

LAND USE LOCAL LAW AND REGULATIONS
TOWN OF ELIZABETHTOWN, NY

LAND USE LOCAL LAW AND DEVELOPMENT REGULATIONS (LULLR)
FOR
TOWN OF ELIZABETHTOWN, NY

The preparation of this report was financially aided through a grant from the State of New York, through the Office of Planning Services, pursuant to Chapter 348 of the Laws of New York of 1973 and chapter 53 of the Laws of New York of 1974. Funding was also provided by the Adirondack Park Agency for the revision in 1985.

Revised by Essex County Planning Office, July 1982

Revised by Housing Assistance Program of Essex County, August 1985

Revised by Town of Elizabethtown Planning Board, 2008

**ARTICLE 1
INTRODUCTORY PROVISIONS**

1.01 GENERAL OBJECT AND LEGAL CONTEXT

The following Regulations are prepared for the former village area of the Town of Elizabethtown. It is a planning document, and it provides local controls to implement such a plan. In this it is attuned to the particular needs of communities in the Adirondacks. It is designed to be in compliance with New York State Law, to provide the builder and developer with the greatest amount of flexibility, yet be within the limitations of State Law and give the Town of Elizabethtown the greatest amount of protection.

Though the Land Use Local Law and Development Regulations is a departure from traditional zoning in that the regulations apply only to the former village area of the Town of Elizabethtown, the plan and development regulations meet the test of “comprehensiveness”; In the event that it may be hypothesized that enactment of zoning regulations affecting only the former village area of the Town of Elizabethtown is outside the scope of authority granted in Article 16 of the Town Law, the enactment of the zoning regulations pursuant also to Section 10(1)(d)(3) of the Municipal Home Rule Law, in respect to which Sherman v. Frazier established that “the zoning article of the Town Law can be superseded by local law,” saves these regulations.

The requirement of “Comprehensiveness” of a plan and zoning is satisfied in the following ways. Connell v. Town of Granby established that “Comprehensiveness need not denote total geographic regulation.” Considering the land use needs of the entire town, regulation of only the former village area of Elizabethtown is appropriate.

Elizabethtown exists as two geographic segments, which had been, at one time, separate local governments, one with a pattern of land use that required zoning regulation and the other, which did not. The segment not requiring zoning regulation is the Town of Elizabethtown outside the village.

The reason for the differing zoning requirements of these two geographic segments is the existence of the Adirondack Park Agency Act (Executive Law, Article 27). This law is a regional comprehensive plan and zoning regulation. Under this law, the Town outside the former village area is divided into four “land use areas” for which intensity of land use, compatible use lists and project permit requirements apply. This law treats the village area as a “hamlet” in which “all land uses and development are considered compatible...” and “no overall intensity guideline is applicable...”

In the effective absence of any land use plan or regulation for the village area the Village Board of Trustees prepared and enacted a Land Use Local Law and Development Regulations. The mere fact of the political merger of the two disparate segments does not require a change in the legal framework within which development in each segment is regulated. The Adirondack Park Agency Act provides a level of control in the un-zoned area (town outside village) which is adequate and desirable to the town without the need for further local zoning involvement in that particular portion of the town.

The Land Use Local Law and Development Regulations are designed to meet the legal requirements of New York State Laws under the Town Law and the Municipal Home Rule Law. Through the adoption of a legal and sound administrative procedure, create a framework for local controls.

1.02 SPECIFIC PURPOSES AND OBJECTIVES

In addition to the general object and the purposes referred to in Section 1.01. The local law is adopted for the following related and more specific purposes:

The need to fulfill community desires for natural resource conservation and maintenance of the community's landscape.

It is designed to meet the community's goals to create a regulatory process that will retain the natural, economic, and social assets of the village area of Elizabethtown.

It is designed to create a regulatory process that is comprehensive and contains all the information necessary to make a sound decision within the framework of the plan.

It is so designed that an opportunity to utilize the data collected on the village area of Elizabethtown's existing conditions is afforded and the capacity to accommodate additional growth can be evaluated.

Specifically, the purpose and objective of this Land Use Law shall be to promote the health, safety, and general welfare of the community by channeling and directing growth, and by regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yard, courts, and other open spaces, the density of population, and 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 Land Use Local Law and the Adirondack Park Agency Act. It is the further purpose and objective of this Land Use Local Law to insure optimum overall conservation, protection, development, and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological, and natural resources of the Adirondack Park, and to satisfy the criteria for approval by the Adirondack Park Agency of the local land use program pursuant to Section 807(2) of the Adirondack Park Agency Act. The furtherance of above policies and objective in the Land Use Local Law shall apply to all lands within the zoning regulated area of Elizabethtown.

Through land use planning, the role that zoning regulated area plays would not only be identified, but also enhanced and reinforced. The Land Use Plan recognizes that expansion of community utilities in the form of sewer and water services will be necessary. The rapidity with which development takes place will be the element that dictates the necessity, timing, and scope of such services.

Within this framework, the following Land Use Local Law and Regulations has been prepared, taking into consideration the findings set forth in the appendices, which delineate in detail soil conditions, topographic analysis, population, transportation, and economic considerations, which affect the future development of the community.

This Land Use Local Law divides the zoning regulated area of Elizabethtown into Land Use Districts reflecting uses established by the present development pattern and setting forth permitted uses in an effort to protect the area in its future development.

1.03 AUTHORITY

The Town of Elizabethtown of the State of New York in the County of Essex, under authority of the Town Law Article 16 and the Municipal Home Rule Law Section 10(1)(d)(3) of the State of New York, hereby enacts and publishes the following Land Use Local Law and Development Regulations, but insofar as this Law is inconsistent with Provisions of Article 16 of the Town Law, such provisions of Article 16 of the Town Law are superseded.

1.04 INTERPRETATION

Where the conditions imposed by this Local Law are less restrictive than comparable conditions imposed by any other provisions of this Local Law or any other ordinance, resolution, or regulation of Article 27 of the Executive Law of the State of New York, the provisions that are more restrictive shall govern.

1.05 SEVERABILITY

If any provision of the Local Law shall be invalid, such invalidity shall apply only to the article, section, subsection, or provisions judged to be invalid and the rest of this Local Law shall remain valid and effective.

1.06 SAVINGS CLAUSE

The adoption of this Local Law shall not affect or impair any act done, offense committed, or right incurred or acquired, liability, penalty, forfeiture, or punishment incurred prior to the time this Local Law takes effect under the ordinance relative to districts in the Town.

1.07 APPLICABILITY OF THIS LAND USE LOCAL LAW TO LAND USE DEVELOPMENT WITHIN THE ZONING REGULATED AND OF ELIZABETHTOWN

No land use or development shall be undertaken or maintained except in conformity with all provisions contained in the Land Use Local Law relating to the Land Use District in which the land, water, site, structure, or use is located or is proposed to be located, and in conformity with the permit requirements of the Land Use Local Law, as applicable. Where this Land Use local Law is more restrictive than covenants or agreements between parties or other rules or regulations or ordinances or the Adirondack Park Agency, the provisions of this Land Use Local Law shall control, provided that nothing in the Land Use Local Law shall impair or affect the validity of any covenants or agreements between parties.

1.08 CONFLICT OF INTEREST

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

1.09 ADIRONDACK PARK LAW PROVISIO

The Land Use Local Law for the zoning regulated area of Elizabethtown shall be guided by the Adirondack Park Act of the State of New York. Nothing in this Land Use Local Law shall be deemed to supersede, alter, or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, to review and approve, approved subject to conditions, and disapprove those land uses and developments and subdivisions of land defined therein as Class A regional projects, or otherwise to supersede, alter, or impair the statutory function, duties, and responsibilities of that Agency with regard to matters involving a municipality in which an Agency-approved local land use program has been validly adopted or enacted. Provided that the Adirondack Park Agency cannot, in the context of its Class A regional project review, override a more stringent local decision not to permit a given land use or development.

1.10 LAND USE MAP

The land use map shall be, along with its established and dimensional boundaries, a part of this Land Use Local Law. The map, entitled “Land Use Map” for the Village area of Elizabethtown and dated 1975 (revised in 1993), is hereby adopted as part of the Land Use Local Law. This land use map shall be filed with the Town Clerk of the Town of Elizabethtown and shall constitute the official “Land Use Map” for the zoning regulated area.

The Adirondack Park land use and development map is hereby made a part of the Land Use Map for the zoning regulated area of Elizabethtown. This map, designated as the official Adirondack Park Land Use and Development Map, amended from time to time pursuant to Subdivision Section 805 of the Adirondack Park Act shall accompany this Land Use Local Law. The latest version of the Adirondack Park Map shall be on file with the Town Clerk, along with the Land Use Map for the zoning regulated area of Elizabethtown.

Amendments to the Local Land Use Map shall only be made upon approval of the Adirondack Park Agency and upon appropriate notification and hearings as provides for in the State of New York Town Law.

The following Land Use Local Law document, along with the map, shall constitute the Town’s jurisdiction over private and public land in the zoning regulated area of Elizabethtown and shall constitute minimal requirements.

1.11 INTERPRETATION OF LAND USE DISTRICT BOUNDARIES

In making a determination where uncertainty exists as to boundaries of any land use districts shown on the land use map, the following rules shall apply:

- a) Where district boundaries are indicated as approximately following the center of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- b) Where district boundaries are indicated that they are approximately parallel to centerlines or street lines of streets, the centerlines of right-of-way lines of highways,

such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the land use map.

- c) Where district boundaries are indicated as approximately following a stream, lake, or other body of water, such stream, lake, or body of water shall be construed to be such district boundary.
- d) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.
- e) Whenever any street, alley, or public way is vacated in the manner authorized by law, the district adjoining each side of such street, alley, or public way shall automatically be extended to the center of the former right-of-way and all of the area included in the vacated area shall henceforth be subject to all regulation of the extended district.
- f) In the event that none of the above rules are applicable, or in the event that further clarification or definition is necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

1.12 PRIVATE LAND USE DISTRICTS

- a) All private owned land in the zoning regulated are of Elizabethtown, regardless of the Adirondack Park Act Class A or Class B regional review requirements, shall be subject to the Town's Land Use Local Law set forth herewith.
- b) **Establishment of Land Use Districts**
The Land Use Districts established by this Land Use Local Law and shown on the Land Use Map, subject to future amendments, including in aggregate all of the land area of the Village privately held are and shall be as follows:

Hamlet Residential (HR)
Hamlet Service (HS)
Hamlet Protectorate (HP)

1.12 PUBLIC USES OF LAND

- a) **Public Uses Municipal**
The public municipal uses in the Land Use Local Law include the following uses and provision:

- 1) Services
- 2) Open Space and Parks
- 3) Scenic Protectorates
- 4) Land Protectorate

In carrying out the Land Use Local Law, the Town shall reserve land areas in its public domain to provide for the enjoyment of residents in the community. For this reason, the

requirement and standards set forth in Article 8 and 9 of the Land Use Local Law and Development Regulations shall be complied with.

b) **Public Uses, State**

The Land Use Map shows state designated and owned land uses. Land uses activities within these shall be in accordance with the Adirondack Use and Development Plan, and shall include use areas as follows:

- 1) Intensive Use Areas
- 2) Wild Forest Areas
- 3) Wilderness Areas

1.13 **GENERAL USE REGULATIONS**

a) A use shall be permitted in a given Land Use District if it is listed in this Land Use Local Law and specifically under “Permitted Uses.”

b) **Conditional Uses**

A use listed in this section as a conditional use for a given Land Use District shall be permitted in that district when approved in accordance with the land use site plan review as well as other applicable regulations in the zoning regulated area of Elizabethtown. A conditional use shall require a special use permit.

- 1) Conditional uses shall constitute those uses listed as conditional in the following Land Use Local Law under Hamlet Residence, Hamlet Service, Hamlet Protectorate, and Floodway Special District.
- 2) A conditional use shall constitute any use in areas shown in Appendix A “Natural Resource Capacity Regulations,” as an area designated as having severe limitations or any area classified as being a combination of any two (2) moderate limitations.
- 3) A conditional use shall constitute any use in an area shown in the Appendix A “Natural Resource Capacity Regulations,” as an area having one moderate limitation or “no limitations,” that after filed investigation by the enforcing agent and an appropriate expert (Engineer for slopes and Soil Scientist for soils) indicate local conditions requiring special road services and conditions prior to the issuance of a permit.

c) **Accessory Uses**

When customarily adjunct to a primary use, shall be permitted. Such accessory use shall not increase any existing violations.

d) **Prohibited Uses**

Any use which is not specifically permitted after meeting special requirements under this Land Use Local Law shall be prohibited.

