

# **TOWN OF SANTA CLARA**

## **LAND USE CODE**

### **LOCAL LAW # 1 OF 2000**

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## **ARTICLE I - INTRODUCTION**

### **1.10 SHORT TITLE**

This local law is known and cited as the "Town of Santa Clara Land Use Law."  
The Town of Santa Clara is hereinafter referred to as the "Town".

### **1.20 AUTHORITY**

Enactment of this local law by the Town is pursuant to Article 16, Section 261, of the Town Law of the State of New York.

### **1.30 GENERAL INTENT AND PURPOSES**

The purpose of this local law is to promote the health, safety and general welfare of the community by establishing comprehensive controls for the development of land in the Town. These controls regulate and restrict (a) the height, number of stories and size of buildings and other structures, (b) the size of yards, courts and other open spaces, (c) the density of population, and (d) the location and use of buildings, structures and land for trade, industry, residence or other purposes, to the maximum extent permissible within the proper exercise of the police power as delegated by the Town Law and the Adirondack Park Agency Act.

It is the further purpose and objective of this local law to ensure optimum overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park.

### **1.40 AREA OF JURISDICTION**

This local law regulates and restricts, as set forth above, the use of land throughout the entire area of the Town of Santa Clara.

### **1.50 APPLICATION OF REGULATIONS**

No building, structure or sign shall be erected, moved, altered, rebuilt, or enlarged, nor shall any land, water or structure be used, designed or arranged to be used, for any purpose except in conformity with all provisions of this local law.

Notwithstanding any other provision of this local law, any action or project proposed or undertaken by the Town of Santa Clara, or on behalf of the Town with the Town's authorization, shall be exempt from the provisions of this local law, including but not limited to any provision that would otherwise require Site Plan Review, Subdivision Review and/or one or more Use Variances and/or Area Variances. Notwithstanding this exemption, the Town Board may seek optional, non-binding advisory review from the Town Planning Board for any such proposed Town action or project. This exemption specifically does not apply to the provisions of the State Environmental Review Act (SEQRA), the Adirondack Park Agency (APA) Act or other State or Federal requirements, but is limited only to requirements of the Town of Santa Clara.

In interpreting and applying this local law, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, comfort, convenience and general welfare. This local law shall not be deemed to affect in any manner whatsoever any covenants or other agreements between parties, provided, however, that where this local law imposes a greater

restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration or enlargement of buildings, than is imposed by other local laws, rules, regulations, licenses, certificates, or other authorizations, or by easements, covenants, or agreements, the provisions of this local law shall prevail.

Except as hereinafter provided, the following general regulations shall apply to every building and use covered by this local law.

## 1.60 BASIC REVIEW PROCEDURES

The procedure to be followed by any applicant for the purpose of obtaining a building permit under this local law shall be as follows:

- A. Examine the map entitled "Town of Santa Clara Land Use Map" to determine the land use district in which the project is located. The district name consists of two parts:
  1. the land use designation, and
  2. the intensity designation.
- B. Refer to Articles IV and V for the applicable land use regulations.
- C. Refer to the available wetland maps to determine if the project involves a wetland area. Wetland area regulations are contained in Section 7.32.
- D. The proposed project may involve a use or uses which have special procedural and review standards, including site plan review, or the project may involve activities that are subject to additional controls. Those special cases are specifically treated in Articles VI and VII.
- E. Refer to the Adirondack Park Act, the map entitled "Adirondack Park Land Use and Development Plan" and the current edition of the Adirondack Park Agency "Rules and Regulations" to determine whether the project is a Class A or Class B regional project and whether the project is subject to Adirondack Park Agency review as described further in Section 1.80 hereof.

## 1.70 REVIEW BODIES

### 1.71 Enforcement Officer

This local law shall be enforced by Code Enforcement Officer, who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued unless there has been full compliance with all provisions of this local law.

### 1.72 Planning Board

- A. Pursuant to Section 271 of the Town Law, a "Planning Board" has been created, consisting of 5 members appointed by the Town Board. The Planning Board shall have all the powers and duties prescribed by statute and by this local law and shall have jurisdiction over all matters requiring Site Plan Review pursuant to Section 6.20 of this local law (except any action or project proposed or undertaken by or on behalf of the Town of

Santa Clara) and all subdivisions of land not subject to the Adirondack Park Agency jurisdiction as a class A regional subdivision.

- B. The Town Board shall appoint Two (2) alternate members of the Planning Board to substitute for any regular member in the event of a conflict of interest or other factor such as illness, scheduling conflict or any other reason. The alternate member(s) shall be appointed by Resolution of the Town Board for a term of Two (2) year(s). The chairperson of the Planning Board may designate an alternate member to substitute for a regular member when such regular member is unable to participate in an application or matter before the Board. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. All provisions relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other Boards shall also apply to alternate members

#### 1.73 Zoning Board of Appeals

A.

1. Pursuant to Section 267 of the Town Law, a Zoning Board of Appeals (Board of Appeals) is hereby created. Said Board shall consist of five (5) members appointed by the Town Board. The Town Board shall also designate one of the Board of Appeals members as chairman thereof.
  2. The Town Board shall appoint Two (2) alternate members of the Board of Appeals to substitute for any regular member in the event of a conflict of interest or other factor such as illness, scheduling conflicts or any other reason. The alternate member(s) shall be appointed by Resolution of the Town Board for a term of Two (2) year(s). The chairperson of the Board of Appeals may designate an alternate member to substitute for a regular member when such regular member is unable to participate in an application or matter before the Board of Appeals. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial Board of Appeals meeting at which the substitution is made. All provisions relating to Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other Boards shall also apply to alternate members.
- B. Such Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this local law, including hearing and deciding all applications for variances pursuant to Section 9.20 hereof.
- C. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon

every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions.

- D. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five business days and shall be a public record.
- E. Such Board shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
- F. Unless otherwise provided by local law or ordinance, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.
- G. Each order, requirement, decision, interpretation or determination of the Code Enforcement Officer shall be filed in his or her office within five (5) business days from the day it is rendered, and shall be a public record. Alternately, the Town Board may, by resolution, require that such filings instead be made in the Town Clerk's office.
- H. An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer by filing with such official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The Code Enforcement Officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- I. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with the Code Enforcement Officer, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer from whom the appeal is taken and on due cause shown.
- J. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
- K. At least five (5) days before such hearing, the Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having

jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal; and to the county planning board or agency or regional planning council, if any, as required by Section 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.

- L. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- M. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision L of this section, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in subdivision twelve of this section.
- N. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- O. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- P. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.
- Q. Except as otherwise provided in paragraph N above, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of section two hundred 239-m of the General Municipal Law shall apply.

#### 1.80 CONSULTANT FEES

- A. The Town Board, Planning Board and Zoning Board of Appeals may employ consultants, special legal counsel, professional engineers and/or inspection services for their assistance and advice in the review of any application,

including on-site investigation, evaluation and inspection; verification of the accuracy of information submitted; evaluation of the adequacy of plans and the sufficiency of submitted reports; study of the impact of proposals upon the resources and environment of the Town; preparation and/or review of environmental impact statements; review of the design and layout of improvements; inspection of installed improvements; and such other services or technical assistance as they deem necessary for their review of an application.

- B. The cost for these special consulting services shall be borne by the applicant in addition to any fee listed on the Town fee schedule. Fees for the preparation or review of environmental impact statements under the State Environmental Quality Review Act shall be determined pursuant to 6 NYCRR Part 617.
- C. A deposit in an amount estimated by the Board to be sufficient to cover the cost of such consultants shall be filed by the applicant with the Town Clerk by certified check payable to or endorsed to the Town. An application shall not be deemed complete until the requirements of this section have been complied with.
- D. If at any time the actual cost of any consultant's services exceeds the amount held in escrow, the Board may suspend its review until the applicant provides an additional deposit in an amount estimated by the Board to be sufficient to cover the additional costs to be incurred. Payment of any deficiency in the amount of the deposit to cover incurred costs in full shall be a condition to final approval of any application. No final approval shall be signed, stamped, sent, delivered or shall otherwise valid until and unless such amount is paid.
- E. After the Board has rendered its decision on an application, the balance of the deposit, if any, remaining in excess of actual incurred costs shall be returned to the applicant without payment of interest.

#### 1.90 AUTHORITY OF THE ADIRONDACK PARK AGENCY

Nothing in this local law shall be deemed to supersede, alter or impair the Adirondack Park Agency's authority to review and approve, approve subject to conditions, or disapprove land uses and developments and subdivisions of land pursuant to the Adirondack Park Agency Act, Fresh Water Wetland Act or Recreational Rivers Act. The Adirondack Park Agency cannot, however, in the context of its project review, override a local decision against permitting a given land use or development.

#### 1.100 STATE ENVIRONMENTAL QUALITY REVIEW ACT

All activities occurring within the Town shall conform to the requirements and guidelines of Article 8 of the New York State Environmental Quality Review Act, as amended ("SEQRA").

#### 1.110 OTHER LOCAL LAWS

In addition to the applicable rules and regulations herein contained, all land use and/or construction occurring within the Town shall also conform to the applicable provisions of any existing and future laws of the Town of Santa Clara.

## 1.120 DEPARTMENT OF HEALTH REQUIREMENTS

All activities and land use within the Town shall conform to the requirements and standards set forth in the Wastewater Treatment Systems Design Handbook issued by the State of New York Department of Health as the same may be amended from time to time.

## 1.130 SPECIAL USE PERMITS

### A. Intent

1. Certain land uses have been designated as requiring a Special Use Permit (and thereby also requiring Site Plan Review and approval) pursuant to Article 6 (Site Plan Review) of this chapter. These uses have been so designated because they are considered to be inherently challenging and potentially incompatible with surrounding land uses due to the nature, intensity, size or type of operation of the proposed use or due to its proposed location. Accordingly, the Town of Santa Clara has, in effect, reserved judgment on whether to allow these uses until after an appropriate review by the Planning Board of a particular proposal with consideration of the details of the proposal and its location, and then a decision by the Planning Board about whether to allow the proposed use.
2. This article sets forth those requirements and the procedures which shall apply to land uses and activities designated as Special Use Permit uses due to their characteristics, and/or the special characteristics of the area in which they are to be located, so that they may be properly located and planned with respect to the objectives of this chapter, their effect on the surrounding properties and community character. The primary purpose of Special Use Permit review is to ensure that these designated uses are compatible with the surrounding properties and neighborhood; that adverse impacts are avoided or mitigated; and that such uses contribute to the long-term benefit to the Town.

### B. Authority of Planning Board

1. Consistent with § 274-b(2) of New York State Town Law, the Planning Board is hereby authorized to administer this article by conducting Special Use Permit review and is authorized to issue, with or without conditions, or deny issuance of a Special Use Permit in accordance with the procedures of this article for any use identified as requiring such review in Section 4.10 of this chapter.
2. Site Plan Review in accordance with the requirements and procedures of Article 6, Site Plan Review, is required for all uses that require a Special Use Permit. Such review shall occur concurrently with Special Use Permit.
3. If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant approval with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance), all proposed uses on a parcel or parcels shall be considered together.

### C. Preapplication conference(s).

Prior to making application for a Special Use Permit, an applicant must schedule and attend a preapplication meeting with the Town Code Enforcement Officer. The purpose of the meeting is to review the applicable regulations and application requirements, as well as the procedure for review and policies and procedures of the Planning Board. No application will be accepted for review by the Planning Board until the preapplication conference is held. The applicant must also schedule a preapplication conference and site visit with the Planning Board at which the applicant may present a sketch or preliminary presentation of its proposal in order to receive feedback and comments from the Planning Board prior to the submission of a formal Special Use Permit application that also includes all of the required details and information for a formal site plan application as set forth in Article 6. Such preapplication conferences may include, and be combined with, the preapplication or sketch plan conference for the Site Plan Review aspect of Special Use Permit review.

D. Application for special use permit.

1. Application for a Special Use Permit shall be made to the Planning Board using forms supplied by the Town. Applications shall include the one original and 3 copies of the following items:
  - a. A completed Town of Santa Clara Special Use Permit application form.
  - b. A plan of the proposed use and structures, with accurate dimensions providing information sufficient to enable the Planning Board to make an informed decision.
  - c. A narrative describing, in detail, the proposed use and operation and how such proposed use furthers or is consistent with the policies of the Town and/or the Town's Comprehensive Plan.
  - d. A short- or long-form SEQRA environmental assessment form (EAF), with Part 1 of the EAF fully completed by the applicant. A long-form EAF is required for all SEQRA Type I actions. For SEQRA unlisted actions, the Planning Board may require the long-form EAF if it deems that the additional information contained on the long form would be helpful and appropriate under the circumstances of the project proposal.
  - e. The application fee for a Special Use Permit.
2. The Planning Board may add or waive any requirements for a complete application submission if it deems such waived or added requirements are appropriate in order to accomplish the purposes of this article and this chapter. In adding requirements, the Planning Board may choose items from the Site Plan submittal requirements in Article 6, Site Plan Review, that shall be submitted for the Special Use Permit application.
3. At the first meeting on an application the Planning Board shall determine whether the application is complete for purposes of commencing the formal review process. If an application is determined to be incomplete, the Planning Board shall advise the applicant as to what aspects are lacking or otherwise insufficient. The time frames for holding a hearing or for any Planning Board action shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete.



4. SEQRA compliance. Upon receipt of a complete application, 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) and/or by beginning its own SEQRA review.
5. The application shall include the name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect. If the applicant is not the record owner, a letter of authorization shall be required from the owner.
6. Not later than 10 days following receipt of a complete application for said project, the Code Enforcement Officer shall notify the Adirondack Park Agency in the case of Class A and Class B Regional Projects and shall furnish to the Agency such pertinent information as the Agency may deem necessary and shall afford the Agency any opportunity to comment as may be required by law and/or requested by the Planning Board.
7. The Planning Board shall fix a time, within 62 days from the day an application for a Special Use Permit approval is determined to be complete, for the public hearing on the permit application. The time within which the Planning Board must hold a public hearing may be extended by mutual consent of the applicant and the Planning Board. The Board shall give public notice of the hearing by the publication in the Town's official newspaper of such hearing at least 10 days prior to the date thereof. In addition to notice requirements stated above and below, any further notice provisions of Article XII of the Town Land Use Law shall also be followed, the intent being to, at minimum, comply with all applicable notice provisions required by State law.
  - a. In the case of Class B Regional Projects, A copy of the public hearing notice shall be mailed to the Adirondack Park Agency. The Adirondack Park Agency shall be a full party in interest, with standing to participate in any and all proceedings on projects within the Adirondack Park conducted pursuant to this section.
  - b. In the case of a public hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board must give notice of the hearing to the Clerk of the municipality by either mail or electronic transmission at least 10 days prior to the hearing, pursuant to General Municipal Law § 239-nn.
  - c. The Planning Board shall decide on the application within 62 days after the close of such hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.
8. The decision of the Planning Board shall be filed, within five days from the date that the decision was rendered, in the office of the Town Clerk, in the office of the Code Enforcement Officer and a copy thereof shall be mailed to the applicant. The decision shall contain such findings of fact as are required by sections 1.130 F and 1.130 G. The decision shall also be sent to the Adirondack Park Agency.
9. The Planning Board, in conjunction with its approval of any Special Use Permit, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including, but not limited to,

limitations on the hours of use, the intensity of the use, the use of structures and land, and any other condition reasonably related to the project that it deems necessary to further the interest of this chapter. The Planning Board may require the posting of financial security in the form of bond, letter of credit or other instrument in order to ensure that improvements are carried out as specified in the plans and approvals. The Boards shall follow the procedures in the Town of Santa Clara Subdivision Regulations or New York State Town Law § 277(9), or other applicable section(s) of State law, for such financial security.

10. The Planning Board, as a condition of granting any Special Use Permit, may specify its term of validity.
  - a. There are three types of Special Use Permit which may be granted by the Planning Board, described as follows:
    - i. Permanent: allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of 2 years or as may be defined by Section 8.10 of the Town of Santa Clara Land Use Code.
    - ii. Temporary: allows a specific use to continue until a specified date, at which time the Special Use Permit shall automatically terminate and the use shall be permanently discontinued. This type shall not be extendable.
    - iii. Renewable: allows a specific use to continue until a specific date, unless the Special Use Permit is renewed or extended by the Planning Board for an additional period of time. If not extended, the use shall be permanently discontinued. It is the responsibility of the applicant, and not the Town of Santa Clara, or any board, officer, or employee thereof, to initiate the request for the renewal or extension prior to the expiration of the original term of such renewable Special Use Permit. If not extended or renewed prior to the date of expiration, the right to continue such special use shall terminate on such expiration date. An application for the extension or renewal of a renewable Special Use Permit shall be made in accordance with the applicable provisions then applying to s Special Use Permits, as if it was an original request.
  - b. The applicant, in accepting a temporary or renewable Special Use Permit, acknowledges and agrees that such Special Use Permit confers no rights or privileges other than those specifically contained therein.

#### E. Fees

In addition to the fee listed on the schedule of fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of legal and technical assistance to the Planning Board Consistent with Section 1.80.

#### F. General criteria.

Before issuing any Special Use Permit, the Planning Board shall consider the public health, safety and general welfare as well as potential environmental

impacts. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria have been met:

1. Compatibility. The proposed use shall be compatible with the character of neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.
2. Access, circulation and parking. The proposed use shall have safe and efficient access for pedestrians and vehicles, and shall provide for appropriate off-road parking and loading areas. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and ensure that adequate and safe integration of pedestrian and vehicular movement is provided.
3. Infrastructure and services. There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or the project shall extend or provide infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use, such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.
4. Environment and natural features. The proposed use shall be compatible with and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development, and the general landscaping, screening and buffering shall be in character with the surrounding areas, and the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare shall be minimized to the maximum extent practicable.
5. Long-term effects. The proposed use shall provide positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the Town and surrounding properties, districts and uses.

#### G. Specific standards

Specific Standards that may be established for uses subject to Special Use Permit. See Section 7.36.

#### H. Expiration

Unless otherwise specified or extended by the Planning Board, the Special Use Permit shall expire if the applicant fails to undertake the proposed action or project within one year from the filing date of such decision thereof.

#### I. Revocation of permit

A use authorized by Special Use Permit may be revoked by the Planning Board if it is found and determined that there has been a material failure of compliance with

any one of the terms, conditions, limitations or requirements imposed by said permit.

#### J. Enforcement

All Special Use Permits shall be subject to the provisions of Article 17, Enforcement, of this chapter.

#### K. Amendments

The terms and conditions of any Special Use Permit shall be amended only in the same manner as required to grant a Special Use Permit, following the criteria and procedures of this article. Any enlargement, alteration, or change of use or structure allowed under a Special Use Permit or addition of a new use or structure on a property that received a Special Use Permit shall require an amendment to such Special Use Permit.

## ARTICLE II - DEFINITIONS

### 2.10 INTERPRETATIONS

Unless the context otherwise requires, the following definitions shall be used in interpretations and construction of this local law. Words used in the singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used"; and the word "shall" is mandatory and not optional.

### 2.20 DEFINITIONS

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

**Absorption Field** - The area to which effluent is distributed for infiltration to the soil by means of a network of pipes.

**Accessory Structure** - Any structure or platform of a main structure located on the same premises and incidental and subordinate to the main structure or principal use and that customarily accompanies or is associated with such main structure or principal use, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single family dwelling.

**Accessory Use** - A use of a structure, lot or portion thereof which is customarily incidental and subordinate to the principal use and does not change the character of the principal use, and which is located on the same parcel with such principal use.

**Adirondack Park** - Land lying within the area described in subdivision 1 of Section 9-0101 of the Environmental Conservation Law of the State of New York including any future amendments thereto.

**Adirondack Park Agency (or APA)** - The Adirondack Park Agency created by Section 803 of Article 27 of the Executive Law of the State of New York including any future amendments thereto.

**Agricultural Use Structure** - Structure used solely for commercial agriculture.

**Alternative Systems** - Raised systems, mounds, intermittent sand filters, other engineered systems.

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

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

**Boathouse** - A covered structure, with direct access from inside the boathouse, to a navigable body of water, (1) which is used only for the storage of boats and associated equipment and (2) which does not contain any bathroom, kitchen facilities, living quarters, bedrooms, plumbing or heating source or system.

**Boundary Line Adjustment** – A transfer of land from one lawfully existing lot to another lawfully existing adjacent lot intended to adjust the boundary line between the two lots and which meets all of the following conditions:

- A. The lots to be subjected to the proposed Boundary Line Adjustment share a common boundary line, not just a single point of contact.
- B. Ownership of the area to be transferred (the “Boundary Line Adjustment Area”) from the owner of one lot (the “Granting Parcel”) to the owner of the adjacent lot (the “Receiving Parcel”) will be conveyed by Deed or by a Boundary Line Adjustment Agreement.
- C. The Boundary Line Adjustment Area will be legally merged, by the Deed or Boundary Line Adjustment Agreement, with and into and become an undivided part of the Receiving Parcel so that the transfer does not create an additional lot or parcel of land.
- D. The transfer and merger would not cause a deficiency in required lot-size or other dimensional deficiency in the Granting Parcel that would cause it to become non-conforming in any way under the Town’s Land Use Code.
- E. The transfer and merger would not violate or negate any condition(s) imposed in any previous approval granted by the Planning Board, Variance Board or Town Board with respect to the Granting Parcel and/or the Receiving Parcel unless the Board which imposed such condition(s) first rescinds or modifies such condition(s) to be consistent with the requested Boundary Line Adjustment. Such rescission or modification shall be effective only if the requested Boundary Line Adjustment is subsequently approved by the Planning Board.

