

# TOWN AND VILLAGE OF TUPPER LAKE LAND USE ORDINANCE

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# ARTICLE 1

## TITLE, PURPOSE & GENERAL PROVISIONS

### 1.1. Short Title

This local law shall be known and may be cited as the Town of Tupper Lake and Village of Tupper Lake Land Use Code. The Town of Tupper Lake is hereinafter referred to as the "Town." The Village of Tupper Lake is hereinafter referred to as the "Village."

### 1.2. Authority

Enactment of this local law by the Town is pursuant to Article 16 of the Town Law of the State of New York. Enactment of this local law is pursuant to the provisions of Municipal Home Rule Law §10(1)(ii)(a)(12) and the authority granted under Sections 7-700 and 4-412(1) of the Village Law of the State of New York by the Village Board of the Village of Tupper Lake, County of Franklin, New York.

### 1.3. Purpose and Objective of the Code

The Zoning Regulations and Districts herein set forth and as identified upon the Zoning Map of the Town and Village of Tupper Lake are to promote the health, safety, and general welfare of the community by channeling and directing growth by prescribing the most desirable use for which the land in each district may be adapted and those uses to be subjected to special regulations, while conserving value of land throughout the Town and Village. The form, 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 are hereby regulated and restricted. to the maximum extent permissible within the proper exercise of the police power as delegated by the Town and Village Laws.

### 1.4. Plan Basis

This local law is based upon the facts, inventories, findings and other and information contained in the Tupper Lake Economic Development Strategy, Tupper Lake Smart Growth Project, and Tupper Lake Revitalization Strategy and Action Plan programs, and represents implementation of the program policies and objectives. This local law revokes the Zoning Ordinance made effective May 17, 1999 and will serve as the Land Use Code for the Town and Village, thereby superseding said Ordinances as amended in their entirety.

### **1.5. Application of Regulations**

After the effective date, no land use or development in the Town of Tupper Lake or Village of Tupper Lake shall be undertaken or maintained except in accordance with all of the applicable provisions of this code. This code applies to all land, structures, and uses within the boundaries of the Town of Tupper Lake and Village of Tupper Lake.

### **1.6. Effective Date**

This land use code shall take effect immediately, and this local law shall be filed with the New York State Department of State in accordance with Section 27 of the Municipal Home Rule Law.

### **1.7. Governing Provisions**

Where the conditions, standards, or requirements imposed by any provisions of this code are less restrictive than the regulations imposed by any other applicable provision of this code (or any pertinent land use code, statute, law, ordinance, regulation, license, or permit legally in effect at the time of proposed land use or development) the more restrictive provision shall govern.

### **1.8. Severability**

The provisions of this land use code are severable. If any part of this code is determined to be invalid by a court of competent jurisdiction, such invalidity shall apply only to the part so judged and the rest of this local code shall remain valid and effective.

### **1.9. Savings Clause**

The adoption and enactment of this land use code shall not affect in any way any action done, offense committed, rights acquired or liability, punishment, or penalty incurred prior to the effective date of this code or prior to the effective date of any amendment to this code which may affect such prior act, offense, rights acquired, liability, punishment or penalty.

# ARTICLE 2

## DISTRICTS & MAP

### 2.1. Zoning Map

The boundaries for each zoning district listed as part of the land use code are shown graphically on the Zoning Map for the Town of Tupper Lake and Village of Tupper Lake. These maps are part of this local law, are effective as of the effective date of this local law and are hereinafter known as the 'Zoning Map'. The Zoning Map shall be filed in the office of the Town/Village Clerk and shall hereafter be the official Zoning Map of the Town/Village of Tupper Lake.