ARTICLE 2

2.01 CONSTRUCTION OF LANGUAGE

Except where specifically defined herein, all words used in Article 1 through 10 of this Local Law shall carry their customary meaning unless otherwise indicated. For the purposes of this Local Law, certain terms and works shall be interpreted or defined as follows:

1. The word person includes a firm, association, organization, partnership, trust company, or corporation, as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The word shall is always mandatory.
4. The word lot includes the word plot or parcel.
5. The word used or occupied as applies to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.
6. Wherever herein the term "Village" is used, it shall mean the geographic area comprising the former Village of Elizabethtown. This is the area in which these regulations apply, as this is the zoned area.

2.02 GLOSSARY

Accessory Structure means any structure or a portion 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.

Accessory Uses When customarily adjunct to a primary use, shall be permitted. Such accessory use shall not increase any existing violations.

Adirondack Park means lands lying within the area described in Subdivision One of Section 9-0101 of the Environmental Conservation Law of the State of New York, including any future amendments thereto.

Adirondack Park Agency (APA) is the Agency created by Section Eight Hundred-three of Article 27 of the Executive Law of the State of New York.

Adirondack Park Agency Act means Article 27 of the Executive Law of the State of New York, including any future amendments thereto.

Agriculture Use means any management of any land for agriculture, including raising of cows, horses, pigs, poultry, and other livestock, silviculture, and animal and poultry husbandry. This term also includes the sale of products grown or raised directly on such land, and including the construction, alteration, or maintenance of fences, agricultural roads, agricultural drainage systems, and farm ponds. The term shall not include the slaughtering of animals or poultry for commercial purposes except such as are grown or raised on the premises.

Alteration means any structural change, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment in the usual course of maintenance.

Building Area means the total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between exterior faces of walls.

Building Height means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and the average height between eaves and ridge for other types of roof.

Class A Regional Project means a land use or development or subdivision of land that is classified and defined as such in Section 810 of the APA Act and set forth in Article 5, Section 5.04 and Article 8.

Class B Regional Project is a land use or development or subdivision of land that is classified and defined as such in Section 810 of the APA Act and set forth in Article 5, Section 5.04 and Article 8.

Commercial-Residential means a building or group of buildings, whether detached or in connected units, to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building. The term commercial-residential shall include Hotels, Motels, Motor lodges, and Tourist Courts.

Comprehensive Plan means a study of existing conditions, their analysis, and implications of future development in the Town, including existing land use, natural resources, landscape quality and features, the population and economic base, transportation and highways, the community facilities and services, and the Adirondack Park Plan as it applies to the community. This comprehensive document in its parts and in its totality shall constitute a guideline and requisite for future changes and development in the Town.

Conditional Use, in accordance with Town Law, Section 274-b, means a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such conditions are met.

Dwelling Unit means a living space for one or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

Dwelling, Single-Unit means a building providing a living space for a single housekeeping unit.

Dwelling, Two-Unit means a building providing two (2) dwelling units that are independent of each other and do not share common kitchen or bathroom facilities.

Dwelling, Multi-Unit means a building used and providing dwelling units or living spaces for three (3) or more living units living independently of one another, and including the

conversion of an existing single dwelling unit converted for occupancy in separate living quarters of more than one family.

Flood Hazard Area means those areas subject to inundation and is further defined as those areas which would be subject to flooding by the 100-year flood or that flood which would have a one percent (1%) chance of occurring each year.

Flood proofing means any combination of structural and non-structural alterations, additions, or adjustments to properties and structures, primarily for the reduction or elimination of flood damage to lands, water and sanitary structures, facilities, and contents of buildings.

Floodway means that portion of the flood hazard areas, to include the channel of the watercourse and adjacent land areas, required to carry and discharge the 100-year flood without increasing the flood elevations more than one foot. (Reference: Federal Emergency Management Agency Flood Map, Community-panel number 361388 0008)

Floodway Fringe means the remaining portion of the flood hazard areas excluding the floodway.

Forestry Use means any management, including logging of a forest, woodland, or plantation, and related research and educational activities or maintenance of wood roads, skid ways, landing, fences, and forest drainage systems.

Garden Apartment means a two- or three-story multi-unit dwelling.

Gasoline Station means a building or land that is used for the sale of motor fuel and motor vehicle accessories, and which may include facilities for lubricating, washing, or servicing motor vehicles, but not including painting or major repairs.

Home Occupation means an occupation customary in residential areas that is carried on entirely within a minor portion of a dwelling or accessory building by the occupant of that dwelling with only two additional employees and no external evidence of the activity except a single sign. A home occupation may be, but is not limited to, an off-hours professional office, limited commercial sales of homemade crafts, art studio, dressmaking, etc.

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

In Existence means (a) with respect to any land use or development that has been substantially commenced or completed, and (b) with respect to any subdivision or portion of a subdivision, that such subdivision or portion has been substantially commenced and that substantial expenditures have been made for structures or improvements directly related thereto.

Junkyard means any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal, or other use or disposition. Junk includes vehicles, tires, vehicle parts, equipment, paper, rags, metal,

glass, building materials, household appliances, brush, wood, and lumber. Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery, or two or more unregistered, inoperable motor vehicles or other type of junk.

Land Use Area means those areas delineated on the official Adirondack Park Land Use Plan and Development Map adopted under Article 27 of the Executive Law of the State of New York and designated thereon as “Hamlet” and delineated on the Adirondack Park Land Use Plan and Development Map, such areas also being coterminous with the boundaries of the former Village of Elizabethtown as they existed at the date of Village dissolution, December 31, 1980.

Land Use or Development means any construction or other activity that materially changes the use or appearance of land or a structure or the intensity of the use of land or structure. Land use and development shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance of interior alterations to existing structures or uses.

Land Use Plan means Article 1 and Article 3 of the Land Use Local Law and Development Regulations that divide the former village area of the town into land use districts, delineating areas of similar uses and requirements allowing certain permitted uses with no prerequisite review by the Planning Board and certain conditional uses requiring review by the Planning Board. The Land Use Plan shall serve as that part of the Local Law directing future change and growth in the community.

Lodging House is a facility in which rental-sleeping accommodations are provided and in which meals may be supplied as part of the fee. A dwelling, or part thereof, in which lodging is provided by the owner or operator to one or more boarders.

Lot is a parcel of land occupied or to be occupied by only one main building or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- a) A single lot of record
- b) A portion of a lot record
- c) A combination of complete lots of record, or complete lots of record and portions of record, or of portions of lots of record.
- d) A parcel of land described by metes and bounds.

Lot, corner means the lot at the intersection of two streets or a lot abutting a curved street where the tangents to the curve at the points of intersection of the side lot lines intersect at an angle less than 135 degrees.

Lot Coverage means the percentage of the parcel occupied by one or more buildings. Accessory buildings shall be considered when determining lot coverage.

Lot width means the distance measured along the boundary of a lot abutting on a street and/or water body. On a curve, because of the design of a street or turnaround, the width of the lot shall be measured at right angles to the street line, at the building line and meet the minimum requirements in Article 3 of this Local Law.

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

Mobile Home Park means a parcel of land under a single ownership that is designed and improved for the placement of two or more mobile home units thereof.

Non-conforming Structure means any structure which is in existence within a given land use district 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 6 of the Land Use Local Law and Regulations.

Non-conforming Use means any use which is in existence within a given land use district on the effective date of this Local Law but which is not an accessory, permitted, or conditional use for that land use district as listed in Article 6 hereof, or a use for which a variance has been previously granted.

Parking Space means off-street space used for the temporary location of the licensed motor vehicle; where this Local Law requires a “parking place,” such shall be at least nine feet wide and twenty-two feet long, not including access driveway, and have access to a street or alley.

Permitted Use means a permitted use as described by Article 3 of the Land Use Local Law and Regulations.

Person means any individual, corporation, partnership, association, trustee, or other legal non-governmental entity.

Plat, Final means a drawing prepared in a manner prescribed by local regulation, that shows a proposed subdivision, containing in such additional detail as shall be provided by local regulation all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat if such preliminary plat has been so approved.

Plat, Preliminary means a drawing prepared in a manner prescribed by local regulation showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities including preliminary plans and profiles, at suitable scale and in such detail as local regulation may require.

Principal Building means any of the following: single-unit dwelling, mobile home, tourist cabin, or similar structure for rent or hire, involving three hundred (300) or more square feet of floor space, each unit of a multiple-unit dwelling, a commercial or industrial use structure in excess of three hundred (300) square feet, and other structure which exceeds twelve hundred fifty (1,250) square feet. 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 three hundred (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-unit 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 dwelling.

Private Sand, Gravel, or Topsoil Extraction means any extraction from the land of sand, gravel, or topsoil for the purpose of use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than fifty (50) cubic yards in any two-year period.

Public or semi-public building means any college, school, and municipal building, and library, place of worship, museum, research center, rehabilitation center, or similar building.

Public Utility means any public utility use, equipment, or structure that is not a use subject to the jurisdiction of the Public Service Commission pursuant to Article Seven or Article Eight of the Public Service Law. Such uses include any electric power cable which is one mile or more in length, any telephone distribution facility designed to service a new residential subdivision, any television, cable television, radio, telephone, or other communication transmission tower, any pipe or conduit or other appurtenance used for the transmission of gas, oil, or other fuel which is one mile or more in length, any electric substation, generating facility, or maintenance building and any water or sewage pipes or conduits.

Recreation, Indoor includes bowling alley, theater, table tennis and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, and similar places of indoor commercial recreation.

Recreation, Private Outdoor includes yacht club, golf course, trap, skeet, and archery range, swimming pool, skating rink, riding stable, park, beach, tennis court, and skiing facility.

Recreation, Public outdoor includes publicly owned and operated playground, play field, park open space, swimming pool, and any other publicly owned recreation areas that are not operated for private profit.

Shoreline means that line at which land adjoins the waters of lakes, ponds, rivers, and streams within the Town at mean high water.

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

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

Structure means any object constructed, installed, or placed on land to facilitate land use and development or subdivision land, such as buildings, sheds, single-unit dwelling units, mobile homes, signs, fences, and any fixtures, additions, and alterations.

Townhouses means single-unit dwellings attached so as to comprise a multi-unit structure.

Travel Trailer means any portable vehicle, including a tent camper, truck camper, or mobile home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational, or vacation purposes, and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home, provided that any travel trailer used for residential purposes for more than thirty (30) days consecutively or sixty (60) days aggregate in any one calendar year shall be considered a mobile home.

Travel Trailer Camp means a parcel of land under single ownership that is designed and improved for use by two (2) or more travel trailers.

Variance, Area means relief from one or more of the dimensional requirements in a Land Use District as to certain minimum lot size, building setback, yard requirements, height of building, shoreline lot widths, etc., and is as defined in Article 7 of this Land Use Local Law and Regulations.

Variance, Use means the allowing of a use that is neither a permitted use nor a conditional use for the Land Use District in which the land is situated, and meets the requirements set forth in Article 7 of the Land Use Local Law and Regulations.

Yard means a space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the building and, thus, areas covered by a porch shall not be counted in measuring required yard.

Yard, Front means a yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth shall be measured from the street line to the front line of the building.

Yard, Side means the yard between the principal building or accessory building and a side lot line and extending through from the front yard to the rear yard.

Yard, Rear means the yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

Watershed management or flood control project means any dam, impoundment, dike, rip rap, or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds.

Wetlands mean any land that is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

**ARTICLE 3
DISTRICT REGULATIONS**

In the following districts, the following regulations apply:

3.01 HAMLET RESIDENTIAL DISTRICT (HR)

This land use category contains existing residential areas that are outside of physical areas having severe natural resource constraints. Because of this category's existing residential neighborhood character and the close physical proximity to existing commercial areas, retail business uses, except for single home occupations, are not appropriate.