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

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

**Building, Principal** - Any of the following: single family dwelling; mobile home; tourist cabin or similar structure for rent or hire involving 300 or more square feet of floor space; each unit of a multiple family dwelling; a commercial or industrial use structure; and any other structure. In addition, each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space, will constitute one-tenth of a principal building. An accessory structure will not be considered a principal building. In addition, all agricultural use structures and single-family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building.

**Building Sewer** - That part of the drainage system which extends from the end of the building drain and conveys wastewater to an individual wastewater treatment system, public sewer, private sewer, or other approved point of disposal.

**CEO** - Code Enforcement Officer. See also Enforcement Officer.

**Certificate of Occupancy** - A written certificate indicating that following examination, the building, dwelling unit, mobile home park, or travel trailer park or other use or structure and the lot or site upon which the same is to be placed, is approved as complying with all the provisions of this local law, the Town of Santa Clara Building Code and the NYS Uniform Fire Prevention and Building Code.

**Class A Regional Subdivision** - A subdivision which is classified as a Class A Regional Project in Section 810 of the Adirondack Park Agency Act, and set out in Appendix A hereof.

**Class B Regional Subdivision** - A subdivision which is classified as a Class B Regional project in Section 810 of the Adirondack Park Agency Act, and set out in Appendix B hereof.

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

**Collector Street** - A street or portion thereof which collects and distributes traffic to local streets and provides access to main arterials. Traffic in both weight and volume is considerably greater than local street traffic.

**Combined Sewer** - A sewer receiving both surface runoff and wastewater.

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

**Condominium** - A single family dwelling unit offered for sale pursuant to the provisions of Article 9-B of the New York State Real Property Law and which is contained in a multi-

unit building or buildings, or a group of buildings, whether or not attached to each other, in which units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis as tenants-in-common.

**Contractual Access** - Access to real property, particularly a beach or lakefront property, which is pursuant to an easement or contract, rather than by right by virtue of ownership of such property.

**Conventional Absorption Systems** - Absorption fields, shallow absorption trenches, absorption beds, seepage pits, gravel less absorption systems, deep absorption trenches.

**Dead-End Street or Cul-de-Sac** - A street or a portion of a street with only one (1) vehicular traffic outlet.

**Deck** - A flat, floored, roofless structure supported from the ground by posts, or by beams lying on the ground, or supported by cantilever or by beams angled from the bottom of a structure or fastened to the side of the building or, as the roof of a building, is designated as the roofless structure. Said structures may or may not include railings or similar restraining units.

**Design Professional** - A person licensed or registered in the State of New York and authorized by the State Education Law to design the systems described in the standards.

**Distribution Box or Device** - A device used to uniformly distribute effluent to the distribution lines.

**Distribution Lines** - The perforated pipe used to distribute effluent to the absorption area.

**Dock** - Any horizontal platform-type structure (including but not limited to a wharf, pier or similar structure), fixed or floating and/or removable, on the shoreline, the principal, but not necessarily exclusive, use of which is the mooring of boats or other watercraft, for storing, loading or unloading.

**Dwelling Unit** - A building or portion thereof providing complete housekeeping facilities for one family.

**Dwelling, Multiple Family** - Any structure containing more than one dwelling unit, including the conversion of an existing single dwelling, designed for occupancy in separate living quarters by more than one family.

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

**Easement** - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**Effluent** - The liquid discharged from a septic tank outlet.

**Emergency Repairs** - Repairs designed to prevent or abate an existing or imminent threat to the public health, safety or welfare caused or about to be caused by an individual wastewater treatment system.

**Enforcement Officer** - An individual appointed or designated by the Town Board whose duty and authority is to administer and enforce the provisions of this Land Use Code and any other local laws and local laws as may be designated by the Town Board. (See also CEO)

**Existing Grade** - The natural topography of land prior to construction activity.

**Final Grade** - The elevation that ground will have at the conclusion of cutting, filling or other site work.

**Frontage** - Width of front yard bordering a public or private right of way, highway, river, or body of water.

**Garbage** - Organic solid wastes from domestic and commercial preparation, cooking, or dispensing of food, or from the handling, storage and sale of produce.

**Grade** - The slope of a line of pipe, trench bottom, or ground surface in reference to a horizontal surface.

**Gravel** - A mixture of mineral soil particles whose individual diameters range from 1/4 inch to 3 inches.

**Groundwater** - Subsurface water occupying a zone of saturated soil.

**Home Occupation** - An accessory use of a commercial or professional character conducted within a dwelling by residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not (a) change the character thereof, (b) have any exterior evidence of such secondary use, other than a small name plate as described in Section 6.43(C), or (c) employ more than one person other than a member of the family residing on the premises.

**Impervious Material** - Material with a percolation rate of slower than 60 minutes per inch.

**In Existence** - Means that with respect to an individual wastewater treatment system, such system has been lawfully completed.

**Individual Wastewater Treatment System** - A complete system of piping, tanks or other facilities for the on-site collection and treatment of wastewater, and not connected to a community or public sewer system.

**Industrial Use** - Any manufacturing, production or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use.

**Industrial Wastes** - Any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process or industry, manufacturing, trade or business or from development or recovery of any natural resource.

**Invert** - The bottom-most point of an open conduit or the bottom-most point on the inside of a closed conduit.

**Land Use Map** - The official map indicating the boundaries for each land use district listed in this local law and described in Section 3.20 hereof.

**Local Board of Health** - The Town Board acting pursuant to its authority found in Article 3 of the Public Health Law.



**Local Street** - Residential (type) streets used primarily by passenger cars and light trucks which serve dwellings along the streets. Only occasional heavy truck traffic. Provides for through traffic.

**Lot** - A measured parcel of land having fixed boundaries and designated on a plot or survey

**Major Alteration** - See Major Repair.

**Major Repair** - Any replacement or reconstruction affecting the septic tank, other than baffle repair, or at least one-half of the subsurface absorption system of an individual wastewater treatment system.

**Major Street** - Major thoroughfares that connect residential areas with the principal business sections. They carry traffic generated by local and collector streets and frequently serve through traffic to and from outlying rural areas.

**Marina, Commercial** - A commercial waterfront facility including docks, wharves and moorings which provides accommodation services for boats by engaging in any one or more of the following:

- A. the sale of marine products or services;
- B. the sale, lease, rental or charter of boats of any type;
- C. the sale, lease, rental or any other provision providing for the docking, mooring or storage of more than two boats and/or for the launching of boats.
- D. The term "commercial marina" shall include facilities with or without supply and repair services.

**Mean High Water Mark** - The average annual high-water level.

**Minor Alteration** - See Minor Repair.

**Minor Repair** - Any remedial measure not defined as a major repair, major alteration, or extension.

**Minor Street** - Streets used primarily by its residents, with very limited or no through traffic.

**Mobile Home** – is any vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single-family residence, or is intended to be occupied as permanent living quarters.

**Modular Home** - Any building comprised of two (2) or more components, with or without their own chassis, capable of being transported to their building site and permanently joined into one (1) integral unit which is indistinguishable in appearance from a conventionally built home, including but not limited to a sloped roof and permanent foundation.

**Nonconforming Structure** - Any structure which is in existence within a given land use district in the Town on the effective date of this local law but which is not in conformance with the dimensional regulations for that land use district as listed in Article V hereof.

**Nonconforming Use** - Any building, structure, or land use for which a use variance has previously been granted or which was lawfully existing within a given land use district on the effective date of this local law, but which is not a primary use or secondary use for the zone in which it is situated, as listed in Article IV hereof.

**Outdoor Recreational Use** - Any recreational use particularly oriented to and utilizing the outdoor character of the area, including golf course, cross-country ski trail, hiking and backpacking trail, bicycle trail, horse trail, playground, picnic area, public park, public beach or similar use.

**Percolation** - The movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.

**Percolation Test** - A standard procedure for testing the soil's ability to accept and convey water to establish the application rate. See Appendices for proper testing procedures.

**Planning Board** - A board appointed by the Town Board whose function is to plan for and review activities in the Town.

**Privy** - A building fixed to a vault or pit, equipped with seating to allow for excretion of body waste.

**Pre-existing Individual Wastewater Treatment System** - Any individual treatment system that was lawfully in existence prior to enactment of this code.

**Public Water System** - A community and non-community water system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

**Raised System** - An absorption trench system constructed in fill material with acceptable permeability placed above the natural soil.

**Sanitary Tee** - A pipe used in septic tanks, distribution boxes and drop manholes to reduce wastewater or effluent flow velocities and to increase solids retention in septic tanks which prevents carry-over of solids to subsurface absorption systems. See Baffle.

**Seasonal High Groundwater Table** - The highest surface of a zone of saturated soil which is at least six inches thick and which persists during the average year for more than a week when the ground is free of frost.

**Seepage Pit** - A covered, underground pit with a perforated lining through which effluent seeps into the surrounding soil.

**Setback** - Horizontal measurement from property boundary to nearest extension of structure.

**Shoreline** - The line at which land adjoins the waters of any lake, pond, river or stream within the Town at mean high water as determined by the New York State Department of Environmental Conservation.

**Sign, Commercial** - Includes every sign billboard, free-standing sign, portable free-standing sign, wall sign, window sign, illuminated sign, and temporary sign, and shall include any announcement, declaration, demonstration, device, display, illustration or insignia used to advertise or promote the interest of any business or commercial enterprise when the same is placed on the premises on which the businesses are conducted so that it is clearly visible to the general public from an out-of-doors position.

**Sketch Plan** - An optional sketch of a proposed subdivision showing the information specified in Article VII hereof, provision of which is intended to enable the subdivider to save time and expense by reaching general agreement with the Planning Board as to the form of the layout of the subdivision with respect to the objectives of this local law.

**Slope** - The ratio of the maximum vertical rise or fall of the land in 50 feet of horizontal distance, expressed as a percentage.

**Soil Mottles** - Spots or blotches of different color, or shades of color, interspersed with the dominant background color.

**Street** - Includes streets, roads, avenues, lanes or other traffic ways between right-of-way or boundary lines.

**Street Pavement** - The wearing or exposed surface of the roadway used by vehicular traffic.

**Street Width** - The width of right-of-way or distance between boundary lines measured at right angles to the center line of the street.

**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 additions and alterations thereto.

**Subdivider** - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**Subdivision:**

- A. A division of land into two (2) 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, with or without a formal conveyance of fee title or other interest in realty, by any person or by any other person or any group of persons acting in concert as part of a common scheme or plan. For purposes of these regulations, a condominium or similar scheme shall be reviewed as a subdivision.
- B. Includes any map, plot or other plans, whether or not previously filed. It also includes any grading, road construction, installation of utilities or other improvements or any other land use or development preparatory or incidental to such activity. It does not include the lease of land for hunting or fishing and other open space recreational uses.
- C. A Boundary Line Adjustment shall not be considered a Subdivision but must be approved pursuant to Section 10.10.

**Subdivision, Major** – a Subdivision containing five (5) or more lots.

**Subdivision, Minor** – a Subdivision containing two (2) to four (4) lots.

**Subsurface Absorption System** - any structure designed to distribute effluent into the soil and provide for its treatment. See conventional and alternative systems.

**Surface Water Body** - any lake, pond, river, stream, intermittent stream or wetland.

**Surveyor** - A person licensed as a land surveyor by the State of New York.

**Toilet Wastes** - Human excreta and toilet flushing fluid.

**Treatment System Building Permit** - The permit required before construction of an on-site wastewater treatment system.

**Treatment System Use Certificate** - The certificate required before any portions of an on-site sewage treatment system are back-filled or covered.

**Tourist Accommodations** - A building or group of buildings, whether detached or in connected units, used as individual sleeping or temporary dwelling units, principally designed for transients and providing for accessory off-road parking facilities. The term "tourist accommodations" includes buildings designated as tourists' courts, motor lodges, motels, hotels, overnight cabins, housekeeping units, bed and breakfasts, travel trailer camps, camping facilities, resorts and similar facilities.

**Usable Soil** - Soil with a percolation rate between one and sixty minutes per inch.

**Utilities** - All cable T.V., telecommunications, electric, water, sewer and natural gas services.

**Wastewater** - Any water discharged from a house through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device (e.g., water softener brine) which is produced in the house or property.

**Watercourse** - A visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately following precipitation or snow melt shall not be considered a watercourse.

**Wetlands** - Any land which exhibits constant or recurrent shallow inundation or saturation at or near the surface of the substrate as determined by the presence of the following factors:

- A. dominance of wetland plants (hydrophytes), and
- B. wetland soils (hydric soils).

Such lands may be commonly referred to as bogs, marshes, sloughs, vlys, swamps, and wet meadows, among other things.

In addition, to be jurisdictional under this code such wetland areas must also be:

- A. 20,000 square feet 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 during some part of the year, or

- C. when not located adjacent to a body of water, including a permanent stream, is determined to have a hydrologic connection at the surface to the waterbody or other wetland.

In cases of (B) and (C) above, there is no size limitation.

**Yard, Front** – An unoccupied ground area on the same lot with any building or structure, between the front line of the building and the right-of-way of any public access road, river or body of water and extending the full width of the lot. In the case of a private road measurement shall be made from the front traveled road line after adding 5' to the required minimum distance.

For lots that are accessible only by boat, the shoreline constitutes the front yard, in which case the shoreline setback or front yard setback, whichever is more restrictive, applies.

In the event a lot is subject to minimum shoreline setbacks as provided in section 5.10, the lot line opposite the shoreline shall only be subject to the minimum rear yard setbacks.

Note: "unoccupied ground area" means there are no structures except as provided under section 5.20 and docks and boathouses.

**Yard, Rear** - An unoccupied ground area on the same lot with any building, between the rear line of the building, and the rear line of the lot, and extending the full width of the lot.

**Yard, Side** - An unoccupied ground area on the same lot with any building, between any property line other than a road line or rear lot line and the building itself.

## **ARTICLE III - ESTABLISHMENT AND DESIGNATION OF USE DISTRICTS**

### **3.10 ESTABLISHMENT OF DISTRICTS**

For the purpose of promoting the public health, safety and general welfare of the Town of Santa Clara, the following districts are established:

R-1-1.3	Single Family Dwelling 1.3 acres
R-1-3.2	Single Family Dwelling 3.2 acres
R-1-8.5	Single Family Dwelling 8.5 acres
R-1-42.7	Single Family Dwelling 42.7 acres
R-C-1.3	Single Family Dwelling or Commercial 1.3 acres
R-C-3.2	Single Family Dwelling or Commercial 3.2 acres
GR	Recreational
H	Hamlet

Article IV explains the land use regulations for each district, and Article V explains the intensity regulations for each district. The respective land use and intensity regulations shall be applied together in each district.

### **3.20 DISTRICT MAP**

Said districts are bounded as shown on the map entitled "TOWN OF SANTA CLARA LAND USE MAP", which map is hereby adopted by the Town Board upon the date of enactment of this code and which together with all explanatory material thereon is hereby made a part of this code by reference.

### **3.30 INTERPRETATION OF BOUNDARIES**

Where interpretation of district boundaries is needed, the following rules shall apply:

#### **3.31 Lot Lines**

Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

#### **3.32 Division of Lot**

In unsubdivided land where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

#### **3.33 Interpretation**

Where interpretation of boundaries is needed, the Board of Appeals shall be responsible for making final determinations.

## ARTICLE IV - DISTRICT USE REGULATIONS

### 4.10 SCHEDULES OF REGULATION

The restrictions and controls intended to regulate the use of sites within each district are set forth in the following charts, which indicate the following types of uses for each district:

- A. Primary Use - A use permissible within a district without site plan review provided all other requirements of this local law are met, but requiring a building permit and a certificate of occupancy.
- B. Secondary Use - A use permissible within a district only pending site plan review, provided all other requirements of this local law are met, and requiring a building permit and a certificate of occupancy.
- C. Any use which is not listed as a primary use or secondary use in a given district shall be considered a prohibited use.
- D. All acreage sizes are given as a minimum size.

### 4.11 R-1 Districts

#### DISTRICT:

R-1-1.3 Single Family Dwelling 1.3 acres.

All such districts are within APA Land Use Areas described as "Moderate Intensity Use".

R-1-3.2 Single Family Dwelling 3.2 acres.

All such districts are within APA Land Use Areas described as "Low Intensity Use".

R-1-8.5 Single Family Dwelling 8.5 acres.

All such districts are within APA Land Use Areas described as "Rural Use".

R-1-42.7 Single Family Dwelling 42.7 acres.

All such districts are within APA Land Use Areas described as "Resource Management".

#### PURPOSE AND INTENT:

To maintain the rural character of the area and protect its natural resources.

#### PRIMARY USES:

District Primary Use

R-1-1.3 Single Family Dwelling, and accessory structures

R-1-3.2 Single Family Dwelling, and accessory structures

- |          |     |   |
|----------|-----|---|
| R-1-8.5  | (1) | Single Family Dwelling, and accessory structures      |
|          | (2) | Outdoor Recreation Use, and accessory structures      |
|          | (3) | Agricultural Use, and accessory structures            |
|          | (4) | Forestry Use, Non-Clear-cut, and accessory structures |
| R-1-42.7 | (1) | Outdoor Recreation Use, and accessory structures      |
|          | (2) | Agricultural Use, and accessory structures            |
|          | (3) | Forestry Use, Non-Clear-cut, and accessory structures |

## SECONDARY USES:

### District Secondary Use

- |          |     |  |
|----------|-----|--|
| R-1-1.3  | (1) | Home Occupation  |
|          | (2) | Boathouses (subject to provisions of Section 7.35)   |
|          | (3) | Tennis Courts with customary fencing   |
|          | (4) | Docks, steps and walkways  |
| R-1-3.2  | (1) | Home Occupation  |
|          | (2) | Boathouses (subject to provisions of Section 7.35)   |
|          | (3) | Tennis Courts with customary fencing   |
|          | (4) | Docks, steps and walkways  |
| R-1-8.5  | (1) | Single Family Dwelling and accessory structures within 150 feet of the right-of-way of a state highway |
|          | (2) | Home Occupation  |
|          | (3) | Boathouses (subject to provisions of Section 7.35)   |
|          | (4) | Tennis Courts with customary fencing   |
|          | (5) | Docks, steps and walkways  |
| R-1-42.7 | (1) | Single Family Dwelling and accessory structures within 300 feet of the right-of-way of a state highway |
|          | (2) | Home Occupation  |
|          | (3) | Boathouses (subject to provisions of section 7.35)   |
|          | (4) | Tennis Courts with customary fencing   |
|          | (5) | Docks, steps and walkways  |



(6) Mobile Homes

4.12 R-C Districts

DISTRICT:

R-C-1.3 Single Family Dwelling or Commercial 1.3 acres.

R-C-3.2 Single Family Dwelling or Commercial 3.2 acres.

PURPOSE AND INTENT:

To preserve the natural beauty and wilderness flavor of the area as much as possible, consistent with providing essential goods and services for visitors.

PRIMARY USES:

Single Family Dwellings

Pre-existing Commercial Use

SECONDARY USES:

District Secondary Use

- |         |     |  |
|---------|-----|--|
| R-C-1.3 | (1) | Commercial other than pre-existing use                     |
|         | (2) | Home Occupation  |
|         | (3) | Tourist Accommodations                                     |
|         | (4) | Boathouses (subject to provisions of section 7.35)         |
|         | (5) | Tennis Courts with customary fencing                       |
|         | (6) | Commercial Marinas (subject to provisions of section 7.36) |
| R-C-3.2 | (1) | Commercial other than pre-existing use                     |
|         | (2) | Home Occupation  |
|         | (3) | Tourist Accommodations                                     |
|         | (4) | Boathouses (subject to provisions of section 7.35)         |
|         | (5) | Tennis Courts with customary fencing                       |
|         | (6) | Commercial Marinas (subject to provisions of section 7.36) |

4.13 GR District

DISTRICT: GR (Outdoor Recreational)

PURPOSE AND INTENT:

To preserve the open space, scenic vistas, and recreational benefits.

PRIMARY USES:

- (1) Outdoor Recreational
- (2) Tourist Accommodations
- (3) Uses existing on 10/21/2000

4.14 H Districts

DISTRICT: H (Hamlet)

PURPOSE AND INTENT:

To provide for best utilization of the limited space in this compact hamlet in order to serve the needs of residents and visitors.