### 2.2. Zoning Districts

The Town and Village are divided into 20 zoning districts, some of which exist in both the Town and Village while others exist in one or the other. These districts and their symbols (as shown on the zoning maps) are:

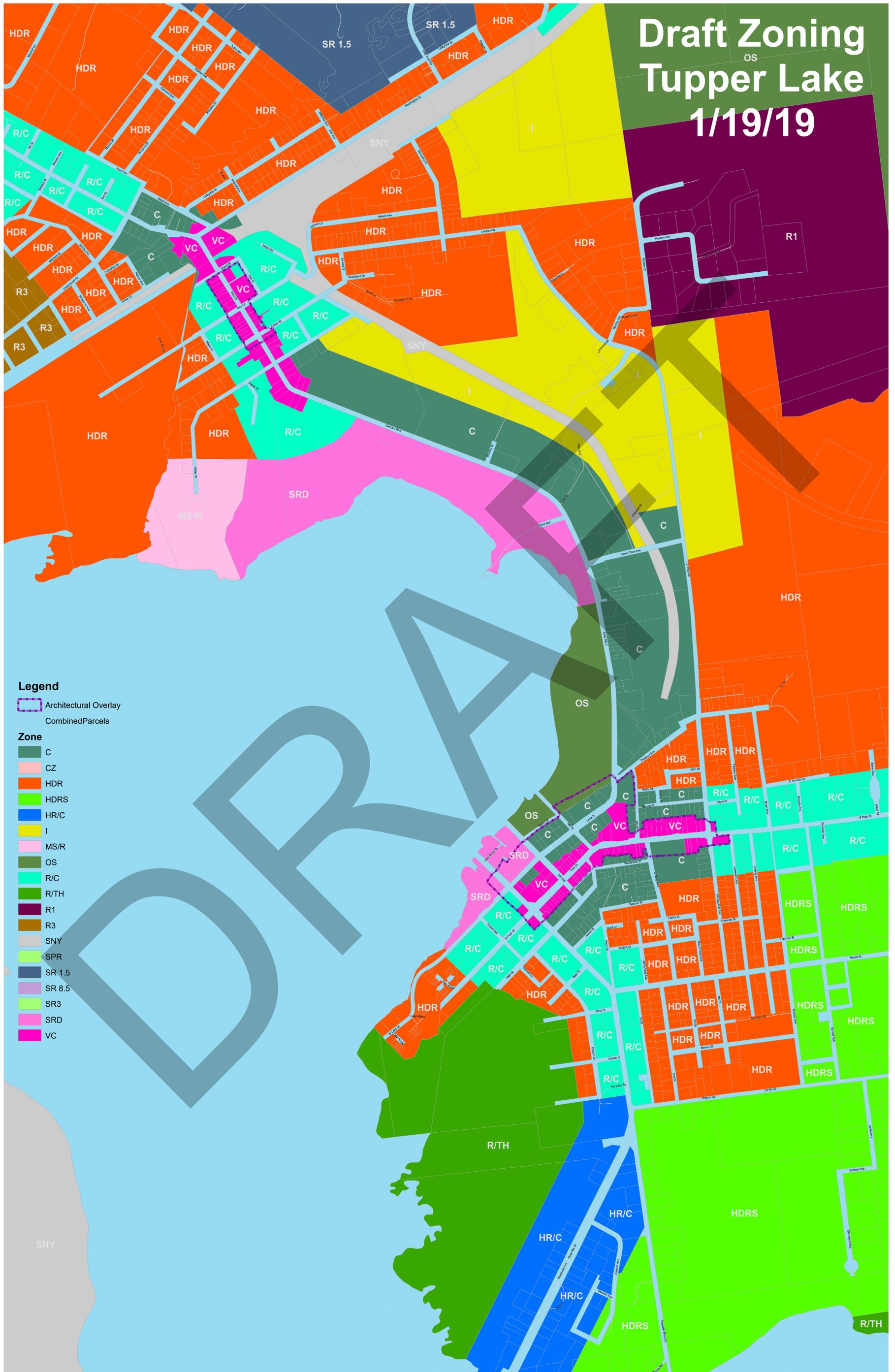
High Density Residential	HDR
High Density Residential Special	HDRS
Medium Density Residential	R-1
Low Density Residential	R-3
Medium Density Shorefront Residential	SR-3
Rural Residential	R-8
Low Density Shorefront Residential	SR-2
High Density Shorefront Residential	SR-1
Shorefront Preservation Residential	SPR
Residential Commercial	RC (Village)
Highway Residential Commercial	HR/C
Village Center	VC (Village)
Park Street Architectural Overlay	PSA
Commercial	C (Village)
Industrial	I
Shorefront Resort Development	SRD (Village)
Municipal Services Recreation	MS/R (Village)
Open Space Recreation	OS
Recreation/Timber Harvesting	R/TH
Conservation Zone	CZ