Permitted Uses

1. Single-unit dwellings
2. Two-unit dwellings
3. Accessory structures

**Conditional Uses (Ref: Article 5.15)
(Requires a Special Use Permit)**

1. Health care facilities
2. Non-profit recreational areas
3. Churches
4. Public buildings*
5. Multi-unit dwellings
6. Personal and professional services**
7. Retail businesses, single-home occupation only

**Minimum Lot Area
per unit in**

| <u>Acres</u> | <u>square feet</u> |
|--------------|--------------------|
| 1/3 A | 14,520 |

**Minimum Lot Width
in**

| <u>Feet</u> |
|-------------|
| 100 |

Minimum Setback Requirements

| <u>Front Yard</u> | <u>Side Yard</u> | <u>Rear Yard</u> |
|-------------------|------------------|------------------|
| 25 feet | 25 feet | 25 feet |

* Excluding heavy uses such as, but not limited to, public works garages, fire stations, or other similar uses that generate heavy traffic, excessive noise, or other public disturbances.

** Uses allowable only as home occupation.

3.02 HAMLET SERVICE DISTRICT (HS)

The Hamlet Service District is a physical area now utilized for retail, personal and professional, and governmental services. Land designated as Hamlet Service within the zoning regulated area of Elizabethtown is on both sides of portions of New York State Routes 9 and 9N. This District permits a variety of uses all promoting the community's governmental and retail center and is intended to preserve the investment made in existing business centers while encouraging new businesses and their development in an orderly way. Residential uses are also allowed in this District accommodating those wishing to live in a high-density area.

Permitted Uses

1. Offices, private or public
2. Retail businesses
3. Personal and professional services
4. Banks
5. Indoor and Outdoor Recreation

6. Health care facilities
7. Accessory uses
8. Public buildings*
9. Funeral homes
10. Churches
11. Museums

Conditional Uses (Ref: Article 5.15)
(Requires a Special Use Permit)

1. Hotels and motels
2. Commercial parking lots
3. Public utilities

4. Gasoline stations
5. Eating and drinking establishments
6. Auto sales and service
7. Single- and Two-unit dwellings
8. Private club house
9. Day-care facilities
10. Light Industrial*
11. Multi-unit dwellings or apartments**

* Excluding heavy uses such as, but not limited to, public works garages, fire stations, or other similar uses that generate heavy traffic, excessive noise, or other public disturbances.

Minimum Lot

| <u>Area</u> | <u>Width</u> | <u>Minimum Lot Area/Unit**</u> |
|----------------|--------------|--------------------------------|
| 10,000 sq. ft. | 75 feet | 10,000 sq. ft. |

Maximum Lot Coverage: 40%

Transition yard requirements.

- 1) Where a residence district abuts a non-residence district on a street line, there shall be provided in the nonresident district, for a distance of twenty-five (25) feet from the district boundary line, a front yard at least equal in depth to that required in the

residence district.

- 2) Where the side or rear yard in a residence district abuts a side yard in a non-residence district, there shall be provided along such abutting line or lines a side or rear yard at least equal in depth to that required in the residence district. In no case, however, shall the abutting rear yard be less than twenty-five (25) feet.

3.03 HAMLET PROTECTORATE DISTRICT (HP)

This Land Use District is one giving due cognizance to natural resource limitations which make development in certain areas difficult. In the zoning regulated area of Elizabethtown, these natural obstacles include steep slopes, poor subsoil conditions such as shallow depth to bedrock and high water tables, and flood prone areas. In order to assure that these natural obstacles are overcome in any proposed development, a site plan review will be required prior to the issuance of any permits. In addition, a letter of non-jurisdiction will be required from the Adirondack Park Agency.

Conditional Uses (Ref: Article 5.15)
(Requires a Special Use Permit)

1. Single-unit dwellings
2. Two-unit dwellings
3. Accessory Structures

Minimum Lot Area

per unit in

Acres

1 A

square feet

43,560

Minimum Lot Width

in

Feet

150

Minimum Setback Requirements

Front Yard

25 feet

Side Yard

25 feet

Rear Yard

50 feet

ARTICLE 4
MOBILE HOMES, HOME OCCUPATIONS, SIGNS, UNREGISTERED MOTOR VEHICLES AND
OTHER MISCELLANEOUS REGULATIONS

4.01 HOME OCCUPATION

Any activity carried out for gain by resident, conducted as an accessory use in the resident's dwelling unit.

- a) The home occupation shall be carried on by the family residing in the dwelling unit only. Only two employees not residing in the dwelling are permitted.
- b) The home occupation shall be carried on wholly within the principal or accessory structures.
- c) Exterior displays or signs other than those permitted under this Law, exterior storage or materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.
- d) Traffic generated by such home occupation shall not interfere with the traffic flow. Off-street parking sufficient to accommodate clientele and employees shall be provided.

4.02 MULTIPLE UNIT DWELLING

Depending on the area, multi-unit dwellings are permitted in the Land Use Local Law as special permit uses or as part of a cluster development. In districts where two-unit and multi-unit dwellings are permitted, these dwellings shall be located only in lots which contain the minimum lot size for the districts or the minimum lot size per unit times the number of units, whichever is greater. In HR and HS districts, multi-unit dwellings shall only be permitted as part of a Planned Residential Development and may be of a "town-house" design. In the HR district, multi-unit dwellings are permitted conditionally if they are created by subdividing (but not enlarging) pre-existing one-unit or two-unit structures; otherwise multi-unit dwellings are only permitted in this district as part of a Planned Residential or Cluster Development and may be of a "town-house" or "garden apartment" design. In HR use area, multi-unit dwellings may be of a "town-house" or "garden apartment" design and in HS, they may also be of a multi-story apartment design.

4.03 MOBILE HOMES

No mobile home shall be parked and occupied anywhere within the zoning regulated area for more than twenty-four hours, except upon a special permit issued by the Zoning Enforcement Officer. Such permit shall be issued for a period not to exceed thirty (30) days, and shall not be renewed within the same calendar year.

As an exception to 4.03 above, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants, during the construction of a house thereon, for a period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of permit, or if construction work ceases for a consecutive period of forty-five (45) days from the

issuance of permit, or if construction work ceases for a consecutive period of forty-five (45) days, such permit shall become void.

4.04 TRAVEL TRAILERS

Travel trailers as defined in and regulated by Article 2, Section 2.02, are permitted.

“Travel trailer” means any portable vehicle, including a tent camper, truck camper, or motor home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational, or vocational purposes, and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home provided that any travel trailer used for residential purposes for more than thirty (30) days consecutively, or sixty (60) days aggregate, in any one calendar year, shall be considered a mobile home.

4.05 SIGNS

No signs or billboards shall be permitted in any Land Use District except as specifically permitted herein as follows and unless a permit has been issued by the Zoning Board.

Purpose: The purpose of this section is to promote the public welfare and safety by regulating existing and proposed signs. It is intended hereby to reduce sign distractions and obstructions that may contribute to traffic accidents, to reduce hazards that may be caused by signs in disrepair or of faulty construction and to curb deterioration of natural beauty, open space, and community environment. It is intended that the display of signs will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification.

Definitions: For the purpose of this section, the following terms shall have the meanings indicated:

a) Signs in Residential Districts

The following signs are permitted when located on property of the principal use:

- 1) One home occupation or home business sign, not exceeding four (4) square feet.
- 2) Temporary Real Estate signs, not exceeding six (6) square feet.
- 3) Signs identifying any non-residential building or use permitted in residential land use areas, not exceeding a total of four (4) square feet.
- 4) Directional or information signs, not exceeding four (4) square feet.
- 5) Signs necessary for public safety or welfare shall not exceed four (4) square feet.
- 6) A sign not exceeding two (2) square feet showing name and address of the occupant.
- 7) No sign shall exceed six (6) feet in height.
- 8) No sign shall be closer than four (4) feet from nearest public sidewalk.
- 9) No signs shall be closer than four (4) feet from the property line.

b) Signs in commercial and industrial districts. The following signs are permitted when located on the immediate lot on which the structure or use is situated in a service or convenience commercial district:

- 1) All signs permitted in residential area.

- 2) One business sign not larger than one (1) square foot for each one (1) lineal foot of building frontage occupied by the establishment. Maximum of 50 square feet.
- 3) One directory sign. Size = 6" x 36" per occupant.
- 4) One pole sign not exceeding 30' in height for each gasoline station.

General provisions — The provisions following shall apply to all signs, regardless of their location with respect to any Land Use District.

- 1) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity, except in the case of digital street clocks and temperature indicators.
- 2) No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause glaring or non-diffuse beams of light to be cast upon any public street, highway, sidewalk, or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance
- 3) No sign shall be erected or maintained upon the roof of any building or structure.
- 4) No motor vehicle on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
- 5) No sign shall exceed thirty (30) feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
- 6) No sign shall project more than six (6) feet from the wall of any building, nor shall any sign project from the roof of any building or into any public way that shall be a potential hazard.
- 7) No sign shall be erected or maintained having a sign area greater than fifty (50) square feet. No luminous sign shall be erected or maintained having a sign area greater than twenty (20) square feet.
- 8) No sign shall be closer than ten (10) feet to any other private property line.
- 9) Not more than two (2) signs, the combined total square feet of what shall not exceed seventy-five (75) square feet, may be erected or maintained advertising or otherwise relating to a single business or activity.
- 10) Off-premise advertising shall not be permitted in any land use district.

Non-Complying Signs

A sign in existence on the effective date of this local law which does not comply with the regulations of Section 4.05 hereof shall be brought into compliance or removed by its owner at his cost and expense not later than (i) January 1, 1992. After this date the sign shall be considered a non-conforming use or (ii) if applicable, the date upon which such sign has been fully depreciated for income tax purposes, which shall in no case be later than 7 years after the date, prior to the effective date of this local law, that such sign was first erected or last substantially reconstructed. Any sign owner claiming the right to maintain a non-complying sign after January 1, 1992 shall file with the Zoning Enforcement Officer appropriate proof of the sign's useful life for income tax purposes on or before said date. Failure to so file shall be deemed a waiver of such sign owner's right to maintain the sign beyond said date.

Abandoned or illegal signs

In the event that a sign is (i) unlawfully erected after the effective date of this local law, (ii) is a non-complying sign maintained in violation of Section 4.05 hereof, then the Zoning Enforcement Officer shall mail to the owner of said sign, if known, at his last known mailing address and to the owner of the parcel of land upon which such sign is situated, at his last known mailing address, an order that the violation be cured within thirty (30) days after the date of the order. If after such date the violation is not cured, the Zoning Enforcement Officer may enter upon the land and remove and discard the sign, without liability to the Village or its agents.

4.06 JUNKYARDS

Junkyards are not permitted in any district except after receiving a Conditional Permit from both the Board of Appeals and when required from the Adirondack Park Agency and a site plan approved by the Planning Board.

- a) The minimum lot area necessary for any automobile junkyard shall be 40,000 square feet, unless the minimum lot area in Article 3 for the Land Use District in which the junkyard is to be located is larger, in which case the larger area shall be the minimum area.
- b) No automobile junkyard shall be located within 100 feet of any residential building (except that belonging to the owner of the junkyard), public park, church, educational facility, nursing home, public building or other place of public gathering, or any stream, lake, pond, marsh, swamp or other body of water.
- c) The junkyard shall be operated to minimize the fire hazard there from and to prevent improper trespass thereon by children and others.
- d) There must be erected and maintained an eight (8) foot high fence adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt with by the operator of the junkyard. All the materials dealt with by the operator of the junkyard shall be kept within such fence at all times. Whenever the junkyard is not open for business, or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence shall be of wood or other materials sufficient to totally screen the junkyard from view. As an alternative, the Board of Appeals may permit such screening by adequate planting of evergreen trees or shrubbery. The Board may also waive the requirement of fencing where topography or other natural conditions effectively prohibit the entrance of children and others.
- e) Adequate means of fire protection shall be maintained on the premises at all times.
- f) The junkyard shall not be used as a dump area by the public and there will be no burning of automobiles or other materials except in connection with the periodic crushing and removal of automobiles or other materials from such yards in compliance with applicable New York State law regarding outdoor burning.
- g) An automobile junkyard not meeting the provisions of the Local Law shall be considered a non-conforming use and shall be terminated within three (3) years.