PRIMARY USES:

- (1) Single Family Dwelling
- (2) Commercial Uses existing on 10/21/2000

SECONDARY USES:

- (1) Multiple Family Dwelling
- (2) Commercial Uses
- (3) Tourist Accommodations
- (4) Home Occupation

## ARTICLE V - DISTRICT DIMENSIONAL REGULATIONS

### 5.10 GENERAL LOT REGULATIONS

Schedule of Dimensions - The dimensional restrictions and controls which regulate the intensity and density of land use within all districts are set forth in the following Table:

District	R-1-1.3	R-1-3.2	R-1-8.5	R-1-42.7	R-C-1.3	R-C-3.2	GR	H
Maximum Principal Buildings Per Square Mile	500	200	75	15	500	200	N/A	N/A
Minimum Lot Size (acres)	1.3	3.2	8.5	42.7	1.3	3.2	N/A	N/A
Minimum Road Frontage (ft)	100	125	150	200	100	125	1320	60
Minimum Shoreline Lot Width (ft)	150	200	250	300	150	200	1320	N/A
Minimum Front Yard Setbacks (ft)	50	50	75	100	50	50	500	50
Minimum Rear Yard Setbacks (ft)	25	25	25	25	25	25	500	25
Minimum Side Yard Setbacks (ft)	25	25	25	25	25	25	500	25
Minimum Shoreline and Wetland Setbacks (ft)	75	75	75	100	75	75	500	75
Maximum building height (ft)	30	30	30	30	30	30	30	30

### 5.11 Location on One Lot

Every building or structure hereafter erected, including related septic and water supply, shall be located on a single lot as herein defined and, except as herein provided, there shall be not more than one principal building and its accessory buildings on each lot and such buildings shall be located only in districts where such uses and structures are permitted.

No yard or other open space necessary for any building on one lot under the provisions of this local law shall be included as any part of the yard or open space for a building on any other lot.

#### 5.12 Subdivision of a Lot

Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this local law with respect to the existing building, and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building, on the new lot thus created unless it complies with all the provisions of this local law.

#### 5.13 Access to Lots

A lot to be used for building purposes shall have suitable access, as defined by New York State Fire Prevention and Building Code.

### 5.20 SUPPLEMENTAL AREA REQUIREMENTS

#### 5.21 Terraces

A paved terrace may be included as a part of the yard in determination of yard size, provided, however, that such terrace is unroofed and without walls or parapets. Such terrace, however, may have a guard railing not over 4 feet in height and shall not project into any yard to a point closer than 10 feet from any lot line.

#### 5.22 Porches

No porch may project into any required yard.

#### 5.23 Yards for Corner Lots

On a corner lot, each side of which abuts a public or private road or right-of way, both sides shall be deemed a front yard. The owner shall decide (when applying for a building permit) which of the remaining yards shall be the required side yard and the required rear yard.

#### 5.24 Yards for Double Frontage Lots

For any through lot, fronting on parallel or abutting roads, both frontages shall comply with the front yard requirements of the district in which it is located.

#### 5.25 Bay Windows

Bay or bow windows not supported by a foundation, including their cornices and eaves, may project into any required yard not more than 3 feet, provided, however, that the sum of the widths of such projections on any wall do not exceed one-fourth the length of that entire side of the structure.

#### 5.26 Fire Escapes

Open fire escapes may not extend beyond 6 feet, and such fire escape shall not be closer than 25 feet at any point to any lot line.

## 5.27 Walls and Fences

The yard requirements of this local law shall not be deemed to prohibit any necessary retaining wall, nor to prohibit any suitable fence or wall, provided that,

- A. No fence or wall shall exceed 6 feet in height, as measured above the finished grade.
- B. Shall comply with shoreline setback and is setback a minimum of 5 feet from property lines and road right of ways.
- C. The forgoing height limit shall not be applicable to permitted tennis court fences.

## 5.28 Visibility at Intersections

On a corner lot in any district, no fence, wall, hedge, sign or other structure or planting more than 3 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting road lines (or their projections where corners are rounded) and a straight line joining said street lines at points which are 30 feet distant from the point of intersection, measured along said road lines or projections. The height of 3 feet shall be measured above the curb level, if any, or above the existing road level. In no event, however, shall a hazard to traffic be erected or maintained.

## 5.29 Accessory Structures

An accessory structure unattached to a principal building shall be permitted in any required rear yard if the aggregate ground area covered shall not exceed 25% of the rear yard area. No accessory structure shall be located closer than 25 feet from any side lot line nor closer than 12 feet to the principal buildings, unless otherwise specified in this local law. Any accessory structure physically attached to a principal building, including attachment by means of a breezeway or a roofed passageway with open or latticed sides, is deemed to be part of such principal building in applying regulations.

# ARTICLE VI - SITE PLAN REVIEW

## 6.10 INTENT AND PURPOSE

### 6.11 Intent

It is the intent of this Article to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town, by regulating land use activity within the jurisdictional area through review and approval of site plans.

### 6.12 Principles

The following general principles shall guide the Planning Board in its review of site plan applications:

- A. Water:

1. Prevent degradation of water quality.
  2. Minimize disruption of existing drainage and run-off patterns.
  3. Preserve quality, infiltration rate, and levels of groundwater.
- B. Land:
1. Minimize topographic alterations.
  2. Prevent accelerated soil erosion and the potential for earth slippage.
  3. Use care in development of floodplains.
  4. Conserve viable agricultural soils.
  5. Conserve productive forest lands.
  6. Maintain the open space character of the project site, adjacent land and surrounding area.
- C. Prevent degradation of air quality.
- D. Limit additions to noise levels.
- E. Sensitive Resource Areas:
1. Preserve rare plant communities.
  2. Minimize development which adversely affects habitats of rare and endangered wildlife species.
  3. Minimize impact on wetlands.
  4. Protect unique natural features, including gorges, waterfalls, and geologic formations, from encroachment of man-related development.
- F. Aesthetics:
1. Minimize adverse impact upon the existing aesthetic qualities of the project site and its environs.
  2. Preserve scenic vistas.
- G. Protect historic or archeological sites.
- H. Minimize adverse effect of new development on the character of adjoining and nearby land uses.
- I. Design and construct parking areas and driveways to provide safe, convenient, and aesthetically pleasing access to and from public highways.

- J. Consider the ability of government to provide governmental facilities and services which may be made necessary for the project, including the ability to bury utilities and finish roads.

#### 6.13 Consideration of All Regulations

In reviewing site plan applications, the Planning Board shall consider all of the regulations and standards of this local law. In no case shall an application be approved, or approved with modifications, unless it complies with such regulations and standards.

#### 6.14 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 would comply with all provisions of this local law.
- B. The project would 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 development objectives and general guidelines set forth in the Appendix.

#### 6.20 AUTHORIZATION OF PLANNING BOARD

The Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans for new land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

Upon approval of the Santa Clara local land use program by the Adirondack Park Agency and local enactment of the Town's land use, subdivision and sewage disposal regulations, the authority of the Adirondack Park Agency over Class B Regional Projects shall pass to the Town of Santa Clara. Class A Regional projects, if permitted uses in the Town, shall continue to require a permit from the Adirondack Park Agency. In review of such projects, the Agency shall utilize the approved Local Land Use program and as further provided by Subsection 9 of Section 809 of the APA Act.

#### 6.30 ACTIVITIES REQUIRING SITE PLAN REVIEW

##### 6.31 General Requirements

Any use or structure to be conducted, maintained or constructed wholly or partially within the Town shall be reviewable under this article except any use or structure proposed to be conducted, maintained or constructed by or on behalf of the Town of Santa Clara or as specifically excluded pursuant to Section 6.40. Prior to the issuance of a building permit in the Town, except for uses exempted herein or in Section 6.40 hereof, the preparation of a site plan for review and

approval by the Town Planning Board in accordance with the standards and procedures set forth in Section 6.60 hereof shall be required.

#### 6.32 Specific Activities Requiring Site Plan Review

In addition, site plan review and approval by the Town Planning Board shall be specifically required for the following land use activities:

- A. Uses listed as "Secondary Uses" in the respective district under Article IV hereof,
- B. Travel trailer parks and campgrounds,
- C. Mobile home parks,
- D. Any "Type I" action as defined under Environmental Conservation Law, "State Environmental Quality Review Act," and Part 617 Volume 6 of the New York Code of Rules and Regulations (Title 6),
- E. Any use located within a designated flood plain,
- F. Any use within a designated freshwater wetland.
- G. Class B Regional Projects (see list of Class B Regional Projects in Appendix F) except actions or projects proposed or undertaken by or on behalf of the Town of Santa Clara.
- H. Uses granted a use variance.
- I. Commercial

#### 6.40 EXCEPTIONS FROM REVIEW REQUIREMENTS

##### 6.41 General Exceptions From Review Requirements

All new land use activities within the Town designated in Section 6.30 hereof shall require site plan review and approval before being undertaken, except the following:

- A. A use listed as "Primary Uses" in the respective district under Article IV hereof which is not a land use included in Section 6.32.
- B. Construction of a single-family dwelling which is not a land use included in Section 6.32.
- C. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
- D. Ordinary repair or maintenance or interior alterations to existing structures or uses, provided there is no change of use.
- E. Non-structural agricultural or gardening uses not involving cutting trees over 10 inches DBH except as limited by shoreline restrictions.



- F. Garage, lawn and porch sales not exceeding 3 days in duration provided that such sales shall not have previously taken place on the property within the last 12 months.
- G. Actions or projects proposed or undertaken by or on behalf of the Town of Santa Clara, including but not limited to any that would otherwise require Site Plan Review, Subdivision Review and/or one or more Use Variances and/or Area Variances.

#### 6.42 Exception for Pre-Existing Uses and Structures

This law does not apply to uses and structures which are lawfully in existence and in accordance with Article VIII hereof, as of the date this local law becomes effective. Any use other than primary use, that has been discontinued for a period of 1 year or more after this local law becomes effective shall be subject to review pursuant to the terms of this article before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

#### 6.43 Conforming Signs Acceptable Without Review

The following signs shall have a sign area not to exceed 2 square feet, shall be constructed of wood, ornamental wrought iron, brick or stone; shall be non-illuminated except where indicated below; and shall be erected and maintained on the premises to which the sign relates without site plan review or approval:

- A. Signs advertising the sale or rental of the premises upon which the sign is located. {These signs may be 6.25 square feet.)
- 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 occupation signs. Such signs may be illuminated 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. Signs giving the name of the residents of a dwelling, or its address. Such signs may be illuminated and shall be limited to one per dwelling.
- F. Temporary signs, including banners, or pennants, relating to garage, lawn or other individual, non-recurring sales, or the sale of produce grown or harvested by the property owner where the subject sign is located, or for a church bazaar, political campaign, fund drive, parade, fair, firemen's field day or other event or undertaking conducted by a political, civic, religious, charitable or educational organization. Such temporary signs are not limited in size and shall be removed immediately after the termination of the activity being advertised.

#### 6.44 Commercial Signs

- A. No more than 2 commercial advertising signs not exceeding 48 square feet in total size or one sign not exceeding 32 square feet. Sign area of a sign having more than one face shall be not in excess of 32 square feet per side.

In a multiple use commercial facility, one individual wall sign not in excess of 2.5 square feet in sign area may be erected for each separate principal activity such as a shop or store.

Not more than one pole sign may be erected or maintained upon the premises of any gasoline or other automotive service station. No such sign shall have a sign area greater than 15 square feet.

All free-standing signs must be at least 24 feet from the drivable surface of the road and shall not exceed 20 feet in height.

- B. Signs shall be removed upon discontinuance of the business or use to which they apply.

An illuminated sign shall not create a hazard or nuisance. It shall not be of the neon type.

Off-premise signs are regulated by the Adirondack Park Sign Law, administered by the Department of Environmental Conservation pursuant to ECL 9-0305 and 6 NYCRR Part 195.

#### 6.50 SUPPLEMENTARY REGULATIONS AND STANDARDS

In order to approve any site plan governed by Article VI, the Planning Board shall find that the applicable specific requirements set forth in Article VII hereof have been met.

#### 6.60 SITE PLAN REVIEW PROCEDURES

##### 6.61 Procedures Generally; Jurisdictional Determinations

Activities requiring approval under this law shall be reviewed according to the procedures set forth in this section. Any person uncertain as to the applicability of this law to a given land use activity may apply in writing to the CEO for a written jurisdictional determination.

##### 6.62 Sketch Plan Conference

(Optional) A sketch plan conference may be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the site plan. At the sketch plan conference, the applicant should provide the data discussed below in addition to a statement or rough sketch describing what is proposed:

- A. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof.

- B. A map of site topography at no more than 5 feet contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than 2 feet of elevation must be provided.

#### 6.63 Application for Site Plan Approval

An application for site plan approval shall be available at the Town Clerk's office. It shall be submitted in writing to the Planning Board and shall be accompanied by the following as determined necessary by the Planning Board:

- A. Two copies of the site plan, to include, where applicable,
  - 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
  - 2. North arrows, scale and date;
  - 3. Boundaries and dimensions of the property plotted to scale, including identification of contiguous properties and all easements or rights-of-way and roadways;
  - 4. Existing watercourses;
  - 5. Grading and drainage plan, showing existing and proposed contours;
  - 6. Location, proposed use and height of all buildings;
  - 7. Location, design and construction materials of all parking, circulation and truck loading areas, including means of ingress and egress;
  - 8. Provision for pedestrian access;
  - 9. Location of outdoor storage, if any;
  - 10. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
  - 11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
  - 12. Description of the method of securing water and location, design and construction materials of such facilities;
  - 13. Location, design, and screening of solid waste facilities for commercial uses;
  - 14. Location of fire and other emergency zones, including the location of fire hydrants;
  - 15. Location, designs and construction materials of all energy distribution facilities including electrical, gas or solar energy;

16. Location, size, design and construction materials of all proposed signs, both indoor and outdoor, that are visible from adjoining properties, public highways or water ways;
  17. Location and proposed development of all buffer areas, including existing vegetation cover;
  18. Location and design of outdoor lighting facilities;
  19. Designation of the amount of building area proposed for retail sales or similar commercial activity;
  20. General landscaping plan and planting schedule;
  21. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any State or County permits required for the project's execution.
  22. Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views.
- B. Such additional information as the Planning Board or enforcement officer may reasonably require assessing the proposed project, including scale drawings where necessary.
- C. Accompanying data, to include the following:
1. Application form and fee as set forth in the Town of Santa Clara fee schedule.
  2. Name and address of applicant and any professional consultants.
  3. Copy of the deed to the property in question.
  4. Written and acknowledged authorization of owner if applicant is not the owner of the property in question.
  5. Description of exterior finish materials.

#### 6.64 Planning Board Review of Site Plan

The Planning Board's review of a site plan shall include, as appropriate, but is not limited to, the following:

- A. General Considerations.
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road width, pavement surfaces, dividers and traffic controls.
  2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

3. Location, arrangement, appearance and sufficiency of off-road parking and loading.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
5. Adequacy of storm water drainage facilities.
6. Adequacy of water supply and sewage disposal facilities and any other utilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of walkways, usable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, odors, unsightliness or other objectionable features.
10. Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

B. Consultant Review.

The Planning Board shall consult with the Town Code Enforcement Officer and may consult with fire commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Franklin County Soil and Water Conservation Service, the State Department of Transportation, the State Department of Environmental Conservation and the Adirondack Park Agency and the New York State Department of Health.

For Class B Regional Projects, notice of a complete application shall be provided by the applicant to the Adirondack Park Agency, together with a copy of the application and such pertinent information as the Agency may deem necessary.

C. Public Hearing.

The Planning Board may conduct a public hearing on the site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be commenced within 62 days of the receipt of the complete application for site plan approval. In determining whether or not in its discretion to hold a public hearing on a given application, the Planning Board shall consider the size and complexity of the proposed activity, and the level of public interest in the

application. (It is the Town's intention to supersede Town Law Section 274-a [8]).

#### 6.65 Planning Board Action on Site Plan

Within 30 days of the date that an application for site plan approval is deemed complete at a meeting of the Planning Board, the Planning Board shall act on it. If no action is taken within 30 days, the site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement mailed by certified mail return receipt requested to the applicant and filed with the Town Clerk stating whether or not the site plan is approved, approved with modifications, or a public hearing is to be scheduled. In no case shall an application be disapproved without a public hearing. If a public hearing is held, the Planning Board shall approve, approve with modifications or disapprove the application within 15 days of the completion of the hearing. If an application is disapproved, the reasons therefor shall be clearly stated. Such decision shall be mailed by certified mail return receipt requested to the applicant and filed with the Town Clerk.

#### 6.66 Public Hearing Notice and Conduct

- A. Any public hearing held under this local law shall be advertised by a notice of public hearing, to be published once in the official newspaper of the Town at least 5 days prior to the date of the hearing. In addition, at least 10 days prior to the date of the hearing, notices shall be mailed to the applicant by certified mail return receipt requested. The applicant shall use Registered mail to send a copy of this notice to all owners of the property within 750 feet of the exterior boundary of the property for which the application is made, as may be determined by the latest assessment records of the Town.

For Class B Regional Projects, notice of any public hearing shall be provided to the Adirondack Agency at least ten (10) days prior to the hearing. The Adirondack Agency shall be a full party in interest with standing to participate in the hearing and other proceedings related to the project.

- B. Any hearing may be recessed by the Planning Board in order to obtain additional information or to serve further notice upon other property owners, or to persons it decides may be interested in the proposal being considered or for any reason deemed appropriate. Upon recessing, the time and date when the hearing is to be reconvened shall be announced. No further notice or publication will be necessary.

#### 6.67 Required Referral

Where applicable, prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County or regional planning agency in accordance with Section 239 of the General Municipal Law. The referral must be mailed at least 10 days prior to the public hearing.

#### 6.68 Appeal of Planning Board Decision

Any person aggrieved by any decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of the Planning Board decision in the office of the Town Clerk.

## 6.69 Miscellaneous Provisions

- A. Reimbursable Costs. In addition to fees and costs chargeable pursuant to Section 617.3 of the Environmental Quality Review Act, costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan, shall be charged to the applicant unless the applicant, with the consent of the Planning Board, obtains and pays for the specified services.
- B. Performance Guarantee. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board after such consultation as it deems appropriate.
- C. Inspection of Improvements. The Code Enforcement Officer shall be responsible for commissioner of public works and other officials and agencies, as appropriate.
- D. Modifications of Time Periods. The time periods within which Planning Board actions are required by this Article are the maximum times allowable; the Planning Board shall act as quickly as possible in reviewing and approving site plan applications in order to minimize delays to applicants. Under certain circumstances, however, the maximum allowable time period within which the Planning Board must render its decision upon a completed application may be extended by mutual agreement between the Planning and the applicant.

## **ARTICLE VII - SUPPLEMENTARY REGULATIONS AND STANDARDS**

### 7.10 GENERAL

In addition to the regulations and standards prescribed by this local law, the following additional standards shall apply in all land use districts of the Town except where otherwise noted.

### 7.20 WATERFRONT PROTECTION

#### 7.21 Application of Regulations

For the purpose of protecting the waterfronts and in order to maintain safe, healthful conditions and to prevent and control water pollution and to control building sites and placement of structures and to preserve shore cover and natural beauty, these regulations shall apply to all waterfront properties. The use of land and water, the size, type and location of structures on lots, the installation of waste disposal facilities, the filling, grading, lagooning and dredging of any land, the cutting of shoreline vegetation and the subdivision of lots shall be in full compliance with the provisions of this Local law and any other applicable Town Local law or Local Law, Federal or State Laws and Regulations.

## 7.22 General

All construction on any shoreline lot shall be carried out in such a manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.

## 7.23 Lot Width

The minimum lot width at the water's edge shall be that distance set forth in Article V hereof. In determining lot width, rights to property that are not a fee interest shall not be considered.

## 7.24 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 in accordance with the rules and regulations of the NY State Department of Health and any other applicable governmental agency. The Code Enforcement Officer or any other regulatory officer or agency shall have the authority to require a greater setback of any on-site sewage drainage field or seepage pit if it is determined that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of the water body involved.

## 7.25 Setback from the Water

See Article V.

## 7.26 Cutting Restrictions

In the case of all shorelines, 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% of the trees in excess of 6 inches diameter at breast height existing at any time may be cut on any individual lot during any 10-year period.
- B. Within 6 feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of 30% of the shorefront may be cleared of vegetation on any individual lot during any 10-year period. This provision shall be adhered to in addition to (a) above.
- C. In no event shall more than 30% of the trees in excess of 3 inches in diameter at breast height be removed from, each 150 contiguous feet of any individual lot during any 10-year period, the purpose being to prevent clear cutting. Vegetation removal necessary for placement of an approved building or structure shall not be counted in determining compliance with the 30% requirement.



- D. The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.
- E. The above standards provide the maximum amount of cutting. In the event that it is determined that any cutting will have a significant environmental impact on the applicant's property, adjoining property or water ways such as allowing erosion of the property or runoff of surface water, the Planning Board may impose stricter cutting restrictions to lessen such effects.

#### 7.27 Contractual Access

There shall be no contractual access across waterfront property.

#### 7.28 Filling, Grading, Lagooning and Dredging

Filling, grading, lagooning, dredging and removal of underwater vegetation shall not be undertaken without specific approval of the New York State Department of Environmental Conservation.