### 2.3. Zoning District Boundaries

The precise location of a zoning district boundary line on the zoning map is determined as follows:

- a) Where a district boundary line is shown as coinciding, binding along, or superimposed on a lot line, the boundary is that lot line.
- b) Where a district boundary line is drawn along a public or private right-of-way, the boundary of the zoning district shall be the centerline of the right-of-way.
- c) Where a boundary line is indicated by a designated number of feet, that distance controls.
- d) Where a district boundary line is drawn along the village line, the boundary of the zoning district shall be the line denoting the incorporated Village of Tupper Lake.
- e) Where a shorefront district boundary is to be set back, but parallel with the shoreline, the district shall extend to a distance of 1.320 feet from the mean high-water mark of the water body.
- f) Where a district boundary line is drawn along a utility line, the boundary of the zoning district shall be the center of the right-of-way for that power line.
- g) Where district boundaries are not associated with any of the items in a), b), c) or d) above, the boundary line shall be determined by the use of the scale as indicated on the zoning map.
- h) In the case of a split lot, in which a zone boundary line runs through a lot, district standards are applied separately to each portion of the lot.
- i) In the event that none of the above rules is applicable or if further clarification is necessary, the location of a district boundary shall be determined by the Zoning Board of Appeals.

# Draft Zoning Tupper Lake 1/19/19



## Legend

-  Architectural Overlay
-  CombinedParcels

## Zone

-  C
-  CZ
-  HDR
-  HDRS
-  HR/C
-  I
-  MS/R
-  OS
-  R/C
-  R/TH
-  R1
-  R3
-  SNY
-  SPR
-  SR 1.5
-  SR 8.5
-  SR3
-  SRD
-  VC



**Legend**

-  Architectural Overlay
-  CombinedParcels

**Zone**

-  C
-  CZ
-  HDR
-  HDRS
-  HR/C
-  I
-  MS/R
-  OS
-  R/C
-  R/TH
-  R1
-  R3
-  SNY
-  SPR
-  SR 1.5
-  SR 8.5
-  SR3
-  SRD
-  VC

# ARTICLE 3

## PURPOSES, USES AND DIMENSIONAL REQUIREMENTS

### 3.1. Application of Regulations

- A. Except as hereinafter provided:
1. In each zone all uses are prohibited unless specifically permitted.
  2. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the zone in which it is to be located.
  3. The required area of the front and side yards shall not be used for complying with of Off-street Parking Required or other motor vehicle storage.
  4. Regulations in Article 5: Site Plan Review shall apply to all Zones.
  5. Multiple Principal Uses. A site may contain more than one principal use, so long as each principal use is allowed in the zone.

### 3.2. Specific Purposes

In addition to stating the general purposes of this Land Use Code specific purposes are identified for each respective zoning district. This Article addresses form and dimensional standards particular to each zoning district. These purposes, then, are the justification for the decisions made by the reviewing boards:

*High Density Residential (HDR)* - to encourage the orderly development of land within or in close proximity to the Village of Tupper Lake. Presence of municipal utilities and access to services allows for the most intensive scale and mix of uses in the town and village.

*High Density Residential Special (HDRS)* - to allow orderly development within close proximity to the Village, with varying lot sizes, depending upon whether public utilities are available.

*Medium Density Residential (R-1)* - to encourage residential and accessory development near the Village in areas where there are some resource limitations, especially the absence of a municipal sewage disposal system.

*Low Density Residential (R-3)* - to provide potential for residential development on

larger lots in areas of lesser accessibility and where there is no municipal sewer or water system.