4.07 ACCESSORY STRUCTURES

Unattached accessory structures. Accessory structures that are not attached to a principal structure may be erected in accordance with the following requirements:

- 1) Shall not exceed one hundred (100) square feet.
- 2) A permit is necessary for all accessory structures. There will not be a charge for structures under one hundred (100) square feet.
- 3) The number of accessory structures under one hundred (100) square feet shall be limited to two (2).
- 4) An accessory building shall not exceed twelve (12) feet in height and shall be located in the rear yard only.
- 5) No accessory structure shall be located within five (5) feet of side or rear lot lines.
- 6) For corner lots, the setback from all streets shall be the same for accessory buildings as for principal buildings.

- A. Attached accessory structures and unattached structures exceeding one hundred (100) square feet shall comply in all respects with the yard requirements of this chapter applicable to the principal building.
- B. Accessory structures shall comply with front, side, and rear yard requirements for the principal structure to which they are accessory.

Fences and Walls. Walls and fences to provide for security, privacy, or screening of a property shall be permitted anywhere on a lot, provided that the following conditions are met:

- 1) Corner clearance and street intersection. Any wall or fence constructed on a corner lot shall comply with the stated provisions.
- 2) Street frontage height requirement. Any wall or fence located in the required front yard or the required setback from a street right-of-way shall have a height of no more than four (4) feet.
- 3) Height in other yards. The maximum height of any wall or fence located in a rear or side yard may not exceed six (6) feet in any district without a special use permit.

Corner Lots and all street intersections. No obstruction to vision, other than an existing building, post, column, or tree, exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines thirty (30) feet distant from their points of intersection.

4.08 EXTRACTION OF SOIL, SAND, OR GRAVEL

The standards set forth in Appendix B of the Land Use Local Law and Regulations for operation and removal of soil, sand, or gravel removal operations shall apply to new, and extension of existing uses.

4.09 TEMPORARY USES AND STRUCTURES

Temporary permits are required for non-conforming uses incidental to construction projects for a period not exceeding six (6) months. Such permits are conditional upon agreement by

the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding six (6) months.

4.10 HEIGHT LIMITATIONS

No structures in the zoned district shall exceed a height of forty (40) feet above ground level.

4.11 MINOR SUBDIVISIONS

Minor Subdivision means the division of any parcel of land such that no new building lots are created and not adversely affecting the development of the remainder of the parcel of adjoining property and not in conflict with any provision or portion of the Town land use plan or zoning regulations or policy set forth in these regulations. Minor Division also includes the conveyance given to clear title to land between two adjoining neighbors or to correct a pre-existing encroachment.

ARTICLE 5 ADMINISTRATION AND ENFORCEMENT

5.01 PLANNING BOARD

It shall be the duty of the Planning Board to amend, extend, and add to the Land Use Local Law and Regulations for the physical development of the hamlet area in the Town of Elizabethtown. Upon the adoption of this Land Use Local Law and Regulations, no regulations, official map, or zoning, or other plan shall be enacted, established, or amended, and no plot, street, or way shall be approved until the Planning Board shall have reported its recommendations in regard thereto, and no public building, structure, except as authorized under the provisions of State Law, or roadway, street, way, park, or other public land shall be authorized, established, or modified in location or extent until the Planning Board shall have reported its recommendations to the Town Board in regard to the location and extent thereof. This report shall be made only after the Planning Board has made a careful investigation and is convinced that the plans or regulations proposed will fit in with the Land Use Local Law and Regulations adopted to guide the development of the zoning regulated portion of the town.

Duties of the Planning Board:

- 1) Coordinate the establishment of a town comprehensive plan.
- 2) Authority to change or add to official map in regard to street layout, opening, or widening, district boundaries, etc.
- 3) Review, approve, approve with modifications, or disapprove site plans prepared to specifications set forth in the ordinance or local law.
- 4) Authority to grant special use permits as set forth in such zoning ordinance or local law.
- 5) Subdivision review, approval of plats.

5.02 ZONING BOARD OF APPEALS

Pursuant to the provisions of Section 267 of the Town Law, a Zoning Board of Appeals is hereby created and is referred to as the “Board of Appeals.” Said Board of Appeals shall consist of five members to be appointed by the Town Board which shall also designate one of the members as chairman thereof, and for such term as provided by the Town Law and any amendments and regulations as are necessary for the transaction of their business and as are not inconsistent with the provisions of this Local Law, and the Board may amend, modify, and repeal the same.

Powers and Duties of the Board of Appeals (reference “All You Ever Wanted to Know About Zoning”, 3rd Edition, p. 8-2):

Unless otherwise provided by local law, 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 Zoning Enforcement Officer.

5.03 ZONING ENFORCEMENT OFFICER

The Zoning Enforcement Officer shall be appointed and may be removed by the Town Board. The Zoning Enforcement Officer shall have the power and duty to administer and enforce the provisions of this Local Law. An appeal regarding action taken by the Zoning Enforcement Officer in the Local Law may be made only to the Board of Appeals. The Zoning Enforcement Officer shall report to the Planning Board.

5.04 ADIRONDACK PARK LAW PROVISIO

The Land Use Local Law for the former village area of Elizabethtown shall be guided by the Adirondack Park Act of the State of New York. Nothing in this Land Use Local Law shall be deemed to supersede, alter, or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, to review and approve, approve subject to conditions, and disapprove those land uses and developments and subdivisions of land defined therein as Class A regional projects, or otherwise to supersede, alter, and impair the statutory function, duties, and responsibilities of that Agency with regard to matters involving a municipality in which an Agency-approved local land use program has been validly adopted or enacted. Provided that the Adirondack Park Agency cannot, in the context of its Class A regional project review, override a more stringent local decision not to permit a given land use or development.

5.05 FORMS OF PETITIONS, APPLICATIONS, AND PETITIONS

Unless otherwise stated, all petitions, applications, and appeals provided for in this Local Law shall be made on forms available at the Town Offices. Completed forms shall be accompanied by whatever further information, plans, or specifications are required by the Zoning Enforcement Officer, to whom the plans are to be submitted and reviewed by, as specified in this Local Law.

5.06 SITE INSPECTION

The filing of an application for any and all permits including regional projects approved under Article 8 of this Land Use Local Law and Regulations, an application for variance approval under Article 7 hereof, an application for site plan review and approval under Article 5, Section 5.14, or application for a land use and development permit under this article by an applicant shall be considered a granting of permission by said person to the Planning Board, the Board of Appeals, and the Zoning Enforcement Officer, and to such persons as they may designate, to conduct such tests and inspections of the site which are the subject of the application, as the body or officer having jurisdiction deems necessary and appropriate for the purposes of this Local Law.

5.07 LAND USE AND DEVELOPMENT PERMIT

No person shall undertake any new land use or development unless and until the Zoning Enforcement Officer has issued a land use and development permit.

A plan showing the location of the present and proposed structures on the property shall be required for all permit applications.

5.08 APPLICATION FEES

Fees shall be paid upon the submission of petitions, applications, and appeals, provided for by the terms of this Local Law in such amount as shall be established by the Town Board. Said fee shall not be refundable.

5.09 REQUIRED RECORDS

The original or certified copy of all decisions, approvals, rulings, and findings of any board under this Local Law and of all permits and certificates issued under this article, shall be promptly furnished by the Zoning Enforcement Officer to the Town Clerk and retained as a permanent public record.

5.10 ISSUANCE OF LAND USE AND DEVELOPMENT PERMITS

Land use and development permits shall be issued by the Zoning Enforcement Officer under the following conditions:

- a) The new land use or development meets any applicable area, bulk, height, and yard requirements set forth in Article 3 for the district in which it is to locate unless an area variance has been granted pursuant to Article 7, Section 7.02 hereof or clustering has been approved pursuant to authority granted the Planning Board.
- b) The new land use or development complies with the Sanitary Codes.
- c) The new land use or development has received any required site plan review and approval pursuant to Article 5, Section 5.14 hereof and if such approval is subject to conditions to be met prior to the granting of a permit, that all such conditions have been met.
- d) The new land use is one of the following:
 - 1) A permitted use which is not a Class A regional project;
 - 2) A conditional use for which conditional use approval has been obtained pursuant to the terms of Article 5, Section 5.15 hereof and if such

- approval was subject to conditions to be met prior to the granting of a permit, that all such conditions have been met;
- 3) An accessory structure;
 - 4) A use not permitted under this Local Law which is not a Class A regional project for which a variance has been granted pursuant to Article 7, Section 7.03, and if said variance was approved subject to conditions and be met prior to the granting of a permit, that such conditions have been met; and
 - 5) A sign complying with the applicable provisions of Article 4, Section 4.05 of this Local Law.

5.11 FORM OF LAND USE AND DEVELOPMENT PERMITS

Land use and development permits shall be issued on forms available at the Town Offices, and shall contain such requirements and conditions that are part of any approval or variance.

5.12 EXPIRATION OF LAND USE AND DEVELOPMENT PERMITS

If a project for which a land use and development permit has been issued is not in existence within one year after the issuance of such permit, said permit shall expire, and the project may not be undertaken or continued, unless a new permit has been applied for and issued in the same manner, subject to all provisions governing the initial application for and issuance of a permit. This shall hold true for all projects except (for) those projects with provisions in the initial land use and development permit providing for a longer period of time, in which case the permit shall expire at the end of that longer period.

5.13 CERTIFICATE OF OCCUPANCY

The building may not be occupied until a permit of occupancy has been issued. The Building Codes Enforcement Officer shall issue such certificate of occupancy.

5.14 SITE PLAN REVIEW

The approval of site plans by the Zoning Enforcement Officer shall be required prior to the issuance of a permit for all building projects. Any non-conforming or new use projects shall require site plan review by the Planning Board.

Review Procedure:

a) **Official Submittal Date**

The site plan submittal date shall be the first regular meeting date at least seven days after receipt of the site plan by the Zoning Enforcement Officer.

b) **Action by the Planning Board**

The Planning Board shall act to approve or disapprove any such site plan within sixty (60) days after the official submittal date, and failure to act within such period shall be deemed approval.

c) **Submittal**

The applicant shall submit two (2) sets of site plan maps, data, and information as specified (Note: Applicant shall complete the Site Plan Review Checklist included in the

application packet by providing all information pertinent to the project as stated in the checklist)

- 1) Site plan drawn to scale showing existing features, contours, structures, large trees, streets, easements; all proposed improvements and land use areas; proposed traffic access, circulation, parking and loading spaces and pedestrian walks; proposed grading, landscaping and screening. In addition, the site plan shall show the adjacent building outlines and other outstanding features within two hundred (200) feet.
- 2) Detailed specifications for parking, traffic access, and landscaping plans.
- 3) Period of time in which all site improvements will be completed.
- 4) Any other information or data that the Planning Board shall reasonably require, including a cost estimate of site improvements for parking, traffic access, and landscaping.

d) Review

In reviewing the site plan, the Planning Board shall impose appropriate conditions and safeguards, with respect only to the adequacy of traffic access, circulation and parking, landscaping, and screening. The Planning Board shall review the site plan map and supporting data and take into consideration the following objectives:

- 1) Maximum safety of vehicular circulation between the site and street network and adjacent traffic generators;
- 2) Adequacy and safety of circulation, parking and loading facilities;
- 3) Adequacy of landscaping, screening, and setbacks in regard to achieving maximum compatibility; and
- 4) Adequacy of surface drainage facilities.

e) Conditions of Approval which may be made –

Additional requirements that may be made by the Planning Board may include, but not be limited to, the following:

- 1) The Planning Board may require the installation of acceleration and deceleration lanes on the street or highway adjacent to any access, or service, or connecting roads if it determines such installation necessary for traffic safety.
- 2) The Planning Board may require the provision of joint facilities between or among adjacent uses for access, parking and utilities, the total size of which shall be at least equal to the sum of the minimum required for each activity.
- 3) The Planning Board may limit the number and width of access drives to secure traffic safety and the purposes of these regulations.
- 4) The Planning Board may require solid fencing and/or plantings to screen all outdoor lighting, outdoor storage area, and parking from the view of adjacent residential properties.
- 5) The Planning Board may require the construction of, or the provision of road for, service roads that would provide shared access to an existing highway from several adjacent land uses.
- 6) The Planning Board may require installation of surface drainage facilities to mitigate the run-off from parking areas and hard surfaces.