#### 7.29 Storage of Petroleum Products

No bulk storage of petroleum products shall be permitted within 150 feet of shoreline except that fuel tanks used for residential purposes not exceeding 275 gallons are excluded from such shoreline restrictions, provided that they meet the other requirements of this section. Storage facilities shall include adequate provisions for ensuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway or groundwater. Each aboveground tank shall be protected by a raised earthen or paved berm, dike and concrete vault or containment tank base. All tanks and containments above or below grade shall be in accordance with all other statutes including the Federal Resource Conservation and Recovery Act, Title 6 of NYCRR and the Environmental Conservation Law.

#### 7.30 Paved Areas

Any paved or otherwise improved parking, loading or service area shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

#### 7.31 Other Applicable Regulations

Nothing herein provided shall waive or otherwise decrease the effectiveness of any requirement of the New York State Department of Environmental Conservation under Article 15, Title 5, of the Environmental Conservation Law.

Nothing herein provided shall waive or otherwise affect any requirement of the Wild, Scenic, and Recreational Rivers System Act.

#### 7.32 Wetland Areas

These areas are to be determined by the Adirondack Park Agency. All activity in such areas shall conform to the Adirondack Park Agency Act, the State of New

York Freshwater Wetlands Act and the US Army Corps of Engineers and any rules or regulations promulgated thereunder and shall also include the following:

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

1. 20,000 square feet or more in size
2. Located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, or
3. Is determined to be part of a seepage system related to other bodies of water.
4. In the case of 2 or 3 above, there is no size limitation and/or minimum.

B. Body of water – either of two basic forms:

1. Pond, with water shallow enough to permit the growth of rooted plants throughout its total extent, and is of unspecified surface size:
2. Lake, with depths of water where no rooted plants can grow, and is of unspecified surface size.

#### 7.33 Utilities

All subdivisions shall have underground utilities.

#### 7.34 Private Roads

Private roads will be accepted by the Town to become town highways pursuant to the provisions of Town of Santa Clara Resolution dated April 10th, 1973 or any subsequently adopted resolutions of the Town provided that they meet the standards for town highways as provided in the New York State Highways Law.

#### 7.35 Boathouses, Docks, Decks, Wharves and Piers

For every residential waterfront lot:

- A. The maximum dimension of any individual boathouse, dock, deck, wharf or pier, or the total dimension of any combination of such structures, along the shoreline of the lot (such dimension being commonly referred to as the “width” of such boathouse, dock, deck, wharf or pier in relation to the shoreline) shall not exceed 15% of the width of the shoreline of the lot. The width of the lot shall be as measured from lot sideline to lot sideline along the mean high-water line, as such line is determined by the APA and/or DEC or in relation to any reference point(s) established by either or both of them. If DEC and APA have established different mean high-water marks or lines for the subject body of water, the lot width shall be measured along the higher of such marks or lines. No boathouse, dock, deck, wharf or pier shall extend away from land more than 33 feet from the mean high-water mark closest to such structure. Subject to the limitation in sub-section 7.35(C) below, the total surface area (“footprint”) of any dock, deck, wharf or pier shall not exceed 500 sq. ft. including the area of any openings or “slips” in

which boats or other watercraft may be berthed.

- B. Subject to the limitation in subsection 7.35(C) below, the covered area within a boathouse at water level (its “footprint”) shall not exceed an area of 625 sq. ft., including the “slips” or floor openings in which boats or other watercraft are berthed. A boathouse shall be limited to one story. The maximum height of a boathouse shall be 15 feet, not including any required railings, above the mean highwater mark. The use of a boathouse shall be limited to the storage of boats, oars, personal flotation devices and similar equipment for boating. A boathouse shall not contain any bathroom, kitchen facilities, living quarters, bedrooms, plumbing or heating source or system.
- C. The combined surface area or “footprint” of any combination of boathouse, dock, deck, wharf or pier, including any “slips” or floor openings in which boats and/or other watercraft may be berthed, shall not exceed 875 sq. ft. for any lot.
- D. Vegetation removal shall meet APA standards and definitions and furthermore shall not exceed 30% of all trees on the lot that measure 3 inches or more in diameter at breast height. Vegetation removal necessary for the actual placement of an approved building or structure shall not be counted in determining compliance with the 30% requirement.
- E. No other construction shall be permitted within the setback distance prescribed above except as provided in this code.
- F. Use of units in A and B above shall be by the owner or occupant.

Note: Height is from mean high water, not from lake level. Cantilevered overhang is permissible for outside covered slips, provided no vertical supports are required or utilized.

#### 7.36 Supplemental regulations for commercial marinas

##### A. Special Use Permit Required

No person shall construct, expand, or operate a commercial marina, or alter or expand the number or type of services or recreational activities offered without obtaining issuance of a Special Use Permit from the Town of Santa Clara Planning Board, or, if a Special Use Permit has been granted for the subject facility, an amendment to the approved Special Use Permit for that facility which authorizes the new or expanded services or recreational uses.

##### B. General Standards for Commercial Marinas

1. Docks shall be a minimum of 50 ft. from any residential area, regardless of any lesser setback requirement set forth elsewhere in the Town’s Land Use Law.
2. Docks associated with a marina shall not interfere with navigation on the water body involved. Navigation shall be as defined by NYS OGS, NYS

DEC or APA, the most stringent of which shall govern in the case of conflict.

3. No paved area, with the exception of boat launching ramps, may be located within 75 feet of the mean high-water mark. Paved surfaces design to facilitate access for patrons with mobility impairment and constructed in conformance to ADA guidance/standards shall be exempt from this provision.
4. Marinas may not operate between the hours of 10 P.M. and 5 A.M. Operation shall mean provision of services to the user of watercraft (i.e.: maintenance, launch etc.) and as may defined by the Planning Board during project review.
5. Any proposed lighting shall adhere to current APA guidance and seek to comply with International Dark-Sky Association guidance. Generally, all exterior lighting shall be the minimum necessary to address safety, light only those areas to address operations and avoid light spill off site. A lighting plan and details shall be provided for review.
6. A marina that provides a boat pump-out shall demonstrate that said pump out facility complies with any applicable regulatory standard (i.e., NYSDOH) and/or generally accepted industry standards. Pump out facilities are not mandatory.
7. A marina shall provide sanitary facilities sufficient to accommodate their clientele.
8. Every marina shall provide trash receptacles sufficient to accommodate all trash generated by the marina's clientele.
9. Adequate parking spaces for customer's vehicles, as determined by the Planning Board. Guidance on adequate parking shall be determined by the Planning Board in collaboration with the applicant.
10. A maintenance program sufficient to keep all wharves, adjacent shoreline, water and the waterway bottom clean of debris.
11. A plan to prevent the introduction or spread of invasive species. This plan shall include the following as a minimum.
  - a. Training of all employees to ensure their ability to identify invasive species and how to mitigate their introduction into the waterway.
  - b. Informational signage and educational materials available to all who use or visit the marina.
  - c. Inspection of all boats before they are launched.
  - d. Provide decontamination services for any boat introduced to local water that came from outside the area

12. A plan that minimizes the project's visual impact from the sidelines. Covered docks may be allowed if they are consistent with the character of the surrounding area, would have minimal adverse visual impact, including from any lighting associated with them, and otherwise satisfy the provisions of Sections 1.130 and 7.36.
13. Marinas with petroleum sales, a plan relative to the inspection and maintenance of petroleum storage facilities and all associated equipment, and appropriate measures relative to spill prevention and countermeasures. Such plan shall include:
  - a. The inspection of all plumbing and related pumping equipment, not less than daily, to guard against leakage of petroleum products into the waterway;
  - b. The training of each person pumping motor fuels in procedures to guard against the spillage of such motor fuels into the waters and procedures to respond to a spill; including reporting procedures to notify state and local officials of any water contamination.
  - c. The maintenance, in close proximity to the pumping facilities, of such equipment as is necessary to respond to any spill of petroleum products into the water or onto land or structures where it may flow into the water.
  - d. Where applicable, proof of compliance with New York State Fire Code standards and DEC bulk storage standards for the storage of gasoline and hazardous materials. If applicable, no permit application shall be complete until proof of compliance is submitted to the Code Enforcement Officer
14. A boat cleaning area that is designed, operated and maintained in such a manner to prevent contamination of the waters shall be provided, or boat cleaning shall be prohibited.
15. A Stormwater Prevention Plan (SWPP) to reduce runoff, erosion and sediment infiltration.
16. Boats shall be moored only at docks, no mooring of boats at any other location.
17. No dry vertical boat stacking storage for quick launch.
18. No rental of personal watercraft.
19. Any facility thus approved shall comply with these and any other conditions set forth by the approving board, and shall be subject to periodic review inspection by Code Enforcement Officer and the appropriate approving board and/or its authorized members.

### C. Special Provisions for Commercial Marinas

Depending on the scale and nature of marina operations, the Planning Board may request/require:

1. Facilities for the disposal of sanitary wastes from vessels with on-board sanitary equipment including:
  - a. On-site pump-out facilities, or proven access to pump-out facilities, for use by vessels which use the services of marina; and
  - b. Facilities for the disposal of waste from portable marine toilets, or proven access to such facilities, for use by vessels, which use the services of the marina.
  - c. Such facilities shall be designed, installed, operated and maintained to prevent the discharge of contaminants from marine toilets to the waterway or the ground from which they may flow into the waterway. For the purposes of this subsection, vessels using the services of the marina shall include vessels which moor, dock or are quick launched by the marina. Written proof of access to disposal facilities for a period equal to the life of the permit shall be required. Off-site facilities must be located within a reasonable distance from the marina.

### D. Commercial Docks & Wharfs

An application for a Commercial Marina shall provide a Dock/Wharf Plan.

The plan shall show:

1. Locations and dimensions of docks, proposed and existing, as well as estimates of locations and dimensions of docks within 500 feet of the marina boundaries.
2. Survey information that shows waterway bottom conditions in relation to the Mean High/Low water mark and ownership thereof.
3. Information regarding the potential that the proposed dock will create an obstacle to navigation, recreation and use of waters, and access to adjacent properties. Potential conflicts with navigational hazards or conflicts with other uses such as swimming areas shall be identified and a plan presented to minimize such conflicts.
4. Maximum dock length and number of docks shall be determined by the Planning Board after considering:
  - a. Items A through C above and the General Guidelines listed below in Section D5.
  - b. Total number of boats accommodated.

- c. The total area/acreage of upland (land based) facilities and the ability to accommodate the number of boats docked. Upland facilities include but are not limited to customer/patron parking, boat trailer and boat storage, boat cleaning, fueling and other facilities.
  - d. The placement of the proposed docks and the extent to which they may encroach and/or occupy a defined navigation channel.
  - e. Whether the placement and length of dock will create an obstacle to navigation, recreation and use of waters, and access to adjacent properties.
  - f. Whether the planned facilities create a condition that would violate the Special Use Permit General Criteria identified in Section 1.130 F.
5. General guidelines for design.
- a. Dock design should be limited to 50 ft in width including all lateral projections.
  - b. All lateral projections should be limited to 22 ft.
  - c. All docks, wharfs and moorings should extend no more than 20% of the width of waterbody, OR 200 ft, whichever is most restrictive.
  - d. All floating docks shall include encapsulated flotation devices.

#### E. Appeals

Any applicant aggrieved by any decision rendered by the Planning Board under this section, 7.36 Supplemental Regulations for Commercial Marinas, including but not limited to any decision establishing maximum allowable dimensions and/or area of any dock, deck, boathouse or other structure, shall have a right to appeal solely by bringing an Article 78 proceeding in State Supreme Court in accordance with State law.

## **ARTICLE VIII - PRE-EXISTING NONCONFORMING USES AND BUILDINGS**

### **8.10 NONCONFORMING USES AND BUILDINGS**

#### **8.11 Preexisting Uses**

Except as otherwise provided in this section, the lawfully permitted use of land or buildings existing at the time of the adoption of this local law may be continued, even though such use does not conform to the standards specified in this local law for the zone in which such land or building is located. However, no land shall be subdivided, its use changed or existing structures or buildings expanded so as to create a nonconforming lot, use, building or other structure more nonconforming from the effective date of this local law.

#### **8.12 Nonconforming Use of Land**

Where no building or structure is involved, the nonconforming use of land may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this local law, unless specifically allowed by other provisions in the local law, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this local law; provided, further, that if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 1 year, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this local law. No nonconforming use of land shall be changed to another nonconforming use.

#### **8.13 Nonconforming Use of Building or Structure**

A building or structure, including a sign, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended. Such sign or nonconforming building shall not be structurally altered to an extent greater than 50% of its market value, unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition shall be permitted and provided further that any such nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of the adoption of this local law. A nonconforming use may be changed only to a conforming use, or if the building in or on which such use is conducted or maintained is moved for any distance whatsoever, for any reason, then any further use of such building shall be in conformity with the standards specified by this local law for the district in which the building is located. If any building in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any sign or building thereon shall be in conformity with the standards specified by this local law for the district in which such building is located. Except as provided in Section 8.14, if a nonconforming use of a building or structure, or any portion thereof, ceases for any reason for any continuous period of more than 1 year, or is changed to a conforming use, any future use of the building or structure shall be in conformity with the provisions of this local law.



#### 8.14 Temporary Discontinuance

The nonconforming use of any building or structure, or any portion thereof, may be discontinued for up to two (2) years, upon approval of the Planning Board, for the purpose of remodeling, repair or improvement. Prior to any such temporary discontinuance, the property owner shall provide plans for the remodeling, repair or improvement of the building or structure to the Planning Board for its review. Any approved temporary discontinuance shall begin on the date that the Planning Board grants its approval. If use of the building or structure ceases prior to submission of such plans to the Planning Board, any approved temporary discontinuance period shall begin on the date that use of the building or structure ceased regardless of the date that the Planning Board grants its approval. An extension of the approved temporary discontinuance, [not to exceed a total temporary discontinuance of three (3) years,] may be granted by the Planning Board for good cause shown. If the Planning Board does not approve the application for temporary discontinuance, the provisions of Section 8.13 shall remain applicable to the building or structure.

#### 8.15 National Historic Landmark Properties

- A. Notwithstanding the provisions of 8.12, 8.13 and 8.14, in the event that a property contains one or more buildings or structures that have been designated as a National Historic Landmark by the National Park Service of the United States Department of the Interior, and such designated buildings or structures were utilized as part of a nonconforming use or uses, either before or after such Historic Landmark designation, or both, and which nonconforming use or uses were discontinued without the property's use being changed to a conforming use, then the Town Board, upon written request from the owner of the property, shall be authorized to allow the resumption of the non-conforming use or uses on the property, after the request is reviewed by the Planning Board.
- B. The Town Board's decision on such a request for resumption of a non-conforming use or uses shall be by Resolution of the Town Board following a Public Hearing held on at least 10 days' notice.
- C. Upon a Resolution of the Town Board approving a resumption of one or more non-conforming use or uses, which must be specified in such Resolution, the property owner must resume such use or uses within two years from the date of adoption of the approving Resolution, which time may be extended for one additional year for good cause shown by application to the Town Board and a Resolution of the Town Board approving such extension, without requirement for a Public Hearing on such extension request. Application for such an extension must be received by the Town before the expiration of two years from the date of the Resolution of approval to resume the non-conforming use or uses.
- D. After a Resolution of the Town Board approving a resumption of a non-conforming use or uses, if the non-conforming use or uses are not resumed

within such two-year period, or 1-year extension thereof if so authorized by the Town Board, any subsequent use of the property must comply with the then-current provisions of the Town's Land Use Law or its successor.

- E. The provisions of this subsection 8.15 shall apply to any such designated National Historic Landmark property even if the cessation of the nonconforming use or uses occurred prior to the adoption of this subsection.
- F. The property owner which submitted the Petition dated July 12, 2016 to the Town Board for an amendment to the Town's Land Use Law to add this subsection 8.15 shall be deemed to have satisfied the requirements of subsections A and B above and the resumption of the prior non-conforming uses on property owned by such property owner as of the date of its Petition, being those uses identified and specified in the Resolution of the Town Board approving the addition of this section 8.15 to the Land Use Law, are deemed approved by the Town Board. Said property owner must resume such uses within two years from the date of adoption of the Town Board Resolution approving the amendment of the Land Use Law to add this section 8.15, which time may be extended for one additional year for good cause shown by application to the Town Board and a Resolution of the Town Board approving such extension, without requirement for a Public Hearing on such extension, or the approval for resumption of such non-conforming uses shall expire. Application for such an extension must be received by the Town before the expiration of two years from the date of the Resolution approving the addition of this section 8.15 to the Land Use Law.

## 8.20 PRE-EXISTING NONCONFORMING SIGNS

Any nonconforming sign that is not in good repair at the time of adoption of this local law shall be brought into compliance herewith within 6 months of adoption of this local law. Nonconforming signs which are in a good state of repair at the time of adoption of this local law may remain in place 7 years therefrom unless any substantial repairs are required during the period to maintain the nonconforming signs in good state of repair. If substantial repairs are required, the signs shall be brought into compliance with this local law.

## 8.30 NONCONFORMITY, OTHER THAN USE

No permit shall be issued that will result in the nonconformity or the increase of any nonconformity in height, yard space or setback. No structure with nonconformity of any dimensions shall be expanded in any direction, vertically or horizontally unless all dimensions of the expansion conform to the requirements of this Land Use Code.

Any nonconforming lot which: 1) was lawfully on record as of May 22, 1973 (the enactment date of the Adirondack Park Land Use and Development Plan), or 2) was otherwise lawfully on record between May 22, 1973 and November 6, 2000 (the original effective date of this Land Use Code) and for which an authorized Adirondack Park Agency (APA) Permit has been issued, or 3) was otherwise lawfully on record between May 22, 1973 and November 6, 2000 and for which APA has issued a formal letter-determination deeming the existence of the lot "non-jurisdictional" with respect to the

APA Act and regulations, and which lot does not meet the minimum lot area and/or minimum lot width and/or depth requirements of this Land Use Code (for the land use district in which such lot situated) shall be considered as complying with such minimum lot requirements for the purposes of constructing one single-family dwelling or siting one mobile/manufactured home, and no variance shall be required therefore, provided that:

- A. Such lot has an area of at least two-thirds of the minimum lot area, and a width of at least two-thirds the minimum lot width, and
- B. Such lot does not adjoin other lots in the same ownership; provided, however, that all such lots in the same ownership may be treated as one lot.

#### 8.40 RESTORATION

Any building, structure or sign damaged by fire or natural causes may be repaired or rebuilt for the same use. The rebuilt structure shall conform to the original size in all respects.

#### 8.50 COMPLETION OF BUILDINGS UNDER CONSTRUCTION

Any building, extension or alteration for which a permit has been duly granted, the construction of which has been started before the effective date of this local law, or of a pertinent amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within 1 year after the adoption of this local law or amendment thereto, may be completed in accordance with plans on file with the Code Enforcement Officer, provided that such construction is diligently continued in accordance with the Town of Santa Clara Building Code.

### **ARTICLE IX - VARIANCES**

#### 9.10 ADMINISTRATION AND ENFORCEMENT

##### 9.11 Building Permits

- A. No structure, except as herein provided, shall be erected, added to, or structurally altered until a permit therefore has been issued by the Code Enforcement Officer, provided that such construction is completed within the next one-year period pursuant to the provisions of the Town of Santa Clara Building Code.
- B. Prior to the issuance of a building permit in the Town, except for uses exempted in Section 6.40 hereof, the Code Enforcement Officer shall require the preparation of a site plan as described in Section 6.60 hereof. The Code Enforcement Officer shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in Section 6.60 hereof.

##### 9.12 Certificate of Occupancy

- A. No building shall be hereafter occupied, used, changed in use, altered or extended until a certificate of occupancy shall have been issued by the

Code Enforcement Officer pursuant to the provisions of the Town of Santa Clara Building Code, stating that the structure or proposed use thereof complies with the provisions of this local law.

## 9.20 VARIANCES

### 9.21 Purpose of this Article

The purpose of this article is to provide for variances from this local law in cases where the strict application thereof would result in practical difficulties or undue hardships, while not violating the general purposes and objectives of this local law.

### 9.22 Authorization to Grant or Deny Variances

- A. In accordance with §267-b of the Town Law of the State of New York, the Zoning Board of Appeals shall have the power, upon appeal from a written decision, determination, order, requirement or interpretation by the Code Enforcement Officer and after public hearing, to vary or modify the application of any of the provisions of this chapter relating to the construction, alteration or use of structures or the use of land, so that the intent and terms of this chapter are observed, public safety and welfare secured, and substantial justice done.
- B. Any variance to this local law shall be granted by the Board of Appeals in accordance with the standards and procedures set forth in this article. Compliance with the applicable standards shall be stated in written findings by the Board of Appeals.
- C. In granting a variance, the Board of Appeals may 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 the Town's Land Use Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community conditions to protect the best interests of the surrounding property, the neighborhood and the Town as a whole.
- D. In granting variances, the Board of Appeals shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- E. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations

### 9.23 Application for a Variance

The Zoning Board of Appeals' jurisdiction shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. A property owner(s) or his/her agent(s) may initiate a request for a variance by filing an application with the Board of Appeals using

forms supplied by the Board of Appeals, which shall include all information reasonably considered by the Board of Appeals as necessary to make its findings under Section 9.24 of this local law, and including a legal description of the property, a map showing the property and all properties within a radius of 750 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed variance, and other drawings or information reasonably considered necessary by the board to an understanding of the proposed use and its relationship to surrounding properties. Such application shall also be mailed to all adjacent property owners within 750 feet of the exterior boundaries via registered mail. Signed postal receipts of mailings shall be provided to the Board of Appeals.