*Medium Density Shorefront Residential (SR3)* - to allow further development near water bodies in areas currently not served by municipal water and sewer systems, but in close proximity to the Village and having good access to services. Further development is at medium density in order to protect water quality and aesthetics of the shoreline.

*Low Density Shorefront Residential (SR8 1/2)* – designed to maintain the unspoiled character of the areas. while allowing some development on choice shorefronts. Water quality, visual appeal, and wilderness character are major considerations. Limited access to services necessitates low densities also.

*Residential/Commercial (RC) (Village District)* - to provide opportunity for residential and commercial development at high density in areas of those existing uses.

*Village Center (VC)* - to encourage orderly mixed-use, walkable development in the central area of the Village of Tupper Lake.

*Commercial (C) (Village District)* - to encourage orderly development in the central area of the Village of Tupper Lake and to provide for expansion of commercial facilities in the area along Demars Boulevard.

*Industrial (I)* - to provide opportunity for continued industrial use along Route 30 and also to provide for further industrial uses in and adjacent to the Village, where there are municipal services already provided and good access to major transportation routes in the Town.

*Rural Residential (R8)* - to allow primarily residential uses at low densities in areas without municipal water/sewer, in areas with some natural resource limitations.

*Shorefront Resort Development (SRD) (Village District)* - to encourage the use of choice Village property which offers municipal services and usable shorefront for restaurants, motels and other tourist related facilities.

*Municipal Services/Recreation (MS/R) (Village District)* - to provide for the expansion of the existing sewage treatment plant, to maintain open space and access to Raquette Pond and to provide opportunity for recreation/tourist-oriented facilities.

*Open Space Recreation (OS)* - to provide a natural open area within the settled village, allowing for recreational trails and access to the recreational opportunities offered by Raquette Pond. Development must support natural use (i.e., a visitor center for a park, or access amenities for trails).

*Recreation/Timber Harvesting (R/TH)* - to encourage protection of the town's natural, scenic and recreational resources, development in these areas is at very low density. These areas have natural constraints and limitations for development, as well as poor access to services and facilities.

*Shorefront Preservation Residential (SPR)* - to allow residential shorefront development at a low density and in a manner, which will preserve the economic resource of a scenic shoreline.

*Highway Residential/Commercial (HR/C)* - to allow mixed uses to develop along selected highways to encourage areas for commercial growth while preventing high density development which would interfere with traffic safety.

*High Density Shorefront Residential (SR-1½)* - to allow primarily residential uses at high densities in shorefront areas already developed.

*Conservation Zone (CZ)* - to provide for open space recreation uses reflecting the granting of easements or title to conservation interests.

*Park Street Architectural Overlay (PSA)* – The Park Street Architectural Overlay District includes a concentration of one-, two-, and three-story buildings and structures that are characterized by historic architectural detailing and which reflect elements of Tupper Lake's cultural, social, economic, political and architectural heritage. The purpose of the overlay is to encourage new development and renovations to match the high quality of the historic architecture in support of a vibrant walkable district that draws locals and tourists to the heart of the community. The District includes any properties identified on the Park Street Architectural Overlay Map. No structure may be erected, converted, enlarged, reconstructed, moved, or altered for use and no land or structures may be used or changed that do not conform with all applicable regulations of Section 3.5: Architectural Overlay District Standards.

*Planned Development District No. 1: Big Tupper* – A Class A regional project granted Adirondack Park Agency approval in Project Findings and Order 2005-100 on January 31, 2012 pursuant to § 810(1)(e)(1)(a), (b) and (c), (3), (6), and (16). The project site is comprised of 6,235± gross acres (including lands under water) and 6,158 net acres (not including lands under water), and is located in the Town of Tupper Lake, Franklin

County, on or near NYS Route 30, Ski Tow Road, and Lake Simond Road. The project site includes lands that are classified as Resource Management (4,805± gross acres/4739.5± net acres), Moderate Intensity Use (1,238± gross acres/1228.2± net acres), Low Intensity Use (180± gross acres) and Hamlet (11± gross acres) on the Adirondack Park Land Use and Development Plan Map.