- a) A special permit for a conditional use may be granted by the Planning Board. The applicant applies to the Zoning Enforcement Officer who in turn notifies the Planning Board. The Planning Board shall conduct a public hearing within sixty-two (62) days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five (5) days prior to the date thereof. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. The general standards for the Board's decision are that the proposed conditional uses not adversely affect the capacity of existing or planned community facilities, the character of the area impacted by the use, and traffic circulation on roads and highways in the vicinity. Specific standards are outlined in this Local Law. Any of these may, however, be increased or additional specific conditions may be added by the Board if circumstances peculiar to the proposed conditional use require it.
- b) A land use or development involving a use designated as a conditional use by virtue of any Chapter of this Local Law shall not be undertaken and construction commenced unless and until the Planning Board has approved or approved with conditions such use or development and the Zoning Enforcement Officer has issued a permit for such undertaking pertaining to the terms of Part e) hereof.
- c) The Planning Board, in reviewing Class A projects and exercising their duty to approve or disapprove, or approve with conditions, shall find that all requirements of Section Part e) hereof have been met.
- d) One or more persons may initiate a request for conditional use approval by filing an application with the Zoning Enforcement Officer. Such request shall include such information reasonably sufficient for the Planning Board to make its findings supplied by the applicant and including a legal description of the property, a map showing the property and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and the owners thereof, plans and elevations necessary to show the proposed development, and other drawings or information, including a detailed site plan, that the Planning Board reasonably considers necessary to an understanding of the proposed use and its relationship to surrounding properties. In addition, 1) as required by Section 239-m of the General Municipal Law, the Planning Board shall promptly refer an application to the county or regional planning agency having jurisdiction for its report and recommendation, and 2) a copy of such complete application shall also be filed simultaneously with the Board of Appeals and the Board of Appeals shall be given the opportunity to give its comments or recommendations in writing upon application to the Planning Board prior to any decision thereon.
- e) In order to approve any conditional use, the Planning Board must find that:

- 1) The use complies with all other requirements of this Land Use Local Law and Regulations, including the dimensional regulations of the Land Use District in which it is proposed to be located as set forth in Article 3, except as those may be specifically increased by the Board of Appeals; and
- 2) If approved, the use would be in harmony with the general purpose and intent of this Local Law specifically taking into account the location, character, and size of the proposed use and the description and purpose of the district in which such use is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase in the burden on supporting public service and facilities which will follow the approval of the proposed use; and
- 3) The establishment, maintenance, or operation of the proposed use would not, under the circumstances of the particular case, create public hazards from traffic, traffic congestion, or the parking of automobiles, or be otherwise detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.

5.16 PUBLIC HEARINGS

- a) Each notice of a hearing for special use projects, site plan approval, variances, or upon an appeal by the applicant to the Board of Appeals, shall be published once in the official newspaper of the Town at least five (5) days prior to the date of the hearing. In addition, at least ten (10) days prior to the date of the hearing, notices shall be mailed, by registered mail to all owners of the property within five hundred (500) feet of the exterior boundary of the property for which the application is made.
- b) Any hearing may be recessed by the authorized Board in order to obtain additional information or to further serve notice upon property owners or to other persons who it may be decided would be concerned parties. Upon recessing, the time and date when the hearing is to be resumed shall be announced. No further notice or publication is necessary.

5.17 APPEALS

An action, omission, decision, or ruling of the Planning Board or Board of Appeals pursuant to this Local Law may be reviewed at the request of any aggrieved person in accordance with Article 78 of the Civil Service Law and Rules, but application for such review must be made no later than thirty (30) days from the effective date of the decision or ruling or the date when the action or omission occurred.

5.18 ENFORCEMENT

Penalty

The following shall be guilty of an offense and subject to a fine of not less than \$50 nor more than \$250, or to imprisonment for a period of not more than six (6) months or both such fine and imprisonment for a period of not more than six (6) months or both such fine and imprisonment or by penalty of \$250 to be recovered by the Town in civil action.

- a) Any person owning, controlling, or managing any building, structure, land, or premises where there shall be placed, where there exists, or where there is practiced or maintained any use or activity in violation of this Local Law;
- b) Any person who shall assist in the violation of this Local Law or any conditions imposed by a land use and development permit or who shall build, construct, erect, or attempt the same, any structure contrary to the plans or specifications submitted to the authorized official and by him certified as complying with this Local Law; and
- c) Any person who shall omit, neglect, or refuse to do any act required by this Local Law. Every such person shall be deemed guilty of a separate offense for each week of such violation, disobedience, neglect, or refusal to comply with the Local Law. 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. For the purpose of conferring jurisdiction upon the courts and judicial officers, violations of this Comprehensive Plan Local Law Development Regulations shall be deemed offenses or violations.

5.19 ALTERNATIVE REMEDY

In case of any violation or threatened violation of any of the provisions of this Land Use Local Law and Regulations, or conditions imposed by a land use and development permit, in addition to other remedies herein provided, the Town may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land or to prevent any illegal act, conduct business, or use in or about such premises.

5.20 MISREPRESENTATION

Any permit or approval granted under this Local Law that is based upon material that is found to be misrepresented, or a failure to make a material fact or circumstances 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 Under Article 5, Section 5.18.

ARTICLE 6 NON-CONFORMING USES

The following provisions shall apply to any non-conforming structure or non-conforming use, existing on the effective date of this Local Law (July 1982), which does not meet the requirements set forth in these regulations and to all structures and uses that in the future do not conform because of any subsequent amendment to these regulations.

6.01 PROVISIONS FOR NON-CONFORMING STRUCTURES AND USES

Any non-conforming structure or land use, existing on the effective date of this Local Law, may continue indefinitely provided:

- a) It is not moved, enlarged, altered, extended, reconstructed, or restored nor shall any external evidence of such use be increased by any means. This article shall not be

construed to permit any unsafe use or structure, or to affect all proper procedure to regulate or prohibit the unsafe use of a structure.

- b) It is not charged to another non-conforming use without approval by the Board of Appeals, and then only to a use which, in the opinion of the Planning Board, is of the same or of a more restricted nature.
- c) It is not re-established after such use has been discontinued for a period of one year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- d) It is not restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage, if the restoration of the building is not completed within one year, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption.

6.02 “SUBSTANTIAL CONSTRUCTION” PROVISION”

Nothing in this Local Law shall require any change in plans, construction, alteration, or designated use of a structure for which substantial construction work has lawfully commenced prior to the adoption of this Local Law. The Board of Appeals shall determine if aforementioned “substantial construction” has commenced if there is any question.

ARTICLE 7 VARIANCES

In cases where the strict application of this Local Law would result in practical difficulties or unnecessary hardships, a variance could be granted by the Board of Appeals under the following procedure:

7.01 APPLICATION FOR A VARIANCE

- a) Property owner or his agent fills out three application forms for a variance. The completed form should include the following:
 - 1) A map showing the property and all properties within a radius of five hundred (500) feet of the exterior boundaries;
 - 2) A legal description of the property;
 - 3) Plans and elevations of the proposed variance; and
 - 4) Other drawings and information considered necessary by the Board to understand the proposed use and its effect on surrounding properties.

- b) Variance form is filed with the Board of Appeals.

REQUIREMENTS FOR GRANTING VARIANCES

7.02 AREA VARIANCE

- a) The Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law (in this case, the zoning enforcement officer) to grant area variances as defined herein.
- b) 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) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

7.03 USE VARIANCE

- a) The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law (in this case, the Zoning Enforcement Officer), shall have the power to grant use variances, as defined herein.
- b) 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 for each and every permitted use under the zoning regulations for the particular district where the property is located,
- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) that the alleged hardship has not been self-created.
- c) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

7.04 REFERRALS

- a) The Board of Appeals shall refer all variance applications to the Planning Board and where required by 239-m of the General Municipal Law to the Essex County Planning Agency.
- b) No action shall be taken until the Planning Board and Planning Agency have submitted their reports and recommendations or until thirty (30) days have passed since the date of the referral.
- c) The Board of Appeals shall have the applicant submit a copy of the application to the Adirondack Park Agency if the variance application involves land, building, or structures in any land use area except hamlets or involves shoreline restrictions.

7.05 VARIANCE APPLICATION HEARING AND DECISION

- a) Pursuant to section 5.16, within thirty (30) days of receipt of a complete application for a variance, the Board of Appeals gives notice of a public hearing to be held on the application not less than fifteen (15) days nor more than thirty (30) days after the notice.
- b) Within thirty (30) days of the final adjournment of a public hearing called and held under Part a) of this section, the Board of Appeals shall approve, conditionally approve, or

deny the variance applied for, the decision of the Board of Appeals shall be in writing and shall include the factual basis for each finding from the record of the hearing which shall support the decision of the Board of Appeals.

- c) If such variance is in a Class A area, the Board of Appeals shall notify the Adirondack Park Agency by certified mail of such decision.
- d) Any variance approved or approved with conditions shall not be effective until thirty (30) days after such notice of the Agency. If within this thirty (30) day period the Agency determines that such variance was not based on the appropriate statutory bases of practical difficulties or unnecessary hardship, the Agency may reverse the Board of Appeals' determination to grant the variance.

**ARTICLE 8
REGIONAL PROJECT REVIEW**

8.01 PURPOSE

The purpose of this Article is to further the general purposes, policies, and objectives of this Land Use Local Law and Development Regulations and the Adirondack Park Agency Act by establishing requirements and administrative procedures for the review of Class A regional projects by the Adirondack Park Agency and the Planning Board.

8.02 APPLICABILITY OF THIS ARTICLE

No person shall undertake a Class A regional project unless and until the Agency shall have reviewed and approved, or approved subject to conditions, such projects, and has issued an Agency permit with respect thereto pursuant to the terms of the Adirondack Park Agency Act and pertinent Agency rules and regulations and unless and until the Planning Board of the Town of Elizabethtown shall have reviewed and approved, or approved with conditions such a project and the Zoning Enforcement Officer has issued a permit with respect thereto pursuant to the terms of Article 5 and Article 7.

8.03 CRITERIA FOR REVIEW OF CLASS A REGIONAL PROJECTS BY THE ADIRONDACK PARK AGENCY

- a) The Adirondack Park Agency shall have jurisdiction to review and approve, approve subject to conditions, and disapprove all Class A regional projects proposed to be located within the territory of the Town area pursuant to and in accordance with Section 809(9) of the Adirondack Park Agency Act, the applicable Agency rules and regulations, and the criteria hereinafter set forth.
- b) The Adirondack Park Agency shall not approve a Class A regional project unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the project, that the project would comply with all provisions of this Land Use Local Law and Regulations, and of such other laws and regulations as shall be components of the Town Land Use Programs.
- c) In making the determination required by Section 809(9) of the Adirondack Park Agency Act as to the impact of a proposed Class A regional project 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 project, the Agency shall consider those factors pertinent to the project contained in the development consideration and in doing so, shall make a net overall evaluation of the project in relation to the development objectives and guidelines set forth in this Local law.

8.04 PLANNING BOARD AUTHORITY REGARDING CLASS A REGIONAL PROJECTS

- a) The Planning Board is hereby designated and approved as the appropriate Town body to consult with the Adirondack Park Agency with regard to Agency review of Class A regional projects.

- b) As soon as reasonably practical following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A regional project, the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the project application and formulating advisory recommendations to whether the project meets all of the pertinent requirements and conditions of the Town Land Use Local Law and Regulations.

8.05 DEVELOPMENT OBJECTIVES FOR USE IN REGIONAL PROJECT REVIEW

The principal natural and public resource aspects of a project site to be considered in connection with the determination required by this Section and referred to in Section 8.03 hereof, together with representative means for avoiding undue adverse impact thereupon shall be in accordance with the Town's Land Use Local Law and Regulations. In addition, objectives and guidelines provided for in the Appendices of this Land Use Local Law and Regulations shall be utilized in determining the appropriateness and/or quality under the Adirondack Park Act.