#### 9.24 Requirements for Granting Variances

- A. Area Variances - The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer, to grant a variance to allow land use or development or subdivision to be located on a lot or property which does not conform to the dimensional requirements for that district listed in Article V. Water and wetland setbacks are not a variance item due to the purpose of the law, which is to protect water and wetlands from infringement and environmental degradation.

In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board 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 consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

- B. Use Variances - The Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant a variance to allow a use within a district other than a use allowable as a Primary Use or Secondary Use listed in Article IV.

No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable Zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that:

1. for each and every permitted use under the Zoning regulations for the particular district where the property is located, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and
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; and,
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.

#### 9.25 Referrals

The Board of Appeals shall refer all completed variance applications to the Planning Board for its report and recommendation and where required by Section 239-m of the General Municipal Law, to the county planning agency or regional planning agency, if any, having jurisdiction for its report and recommendation. In no case shall final action under Section 9.26(b) be taken until said Planning Board and county or regional planning agency (if such county or regional planning agency exists) have submitted their reports, or until 30 days have passed since the date of referral, whichever occurs first.

#### 9.26 Variance Application Hearing and Decision

- A. Within a reasonable time from the receipt of a completed application, for a variance, the land use Board of Appeals shall give notice of a public hearing to be held on the application not less than five (5) days nor more than thirty (30) days after the notice by publication in a newspaper of general circulation in the Town. At least five (5) days before such hearing, the Board of Appeals shall mail notices thereof to the parties (including the applicant or applicants as well as all property owners to whom copies of the application must be mailed under section 9.23, above); to the Adirondack Park Agency and to the entities requiring referral under Section 9.25. The Adirondack Park Agency shall be a full party in interest, with standing to participate in any and all proceedings under this Article for which the Agency was required to be sent notice under Section 9.25 of this local law.
- B. Within sixty-two (62) days after the close of a public hearing called and held under paragraph (a) of this section, the Board of Appeals shall grant, grant with conditions, or deny the variance applied for. The decision of the Board shall be in writing and shall contain each of the findings specified in Section 9.24 of this local law, and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board. The Board shall notify the Adirondack Park Agency, by certified mail, of such decision. Any variance granted or granted with conditions shall not be effective until 30 days after such notice to the Agency. If, within such

30-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 of practical difficulties or undue hardships, the Agency shall have the right to reverse the local determination to grant a particular variance.

- C. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

## 9.30 VIOLATIONS-PENALTIES

Any person or organization who fails to comply with or who violates this local law shall be guilty of an offense and, upon conviction thereof, shall be liable to a fine of not more than \$350.00 or to imprisonment for not more than fifteen (15) days or both. Each week's continued violation after notice shall constitute a separate violation. Such notice may be served: (1) personally on the offender and owner; or (2) by certified mail a copy thereof to the last known address of the offender and of the owner and by posting a copy thereof at the premises where the violation occurs. Such notice shall state when, not less than 20 days after such service, the condition or thing which constitutes the violation shall be corrected or removed. Proof of any (1) personal service; or (2) such mailing and posting shall be sufficient proof of such service and the date stated therein shall become the first date of such violation if it continues.

Any person may file a complaint of a violation of this local law in writing with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

The Town Attorney or any aggrieved person may take such action, criminal, civil or both, as may be provided by law against any person or organization who violates or may intend to violate this local law.

## ARTICLE X - SUBDIVISION OF LAND

### 10.10 BOUNDARY LINE ADJUSTMENTS

The Planning Board shall have the authority to review a proposed deed or Boundary Line Adjustment agreement and map showing the proposed Adjustment. The map shall be prepared, signed and sealed by surveyor licensed by New York State and shall show and identify the Granting Parcel, Receiving Parcel, Boundary Line Adjustment Area and any other details deemed necessary by the Planning Board. The map shall bear a prominent note stating that the Boundary Line Adjustment Area is hereby merged into and with the Receiving Parcel as a single, unified lot. The Planning Board shall determine whether the proposed transfer satisfies the definition of a Boundary Line Adjustment and requirements of this section or would be a subdivision subject to further review. If the Planning Board determines that the proposal is for a Boundary Line Adjustment, rather than for a subdivision, and that the map and other documents submitted are satisfactory, and that the proposed Boundary Line Adjustment meets the definition and necessary requirements for a Boundary Line Adjustment, the Planning Board shall be authorized to approve the Boundary Line Adjustment. Upon such approval, the Applicant shall provide the Planning Board with five (5) twenty-four inch x

thirty-six inch (24"x36") maps as follows: 1 Mylar and 2 paper copies to be filed with Franklin County, 1 paper copy for the Town of Santa Clara and 1 paper copy for the applicant. The Chairman of the Planning Board (or the Vice-Chairman, if designated by the Chairman) shall be authorized to stamp and sign the maps depicting the Boundary Line Adjustment. The Applicant shall then file the signed maps and record the deed or Boundary Line Adjustment agreement in the office of the Franklin County Clerk within 62 days after the maps are signed by the Planning Board Chairman. Within ten (10) days after filing and recording with the County, the Applicant shall provide the Town's Code Enforcement Officer with a copy of the filed map and a copy of the recorded Deed or Boundary Line Adjustment agreement by which the Boundary Line Adjustment Area was conveyed and merged into the Receiving Parcel.

## 10.20 REQUIRED IMPROVEMENTS

### 10.21 Improvements and Performance Bond.

- A. Before the Planning board grants final approval of the subdivision plats plan, the sub divider shall follow the procedure set forth in either Subsection A(1)(a) or (b) below:
  - 1. In an amount set by the Planning Board, the sub divider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the sub divider shall file with the Town Clerk a performance bond to cover full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board as to form, sufficiency, manner of execution and surety. A period of one (1) year [or such other period as the Planning Board may determine appropriate, not to exceed three (3) years] shall be set forth in the bond within which required improvements must be completed.
  - 2. The sub divider shall complete all required improvements to the satisfaction of the Town CEO, who shall file with the Planning Board a letter signifying satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the sub divider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvements not approved by the Town CEO. Any such bond shall be satisfactory to the Town Board as to form, sufficiency, manner of execution and surety.
- B. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town CEO and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the sub divider completes all required improvements according to Subsection A(1)(b), then said map shall be submitted prior to endorsement of the site plan by the appropriate Planning Board officer. However, if the sub divider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1)(a), such bond shall not be released until such a map is submitted.



#### 10.22 Modification of Design Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town CEO that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town CEO may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town CEO shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

#### 10.23 Inspection of Improvements

At least five (5) days prior to commencing construction of required improvements, the sub divider shall pay to the Town Clerk the inspection fee as set forth from time to time by resolution of the Town Board and on file in the office of the Town Clerk and shall notify the Town CEO in writing of the time when he/she proposes to commence construction of such improvements so that the Town CEO may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

#### 10.24 Proper Installation of Improvements

If the Town CEO shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the sub divider, the Town CEO shall notify the Town Board and the Planning Board. The Town Board then shall notify the sub divider, and, if necessary, the bonding company, and take all necessary steps to preserve the town's rights under the bond. No plat plan shall be approved by the Planning Board as long as the sub divider is in default on a previously approved plat.

#### 10.30 STREET ACCEPTANCES

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement or other open space shown on such subdivision site plan.

#### 10.40 OWNERSHIP AND MAINTENANCE OF RECREATION AREAS

When a park, playground or other recreation area shall have been shown on a site plan, the approval of said plan shall not constitute an acceptance by the town of such area. The Planning Board shall require the plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

## 10.50 GENERAL REQUIREMENTS AND DESIGN STANDARDS

### 10.51 Guidance by Standards

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth herein. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Section 10.190 herein.

### 10.52 General Provisions

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Conformity to Town of Santa Clara Subdivision Map. Subdivisions shall conform to the Official Map of the town.
- C. Specifications for required improvements. All required improvements to private roads or streets shall be construction in conformity to town road specifications as set forth in New York State Highway Law.
- D. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to local law and to accommodate the prospective traffic and afford access for firefighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardships to adjoining properties and shall be coordinated so as to compose a convenient system.

## 10.60 STREET LAYOUT

### 10.61 Arrangement

The arrangement of streets, hereinafter laid out shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided and at a width as great as that of such existing streets but in no case less than fifty (50) feet right of way in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

### 10.62 Minor Streets

Minor streets shall be so laid out that their use by through traffic will be discouraged.

### 10.63 Special Treatment Along Major Arterial Streets

When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the real property line, deep lots with rear service alleys or such other treatment as may be

necessary for adequate protection of residential properties and to afford separation of through and local traffic.

#### 10.64 Dead-End Streets

The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets.

#### 10.65 Intersections

- A. Intersections with collector or major arterial roads. Local or minor streets opening into such roads shall, in general, be at least five hundred (500) feet apart.
- B. Angle of intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet, the street is approximately at right angles to the street it joins.

#### 10.66 Relation to Topography

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

### 10.70 STREET DESIGN

#### 10.71 Classification of Streets

Streets shall be classified as "minor," "local," "collector" or "major," as those terms are defined in Article II, 2.20 Definitions.

#### 10.72 Widths of Rights-of-Way

- A. Streets shall have the following widths:

<u>Type of Street</u>	<u>Minimum Right-of-Way (feet)</u>	<u>Minimum Pavement (feet)</u>
Minor	50	20
Local	50	20
Collector	50	20
Major	To be determined on an individual basis	

#### 10.73 Improvements

Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, except where waivers may be requested, and the

Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Town CEO. Such grading and improvements shall be approved as to design and specification by the town CEO.

#### 10.74 Utilities

- A. Utilities in the street. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The sub divider shall install underground service connection to the property line of each lot within the subdivision for such required utilities before the street is paved.
- B. Installation.
  - 1. All utilities shall be installed underground in such street prior to acceptance by the town. Such underground utilities may include storm sewer, water and gas mains, telephone, electric power, cable television and sanitary sewer and they shall be installed without expense to the town and under supervision of the Town Superintendent of Highways or improvements district having jurisdiction.
  - 2. In streets and highways beyond reasonably workable distance from existing Sanitary Sewer District limits, dry sanitary sewers shall be installed without expense to the town, at elevations and slopes established by the town's designated engineer, and installation shall be made under supervision of said town-designated engineer.
- C. Fire hydrants (where municipal water is available). Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
- D. Street lighting (where Lighting Districts are available). Lighting facilities shall be in conformance with the lighting standards of the town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Electrical Inspector.

#### 10.75 Grades

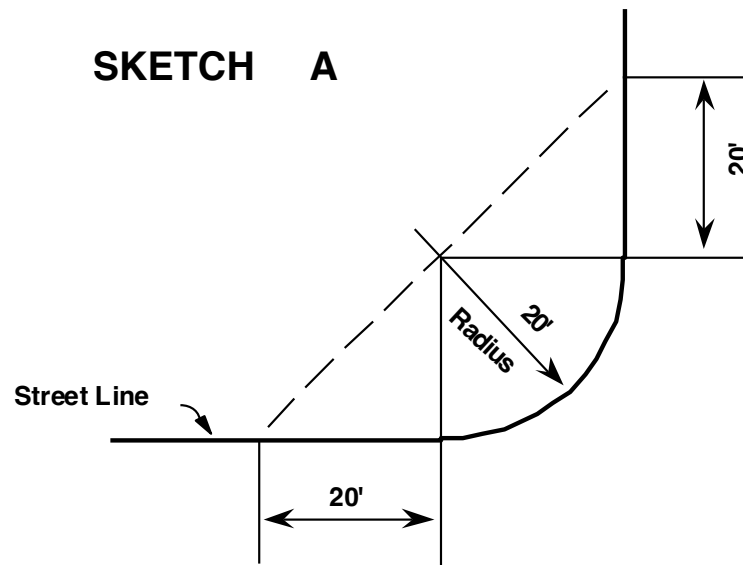
- A. Grades of all streets shall conform in general to the terrain and shall not be less than one-half percent (1/2%) nor more than six percent (6%) for major or collector streets, or ten percent (10%) for minor or local streets in residential zones, but in no case more than three percent (3%) within fifty (50) feet of any intersection.
- B. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of County Engineer or County Highway Superintendent so that clear visibility shall be provided for a safe distance.

#### 10.76 Curve Radii at Street Intersections

All street rights-of-way lines at intersections shall be rounded by curves of at least twenty (20) feet radius, and curbs shall be adjusted accordingly.

#### 10.77 Steep Grades and Curves; Visibility of Intersections

A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded on Sketch A shall be cleared of all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.



#### 10.78 Dead-End Streets (Cul-De-Sac)

Where dead-end streets are designed to be so permanently, they should, in general, not exceed five hundred (500) feet in length and shall terminate in a circular turnaround and a minimum right-of-way radius of sixty (60) feet shall be provided, unless the Planning Board approves an alternate arrangement.

#### 10.79 Watercourses and Drainage

- A. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the County Engineer.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the County Engineer, and no less than twenty (20) feet in width.

#### 10.710 Commercial Developments

- A. Service streets or loading space. Paved rear service streets of not less than twenty (20) feet in width, or in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots

designed for commercial use. These requirements shall be in addition to street requirements of any such development.

- B. Free flow of vehicular traffic abutting commercial developments. In front of areas designed for commercial use, or where a change of use which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board with consultation of Town Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.

#### 10.711 Placement of Monuments

Sufficient monuments shall be placed to properly reproduce each and every street laid out. Street markers must be placed at all corners and at intervals not exceeding five hundred (500) feet to tangent lengths over one thousand (1,000) feet long. Monuments shall be either granite with a cross cut in the top, or concrete with a bronze plate or galvanized pipe set in the same. Monuments shall be four by four (4 x 4) inches at the top and bottom, and four (4) feet long (minimum size).

#### 10.712 Street Signs

Street signs (safety and names) and posts shall be furnished and properly placed by the developer. Street signs shall conform in type to the town standard. Guide rails where required for highway ditch or culvert protection or as a general safety measure shall be placed as specified by the Town Highway Superintendent.

### 10.80 CONSTRUCTION OF ROADS

Prior to being offered for dedication to the town, all streets shall be completely graded, all underground utilities shall have been installed in accordance with all provisions of this chapter, base course of gravel shall have been placed, graded and completed and taped, curbing and sidewalks as required shall have been installed in conformance with the applicable standards as shown on the attached schedule "Highway Cross Section and Specifications," Appendix D herein, and re-vegetation procedures shall have been utilized as required by this section.

### 10.90 OFFERS OF STREET DEDICATION

#### 10.91 General

All applications for approval shall be made in writing to the Town Board and shall specify name, starting point, direction distance and ending point.

#### 10.92 Application Contents

The application will be accompanied by:

- A. Three (3) copies of the subdivision and street plan and profiles of each street showing grades.

- B. The warranty deed, if possible, or a quitclaim deed conveying said street to the town with all necessary releases from mortgages or other claimants.
- C. An Abstract of Title commencing with a Warranty Deed covering a period of at least 40 years.
- D. Tax search.
- E. Maps [three (3) copies] which shall:
  - 1. Be of a scale of one (1) inch equals fifty (50) feet.
  - 2. Show contours based on United States Geological Survey datum at intervals of not greater than five (5) feet unless otherwise approved by Town Board.
  - 3. Show a location plan with a scale of one (1) inch equals one thousand (1,000) feet.
  - 4. Show all drainage areas tributary to the development.
  - 5. Show all streets, roads and highways and lots with necessary survey data.
  - 6. Show finished street, road or highway grades. A separate supplementary map of that portion of streets, roads or highways to be conveyed shall be submitted showing building lots and restrictions and names of the abutting owners.
  - 7. Show location of permanent monuments.
  - 8. Show the proposed name of all streets or roads.
  - 9. Show a profile of the streets or roads at a horizontal scale of one (1) inch equals fifty (50) feet maximum, and a vertical scale of not less than one (1) inch equals five (5) feet, which shall show the original surface, finished grade and any other pertinent information.
  - 10. Show the proposed method of collection and disposal of surface waters.

#### 10.93 Construction Dates

No street, roadway or highway shall be constructed between October 1 and May 1 in any year unless, in the opinion of the Town Superintendent of Highways, weather would permit proper construction after October 1 or before May 1.

#### 10.94 Additional Approvals

Approval in writing shall be obtained:

- A. By the owners and/or developers from the New York State Department of Transportation regarding drainage where proposed streets or highways

intersect state roads for its permission to connect said streets with such roads.

- B. By the owners and/or developers from the Franklin County Superintendent of Highways regarding drainage where proposed streets or highways intersect county roads for permission to connect said streets with such roads.
- C. By the owner and/or developer from the Department of Environmental Conservation regarding the culverting, bridging or diversion of any stream or watercourse.
- D. By the owners and/or developers from the Town Superintendent of Highways regarding drainage where proposed streets or highways intersect town roads for permission to connect said streets with said roads.

#### 10.95 Erosion Control

All cleared areas associated with the construction of roads offered for dedication, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas and all cut and fill slopes, including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions. Ditch bottoms shall be constructed to minimize soil erosion during periods of design flow by means of re-vegetation, sodding, mulching, netting, stone paving, riprap and other materials or combinations of these, depending on hydraulics and soil properties.

#### 10.96 Acceptance

If, in the opinion of the Town Superintendent of Highways and the Town Board, the streets or highways and drainage system constructed by the owners and/or developers are completed in accordance with the plans signed by the above (the town representatives), the Town Superintendent of Highways and the Town Board will accept the streets within thirty (30) days. The Town Board may in its discretion accept a street or highway notwithstanding that it does not conform to all the provisions of this chapter if, in its judgment, the public interest will best be served by such acceptance, and subject to such conditions as the Town Board may propose

#### 10.97 Improvement of Existing Highways

- A. Before any street or highway shall be accepted for dedication and before any building permits are issued for structures abutting such street or highway, the same shall be suitably improved to the satisfaction of the Town Superintendent of Highways and the Town Board of the Town of Santa Clara in accordance with the standards and specifications set forth and approved herein.
- B. In the discretion of the Town Superintendent of Highways and the Town Board, a cash performance bond sufficient to cover the full cost of such improvements as estimated by the Town Superintendent of Highways shall be furnished to the Town by the person seeking to dedicate such highway.



- C. Such cash performance bond shall be in a sufficient amount to assure completion of the highway within a stated period of time and shall empower the Town Superintendent of Highways to utilize the monies as posted to complete the highway as needed.

## 10.100 LOTS

### 10.101 Lots to Be Buildable

The lot arrangement shall be such that in constructing a building, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.

### 10.102 Side Lines

All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

## 10.110 SANITARY SEWER SYSTEM

### 10.111 Public Sewer System

- A. Where a sanitary sewer system is reasonably accessible, the sub divider shall install sanitary sewers and adequately serve all lots with connections to the system.
- B. Where a sanitary sewer system is not reasonably accessible, but where the plans for the same have been prepared and arrangements made for financing the work, then the sub divider shall install sewers in conformity with such plans, although a connection with an existing sewer may not be immediately practicable. In such case, and until such connection is made with the sewer system, the sub divider shall provide for disposal of sanitary sewage by an alternate approved method.

## 10.120 WATER MAINS

In areas where an approved water supply is reasonably accessible or procurable, the sub divider shall contract with the local water distributing agency to make the water supply available for each lot within the subdivided area. Water mains shall be provided by the sub divider to specifications approved by the local agency and the necessary trench shall be dug, the main laid and the trench backfilled by the sub divider to the approval of the agency. Provisions shall be made for adequate fire protection.

## 10.130 DRAINAGE IMPROVEMENTS

### 10.131 Removal of Spring and Surface Water

The sub divider may be required by the Planning Board, subject to the criteria for wetlands to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

#### 10.132 Drainage Structure to Accommodate Potential Development Upstream

A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.

#### 10.133 Responsibility for Drainage Downstream

The sub divider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Planning Board. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

#### 10.134 Land Subject to Flooding

Land subject to flooding per Adirondack Park Agency Map delineation shall not be platted for any use.

### 10.140 OPEN SPACES AND NATURAL FEATURES

#### 10.141 Preservation of Natural Features

- A. The Planning Board shall establish the preservation of all natural features which add value to residential developments and to the community. The layout shall take advantage of the natural contours and the original vegetation. Natural features such as large trees and groves, watercourses, beaches, vistas and similar irreplaceable assets shall be preserved in designing and construction and subdivision to the extent possible without rendering the land unusable. Of special concern is the conservation of the wooded character of the skylines, hillsides and lakefronts. No tree with a diameter of three (3) inches or more at breast height will be removed unless such tree is within the right-of-way as shown on the final subdivision plat or unless such removal has been approved in advance by the Planning Board.
- B. In a residential subdivision, all structures shall be sited in such a manner to preserve natural features so that each house has maximum privacy and optimum view.

