onan oral complaint) and shall be submitted

to the Land Use Officer, who shall properly record such complaint and

immediately investigate and report thereon to the Town Board.

**8.2-3 Abatement of Violations**

Whenever a suspected violation of this land use law occurs, the Town

Board or, with its approval, the Land Use Officer, may institute an

appropriate legal action or proceeding to prevent, restrain, correct, or abate

such violation, to prevent the occupancy of the premises, or to prevent any

legal act, conduct, business or use in or about the premises. The Land Use

Officer shall be empowered to issue a “stop work order” upon determining

that a violation of this local law has occurred or is in progress.

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**8.2-4 Accountability**

For every violation of the provisions of this Land Use Law, the owner,

agent, contractor, lessee, ground lessee, tenant, licensee, or any otherwise Person who commits, takes part or assists in such a violation, or who

maintains any structure or premises in which any such violations exists,

shall be punished according to the provisions of this Land Use Law.

**8.3 Appeal of Action by Land Use Officer or Planning Board**

Any person aggrieved by an order, determination, interpretation, or other action

taken by the Land Use Officer or Planning Board in accordance with this Law,

may appeal such action to the Board of Appeals following the procedural steps

contained in Section 8.3-1. In hearing such appeal, the Board of Appeals shall

have the power of the board of appeals as provided in Section 267-b of the Town

Law of New York State.

**8.3-1 Appeals from Land Use Officer (LUO) or Planning Board Decisions**

An appeal may be taken by an applicant who has been denied or desires

to have modified a permit issued by the Land Use Officer (LUO) or

the Planning Board. Said appeal shall be submitted to the Board of

Appeals, its Chairperson or the Town Clerk within 30 days of the denial

or issuance of permit by the Land Use Officer (LUO) or Planning

Board.

The appeal shall be on a form authorized by the Board of Appeal and

shall state the reason for the appeal, contain a copy of the denial or

permit issued, be signed by the applicant and contain all materials

necessary for the Board of Appeals to consider in the appeal process.

The Board of Appeals shall be composed of five member who shall be

appointed by the Town Board. The appointment and structure of the

Board of Appeals shall be as contained in Section 267 of the Town Law

of New York State in similar fashion as set forth for a zoning board of

appeals for area variances.

At any proceedings of the Board of Appeals in its duties under this

local law, the Chairperson of the Planning Board, or such Chairperson's

designee who is a member of the Planning Board, shall be invited to

attend such proceedings as representative of the Planning Board.

The Board of Appeals shall hear the appeal within 30 days of the filing

of the application for appeal upon public notice or at a regular meeting

of the Board of Appeal. A decision shall be made within 62 days of said

meeting or hearing, if such is required as set forth in this local law.

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The Board of Appeals shall utilize and adhere to the standards of

review and considerations as contained in Section 267-b, subsection

3.(b) and (c), and subsection 4 of the Town Law of New York State-owned in similar fashion as set forth for a zoning board of appeals for area

variances.

Any decisions to modify or grant an application and permit previously

denied by the Land Use Officer (LUO) or the Planning Board shall

require all steps and procedures necessary for the initial grant of a permitted by the Land Use Officer (LUO) or the Planning Board.

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**CHAPTER 9: MISCELLANEOUS PROVISIONS**

**9.1 Interpretation as Minimum Requirements**

In their interpretation and application, the provisions of this land use law shall be

deemed minimum requirements, adopted for the promotion of the public health,

morals, safety or the general welfare. Whenever the requirements of this land use

law differ from the requirements of any other lawfully adopted laws, regulations

or ordinances, the most restrictive, or that imposing the higher standards, shall

govern.

**9.2 Severability**

If any provision of this land use law or the application thereof to any person,

property or circumstances is held to be invalid, the remainder of this land use

law and the application of each provision to other persons, property, or circum-

stances shall not be affected thereby.