**ARTICLE 9
FLOODWAY REGULATIONS**

9.01 PURPOSE

It is hereby found and declared that unmanaged land use, alteration of topography, excessive filling, channel encroachment, and other acts affect the natural discharge of water through flood plains, and constitute a threat to the health, safety, and welfare of the inhabitants of the village area, and to the economic vitality of the community. The purpose of these floodway regulations is to protect the health, safety, and welfare of the inhabitants of the village area from hazards due to periodic flooding. This shall include the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for relief, insurance, and flood control projects.

9.02 DEFINITIONS

As used in Section 9.01 through 9.03 of this Local Law, the terms shall be used in definitions set forth in Article 2, Section 2.02 of this Comprehensive Plan Local Law and Development Regulations. In addition, the following terms shall apply:

- a) “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers, or other inland areas of water, or (b) abnormally high lake waters resulting from severe hurricanes or other storms.
- b) “100-year flood” means the highest level of flood, that, on the average, is likely to occur once every 100 years; i.e., that has a 1 percent chance of occurring each year.
- c) “Flood protection elevation,” means the 100-year flood elevation.

9.03 FLOODWAY SPECIAL DISTRICT

a) Establishment of District

There is hereby established a Floodway Special District to accomplish the purpose of these Flood Plain Regulations. The boundaries of the Floodway Special District are delineated more specifically on the Land Use District Map that is part of this Local Law and are based upon an area comprising the channel of a river or other watercourse and the adjacent land areas required to carry and discharge the 100-year flood. Where such flooding area has not been established and is not shown on the Land Use District Map, the floodway fringe regulations in Section 9.04 hereof shall apply to all lands subject to flooding. This Local law does not imply that areas outside flood district boundaries or land uses permitted within such districts will be free from flooding or flood damage.

All land uses within the Floodway Special District shall conform to the provisions of this Section in addition to all provisions governing land use within any Land Use District created under the Land Use Local Law in which the land involved is located, and all other provisions of this Land Use Local Law and Regulations. To the extent that there is any

conflict between the provisions of this Section and the provisions of any other part of this Land Use Local Law and Regulations (LULLR), the more restrictive shall apply.

b) Permissible Uses

The following uses shall be permitted within the Floodway Special district when all other requirements of this Local Law are met, including all provisions governing land use within the Use Districts created under Article 3 of this Land Use Local Law and Regulations in which the land involved is located.

- 1) Agricultural and forestry uses.
- 2) Open space recreational uses.
- 3) Wildlife, game, and forest preserves.
- 4) Off-street parking areas, providing that no overnight parking is permitted.
- 5) Historic, scientific, and scenic areas preservation.

c) Conditional Uses (requires a special use permit)

The following uses shall be permitted within the Floodway Special District when approved in accordance with conditional use procedures as set forth in Article 5, Section 5.15 of this Land Use Local Law Regulation and when all other requirements of this Local Law are met, including all provisions governing land use within any Land Use District created under the Land Use Local Law (Article 3) in which the land involved is located and including the provisions of Part e) of this chapter.

- 1) Agricultural and forestry service uses and structures.
- 2) Campgrounds
- 3) Major public utility uses and public utility uses.
- 4) Open storage uses such as parking areas, auto machinery, and material storage, except items that are buoyant, flammable, explosive, or could clearly be injurious to human, animal, or plant life in time of flooding, are prohibited.
- 5) Mineral extraction and extraction of sand and gravel.
- 6) Other uses of a similar nature as may be determined by the Board of Appeals upon an application therefore.

d) Uses in Floodway Districts

Any use in an area designated on the Land Use Map as “Floodway” shall be a conditional use and meet the standards and requirements set forth in this Article of the Land Use Local Law and Regulations.

e) Special Provisions Applying to the Floodway Special District

- 1) No structure (temporary or permanent), fill for any purpose, deposit, obstruction, storage of materials or equipment, or other uses shall be permitted which, acting alone or in combination with existing or future uses, all unduly affect the efficiency or the capacity of the floodway or unduly increase flood heights, cause increased velocities or

obstruct or otherwise catch or collect debris which will obstruct or otherwise catch or collect debris which will obstruct flow under flood conditions.

- 2) Buildings and structures shall not be for human habitations, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters (i.e., longitudinal axis parallel to the direction of flood flow, and placement approximately on the same flood flow lines as those of adjoining structures), and shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings, and other narrowing of the stream or river.
- 3) The Planning Board shall require that the applicant submit a plan certified by a registered professional engineer that the flood-proofing measures are consistent with the flood protection elevation and associated flood factors for the particular area. Flood-proofing measures may be required for all buildings and structures, other than those that have a low flood damage potential. Such measures may include but are not limited to the following where appropriate:
 - i) Anchorage to resist flotation and lateral movement.
 - ii) Reinforcement of walls to resist water pressures.
 - iii) Installation of watertight doors, bulkheads, and shutters.
 - iv) Use of paints, membranes, or mortars to reduce seepage of water through walls.
 - v) Addition of mass or weight to resist flotation.
 - vi) Installation of pumps to lower water levels in structures.
 - vii) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters and the discharge from such systems into floodwaters.
 - viii) Pumping facilities to relieve hydrostatic water pressure on external walls and basement floors.
 - ix) Elimination of gravity flow drains.
 - x) Construction to resist rupture or collapse caused by water pressure or floating debris.
 - xi) Elevation of structure to or above the necessary flood protection elevation.

9.04 FLOODWAY FRINGE SPECIAL DISTRICT

a) Establishment of District

There is hereby established a Floodway Fringe Special District to accomplish the purposes of these Floodway Fringe Special District are delineated more specifically on the Land Use Map which is part of this Local Law and are based on an area subject to inundation by a 100-year flood, where larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris.

This Local Law does not imply that areas outside district boundaries or land uses permitted within such district will be free from flooding or flood damages. All land uses within the Floodway Fringe Special District shall conform to the provisions of this section

in addition to all other requirements of this Land Use Local Law Regulations including all provisions governing land use within any Land Use District created under Article 3 of this Land Use Local Law Regulations in which the land involved is located.

b) Special Provisions Applying to the Floodway Fringe Special District

- 1) New or replacement water supply systems shall be so designated as to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters.**
- 2) On-site waste disposal systems shall be located so as to avoid impairment or contamination from the systems during flooding.**
- 3) Residential structures shall have the lowest habitable floor elevated to at least one foot above the 100-year flood level.**
- 4) In addition to the above, any such use shall meet the following requirements: construction is to take place, including but not limited to, such measures as are set forth in Section 9.04 hereof;**
 - i) Such use shall include flood-proofing measures consistent with the flood protection elevation and associated flood factors for the particular area.**
 - ii) Any structure built on pilings shall be constructed with the lowest floor elevated to at least one foot above the 100-year flood level.**
 - iii) Any structures built on solid fill shall be constructed at an elevation of the 100-year flood level with the lowest floor elevated to at least one foot above the 100-year level.**

**ARTICLE 10
AMENDMENT PROCEDURE**

The Town Board may from time to time on its own motive, on petition or on recommendation to the Planning Board, supplement or repeal the regulations and provisions of this Local Law by following the procedure of this statute:

10.01 REFERRALS

Every such proposed amendment or change, whether initiated by the Board of Trustees or by private petition, shall be referred to the Planning Board for review and report thereon before the public hearing herein after provided for. Amendments that “relate” or “pertain” to the criteria set forth for initial approval of a local land use program set forth in Section 807 of the Adirondack Park Agency shall be subject to the approval of the Agency. The Town Clerk, therefore, when directed by the Town Board, shall submit a copy of a proposed amendment to the Adirondack Park Agency. Where required by Section 239-m of the General Municipal Law, a copy of the amendment shall also be submitted to the Essex County Planning Agency.

10.02 HEARING AND DECISION ON PROPOSED AMENDMENTS

The procedure as to notice of public hearing, the public hearings on and enactment of a proposed amendment shall follow and be governed by Section 265 of the Town Law including all subsequent amendments thereto. Notice of the decision of the Board of Trustees shall be sent to the Adirondack Park Agency after a decision has been made.

10.03 RECORD OF AMENDMENTS

The Zoning Enforcement Officer and the Town Clerk shall each maintain records of amendments to the text of this Local Law and of the official Land Use Map and Park Plan Map.

**APPENDIX A
NATURAL RESOURCE CAPACITY REGULATIONS**

PURPOSE

SECTION A.1

It is hereby found and declared that improper utilization of land due to disruption and degradation of existing natural resource capacities constitutes a threat to the health, safety, and welfare of the inhabitants of the town and to the economic vitality of the community. The purpose of this following regulation is to protect the health, safety, and welfare of the inhabitants of the town, preventing impairment of existing natural resource capabilities.

This shall include the protection of persons, property, and natural resources.

NATURAL RESOURCE MAPS

SECTION A.2

The following maps are part of these Resource Protection Regulations and shall be utilized in reviewing project improvements. These maps are not included in the text of this Land Use Local Law and Regulations (LULLR)

- (1) Soils Map
- (2) Slopes Map
- (3) Unique and Critical Areas Map
- (4) Opportunities and Limitations Map
- (5) Wetlands Map

PROTECTION OF EXISTING NATURAL RESOURCE CAPACITIES

SECTION A.3

To assure the protection of existing soil capacities, as well as the welfare of the community, during site improvement of property, road construction, foundation construction, and septic system installation, the following review procedure shall apply:

- 1) When a project is, because of its magnitude, location, or type, a Class A Regional Project, all development categories related to the project shall be given a (3) rating.

| Natural Condition | Site Improvements | Road Construction | Foundation | Septic Systems |
|-------------------|-------------------|-------------------|------------|----------------|
| Outwash | 1 | 1 | 1 | 2 |
| Alluvial | 2 | 3 | 3 | 3 |

| | | | | |
|--------------------------|---|---|---|---|
| Shallow Till | 3 | 3 | 3 | 3 |
| Muck & Peat | 3 | 3 | 3 | 3 |
| 0-3% Slopes | 2 | 2 | 2 | 2 |
| 3-10% Slopes | 1 | 1 | 1 | 1 |
| 10-15% Slopes | 2 | 2 | 2 | 2 |
| 15-25% Slopes | 2 | 3 | 3 | 3 |
| Plus 25% Slopes | 3 | 3 | 3 | 3 |
| Wetlands | 3 | 3 | 3 | 3 |
| Flood Plains | 2 | 3 | 3 | 3 |
| “Critical Area” Wetlands | 3 | 3 | 3 | 3 |

- 2) The combination of a (2) rating for a development because of soil condition accompanied by a (2) or (3) rating for slope conditions, hydrologic conditions, critical conditions, and critical area status of unique natural conditions shall require a conditional permit.
- a) A (1) rating for a development shall indicate that there are no soil limitations that restrict the proposed project and a permit shall be issued.
 - b) A (2) rating for a development shall indicate that there are soil limitations that restrict the proposed project. The Town’s Zoning Enforcement Officer shall be empowered to enforce the guidelines and standards for those soils and development procedures requiring special construction practices designed to overcome soil limitations and subject to these, may issue a permit.
 - c) A (3) rating for a development shall indicate that there are severe soil limitations that restrict the proposed project. The Planning Board is empowered to enforce the guidelines and standards for those soils and development procedures designed to overcome severe soil limitations. The Planning Board shall conduct a Special Project Review in such areas and shall approve or deny a special use permit on the basis of a proposed project’s ability to overcome severe limitations according to the guidelines and standards hereby set forth.

GUIDELINES FOR REVIEWING PROJECT IMPROVEMENTS UNDER VARIOUS SOIL CONDITIONS

SECTION A.4

1) Outwash Soils

These soils present no problem for any development category. The Zoning Enforcement Officer shall ensure minimum standards, as defined in the New York State Public Health. These shall be met during construction and upon completion of a septic system or upon completion of any alteration to an existing septic system.