### 10.150 REGIONAL SUBDIVISIONS

#### 10.151 Applicability of This Section

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

#### 10.152 Special Requirements for Approval of Class B Regional Subdivisions

- A. When a proposed subdivision is a Class B Regional Subdivision, the Planning Board shall not render approval or conditional approval or approval with modifications under this chapter, unless the Board first determines that the subdivision would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the town or the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the subdivision, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the subdivision. In making this determination, the Planning Board shall consider those factors pertinent to the subdivision contained in the development considerations set forth at Appendix C hereof.
- B. When the Planning Board renders final approval of a Class B Regional Subdivision under this section, the Board shall issue a permit authorizing the sub divider to undertake the subdivision in accordance with any terms and conditions set forth therein. The Planning Board, in conjunction with its approval of any Class B Regional Subdivision, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines as to intensity of development shall be respected, and the imposition of reasonable conditions to ensure that the subdivision will be adequately supported by services and improvements made necessary thereby and to ensure that the subdivision will be completed in accordance with the terms of the approval and permit. In addition, the Planning Board may incorporate any such requirements and conditions in the permit issued with regard to such Class B Regional Subdivision.

#### 10.153 Special Additional Procedures Regarding Class B Regional Subdivisions

When a proposed subdivision is a Class B Regional Subdivision, within ten (10) days following receipt of a completed application, the Planning Board shall furnish the Adirondack Park Agency a copy of the application and plat, together with such further pertinent information as the agency may deem necessary. The Planning Board shall also mail a copy of the notice of public hearing on the subdivision to the Agency at least five (5) days before such hearing. The Agency shall be a full party in interest withstanding to participate in the hearing and other proceedings pursuant to this section relative to Class B Regional Subdivisions.

#### 10.154 Criteria and Certain Procedures for Adirondack Park Agency Review of Class A Regional Subdivisions

- A. The Adirondack Park Agency's review of Class A Regional Subdivisions within the territory of the town pursuant to and in accordance with Section 809, Subdivision 9, of the Adirondack Park Agency Act, shall be governed by the criteria and certain procedures hereinafter set forth, as well as those set forth in the Act and the applicable Agency rules and regulations.

- B. As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A Regional Subdivision, the Planning Board or one (1) or more designees thereof shall consult with the Agency for the purpose of analyzing the application and formulating advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the town land use program. No later than thirty (30) days following receipt by the Planning Board from the Agency of such notice of application completion with regard to a Class A Regional Subdivision, or such shorter period as may be agreed upon in writing by the Agency and the town, the Planning Board shall, by certified mail, provide to the Agency its advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the town land use program. Should the Planning Board fail to provide such recommendations with such thirty-day or otherwise agreed-upon period, the Agency may make the finding required by Subsection D (3) hereof without receipt of such recommendations.
- C. The Adirondack Park Agency shall not approve a Class A Regional Subdivision unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the subdivision, that the subdivision would comply with all the pertinent requirements and conditions of the town land use program.
- D. In making the determination required by Section 809 of the Adirondack Park Agency Act as to the impact of a proposed Class A Regional Subdivision upon the resources of the Adirondack Park, including the ability of all levels of government to provide supporting facilities and services made necessary by the subdivision, the Agency shall consider those factors pertinent to the subdivision contained in the development considerations set forth in Appendix C hereof.

#### 10.155 Establishment of Joint Procedures with the Adirondack Park Agency for Review of Class A Regional Subdivisions

The Planning Board may establish mutually agreed upon procedures with the Adirondack Park Agency for review of Class A Regional Subdivisions which the Board in its discretion deems desirable to minimize duplication and generally expedite the review process.

#### 10.160 SKETCH PLAN REQUIREMENTS

##### 10.161 Base Map

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale [preferably not less than two hundred (200) feet to the inch] to enable the entire tract to be shown on one (1) sheet.

##### 10.162 Information Required

The sketch plan shall be submitted, showing the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
- B. All existing structures, wooded area, streams and other significant physical features within the portion to be subdivided and within two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- C. The name of the owner and of all adjoining property owners that are disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers, if available.
- E. All the utilities available and all streets which are either proposed, mapped or built.
- F. The proposed pattern of lots (including lot width and depth), street layout recreation areas, systems of drainage, sewerage and water supply [see § 10.16A(3)] within the subdivided area.
- G. All existing restrictions on the use of land, including easements, covenants or land use lines.

#### 10.170 MINOR SUBDIVISION (2 - 4 LOTS) PLAT REQUIREMENTS

##### 10.171 Information Required

In the case of minor subdivision only, the subdivision plat application shall include the following information:

- A. A copy of such covenants of deed restrictions as are intended to cover all or part of the tract.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments, as approved by the Code Enforcement Officer, and shall be referenced and shown on the plat.
- C. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and this Sanitary Code and a note to this effect shall be stated on the plat and signed by a licensed engineer. (The more stringent shall apply.)
- D. Proposed subdivision name, name of the town and county in which it is located.
- E. The date, north point, map scale, name and address of record owner and sub divider.

##### 10.172 Plat Details

Upon approval of the subdivision, the Applicant shall provide the Planning Board with five (5) twenty-four inch x thirty-six inch (24"x36") maps as follows: 1 Mylar and 2 paper copies to be filed with Franklin County, 1 paper copy for the Town of Santa Clara and 1

paper copy for the applicant. The Chairman of the Planning Board (or the Vice-Chairman, if designated by the Chairman) shall be authorized to stamp and sign the maps depicting the subdivision. The Applicant shall then file the signed maps, the deed and subdivision agreement in the office of the Franklin County Clerk within 62 days after the maps are signed by the Planning Board Chairman. Within ten (10) days after filing with the County, the Applicant shall provide the Town's Code Enforcement Officer with a copy of the filed map.

#### 10.180 MAJOR SUBDIVISION (5 OR MORE LOTS) PRELIMINARY PLAT REQUIREMENTS

##### 10.181 Information Required

Eight (8) copies of the preliminary plat prepared at a scale of not more than one hundred (100), but preferably not less than fifty (50), feet to the inch shall be submitted, showing:

- A. Proposed subdivision name, name of town and county in which it is located, date, true north point, scale, name and address of record owner, sub divider and engineer or surveyor, including license number and seal.
- B. The name of all subdivisions immediately adjacent and the name of the owners on record of all adjacent property.
- C. Land use district, including exact boundary lines of district, if more than one (1) district, and any proposed changes in the land use district lines.
- D. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- E. Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight (8) inches or more and measured three (3) feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
- F. Location of existing sewers, water main, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- G. Contours with intervals of five (5) feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two (2) feet.
- H. The width and location of any streets or public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- I. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law and the local Sanitary Code. Profiles of all proposed water and sewer lines.
- J. Storm water management and erosion control plan for all drainage facilities indicating the approximate location and size of proposed lines

and their profiles. Connection to existing lines or alternate means of disposal.

- K. Plans and cross-sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits and erosion and sediment control.
- L. Preliminary designs of any bridges or culverts which may be required.
- M. The proposed lot lines with approximate dimensions and area of each lot.
- N. Where the topography is such as to make difficult inclusions of any of the required facilities within the public area as laid out, the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the official map.
- O. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Code Enforcement Officer, and shall be referenced and shown on the plat.

#### 10.182 Entire Holding

If the application covers only a part of the sub divider's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the sub divider's entire holdings submitted shall be considered in the light of the entire holdings.

#### 10.183 Covenants and Restrictions

A copy of such covenants or deed restrictions as are intended to cover all or part of the tract shall be submitted.

#### 10.190 MAJOR SUBDIVISION PLAT AND ACCOMPANYING DATA REQUIREMENTS

The following documents shall be submitted for plat approval:

- A. A Mylar delineating the plat, which shall be filed with the County Clerk.
  - 1. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the north point at the top of the map. When more than one (1) sheet is required, an additional Mylar of the same size shall be filed, showing to scale the entire subdivision with lot and block numbers clearly legible.

2. The plat shall show:
  - a. Proposed subdivision name of identifying title and the name of the town and county in which the subdivision is located; the name and address of record owner and sub divider, name, license number and seal of the licensed land surveyor.
  - b. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
  - c. Sufficient data acceptable to the Town Board to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system for plane coordinates, and in any event should be tied to reference points previously established by a public authority.
  - d. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true north point.
3. The plat shall also show, by proper designation thereon, all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
4. All offers of cession and covenants governing the maintenance of uncaded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
5. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing town practice.
6. Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Town Board. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Town Code Enforcement Officer and their location noted and referenced upon the plat.
7. All lot corner markers shall be permanently located satisfactorily to the Town Code Enforcement Officer, at least three-fourths ( $\frac{3}{4}$ ) inch (if metal) in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.
8. Monuments of a type approved by the Town Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Board.



- B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, lighting standards, street trees, curbs, water mains, sanitary sewers and storm water facilities, pavements and subbase, manholes, catch basins and other facilities.
- C. Copies of all other permits required but not limited to: New York State Department of Transportation, New York State Department of Environmental Conservation, New York State Adirondack Park Agency, wastewater permits, New York State Department of Health, etc.

## 10.200 WAIVERS

### 10.201 Variation

Where the Planning Board finds that extraordinary and undue hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Official Map.

### 10.202 Waiver

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

### 10.203 Conditions

In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

## **ARTICLE XI - ON-SITE WASTEWATER TREATMENT**

### **11.10 INTRODUCTORY PROVISIONS**

#### **11.11 Applicability**

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

#### **11.12 Authority**

Enactment of this article is pursuant to Article 16 of the Town Law, Article 3 of the Public Health Law, and Article 27 of the Executive Law of the State of New York.

#### **11.13 Purpose**

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

### **11.20 GENERAL PROVISIONS**

#### **11.21 Prohibited Acts**

Except as otherwise provided in this article:

- A. It shall be unlawful for any person to construct, alter, make major repairs to, enlarge, or extend any facility or part of such facility intended or used for the discharge of wastewater without obtaining all required governmental approvals.
- B. It shall be unlawful for any person to cause to be discharged within the Town any wastewater except by systems designed, installed, and approved in accordance with the requirements of this article except that holding tank wastewater shall be disposed of in a location and by a method approved by the Town Board provided that such location has received all required governmental approvals.
- C. It shall be unlawful for any person to use or maintain any individual wastewater treatment system that is unsafe, is a source of pollution to any of the surface waters or groundwater source of the state, permits the seepage of raw or partially treated sewage to ground surface, creates a potential health hazard, adversely affects the environment or impairs the use or development of the lot on which it is situated or nearby lands or interferes with the enjoyment or use of property.

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<sup>1</sup> Department of Environmental Conservation permit required for domestic sewage systems which discharge (1) 1000 or more gallons per day, (2) to surface water, and/or (3) waste other than domestic sewage.

- D. It shall be unlawful for any person to abandon, other than on a seasonal basis, the property upon which a septic tank or seepage pit is located, unless at the time of such abandonment the septic tank is pumped out and filled with clean, granular soil or inert, free-flowing, dense material.
- E. It shall be unlawful for any person to discharge pollutants to the waters of the state from any outlet or point source without first obtaining a State Pollution Discharge Elimination System (SPDES) permit from the Department of Environmental Conservation if so required.
1. The SPDES permit is not required for the construction and use of a new or modified wastewater treatment system or outlet when such disposal system, point source or outlet is designed to discharge and discharges sewage effluent without the admixture of industrial wastes or other wastes to the ground waters of the state from premises when the discharge from such wastewater treatment system consists of a flow of less than one thousand gallons per day.
  2. It shall be unlawful for any person, until a written SPDES permit therefor has been granted by the Department of Environmental Conservation, and unless such permit remains in full force and effect, to:
    - a. Make or cause to make or use any outlet or point source for the discharge of sewage, industrial waste or other wastes or the effluent therefrom, into the waters of this state, or
    - b. Construct or operate and use a wastewater treatment system for the discharge of sewage, industrial waste, or other wastes or the effluent therefrom, into the waters of the state, or make any change in, addition to or an extension of any existing disposal system or part thereof which would materially alter the volume of, or the method or effect of treating or disposing of the sewage, industrial waste or other wastes, or
    - c. Increase or alter the content of the wastes discharged through an outlet or point source into the waters of the state by a change in volume or physical, chemical or biological characteristics.

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

## 11.22 Definitions

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

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

#### Conventional Absorption System

**Absorption Field** - a system of narrow trenches partially filled with a bed of washed gravel or crushed stone 3/4 to 1 1/2 inches in diameter (i.e., aggregate) through which a perforated distribution pipe is laid.

**Gravelless Absorption Systems** - generally proprietary products, which allow septic tank effluent to infiltrate soil in the absence of installed aggregate.

**Rationale:** For purposes of this article, seepage pits are not defined as conventional systems; absorption fields provide better distribution of septic tank effluent to the infiltrative surface, enhance natural aeration of the infiltrative surface, and reduced probability of ground water contamination than seepage pits.

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

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

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

#### Alternative Absorption System

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

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

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

**Non-Waterborne Systems** - (composters, chemical and recirculating toilets, incinerator toilets, sanitary privies) systems designed to

treat human wastes with no wet plumbing. These systems must be accompanied by systems designed to treat household wastewater (i.e., greywater) from sinks, showers, tubs and other fixtures by settling and soil absorption.

**Other Engineered Systems** - a wastewater treatment system of a type not addressed in the Department of Health Design Handbook, designed by a design professional and approved by the NYS Department of Health office having jurisdiction pursuant to 10 NYCRR Part 75.

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

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

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

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

**Building Sewer** - that part of the drainage system which extends from the end of the building drain and conveys wastewater to a wastewater treatment system, public sewer, private sewer, or other approved point of treatment.

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

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

**Combined Sewer** - a sewer receiving both surface runoff and wastewater.

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

**Distribution Box or Device** - a device used to uniformly distribute effluent to the distribution lines.

**Distribution Lines** - the perforated pipe used to distribute effluent to the absorption area.

**Effluent** - the liquid discharged from a septic tank outlet.

**Emergency Repairs** - repairs designed to prevent or abate an existing or imminent threat to the public health, safety or welfare caused or about to be caused by a wastewater treatment system.

**Enforcement Officer** - a person appointed by the Town/Village Board whose duty and authority is to administer and enforce the provisions of this local law.

**Existing Grade** - the natural topography of land prior to construction activity.

**Final Grade** - the elevation that ground will have at the conclusion of cutting, filling or other site work.

**Garbage** - organic solid wastes from domestic and commercial preparation, cooking, or dispensing of food, or from the handling, storage and sale of produce.

**Grade** - the slope of a line of pipe, trench bottom, or ground surface in reference to a horizontal surface.

**Gravel** - a mixture of mineral soil particles whose individual diameters range from 1/4 inch to 3 inches.

**Greywater** - all sewage or wastewater from a house except waste from flush toilets and urinals.

**Groundwater** - subsurface water occupying a zone of saturated soil.

**Holding Tank** - a sealed vault or tank, usually a reinforced concrete septic tank with no outlet, into which wastewater is discharged for temporary storage.

**Impervious Material** - material with a percolation rate of slower than 60 minutes per inch.

**In Existence** - means that with respect to a wastewater treatment system, such structure has been lawfully completed.

**Industrial Wastes** - any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process or industry, manufacturing, trade or business or from development or recovery of any natural resource.

**Invert** - the bottom-most point of an open conduit or the bottom-most point on the inside of a closed conduit.

**Local Board of Health** - the Town/Village Board acting pursuant to its authority found in Article 3 of the Public Health Law.

**Major Repair/Alteration** - any replacement or reconstruction affecting the septic tank, other than baffle repair, or at least one-half of the subsurface absorption system of a wastewater treatment system.

**Mean High Water Mark** - the average annual high-water level.

**Minor Repair/Alteration** - any remedial measure not defined as a major repair, major alteration, or extension.

**Percolation** - the movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.

**Percolation Test** - a standard procedure for testing the soil's ability to accept and convey water to establish the application rate. See Appendix I for proper testing procedures.

**Person** - means any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the State or any State agency.

**Privy** - a building fixed to a vault or pit, equipped with seating to allow for excretion of body waste.

**Preexisting Individual Wastewater Treatment System** - any treatment system that was lawfully in existence prior to the effective date of this local law.

**Public Water System** - a community, a noncommunity or nontransient noncommunity water system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

**Sanitary Tee** - a pipe used in septic tanks, distribution boxes and drop manholes to reduce wastewater or effluent flow velocities and to increase solids retention in septic tanks which prevents carry-over of solids to subsurface absorption systems. See Baffle.

**Seasonal High Groundwater Table** - the highest surface of a zone of saturated soil which is at least six inches thick and which persists during the average year for more than a week when the ground is free of frost.

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

**Septic Tank** - a large, watertight chamber which promotes the growth of anaerobic bacteria for the biological decomposition of sewage.

**Slope** - the ratio of the maximum vertical rise or fall of the land in 50 feet of horizontal distance, expressed as a percentage.

**Soil Mottles** - spots or blotches of different color, or shades of color, interspersed with the dominant background color. See Appendix H, High Groundwater Determination.

**Subdivision** - the division of land into two or more lots, parcels or sites.

**Surface Water Body** - any lake, pond, river, permanent or intermittent stream.

**Toilet Wastes** - human excreta and toilet flushing fluid.

**Treatment System Building Permit** - the permit required before construction of an on-site wastewater treatment system.

**Treatment System Use Certificate** - the certificate required before any portions of an on-site sewage treatment system are back-filled or covered.

**Usable Soil** - soil with a percolation rate between one and sixty minutes per inch.

**Wastewater** - any water discharged through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device (e.g., water softener brine) which is produced in the house or property.

**Wastewater Treatment System** - a complete system of piping, tanks or other facilities for the on-site collection and treatment of wastewater, and not connected to a community or public sewer system. A wastewater treatment system is also referred to as a disposal system in SPEDES regulations.

**Watercourse** - a visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately following precipitation or snow melt shall not be considered a watercourse.

**Wetland** - as defined in 9 NYCRR 578.3 and Article II - Definitions of this Local Law.

## 11.30 STANDARDS FOR NEW WASTEWATER TREATMENT SYSTEMS

### 11.31 Compliance

Wastewater treatment systems shall comply with the applicable specifications and standards set forth in the current editions of:

- "Wastewater Treatment Standards Individual Household Systems," New York State Department of health (DOH) (10 NYCRR Appendix 75-A),
- Department of Health guidelines: "Design Handbook - Individual Wastewater Treatment Systems,"
- "Standards for Waste Treatment Works - Institutional and Commercial Sewerage Facilities," New York State Department of Environmental Conservation (DEC),
- "Design Standards for Wastewater Treatment Works in the Lake George Basin," New York State Department of Environmental Conservation, and
- Adirondack Park Agency Guidelines for On-Site Sewage and Disposal Systems (1991).

Wastewater treatment systems shall also comply with the standards of this article.

### 11.32 General Standards

#### A. Permitted Systems:

Where on-site conditions permit, conventional on-site wastewater disposal systems shall be installed. All systems shall be designed (and submitted) by a design professional and reviewed by an enforcement officer. Seepage pits shall not be permitted.

**Rationale:** *Absorption fields provide better distribution of septic tank effluent to the infiltrative soil surface, enhanced natural aeration of the infiltrative surface and reduced probability of ground water contamination than seepage pits.*



Alternative systems will only be permitted to correct an existing, failing subsurface absorption system or for a lawfully created building lot where a conventional absorption system is not feasible. Such systems will require the approval of the State Department of Health or, if applicable, the Department of Environmental Conservation.<sup>2</sup> Such systems must be designed and submitted by a design professional to all applicable regulatory authorities for approval.

**Rationale:** *At many sites that are not suitable for conventional systems, consideration can be given to the construction of alternative systems to assure proper treatment of sewage rather than to restrict use of land. However, there will be sites that are not suitable for residential development using conventional or alternative systems. Sites compatible with development using alternative systems generally require detailed evaluation, complicated design and costly construction and maintenance.*

- B. All wastewater must be discharged into the on-site wastewater treatment system. Surface and subsurface water including roof, cellar, foundation and storm drainage shall be excluded from such systems and shall be disposed of so they will in no way affect the system, and are not discharged to surface waters or other waters that would contravene water quality standards.
- C. No component of a subsurface absorption area shall be located under driveways, roads, parking areas or areas subject to heavy loading, or any paved area unless the absorption system is structurally designed to support vehicular traffic and provide for ventilation.
- D. No on-site wastewater treatment system shall be allowed in areas where flooding occurs.
- E. Most proposed absorption facilities shall not be located where the final slope of stabilized soil exceeds 15 percent, but absorption trench systems with stringent minimum horizontal and vertical separation distances (i.e., 10 feet, 9 feet, 8 feet, or 7 feet between parallel trenches and 2 feet, 3 feet, 4 feet, or 5 feet between trench bottom and high ground water, bedrock, or impermeable soil, respectively) may be constructed on sites with in situ soil having a slope of >15 to <20 percent and a soil percolation rate of 1 to 60 minutes per inch. For absorption beds, the slope of the site shall not exceed 8 percent. Alternative systems must meet the slope siting criteria of New York State Department of Health or New York State Department of Environmental Conservation.
- F. Standards related to subdivision plats:

All building lots not served by a public water supply shall be at least 20,000 square feet in area.