**9.3 Conflict With Other Laws**

This land use law shall not repeal, abrogate, annul, or in any way impair or

interfere with any provisions of law or rules or regulations previously adopted

or issued and still in effect relating to the use of structures or premises, provided

that where this land use law imposes a greater restriction upon the use of

structures or premises or requires larger lots or yards than the imposed or required

by such existing laws, rules or regulations, the provisions of this land use law

shall control.

**9.4 Appeal of Board of Appeals Action**

Any person aggrieved by a decision of the Board of Appeals may apply to the

Supreme Court for review by a proceeding under Article 78 of the Civil Practice

Law and Rules.

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**9.5 Effective Date**

This Land Use Law shall take effect upon the filing in the office of the Secretary of

State.

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**CHAPTER 10: DEFINITIONS**

Except where specifically defined herein, all words used in this ordinance shall

carry their customary meanings as defined in generally accepted dictionaries.

Words used in the present tense include the future, and the plural includes thereafter singular; the word “structure” includes the word “building;” the work “shall” is intended to be mandatory; “occupied” or “used” hall be considered as though

followed by the words “or intended, arranged or designed to be used or occupied.”

**Access Roads.** Private roads that provide vehicular access to sites or structures

from public roads. Access roads do not include lanes customarily used by farmers

to access agricultural fields or driveways to private dwellings.

**Accessory Use and Structure.** A use of structure on a lot or portion of a lot

customarily incidental and subordinate to the lot or structure and not changing

the character or the principal use of the structure or lot.

**Agricultural Data Statement.** An identification of farm operations within an

agricultural district located within five hundred feet of the boundary of property's upon which a 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 Subdivision 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 Subdivision 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.

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**Agriculture.** The management of land for agriculture and crops; raising of

cows, horses, pigs, poultry and other livestock, and horticulture of orchards;

including the construction, alteration or maintenance of fences, agricultural

roads, agricultural drainage systems and farm ponds, barn, stable, shed, silo,

garage, fruit and vegetable stand or other building or structure directly and

customarily associated with agricultural use and production.

**Buildable Land.** That portion of a lot which is suitable for building structures

and locating septic disposal facilities, excluding wetlands and watercourses,

slopes exceeding fifteen percent (15%) and flood hazard areas as mapped on

the Federal Emergency Management Agency's Flood Insurance Rate Map.

**Business or Institutional Use.** A non-agricultural use involving the sale or

rental of goods, services or commodities, either on a retail or wholesale basis,

or the provision of services or entertainment, whether or not for profit, including

without limitation stores, campgrounds, tourist attractions, motels, clinics,

offices, restaurants, resorts, service and gas stations, and industry. As defined

in this Land Use Law, business or institutional use shall generally refer to any

non-residential, non-agricultural use of land for commercial, educational,

charitable, religious or scientific purposes.

**Commercial Recreational Vehicle (RV) Park.** A recreational vehicle park or

site for travel trailers or recreational vehicles used for temporary or permanent

living accommodations, operated as a business, for profit, commercially, or for

the benefit of a business or commercial enterprise.

**Distances.** Distances shall mean the shortest horizontal linear distance from

the nearest point of a regulated activity to the mean high watermark of the

nearest watercourse or the edge, margin or top of a precipitous bank adjoining

forming the mean high watermark of a watercourse. Additionally, distances

shall mean the shortest footage between two or more objects.

**Dormitory.** A space in a building where group sleeping accommodations are

provided in one room, or in a series of closely associated rooms, for persons

not members of the same family group, under joint occupancy and single

management, a in college dormitories or fraternity houses. Also to include a

building, or part thereof, where lodging, with or without meals, is provided for

compensation, direct or indirect, for four or more non-family persons, residing

for 30 days or more, when no kitchen or dining facilities are provided in

individual rooms. The term dormitory shall include “man camps,” temporary

facilities commonly set up by oil and gas drilling companies to provide food

and shelter for employees near drilling locations. Such dormitories or man

camps may include modular or mobile housing units designed to be removed

from the site when drilling activity in the area is complete.

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**Drilling Site.** A site, and its ancillary areas, used for oil, gas or solution

mining, including horizontal drilling for natural gas, as regulated in

New York State pursuant to Article 23 of the Environmental Conservation

Law and its implementing regulations, 6 N.Y.C.R.R. Part 550.