2) Alluvial Soils

a) Site Improvements

Limitations to site improvements with an alluvial soil are associated with rivers and streams and the accompanying problems of erosion and vegetation loss. The following standards and guidelines shall apply:

- i. Earth moving must not occur during the months of December 1 – April 30, because of the danger of flooding and the possibility of soil erosion. Earth grading must not increase the percentage of slope unless suitable soil stabilization is included, such as stone riprap embankments or steel reinforced levees.
- ii. Because of the risk of soil erosion, no removal of topsoil is permitted to alluvial soil areas unless replaced by a suitably stable material.
- iii. Excavation for foundation construction must be completed within 90 days from the project's initiation and must not be left incomplete during the months between December 1 and April 30.
- iv. Areas that have been graded must be vegetated upon completion of the project or within 90 days of its initiation, whichever shall come first. Vegetation may take the form of grasses or legumes or other appropriate vegetative ground cover. The applicant shall be held responsible for this successful adaptation of the vegetation.
- v. For any and all vegetation removal, the following standards within alluvial soil shall apply:
 - i) The Adirondack Park Agency shoreline restrictions for vegetation removal.
 - ii) Vegetation shall not be clear-cut from any alluvial soil area unless for the purposes of meadow, field, or pasture development.
 - iii) The Planning Board shall solicit the opinion of a specialist, at the applicant's expense, before reaching a final decision.

b) Foundation Construction

Foundations within alluvial soils are endangered by flooding and high water table conditions. Building construction within these areas of alluvial soils shall, therefore, meet

the provision of the floodway Special District as set forth in Article 9, Section 9.03 of this LULLR. In addition, foundation construction within alluvial soils outside of the Floodway Special District, and, therefore, capable of supporting foundation construction for dwelling units, shall be constructed to insure that cracking and seepage do not occur. Methods for preventing this may include, but are not limited to, the following procedures where appropriate:

- i. Removal of finer or more compactable soils and extensive backfilling with gravel or other pervious material at least two feet back from the foundation.
- ii. Pumping facilities to relieve hydrostatic water pressure on external walls and basement floors.
- iii. Elimination of gravity flow drains.
- iv. Construction to resist rupture or collapse caused by water pressure or floating debris.
- v. Elevation of structures to or above the necessary flood protection elevation.
- vi. The Planning Board shall solicit the opinion of a specialist and/or private engineer at the builder's expense, before making a final decision on a permit for foundation construction.

c) Road Construction

Roads through alluvial soil conditions must be capable of withstanding seasonally wet conditions, high water tables throughout the year, and intermittent flooding. Special Project Review or road construction includes private drives, subdivision streets, and public rights-of-way. Within alluvial soil areas, the road builder shall, in addition to meeting the minimum standards of road construction as set forth in Appendix D of this LULLR that the drive, street, or public right-of-way shall not cause environmental damage to adjacent land or adjacent river or stream water quality through alteration of the existing water table, subsoil, or vegetation conditions. The following standards shall therefore apply:

- i. Road construction of the drive, street, or right-of-way must insure the ability of the sub-base and base courses to withstand high water table and periodic flood conditions.
- ii. A sub-base course of 4 to 8 inches of non-fibrous and pervious material shall be constructed to insure a stable base course while allowing for the free flow of ground adjacent vegetated areas.
- iii. The Planning Board shall consult with a specialist at the landowner's expense, prior to reaching a final decision.

d) Septic System

In areas having alluvial soil, septic systems can pollute ground water or adjacent surface water. Because of the ineffectiveness of septic systems constructed within alluvial soil areas, construction of septic systems and leach fields within the defined Floodway Special District shall not be permitted. In areas of alluvial soil outside this district, septic systems shall be constructed to insure their continued operation during periods of high water table and shall be constructed so as to prevent their contamination of ground water or adjacent

surface water. The Planning Board, prior to a final decision on the granting of a special use permit for septic systems within alluvial soils, shall consult with a State Department of Health representative, as well as a private engineer at the landowner's request and expense.

3) Shallow Till

a) Site Improvements

In shallow till areas, soil is shallow to bedrock and easily eroded. Site improvements that will not cause soil erosion will be very difficult.

The Planning Board shall insure that:

- i. A maximum of 90 days for excavation duration.
- ii. Excavation areas are not exposed during the months from December 31 – March 31.
- iii. Methods to remove sediment from runoff water during the excavation period are effectively utilized.
- iv. Grading of land to as close to its former grade as possible and immediate reseeding is assured by the applicant.
- v. A minimum of 4 inches of topsoil shall be provided to cover all finished slopes.
- vi. Embankments shall consist of solid and stable materials. These materials shall be placed in successive horizontal layers, each no more than 6 inches in depth. Each layer shall be thoroughly compacted before a new one is laid.
- vii. Vegetation shall not be clear-cut and removal of any timber for harvesting purposes shall retain at least one third of the timber so as to prevent soil erosion.
- viii. The Planning Board shall consult with a specialist, at the applicant's expense, prior to a final decision on a conditional permit request for site improvements.

b) Road Construction

Road construction standards for private drives and streets in shallow tills shall include:

- i. Road damage, mud slides, and ground water pollution shall be minimized by the retention of existing drainage-ways through and the installation of culverts at no less than 40 feet apart from the course of the road in 8-10 percent grade and 100 feet in grades 0-8 percent.
- ii. Topsoil shall be removed at least 24 inches in depth and replaced with a pervious gravel base course of at least 18 inches in thickness.
- iii. Construction of base courses within the shallow till areas shall, at their lowest point (18 inches from the final grade), be no less than two (2) feet from bedrock.

- iv. The Planning Board shall consult with a specialist, at the applicant's expense, prior to a final decision on a special use permit for road construction.

c) Foundation Construction

The principal problem of foundation construction in shallow till is soil erosion. Erosion of soil around the foundation can cause landslides, foundation movement and cracking, ground water pollution in lower elevations, and destruction of vegetation. Engineering methods must be utilized to insure that these four conditions do not occur as foundations are constructed. These methods can include by shall not be limited to:

- i. Stone, steel, or wood embankments to prevent landslides in slopes greater than 25 percent.
- ii. Improvements to existing drainage courses to insure even and dispersed water drainage from the site.
- iii. Grading of land below the construction site, creating intermittent drainage swales.
- iv. Permanent sediment basin construction and basin maintenance program.
- v. The Planning Board shall, prior to a decision on a special use permit for foundation construction in shallow tills, consult a specialist in addition to a private engineer at the applicant's expense.

d) Septic Systems

It will be difficult for septic systems of any kind to operate effectively within shallow till areas. As well, pollution of ground water and adjacent streams can result in these areas because of the shallow depth.

4) Muck and Peat Soil

a) Site Improvements

Areas of muck and peat soil have a delicate biological balance. Changes to these areas shall not disrupt the balance.

In addition to fulfillment of guidelines in shallow till soil regulations (Section A.4 (3) (a) of this Appendix), site improvement shall not alter existing water quality, drainage patterns, or the water storage capacity of muck and peat soil. Vegetation removed during site improvements shall be replaced with similar vegetation types. The Planning Board shall consult a specialist at the request and expense of the applicant prior to a final decision on a special use permit.

b) Road Construction

The same guidelines as those listed for areas of alluvial soils in Section A.4 (2) © of this Appendix shall apply.

c) Foundation Construction

The same guidelines as those listed in Section A.4 (2) (b) of this Appendix for areas of alluvial soils shall apply.

d) Septic Systems

The same guidelines as those listed in Section A.4 (2) (d) of this Appendix for areas of alluvial soils shall apply.

SLOPE CONDITIONS

SECTION A.5

1) 0-3 Percent Slopes

a) Site Improvements

This slope percentage represents areas that are nearly flat. Adequate drainage, therefore, should be an important consideration as sites of 0-3 percent are improved.

- i. Improvements shall insure that sufficient drainage is maintained so as to prevent surface water collection. This may be accomplished by, but not only limited to, maintenance or regrading of topsoil to a 3 percent slope, or utilization of subsurface drainage tiles.
- ii. Where 0-3 percent slopes exist adjacent to water bodies and within flood plains, site improvements shall not alter the grade or elevation so as to alter the land area's seasonal or annual absorption of floodwaters.
- iii. Grading shall not disrupt the environment of existing vegetation by changing its water supply.

b) Roads

Construction of roads through areas of 0-3 percent slope must insure adequate drainage of the road so as to prevent damage and/or standing water. To attain this, the following standards, in addition to those specified in this Appendix, apply to any road construction in 0-3 percent slope.

- i. Side slopes on roadside drainage ditches shall descend one (1) foot vertically for at least each two (2) feet horizontally (one in two).
- ii. Surplus materials resulting from excavation of the roadbed shall be used to flatten slopes of embankments so that they ascend one (1) foot vertically for at least two (2) feet horizontally (two on one).
- iii. Side slopes in excavation rock shall ascend six (6) feet vertically for at least each one (1) foot horizontally (one on six).

c) Foundations

Problems accompanying foundation construction within this classification include the chances of water collection along the foundation that can cause structural damage. Grading of the site shall therefore maintain a 3 percent minimal slope along all sides of the foundation and away from it a minimum of 25 feet.

d) Septic Systems

Within area of 0-3 percent slope, septic system construction shall insure that a minimum 2 percent slope from the center of the leach field is maintained along the ground elevation to insure adequate surface drainage.

2) 3-10 Percent Slope

No special problems, road construction, foundation construction, or septic system installation are associated with this slope category. Any surface drainage shall maintain finished grades of 3 percent.

3) 10-15 Percent Slopes

These slopes are generally suitable for development. Moderate limitations do exist in certain specific sites. The severity of a particular site shall be inspected. Roads shall not exceed 10 percent grades and leach fields shall not exceed 10 percent grades and leach fields shall not exceed minimum standards set forth in New York State Public Health Law.

4) 15-25 Percent Slope

a) Site Improvements

Site improvements in this category can easily exacerbate existing erosion. The site development standards for shallow till soils as set forth in Section A.4 (3) of this Appendix shall be applied to areas of 15-25 percent slope. In addition, vegetation shall not be clear-cut and removal of any timber for harvesting purposes shall retain at least one third of the timber stand and sufficient vegetation so as to prevent erosion.

b) Road Construction

In addition to requirements set forth in these LULLR, guidelines and standards designated for shallow till areas as set forth in Section A.4 (3) of this Appendix shall apply within these areas as well as guidelines established for the 0-3 percent category, as set forth in Section A.3 (1) of this Appendix. Finally, drives, roads, streets, and public rights of way through slopes of 15-25 percent, unless covenanted for summer use only, shall not exceed 15 percent in slope over the course of 50 feet in length. Prior to a final decision on a special use permit for road construction, the Planning Board shall solicit the opinion of a specialist and/or a private engineer at the applicant's expense.

c) Foundation Construction

Guidelines established for shallow till areas as set forth in Section A.4 (3) of this Appendix shall apply. The Planning Board, prior to reaching a final decision on a special use permit for septic system construction, shall consult with a specialist and/or a private engineer at the applicant's expense.

5) Plus 25 Percent Slopes

Slopes of this type offer several constraints to all four categories of development. In addition, the risk of environmental degradation is very great. Guidelines and standards for each development category in 15-25 percent slope as set forth in Section A.2 of this Appendix shall apply. The Planning Board, prior to reaching a final decision on a special use permit for any development in land of this slope percentage, shall consult with the Soil Conservation Service and Adirondack Park Agency Project Review staff, in addition to a private engineer at the applicant's request and expense.

GUIDELINES AND REQUIREMENTS FOR THE PROTECTION OF WETLAND FLOOD AREAS

SECTION A.6

1) Flood Plains

These areas are of a biologic importance while being hazardous for any development because of the danger of flood conditions. Guidelines and standards for each development category shall include those specified within the Floodway Special District Regulations and those for alluvial soil areas. The Planning Board, prior to reaching a final decision on any development request, shall consult with a public specialist, in addition to a private engineer, at the applicant's request and expense.

2) Wet Lands

Guidelines and standards for site improvements, road construction, foundation construction, and septic systems in wetlands shall be the same as those for areas of Muck and Peat soil as set forth in Section A.4 (4) of this Appendix. These shall not supersede guidelines and standards for wetlands defined as critical areas. The Planning Board, prior to its reaching a final decision on a special use permit for development in wetlands, shall consult with a public specialist and Adirondack Park Agency representatives. As well, a private engineer may be consulted at the applicant's request and expense.