All building lots shall include an area for wastewater treatment large enough to absorb 440 gallons per day (suitable for a four-bedroom house), with a 100 percent replacement leaching area.

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<sup>2</sup> Section 1.020 for Department of Environmental Conservation authority.

**Rationale:** *Basic land requirements for wastewater treatment should be incorporated into the subdivision review process, in order to provide for high-quality, long-term development as well as basic health and safety considerations. Typically, the wastewater treatment standards are to be administered by the building inspector when the lot purchaser applies for a building permit, but in the absence of incorporating wastewater treatment system area requirements early in the review of plats, many plats may have to be amended if the lots as laid out cannot meet standards.*

- G. Horizontal separation distances and systems layout shall be governed by Table 2, taken from the New York State Department of Health "Individual Residential Wastewater Treatment Systems Design Handbook, 1996," which sets forth the minimum horizontal separation distances required. The following standards exceed minimum requirements to provide additional protection of public health and water quality:

1. Absorption areas shall not be located within 200 feet of a community drilled well or within 150 feet of a dug well.

**Rationale:** *Community drilled wells service multiple households; therefore, potential contamination would affect more people. Also, all other conditions being equal, the zone of influence for a community drilled well would likely cover a larger distance from the well than would an individual well simply because it draws more water. Dug wells are typically shallower than drilled wells and are located in surficial deposits as opposed to deeper rock. Absorption treatment systems are also located in surficial deposits. The additional separation distance affords an added margin of safety from possible contamination.*

Source: 1989 Department of Environmental Conservation Standards for the Lake George Basin; 1991 Adirondack Park Agency guidelines.

2. The piping distance of sewage to an absorption system treatment area serving one or two single family dwellings shall not be permitted beyond 250 feet or in areas crossing wetlands, waterbodies, rights-of-way, property lines or a soil with any limiting feature.

**Rationale:** *The risk of pipe breakage and/or leakage increases over increased distances, especially in areas of more difficult terrain. Any leakage in the transmission system or effluent breakout at the absorption system treatment area may not be noticed in a timely manner due to the distance from the residence. During this time period a significant quantity of septic tank effluent could surface before the problem is detected and repair is completed. In cases of multiple family (3 or more) service it is recognized that an adequate absorption system treatment area might be harder to find; therefore, greater piping distances might be advisable on a case-by-case basis.*

Source: 1991 Adirondack Park Agency guidelines.

3. An absorption system treatment area shall not be located within 25 feet of: (i) steep slopes (greater than 25 percent); (ii) shallow soils (less than 4 feet to bedrock or an impervious soil layer); or (iii) soils with a high seasonal water table (groundwater less than 2 feet from the surface); (iv) rock croppings or (v) within 10 feet from an unsuitable test pit.

**Rationale:** *The long-term risk of effluent breaking out of the ground surface or impacting groundwater resources is minimized through these standards.*

Source: 1989 Department of Environmental Conservation Standards for the Lake George Basin; 1991 Adirondack Park Agency guidelines

4. A qualified soils scientist shall be required when an absorption system or replacement area is proposed: where the natural soil materials have been disturbed by excavation, removed or covered by more than 12 inches of fill; within 25 feet of an area whose soil depth to bedrock is less than 48 inches, or impervious layer is less than 48 inches, or seasonal high groundwater table is less than 24 inches; or within 25 feet of a slope of greater than 25 percent.

**Rationale:** *There are sites where soil conditions are difficult. In these cases, knowing specific site conditions becomes critical both to selecting the proper absorption treatment system and to siting that system carefully on the building lot. Those determinations are most reliably made by a qualified soils scientist.*

Source: 1996 Department of Health Design Handbook (site investigations); 1991 Adirondack Park Agency guidelines.

5. Separation distances of more than 150 feet may be required where nutrient limited wetlands are present

**Rationale:** *The Adirondack Park Agency has information from the scientific literature and can be consulted for wetland sensitivity questions.*

Source: 1991 Adirondack Park Agency guidelines.

#### H. Standards for Areas with Special Soil Conditions

1. The natural ground intended for the subsurface absorption system must have a minimum depth of four feet of usable soil above bedrock, impervious material, or seasonal high groundwater table. When fractured bedrock is encountered, the usable soil depth must be at least six feet.
2. Within 200 feet of the shoreline of a lake, pond, river or stream: if the percolation rate is 0 to 3 minutes per inch, a leaching (absorption) facility will not be permitted.

3. An alternative absorptive system will not be permitted except to correct a failing subsurface absorption system or for lawfully preexisting building lots.

**Rationale:** *To preserve the ability to correct a failing system with best available technology and design professional advice.*

See Appendices for high groundwater determination and percolation test procedure.

Source: Appendix Q-4 of the Adirondack Park Agency Rules and Regulations. Referenced in 582.

## 11.40 PREEXISTING SYSTEMS

### 11.41 Continuation of Preexisting Systems

Subject to the provisions of this local law, the use or maintenance of a preexisting wastewater treatment system may be continued without a wastewater treatment system use certificate (see page 74) provided it shows no evidence of failure but it shall be unlawful to alter, repair, or enlarge such systems except in conformity with the provisions herein. This article shall not be construed to allow any unsafe use or structure, or permit such structures or their use when such structure or use constitutes a threat to public health, safety, welfare or environmental quality; permits the seepage of wastewater to ground surface; or interferes with the enjoyment or use of property.

### 11.42 Repair, Alternation, Enlargement or Extension of a System

- A. It shall be unlawful to repair, alter, enlarge or extend a preexisting wastewater treatment system except as provided by the following definitions:
  1. Minor repairs - Minor repairs should be limited to components of the system that are not critical to the long-term operation of the system. These types of repairs would include changing tank lids and covers, repairs to cleanout and inspection ports and repairing floats and alarms.
  2. Major repairs - All repairs not classified as minor should be classified as a major repair. For major repairs, a repair permit should be obtained prior to conducting the repair. Repair permits should be maintained by the regulatory agency.
  3. Emergency repairs - repairs designed to prevent or abate an existing or imminent threat to public health, safety or welfare caused or to be caused by on-site wastewater treatment system. The permitting agency should be notified immediately, but in no case should this repair include enlarging the absorption area or replacing or disconnecting septic tanks.

## 11.50 ADMINISTRATIVE PROVISIONS

### 11.51 Enforcement Officer

The Enforcement Officer shall have the duty to administer and enforce the provisions of this local law. The Enforcement Officer shall be appointed and may be removed by the Town Board. Persons adversely affected by an action, omission, decision or ruling by the Enforcement Officer may appeal to the Local Board of Health, which shall render a decision regarding the appeal only after holding a hearing on the matter pursuant to the terms of this article. The Enforcement Officer shall not plan, design, construct, sell or install wastewater treatment systems within the town.

### 11.52 Required Records

The original or a certified copy of all findings, decision, permits, certificates or other rulings of the Enforcement Officer or Local Board of Health under this article, shall be retained in the files of the Enforcement Officer as a permanent public record. (It is recommended that owners also retain a copy of the plan of the installed treatment system.)

### 11.53 Issuance of Wastewater Treatment System Permits and Treatment System Use Certificates

#### A. Wastewater Treatment System Permits:

1. It shall be unlawful for any person to construct, alter, repair, or enlarge a wastewater treatment system within the Town unless a treatment system permit has been issued therefor, except that minor repairs and alterations or emergency repairs may be made without a permit.
2. Applications for treatment system permits (see Appendix E) may be made only by the owner of the lot for which the system is proposed or his/her duly authorized agent or assign. Applications shall be in writing, signed by the applicant in such form as the Local Board of Health shall determine. A fee of (\$30.00) shall accompany the application for a treatment system permit. Applications shall be submitted to the Enforcement Officer and include such information as the Local Board of Health and Enforcement Officer shall require including the following:
  - a. The name and address of the applicant.
  - b. Specific location of the property on which the construction, alteration, repair or enlargement is proposed.
  - c. A plan of the proposed treatment system and replacement areas with substantiating data indicating that the minimum standards set forth in this article would be complied with.
  - d. A sketch of the property showing the location of the proposed treatment system construction, alteration, repair, or enlargement and including delineation of the property lines and sources of water supply for the property and

adjoining properties and any surface waterbodies or wetlands within 200 feet.

- e. Evidence to demonstrate to the satisfaction of the Enforcement Officer that there is no public sewer available into which the wastewater can be discharged from plumbing facilities on the proposed building site, or that it is impracticable to discharge wastewater from on-site plumbing facilities into a public sewer system.
- f. A minimum of two soil percolation tests and one deep hole test pit are required for the site of a proposed absorption area. The percolation rate shall be determined by the methods described in Appendix C.

The Enforcement Officer may verify the results of such tests and require supporting information from the applicant necessary for such review. When in his/her discretion warranted, the Enforcement Officer shall request an individual designated by the Board of Health to conduct this test.

- g. Site data which might affect, or be affected by, the proposed system including but not limited to specifications regarding soil type, topography, depth to seasonal high groundwater, depth to impervious material, depth to bedrock and distance to surface waterbodies and wetlands. An intensive subsurface investigation will be required when a subsurface absorption system or replacement area is proposed:
  - (i) where the natural soil materials have been disturbed by excavation, removed or covered by more than 12 inches of fill;
  - (ii) within 25 feet of an area whose soil depth to a) bedrock is less than 48 inches, or b) impervious layer is less than 48 inches, or c) seasonal high groundwater table is less than 24 inches;
  - (iii) within 25 feet of a slope of greater than 25 percent.

The determination of depth to seasonal high groundwater shall be made in accordance with Appendix H of this local law. All determinations shall be accompanied by a detailed statement of the testing methods used as well as the basis for the determination.

The Enforcement Officer shall determine whether an application is complete.

- 3. The Enforcement Officer may require certification or retesting to verify information submitted as part of the application.
- 4. The Enforcement Officer may conduct such investigations, examinations, tests and site evaluations as he/she deems

necessary to verify information contained in an application for a treatment system permit, and the applicant or owner of land on which the system is proposed shall grant the Enforcement Officer or his/her agent's permission to enter on his/her land for these purposes.

5. The Enforcement Officer shall not issue a treatment system permit unless:
  - a. all pertinent site data has been submitted, verified and certified as required by this article; all permit fees have been paid, and the Enforcement Officer has determined that the alteration, repair or construction as proposed in the application complies with all specifications contained in this article, or
  - b. the Enforcement Officer is specifically ordered to issue a treatment system permit by the Local Board of Health pursuant to Section 11.57 of this article or authorized by specific waiver of the NYS Department of Health and all permit fees have been paid.
6. The Enforcement Officer shall disapprove an application for a treatment system permit if he/she determines:
  - a. that the applicant has failed to supply all data necessary to make a determination as to whether or not such wastewater treatment system conforms to the requirements or specifications of this article and has failed to supply such information for sixty (60) days after a written request for such additional information has been mailed.
  - b. that the wastewater treatment system, as proposed, will not conform to the requirements or specifications of this local law and Appendix 75-A or an order of the Local Board of Health.
  - c. that the wastewater treatment systems, as proposed, cannot comply with any prior subdivision, site plan, or Class A or B regional project authorization for such locations.
  - d. that any required SPDES permit from DEC has not been issued.
  - e. the applicant has failed to pay all necessary fees and has failed to make such payment for sixty (60) days after notice of such nonpayment has been mailed.
7. The Enforcement Officer may, by written notice, order all further work stopped on any wastewater treatment system which is being constructed or installed in violation of this local law.

B. Wastewater Treatment System Use Certificates

1. It shall be unlawful for any unauthorized person to cover with soil or other material, or utilize, any wastewater treatment system for which a treatment system building permit has been issued unless a treatment system use certificate has been issued therefor.
2. The holder of a treatment system building permit shall notify the Enforcement Officer when the treatment system is ready for inspection. The inspection shall be made as soon thereafter as practicable by the Enforcement Officer. The Enforcement Officer may also make inspections during construction to ensure that the system is being installed in accordance with the terms of the treatment system permit. Any part of any installation which has been covered prior to final approval shall be uncovered upon order of the Enforcement Officer.
3. A treatment system use certificate shall not be granted until the Enforcement Officer has determined that the wastewater treatment system has been installed in compliance with the terms of the treatment system permit. The Enforcement Officer shall make such a determination only after he/she has made an on-site investigation of the system, or received a certification from the design professional that the system conforms to the specifications as set forth in the application and this article, or an order of the Local Board of Health pursuant to this article. The Enforcement Officer may withhold a determination until after an on-site investigation has been completed notwithstanding that the system has been certified as properly installed and designed.
4. In the case of multiple-family systems or systems serving more than one principal use, the establishment of a proper legal entity, such as a transportation corporation or homeowners association, may be required.

#### 11.54 Form of Petitions, Applications and Appeals

Unless otherwise stated, all petitions, applications and appeals provided for in this article shall be made on forms prescribed by the Local Board of Health. Completed forms shall be accompanied by whatever further information, plans or specifications as may be required by such forms.

#### 11.55 Application Fees

Fees shall be paid upon the submission of applications provided for by the terms of this article.

#### 11.56 Appeals from Actions of Enforcement Officer; Notice of Public Hearing

- A. Appeals of any actions, omissions, decisions or rulings of the Enforcement Officer must be instituted within 30 days of the act, omission, decision or ruling from which relief is sought.
- B. For a waiver of 10 NYCRR Part 75 Statewide Standards, the appeal is referred to the local enforcement officer and to the NYS Department of Health.



For appeals involving additional standards beyond Part 75 or mere procedural matters, within 15 days of receipt of a completed application for appeal of an action, omission, decision, or ruling of the Enforcement Officer, the Local Board of Health shall give notice of a public hearing to be held on the application.

- C. Each notice of hearing upon an application for an appeal to the Local Board of Health shall be published once in the official newspaper of the Town at least 10 days prior to the date of the hearing. In addition, at least 15 days prior to the date of the hearing, notices shall be mailed to the applicant, each owner of record of the land involved in the application, the County or State Department of Health, the Department of Environmental Conservation, the Adirondack Park Agency, and all owners of property adjoining the property for which the application is made, as may be determined by the latest assessment records of the Town.

#### 11.57 Hearings and Decisions on Appeals

- A. Public hearings on appeals of actions of the Enforcement Officer shall be held not less than 30 days after the required notices are mailed.

Any hearing may be recessed by the Board in order to obtain additional information or to serve further notice upon other property owners, or to persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. No further notice or publication will be necessary.

All persons entitled to notice under Section 5.060, as well as any person showing he/she may be directly affected by a proposal, shall be full parties in interest, with standing to participate in any and all proceedings under this article. Within 30 days of the final adjournment of a public hearing, the Board shall affirm, modify or deny the action, decision or ruling of the Enforcement Officer or correct any omission by him/her, or approve, approve with conditions or disapprove the application.

The decision of the Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board. The Board's discretion in considering an appeal under this article shall not extend to granting waivers<sup>3</sup> from 10 NYCRR Part 75, but shall rather be limited to reviewing the Enforcement Officer's interpretation or application of the terms hereof.

- B. As part of any decision, the Board shall direct the Enforcement Officer to issue any appropriate permit in conformity with its ruling and shall state a time by which the permit shall be issued, in conformity with this article.

#### 11.58 Appeal from Action of the Local Board of Health

An action, decision, omission or ruling of the Local Board of Health pursuant to this article may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be

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<sup>3</sup> Waivers from the substantive requirements (e.g., septic tank sizes, setback distances, etc.) of 10 NYCRR Part 75, are under the jurisdiction of the NYS Department of Health, to be referred to New York State District Engineer or County Health Department.

made not later than 60 days from the effective date of the decision or ruling or the date when the action or omission occurred.

#### 11.59 Site Inspections

- A. In filing an application for a treatment system permit, an applicant shall be deemed to have consented to the Enforcement Officer, and/or other person designated by the Local Board of Health to conduct examinations, tests, and other inspections of the treatment system site. Entrance upon the applicant's property shall be made only at reasonable times and with advance notice to the applicant where possible.
- B. The Enforcement Officer or his/her designee may inspect any wastewater treatment system built after this local law takes effect to ensure that it is being maintained in proper working order. Inspections shall be made, where practical, after reasonable notice to the owner or occupant. Where the Enforcement Officer determines that a system is not being maintained in compliance with this local law or any permit issued hereunder, he/she may order that use of the system cease, and/or that the defects be corrected, and/or misuse abated within a reasonable time. If the prescribed action is not taken within the time fixed by the Enforcement Officer, he/she may revoke the use permit for the system and/or refer the matter to the Local Board of Health for appropriate corrective action.

#### 11.510 Recording or Expiration of Treatment System Permits

Any permit issued pursuant to this local law shall expire within 60 days from the date of issuance thereof unless within such sixty-day period such permit and plans shall have been filed and duly recorded by the applicant in the Town Clerk's Office.

#### 11.511 Expiration of Permits

Unless otherwise provided for in the permit, all permits shall expire within two (2) years of issuance. Once a permit expires, and the treatment system is not completed, a new permit application is required.

### 11.60 ENFORCEMENT

#### 11.61 Penalty

Any person owning, controlling or managing any building, structure, land, or premises therein or whereon there shall be placed on or there exists a structure or system in violation of this local law and any person who shall commit or assist in the commission of any violation of this local law, or who shall build, erect, construct, or attempt the same, any structure contrary to the plans or specifications submitted to the authorized official and by him/her certified as complying with this local law and any person who shall omit, neglect, or refuse to do any act required by this local law, shall be subject to a civil penalty of not more than (\$100.00) to be recovered by the Town Board in any court of competent jurisdiction. Each such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purposes of this article.

The penalty provisions of DEC regulations may also apply.

#### 11.62 Alternative Remedies

In case of any violation or threatened violation of any of the provisions of this local law, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use, to restrain, correct or abate such violation to prevent the use of the wastewater treatment system or to prevent any illegal act, conduct, business or use regarding such treatment system.

#### 11.63 Misrepresentation

Any permit or approval granted under this article which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town Board under Sections 11.61 and 11.62 of this article.

### 11.70 MISCELLANEOUS PROVISIONS

#### 11.71 Interpretation

Where the conditions imposed by any provision of this article are less restrictive than comparable conditions imposed by any other provisions of this local law, or of any other statute, ordinance, local law, order, rule, regulation, the provisions which are more restrictive shall govern.

#### 11.72 Severability

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

#### 11.73 Savings Clause

The adoption of this local law shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this local law takes effect.

#### 11.74 Other Authority

No provision of this local law shall be construed to limit any State standards for wastewater treatment systems, including the provisions of the Adirondack Park Agency Act relating to shorelines and Class A and B projects.

#### 11.75 Effective Date

This local law shall take effect and be in force ten (10) days after its passage, publication and filing as prescribed by Section 308 of the Public Health Law.

## ARTICLE XII - AMENDMENTS

### 12.10 PROCEDURE FOR AMENDMENTS

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this local law after public notice and hearing.

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before a public hearing. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and shall cause notice to be given as follows:

- (1) By publishing at least 10 days notice of the time and place of such hearing in the official newspaper of the Town.
- (2) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional state park commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
- (3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any town or within 500 feet of any county building or land, shall be given to the clerk of such municipality and to the clerk of the Board of Legislators of such County at least 10 days prior to the date of such hearing.
- (4) A written notice of any proposed change or amendment affecting real property within 500 feet of the boundary of the Town of Santa Clara or from the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any state owned land on which a public building or institution is situated shall be referred to the county planning agency or regional planning agency, if any, as provided for by Sections 239-1 and 239-m of Article 12-B of the General Municipal Law. If such planning agency fails to report within 30 days after receipt of a full statement of such referred material, the Town Board may act without such report. If the planning agency disapproves the proposal or recommends modifications thereof, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after adoption of a resolution setting forth the reason for the contrary action.
- (5) In case, however, of a protest against such change, signed by the owners of 20% or more of the area of land included in such proposed changes or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto, extending 100 feet from the road frontage of such opposite land, such amendment shall not become effective except by the favorable vote of a majority of all members of the Town Board.

- (6) When directed by the Town Board, the Town Clerk shall submit a copy of the 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.

## **12.20 HEARING AND DECISION ON PROPOSED AMENDMENTS**

The procedure as to the notice of a public hearing on an enactment of a proposed amendment shall follow and be governed by Town Law, and the General Municipal Law, as described above, including all subsequent amendments thereto. The procedure shall also comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law. Notice of the decision of the Town Board shall be sent promptly to the Adirondack Park Agency.

## **12.30 RECORDS OF AMENDMENTS**

The Town Clerk shall maintain records of amendments to the text of this local law and of the Land Use Map of the Town of Santa Clara and the official Adirondack Park Land Use and Development Plan Map.

# **ARTICLE XIII - MISCELLANEOUS**

## **13.10 SEPARABILITY CLAUSE**

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

## **13.20 EFFECTIVE DATE**

This Local Law shall take effect 11/06/2000.

## **APPENDICES**

### **APPENDIX A - CLASS A REGIONAL SUBDIVISIONS**

#### **A. HAMLET AREAS.**

1. All subdivisions of land involving wetlands.
2. All subdivisions of land involving one hundred (100) or more residential lots, parcels or sites.