**Dwelling Unit.** One or more rooms constituting a separate independent

housekeeping unit establishment with cooking, living, sanitary and sleeping

facilities for the use of no more than one family.

**Family.** A person or persons related to each other by blood, marriage, or

adoption, or any number of persons, irrespective of any such relationship,

which nonetheless functions as the equivalent of such a family, living

together in a single housekeeping unit.

**Farm Operation.** Land uses in agricultural production, farm buildings,

equipment and farm residential buildings.

**Flood Plain.** Shall mean those areas designated by either the New York

State Department of Environmental Conservation or the United States

Federal Emergency Management Agency as likely to flood within one

hundred years.

**Industrial Storage Yard.** An outside area where heavy equipment, pipes,

storage tanks, building materials, fuel, storage trailers, office trailers, or any

other items customarily used in construction, mining, gas exploration, or

similar industries are stored or stockpiled. Industrial storage yards do not

include areas used to store equipment or materials used in agricultural

practices.

**Industry.** The manufacture and production or assembly of goods and

materials.

**Lot or parcel.** An area or plot of land with definite boundaries, all parts

of which are owned by the same person(s) or entities, the boundaries of

which are established either by the filing of a Subdivision Plat or by

recording of a deed.

**Mobile Home Park.** Parcel of land under single ownership which is

designed and/or improved for the placement of two or more Mobile

Homes upon units thereof.

**Multi-Family Dwelling.** A residential building containing three (3) or

more dwelling units.

**Non-conforming Lot.** A lot of record which does not comply with the

dimensional requirements of this land use law (see Chapter 7).

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**Non-conforming Structure.** A structure which contains a permitted

use, but which does not meet the dimensional requirements of this

land use law and which was lawful when constructed (see Chapter 7).

**Non-conforming Use.** Any use lawfully existing prior to and at the time

of the adoption or amendment of this land use law or any preceding local

law or ordinance, which is not permitted by right or does not conform

with the provisions of this land use law. A pre-existing lawful use which

is allowed only by Special Permit under this land use law shall be

considered a non-conforming use until such time as a Special Permit is

granted for it (see Chapter 7).

**Recreational Vehicle.** Type of vehicle used as temporary living quarters

for recreation, camping, or travel, that either has its own motive power or

is mounted on or drawn by a motor vehicle: includes travel trailer, camper

trailer, pop-up camper, truck camper, and motor home.

**Resource Extraction.** Use of land for the purpose of quarrying, extracting

and selling stone, minerals, oil, gas, and/or gravel, not including the

process of preparing land for construction of a structure for which a

Building Permit has been issued.

**Setback.** The distance in feet from a property line or a street centerline to

a structure on a lot.

**Sign.** Any billboard, signboard, inscription, pennant, insignia, or other

structure or device composed of lettered or pictorial material that is placed

for outdoor display (including inside a window), used as an advertisement,

announcement, or direction.

**Sign, Commercial.** A sign advertising a product, use, service, or activity

sold or conducted for private financial gain.

**Single-Family Dwelling.** A detached building containing one dwelling unit.

**Solid Waste Management Facilities.** Solid Waste Management Facilities

are all those uses specified in 6 NYCRR 360, Subparts 360-2 through 360-14,

or as amended.

**Subdivision.** Any division (including re-subdivision) of a parcel of land into

two or more lots, parcels or sites or other division of land with or without

roads, for the purpose of lease, sale, transfer of ownership, or development.

If a new road or extension of an existing road or any municipal facilities

is involved, any division of an original parcel or land constitutes a subdivision.

The second lot of an original parcel creates a subdivision and all lots are

required to meet the criteria of Land Subdivision Regulations as appropriate.

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**Town Law.** The Town Law of the State of New York.

**Wetland.** Any land which is subject to periodic or continual inundation by

water or which contains hydric soils as defined by the Natural Resources

Conservation Service of the U. S. Department of Agriculture.