APPENDIX B
AESTHETIC SITE DEVELOPMENT CONSIDERATIONS

SCENIC QUALITY PROTECTION REGULATIONS

SECTION B. 1

The following regulations are adopted to protect defined areas of significant visual quality, to maintain a pleasing visual character along certain streets, and to insure that scenic quality considerations are applied to the site planning of development that, because of its type, size, or location, will have a significant impact upon the landscape of the Town of Elizabethtown.

SITE DEVELOPMENT REGULATIONS

SECTION B. 2

Site development shall be in keeping with the existing landscape assets of the site. Subdivision and Regional Class A project approval should be contingent upon a project's fulfillment of site development guidelines in scenic quality protection. These regulations include the following:

- 1) Proposed access drive routes shall, wherever possible, respond to existing topographic conditions.
- 2) Whenever possible, excavation, cuts and fills, and site grading shall be minimized by utilizing existing topographic features in the site plan.
- 3) Areas of existing visual quality shall, whenever possible, be retained in their present scenic character.
- 4) Important site features such as stone walls, rock outcroppings, and streams shall, whenever possible, be utilized as positive components in the development plan of the site in the Town.
- 5) Building construction materials and site improvement shall be complementary with landscape plantings of a design and material appropriate to the indigenous character of the Town's landscape and its immediate neighborhood.
- 6) Utility routes and access roads shall, whenever possible, be located along back lot lines.
- 7) Temporary trash and waste containers, storage facilities for fuel, equipment and machinery, shall have on-site storage areas that will not be visible from public right-of-way.

APPENDIX C
TRANSPORTATION, PARKING, AND ROADWAY STANDARDS
OFF-STREET PARKING AND LOADING

SECTION C.1

Standards and Requirements

Off-street parking and loading spaces designed for all weather conditions shall be provided in accordance with the specifications in this section in all districts, when such use is established or existing use is enlarged. One parking space shall equal 9 feet by 22 feet.

| <u>Parking Use</u> | <u>Parking Space Required</u> |
|---|--|
| 1. Church, school, theater, or auditorium | 1 space per 4 seats in principle assembly room. |
| 2. Eating and drinking establishments | 1 space for every 4 seats (including bar stools). |
| 3. Health care facilities | 1 space per 4 beds and 1 space for each employee based on the expected overall number of employee shifts. |
| 4. Home occupation | 1 space per employee and 1 space per patron. |
| 5. Industrial | 1 space for each 1.5 employees, based on the highest expected employees / shift. |
| 6. Multi-unit dwellings | 1.5 spaces for each dwelling unit. |
| 7. Outdoor recreation | 1 space for each 8 patrons. |
| 8. Private club / indoor recreation | 1 space for each 4 patrons. |
| 9. Professional offices and business services | 1 space for each 250 sq. ft. of gross floor area dedicated to such uses. Also 1 additional space per employee. |
| 10. Residential (single- and two-unit) | 2 spaces for each dwelling unit. |
| 11. Retail business and personal service | 1 space for each 250 sq. ft. of gross floor area dedicated to such uses. Also one additional parking space per employee. |
| 12. Other | Unless otherwise provided for, each primary building or structure shall be required to have a minimum of two off-street parking spaces for each 250 sq. ft. of floor space or fraction |

thereof.

2) Loading – Paved service streets of not less than 20 feet in width, or in view thereof, adequate off-street loading space, suitably surfaced, shall be provided as follows:

- a) Hotel, Health Service Facilities, Motels, Business, Service and Industries: One off-street loading space for every 10,000 sq. ft. of floor space.
- b) Wholesale, Warehouse, Freight, and trucking use: one off-street loading space fore every 7,500 sq. ft. of floor area.

3) Additional Parking and Loading Requirements

- a) The Planning Board may require additional off-street parking and loading spaces if they find that minimum spaces are not adequate.
- b) With approval of the Planning Board, additional parking spaces may be provided by the applicant on other property provided that it is within 300' of the principal building.
- c) Where a non-residential use or district abuts a residential district, the parking or loading space shall be no closer to the abutting property line than 15 feet and a buffer shall be suitable landscaped.

STREET LAYOUT GUIDELINES

(For proposed subdivisions)

SECTION C.2

- 1) Streets shall be suitable located and designed to accommodate the prospective traffic and to afford satisfactory access to fire fighting, snow removal, and road maintenance equipment.
- 2) Streets shall be arranged as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient and safe system.
- 3) When a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service access, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- 4) The arrangement, width and grade of all streets shall be considered in relation to existing and planned streets, topographic conditions, public convenience and safety, and in their appropriate relation to proposed land uses. Minor streets shall be planned so their use by through traffic will be discouraged.
- 5) Where a tract is subdivided into lots much larger than the minimum size required in the land use district in which a subdivision is located, the Planning Board may require that streets and lots be laid out to permit future subdivision.
- 6) Arrangement of streets shall provide for continuation of existing streets between adjacent properties.
- 7) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such a right-of-way at a distance suitable for the appropriate use of intervening land.

- 8) If adjacent property is undeveloped and the street must be dead-end temporarily, right-of-way and improvements shall be extended to the property line. A temporary circular turn around shall be provided on all temporary dead-end streets, with the notation on the plot that land outside the street right-of-way shall revert to abutting lots whenever the street is continued.
- 9) Half streets and privately owned reserve strips preventing access to streets or adjacent property shall be prohibited.
- 10) A circular turn around shall be provided at the dead-end of a street.
- 11) Where the subdivision borders on an existing street and the Town Official Map indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Board shall require that such areas be shown and marked on the Final Plot "Reserved for Street Realignment (or Widening Purposes.)"

STREET DESIGN STANDARDS

SECTION C.3

- 1) **Intersection of major streets** by other streets shall be held to a minimum and shall be at least 500 feet apart, if possible. Cross street intersections shall be avoided, except at important traffic intersections. A distance of at least 250 feet shall be maintained between offset intersections. Within 100 feet of an intersection right-of-way, streets shall be approximately at right angles. Street jogs with centerline offsets of less than 125 feet shall be avoided.
- 2) **Grades of streets** shall conform as closely as possible to original topography and shall be arranged so that building sites are at or above street grade. Steep grades and sharp curves shall be avoided. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer.
- 3) Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights 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. Such grading and improvements shall be approved as to design and specifications by the Town Engineer.
 - a) **Fire Hydrants**: Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York State Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
 - b) **Street Lighting Facilities**: Lighting facilities shall be in conformance with the lighting system of the Town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company.
- 4) **Curve Radii at Street Intersection**: All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.

- 5) **Steep Grades and Curves: Visibility at 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) shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the centerline of the street. If directed, ground shall be excavated to achieve visibility.
- 6) **Dead-end Streets (Cul-De-Sacs):** Where dead-end streets are designed to be so permanent they should, in general, not exceed 900 feet in length, and shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end street, a temporary turnaround with pavement radius of 50 feet shall be provided, unless the Planning Board approves an alternate arrangement.
- 7) **Curve Radii:** Street lines within a block, deflecting from each other at any one point by more than 10 degrees, shall be connected with a curve, the radius of which for the entire line of street shall not be less than 400 feet on major streets, 200 feet on collector streets, and 100 feet on minor streets.
- 8) **Sidewalk Construction Standards:** Sidewalks shall be installed at the expense of the subdivider where the subdivision abuts or fronts onto a major street, and at such locations as the Board may deem necessary in accordance with the following:
 - a) Minimum width of sidewalks in a residential area shall be four feet, and in commercial or industrial areas five feet.
 - b) Sidewalks shall be of concrete at least five inches thick, except through driveways and other areas subject to vehicular traffic where they shall be at least six inches thick, laid on a compacted bed of gravel at least six inches deep.
- 9) **Block-Planning and Design Standards:**
 - a) The length width, and shape of blocks shall be determined with due regard to:
 - i) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - ii) Requirements as to lot sizes and dimensions.
 - iii) Need for convenient access, circulation, control, and safety of street traffic.
 - iv) Limitations and opportunities to topography.
 - b) Irregular shaped blocks or oversized blocks indented by cul-de-sacs, parking courts, or loop streets and containing interior block parks or playgrounds will be acceptable when properly designed under provisions of Planned Residential Development.
 - c) Blocks lengths shall not exceed 1,200 feet, nor be less than 600 feet; blocks abutting major streets shall be not less than 1,000 feet and may exceed 1,200 feet.

- d) Blocks over 800 feet in length may be required to have a 20-foot-wide crosswalk easement to facilitate pedestrian access.
- e) The minimum block width for two tiers of lots shall be 250 feet, or twice the minimum depth as specified in the Land Use Local Law.
- f) Where double frontage lots are necessary, minimum block width shall be 200 feet.

10) Minimum Road Requirement Construction Standards:

- a) Street improvements shall be installed at the expense of the subdivider. The following specifications shall constitute the minimum standards for construction and improvement of streets. Other standards may be required if deemed necessary by the Planning Board to protect the public safety and welfare.

| | Major | Collector | Service Feeder | Service Cul-De-Sac |
|--|-------|-----------|----------------|--------------------|
| Maximum Right-of-Way Width | 100' | 100' | 50' | 50' |
| Maximum Pavement Width | 42' | 34' | 34' | 34' |
| Maximum Grade | 4% | 6% | 10% | 8% |
| Minimum Grade | 0.5% | 0.5% | 0.5% | 0.5% |
| Minimum Radius of Curves Inner Street Line | 800' | 500' | 250' | 150' |
| Minimum Length of Road Between Reverse Curves | 200' | 150' | 100' | 100' |
| Maximum Grades within 100' of Center Line Intersection | 2% | 3% | 5% | 5% |
| Minimum Braking Sight Distance | 400' | 300' | 200' | 200' |
| Minimum Distance Between Center Line Offsets | 400' | 300' | 50' | 50' |
| Angle at Intersection of Street Center Lines | 90° | 85-90° | 90-100° | 80-100° |

**APPENDIX D
OPEN SPACE AND RECREATION FACILITIES**

**STANDARDS AND GUIDELINES FOR PUBLIC USES AND FACILITIES
SCENIC AND LAND EASEMENTS**

SECTION D.1

In addition to the acquisition of land for ultimate public and semi-public uses, the Land Use Plan sets forth a recommended policy of dredge easements, visual easements, and easements of rights-of-way of such a community necessities as pedestrian ways and utility installations. The acquisition of easements shall be a prerequisite to subdivision approval as land development takes place in the Town. The Land Use Plan requires the establishment of a minimum of 25 feet for pedestrian ways, a 500-foot easement on identified drainage ways, and real easements as the Planning Board identifies critical and significant visual elements in the zoning regulated area of Elizabethtown.

OPEN SPACE AND OUTDOOR RECREATION STANDARDS

SECTION D.2

- 1) **Tot Lots**: A tot lot is designed to serve elementary and pre-school children. A tot lot should be one acre in size and incorporated in a larger park area. A tot lot may serve 300-700 children and have a service radius of one-quarter mile.
- 2) **Play Fields**: May serve all ages. The minimum size for a play field complex is two acres and the facilities may include softball fields, basketball courts, tennis courts, ice-skating rinks, track and football fields. Depending on the size and variety of fields, a playing field complex can serve up to 5,000 people and should be within twenty minutes driving time.
- 3) **Parks**: Are established to provide open space and passive recreation to all age groups. A park may include tot lots and playing fields or be used solely for passive recreation. It can be anywhere from one-half to seven acres in size, depending on its type. There should be 10 acres of parkland per 1,000 population and the parks should be within a one-half mile service radius.
- 4) **Trails and Bicycle Paths**: Can serve all ages. The purpose of the trails and bicycle paths is to connect parks and play fields with residential areas or other parks. Developed trails may also be used to lead hikers through open spaces. The trails and bicycle paths may follow streams and waterways. An easement of 25 feet should be reserved in developing areas of the city devoted to this purpose.
- 5) **Water Recreation**: Swimming, boating, and fishing are water oriented sports that attract participants of all ages. Full utilization of water assets would include outdoor swimming facilities, public boat landings, and fishing access areas within the Town of Elizabethtown.
- 6) **Open Space and Scenic Easements**: The conservation of open space insures the protection of natural areas for the future and provides a balance between the natural and the man-made land use areas. Scenic easements along waterways can preserve the quality and the flow of water.