#### **B. MODERATE INTENSITY USE AREAS.**

1. All subdivisions of land located in the following critical environmental areas:
  - a. Within one-fourth (1/4) 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 two thousand five hundred (2,500) feet or more.
  - d. Within one-eighth (1/8) 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.
2. All subdivisions of land involving seventy-five (75) or more residential lots, parcels or sites.

#### **C. LOW INTENSITY USE AREAS.**

1. All subdivisions of land located in the following critical environmental areas:
  - a. Within one-fourth (1/4) 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 two thousand five hundred (2,500) feet or more;
  - d. Within one-eighth (1/8) 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.
2. All subdivisions of land involving thirty-five (35) or more residential lots, parcels or sites.

#### **D. RURAL USE AREAS.**

1. All subdivisions of land located in the following critical environmental areas:

- a. Within one-fourth (1/4) 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 two thousand five hundred (2,500) feet or more.
  - d. Within one-eighth (1/8) 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.
  - e. Within one hundred fifty (150) feet of the edge of the right-of-way of federal or state highways.
  - f. Within one hundred fifty (150) feet of the edge of the right-of-way of county highways designated by rule or regulation of the agency adopted pursuant to Subdivision fourteen of Section eight hundred nine of the Adirondack Park Agency Act, as major travel corridors by the agency.
- 2. All subdivisions of land involving twenty (20) or more residential lots, parcels or sites.

E. RESOURCE MANAGEMENT AREAS.

- 1. All subdivisions of land involving two (2) or more lots, parcels or sites.

## **APPENDIX B - CLASS B REGIONAL SUBDIVISIONS**

### **A. MODERATE INTENSITY USE AREAS.**

1. Subdivision of land (and all land uses and development related thereto) involving fifteen (15) or more but less than seventy-five (75) lots, parcels or sites, other than subdivisions of land involving mobile homes.
2. Subdivisions of land (and all land uses and development related thereto) involving less than fifteen (15) lots, parcels or sites, other than subdivisions of land involving mobile homes, which do not meet the following criteria:
  - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least twenty-five thousand (25,000) square feet in size and complies with all of the provisions of the shoreline restrictions.
  - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least forty thousand (40,000) square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a Class B Regional Project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds fourteen (14).
3. Subdivisions of land involving mobile homes (and all land uses and development related thereto) and involving two (2) or more lots, parcels or sites.
4. Subdivisions of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal building per linear mile or proportionate fraction thereof, as provided for in these regulations.
5. Subdivisions of land within one-half (1/2) 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.

### **B. LOW INTENSITY USE AREAS.**

1. Subdivisions of land (and all land uses and development related thereto) involving ten (10) or more but less than thirty-five (35) lots, parcels or sites, other than subdivisions of land involving mobile homes.
2. Subdivisions of land (and all land uses and development related thereto) involving less than ten (10) lots, parcels or sites which do not meet the following criteria:
  - a. In the case of such subdivision involving land having shoreline, each lot, parcel or site is at least fifty thousand (50,000) feet in size and complies with all of the provisions of the shoreline restrictions.
  - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least one hundred twenty thousand (120,000) square feet in size.



Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a Class B Regional Project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds nine (9).

3. Mobile home subdivisions (and all land uses and development related thereto) involving two (2) or more lots, parcels or sites.
4. 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 these regulations.
5. Subdivisions of land within one-half (1/2) mile of rivers designated to be studied as wild, scenic or recreational in accordance with the Environment Conservation Law, other than those navigable by boat, during the period of such designation.

C. RURAL USE AREAS.

1. Subdivisions of land (and all land uses and development related thereto) involving five (5) or more but less than twenty (20) lots, parcels or sites, other than subdivisions of land involving mobile homes.
2. Subdivisions of land (and all land uses and development related thereto) involving less than five (5) lots, parcels or sites which do not meet the following criteria:
  - a. In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least eighty thousand (80,000) square feet in size and complies with all of the provisions of the shoreline restrictions of the plan.
  - b. In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least three hundred twenty thousand (320,000) square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a Class B Regional Project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds four (4).

3. Mobile home subdivisions (and all land uses and development related thereto) involving two (2) or more lots, parcels or sites.
4. 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 these regulations.
5. Subdivisions of land within one-half (1/2) mile of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservational Law, other than those navigable by boat, during the period of such designation.

## APPENDIX C - DEVELOPMENT CONSIDERATIONS

### A. NATURAL RESOURCE CONSIDERATIONS.

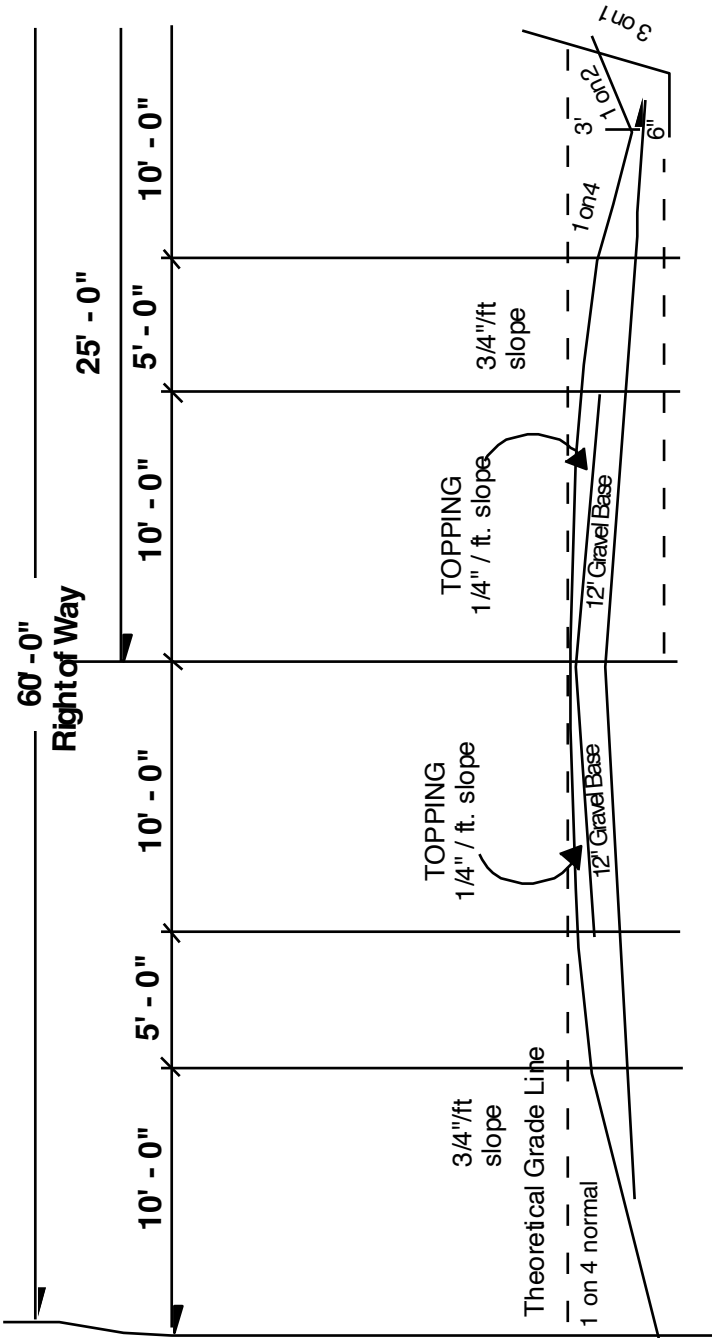
1. Water.
  - a. Existing water quality.
  - b. Natural sedimentation of siltation.
  - c. Eutrophication.
  - d. Existing drainage and runoff patterns.
  - e. Existing flow characteristics.
  - f. Existing water table and rates of recharge.
2. Land.
  - a. Existing topography.
  - b. Erosion and slippage.
  - 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. Light
  - a. Light levels.
6. 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 subalpine life zones.
  - e. Wetlands.
  - f. Elevations of two thousand five hundred (2,500) feet or more.
  - g. Unique features, including gorges, waterfalls and geologic formations.
7. Wildlife.
  - a. Fish and wildlife.

- 8. 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.

## APPENDIX D - HIGHWAY CROSS SECTION AND SPECIFICATIONS

Right-of-way	50 feet
Roadway (ditch to ditch)	30 feet
Roadbed	20 feet with 1/4" ft. crown
Shoulders	5 feet with 3/4" ft. slope
Ditches	3 feet with 1 on 4 slope and designed for 25-year storm runoff. May have to be lined or grassed based on storm runoff calculations
Banks	Cut 1 on 2 normal 3 on 1 in rock
Fill	1 on 4 normal
Minor, local and collector streets	12" gravel base; topped with chip and oil -- 2 courses of No. 2 and 1 course of No. 1A
Major streets	Specifications will be determined on an individual basis depending on anticipated use and existing conditions. Such roads will be constructed under the supervision of the Town Superintendent and DPW or Town Engineer.
Culverts	Size will be determined by the Superintendent on an individual basis as conditions warrant. But in no instance shall a culvert be less than 18" in diameter. Culverting of watercourses shall be approved by the Department of Environmental Conservation and done according to "Hydraulic Design of Highway Culverts" by the Federal Highway Administration.
Bridges	Must be built to state specifications.

APPENDIX E  
Typical Cross Section  
(Not to Scale)



## **APPENDIX F - CLASS B REGIONAL PROJECTS**

This appendix lists Class B regional projects for review by the planning board under Article 6 of this local law. This list does not include, however, the various types of subdivision classified as Class B regional projects by the Adirondack Park Agency Act -- those subdivisions are reviewed as "Class B regional subdivisions" under the town subdivision regulations.

### **A. MODERATE INTENSITY USE AREAS**

1. Multiple family dwellings
2. Mobile home courts
3. Public and semi-public buildings except any buildings or structures proposed or constructed by or on behalf of the Town of Santa Clara.
4. Municipal roads except any road proposed or constructed by or on behalf of the Town of Santa Clara.
5. Commercial or agricultural service uses involving less than ten thousand square feet of floor space
6. Tourist accommodations
7. Marinas, boatyards 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 in Section 806 of the APA Act.
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 this Appendix and Section 805 of the APA Act.
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 twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

B. LOW INTENSITY USE AREAS

1. Multiple family dwellings
2. Mobile home courts
3. Public and semi-public buildings except any buildings or structures proposed or constructed by or on behalf of the Town of Santa Clara.
4. Municipal roads except any road proposed or constructed by or on behalf of the Town of Santa Clara.
5. Commercial or agricultural service uses involving less than five thousand square feet of floor space
6. Tourist accommodations
7. Marinas, boatyards 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 in Section 806 of the APA Act.
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 this Appendix and Section 805 of the APA Act.
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 twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

C. Rural Use Areas

1. Multiple family dwellings
2. Mobile home courts
3. Public and semi-public buildings except any buildings or structures proposed or constructed by or on behalf of the Town of Santa Clara.
4. Municipal roads except any road proposed or constructed by or on behalf of the Town of Santa Clara.
5. Marinas, boatyards and boat launching sites
6. Golf courses
7. Campgrounds
8. Group camps
9. Commercial sand and gravel extractions
10. 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 in Section 806 of the APA Act.
11. Any land uses or 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.
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 this Appendix and Section 805 of the APA Act.
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 Section 810(1) of the APA Act 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 twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

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 of Section 806 of the APA Act.
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 this Appendix and Section 805 of the APA Act.
7. Municipal roads except any road proposed or constructed by or on behalf of the Town of Santa Clara.
8. Golf courses
9. An individual single-family dwelling within one-eighth mile of tracts of Forest Preserve land or water described in paragraph (E), subparagraph (1) of Section 810(1) of the APA Act 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 or 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 twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

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 except any buildings or structures proposed or constructed by or on behalf of the Town of Santa Clara.
6. Municipal roads except any road proposed or constructed by or on behalf of the Town of Santa Clara.
7. Any land use 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 Appendix and Section 805 of the APA Act.
8. Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing

use or twenty-five percent or more of the original square footage of such structure.

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 G - RESERVED**

## **APPENDIX H - SEASONAL HIGH GROUNDWATER DETERMINATION**

The seasonal high groundwater table shall be determined by observing its elevation and evidence of soil mottling in a deep hole test pit dug to a depth of at least five feet deeper than the anticipated depth of the invert of the subsurface absorption system and/or by methods employed by a qualified soil scientist. The soil mottles are spots or blotches of different color, or shades of color, interspersed with the dominant background soil color. Oxidation (bright colors) and reduction (dull colors) are caused by alternating aerobic and anaerobic conditions attributable to a seasonal fluctuating groundwater table, or intermittent presence of a perched water table. Soil mottles indicate a zone in which the soil is saturated for at least a two-week period during the average water year. Water which seeps into test pit only indicates the current status of the water table and is not a reliable method of predicting the seasonal high groundwater table, particularly if the test pits are dug outside of the normally high groundwater period of March 15 to June 30.

The applicant may be required to retain the services of a qualified soil scientist to determine the seasonal high groundwater table.

## APPENDIX I - SOIL PERCOLATION TEST PROCEDURE

### INSTRUCTIONS

#### Procedure:

- (1) At least two percolation tests shall be performed within the proposed absorption area. At least one percolation test should also be performed within the proposed absorption system expansion area.
- (2) Dig each hole with vertical sides approximately 12 inches in diameter. If an absorption field is being considered, the depth of test holes should be 24 to 30 inches below final grade or at the projected bottom of trenches in shallower/deeper systems. If a seepage pit must be used, percolation tests should be conducted at one-half the projected depth and at the full estimated depth of the seepage pit. The sides of the percolation holes should be scraped to avoid smearing. Place washed aggregate in the lower two inches of each test hold to reduce scouring and silting action when water is poured into the hole.
- (3) Presoak the test holes by periodically filling the hole with water and allowing the water to seep away. This procedure should be performed for at least four hours and should begin one day before the test, except in clean, coarse sand and gravel. After the water from the final presoaking has seeped away, remove any soil that has fallen from the sides of the hole.
- (4) Pour clean water into the hole, with as little splashing as possible, to a depth of six inches above the bottom of the test hole.
- (5) Observe and record the time in minutes required for the water to drop from the six-inch depth to the five-inch depth.
- (6) Repeat steps (4) and (5) a minimum of three times until the time for the water to drop from six inches to five inches for two successive tests is approximately equal (i.e., \_ 1 min. for 1-30 min./inch, \_ 2 min. for 31-60 min./inch). The longest time interval to drop one inch will be taken as the stabilized rate of percolation.
- (7) If different results are obtained for multiple holes in a proposed absorption area, the slowest stabilized rate shall be used for system design.

I \_\_\_\_\_ the undersigned certify that the percolation tests were conducted by me or under my direction in accord with the above procedure. The data and results are true and correct.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

License No. (P.E., R.A., L.S.) \_\_\_\_\_

## APPENDIX I - SOIL PERCOLATION TEST DATA

See instructions on previous page

Development /Site: \_\_\_\_\_ Town: \_\_\_\_\_ County: \_\_\_\_\_

Date: \_\_\_\_\_ Tests Conducted By: \_\_\_\_\_

Test Hole No.	Test Hole Depth (Inches)	Lot. No.	Soil Profile	Presoaking Date & Time	Time <sup>1</sup>	Percolation		
						1	2	3
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			
					End			
					Begin			
					Result			

<sup>1</sup>Begin time, end time and result in minutes for a water change for 6" to 5" above the bottom of the test hole.

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## **APPENDIX J - GUIDELINES FOR OPERATION AND MAINTENANCE OF HOUSEHOLD SYSTEMS**

1. The contents of the septic tank should be pumped every 2-3 years or when the total depth of sludge and scum exceeds one-third of the liquid depth of the tank. The individual or firm retained to pump out the septic tank must have a valid permit issued by NYSDEC. If the tank is not cleaned periodically, solids are carried into the absorption field; rapid clogging occurs; premature failure follows and finally, the absorption field must be replaced. Pumping your septic tank is less expensive than replacing your absorption field.
2. Detergents, kitchen wastes, laundry wastes, and household chemicals in normal amounts do not affect the proper operation of household wastewater treatment systems. However, excessive quantities can be harmful.
3. Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, plastics, trash, etc., into your household wastewater system. These items are not readily decomposed.
4. Septic tank additives are discouraged. Additives are unnecessary to the proper operation of household systems and may cause the sludge and scum in the septic tank to be discharged into the disposal field, resulting in premature failure.
5. Garbage grinders substantially increase the accumulation of solids in the septic tank, as well as the solids entering the disposal fields and pits. Their disadvantages outweigh the convenience they provide and are not recommended for households with their own wastewater treatment systems. If used, the septic tank size must be increased.
6. All roof, cellar and footing drainage, and surface water must be excluded from the system. This drainage water can be discharged to the ground surface without treatment; make sure it drains away from your wastewater treatment system.
7. Roof downspouts should not drain toward the absorption field.
8. Roots from trees in the immediate area of the absorption lines may clog the system.
9. Keep swimming pools (above or in-ground) away from the absorption field.
10. Never permit heavy equipment to pass over the absorption field.
11. Conserve water usage; this can prolong the life of your wastewater treatment system. Check defective toilet tank valves, repair leaky fixtures, install appliances and fixtures which use less water, and avoid wasteful practices.
12. A wastewater treatment system is normally designed to accommodate two persons per bedroom. If the household is larger than this, or if additional bedrooms are added, enlarge the system. Expansions must comply with this local law and, as necessary, DEC requirements.
13. If surface water from higher ground is running onto the absorption field, install a ditch or berm to intercept this surface water.

**For more detailed information concerning special conditions in your area, contact the county health department or the NYS District Health Office serving your locality.**

## APPENDIX K - WASTEWATER TREATMENT SYSTEM PERMIT APPLICATION

The information requested below is necessary to expedite the review and permitting of proposed systems.

APPLICANT \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

Type of Use \_\_\_\_\_ New System \_\_\_\_\_  
(Residence, multi-family dwelling,  
commercial, etc.)

Alteration/Repair \_\_\_\_\_

Water Supply - Type (drilled well, dug well, e.g.) \_\_\_\_\_ Distance from absorption system \_\_\_\_\_ (ft)

Number of Bedrooms \_\_\_\_\_ Spa \_\_\_\_\_ Garbage grinder \_\_\_\_\_

Estimated Wastewater Flow \_\_\_\_\_ gal/day

Soil investigation results and dates conducted:

Percolation Test #1: \_\_\_\_\_ min./in. Percolation Test #2: \_\_\_\_\_ Date \_\_\_\_\_

Depth to: groundwater \_\_\_\_\_ mottling \_\_\_\_\_ bedrock \_\_\_\_\_ impermeable soil \_\_\_\_\_  
Date \_\_\_\_\_

Name of person who performed soil tests  
\_\_\_\_\_

System Components:

Septic Tank Capacity Required \_\_\_\_\_ gallons

Multiple compartments (yes/no) \_\_\_\_\_ Gas deflection baffle (yes/no) \_\_\_\_\_

Aerobic treatment unit, rated capacity \_\_\_\_\_ (gal/day)

Make \_\_\_\_\_ Model No. \_\_\_\_\_

Gravity distribution \_\_\_\_\_ Pump dosing \_\_\_\_\_ Siphon dosing \_\_\_\_\_ Pressure distribution \_\_\_\_\_

Absorption System (conventional):

Trenches: number \_\_\_\_\_ length \_\_\_\_\_ (ft)

Shallow trenches: number \_\_\_\_\_ length \_\_\_\_\_ (ft) depth  
to bottom of trench \_\_\_\_\_ (ft)

Gravelless trenches: number \_\_\_\_\_ length \_\_\_\_\_ (ft)  
product type \_\_\_\_\_

Deep trenches: number \_\_\_\_\_ length \_\_\_\_\_ (ft) depth to bottom  
of trench \_\_\_\_\_ (ft)

Absorption bed: dimensions \_\_\_\_\_ number of  
laterals \_\_\_\_\_



Absorption System (alternative):

Raised system \_\_\_\_\_ Mound \_\_\_\_\_ Other engineered system

\_\_\_\_\_

Name \_\_\_\_\_ of \_\_\_\_\_ design \_\_\_\_\_ professional

\_\_\_\_\_

Signature \_\_\_\_\_ of \_\_\_\_\_ design \_\_\_\_\_ professional

—

Applicant's signature \_\_\_\_\_ Date  
signed \_\_\_\_\_

## ATTACHMENTS

1. Site Plan, showing proposed dwelling location, wastewater treatment system, potable water supply and all water lines, building sewer, septic tank, distribution box, tile field or seepage pit and other devices and facilities comprising the septic system. Provide distance of leaching devices and facilities from all lot lines and water supply lines. Describe surface drainage, soil composition, location of all buildings and approximate distances of proposed wastewater treatment system from all like facilities and water supply systems on adjoining properties.
2. Cross section of absorption trenches.
3. Construction details and specifications should be included where topography, soil conditions or presence of high groundwater or bedrock require other than conventional installation of the disposal system.
4. Plans and specifications prepared by design professional must accompany an application for an alternative system.

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