### 3.3. Schedule of Uses and Requirements

Table 1 ‘Schedule of Uses and Requirements’ specifies the permitted and special uses allowed for each district. Uses which are not listed are prohibited.

**TABLE 1:**

USES	High Density Residential	High Density Residential Special	Medium Density Residential	Low Density Residential	Medium Density Shorefront Residential	Low Density Shorefront Residential	High Density Shorefront Residential	Shorefront Preservation Residential	Residential Commercial	Highway Residential   Commercial	Village Center	Commercial	Industrial	Shorefront Resort Development	Municipal Services Recreation	Open Space Recreation	Recreation/Timber Harvesting	Conservation Zone
<b>RESIDENTIAL</b>																		
Single family dwelling	P	P	P	P	P	P	P	P	P	P	P			P		S	S	
Townhome	S	S	S	S	S	S	S	S	S	S	S	S		S				
2-3 family dwelling	P	P	P	S	S	S	P	S	P	P	P			P				
Cottage Court	P	P	P	S	S	S	P	S	P	P	P			P				
Small apartment building < 15,000 sqft, footprint < 5,000sqft	P	P	P	S	S	S	S	S	P	P	P	S		P				
Multifamily Dwelling >15,000 sqft	S	S	S	S	S	S	S	S	S	S	S	S		S				
Tourist accommodations										S	S	S						
Hunting or Fishing Cabin*																S	P	P
Home occupations / Home agriculture	P	P	P	P	P	P	P	P	P		P			S				
Accessory Dwelling Unit**	P	P	P	P	S	S	P	S	P	P	P	S		P		S	S	
<b>COMMERCIAL</b>																		
Forestry							P	P				S		S	P	P	P	P
Adult Use													S					
Kennel				S						S								
Agricultural uses				S		S				S								
Chicken Coop**			S	S					S	S						S	S	
Boatyards												S	S					

<b>USES</b>	<i>High Density Residential</i>	<i>High Density Residential Special</i>	<i>Medium Density Residential</i>	<i>Low Density Residential</i>	<i>Medium Density Shorefront Residential</i>	<i>Low Density Shorefront Residential</i>	<i>High Density Shorefront Residential</i>	<i>Shorefront Preservation Residential</i>	<i>Residential Commercial</i>	<i>Highway Residential   Commercial</i>	<i>Village Center</i>	<i>Commercial</i>	<i>Industrial</i>	<i>Shorefront Resort Development</i>	<i>Municipal Services Recreation</i>	<i>Open Space Recreation</i>	<i>Recreation/Timber Harvesting</i>	<i>Conservation Zone</i>
Sawmills, Small-scale										S			S					
Sawmills, Large-scale													S					
Commercial uses									S			S	S					
Industrial Uses													S					
Junkyard													S					
Heavy Commercial uses										S			S				S	
Self-Storage Facility													S					
<b>RETAIL &amp; SERVICE</b>																		
Grocery Store	S	S	S	S	S	S	S		S	S	S							
Gas Station not including service/repair	S	S	S	S	S	S	S		S		S	S						
Automobile Service Station									S		S	S						
Professional offices									S		S	S	S	S				
Restaurant/Tavern									S		S	S		S				
Retail businesses									S	S	S		S					
Drive-through facilities									S		S							
Neighborhood scale commercial (<5000sqft building: retail, professional services, restaurant/café, tavern)	S								S	P	P	P		P				
<b>PUBLIC USES</b>																		
Theatres											S	S		S				
Public service facilities	S	S	S	S	S	S	S	S	S	S	S				P			

USES	High Density Residential	High Density Residential Special	Medium Density Residential	Low Density Residential	Medium Density Shorefront Residential	Low Density Shorefront Residential	High Density Shorefront Residential	Shorefront Preservation Residential	Residential Commercial	Highway Residential   Commercial	Village Center	Commercial	Industrial	Shorefront Resort Development	Municipal Services Recreation	Open Space Recreation	Recreation/Timber Harvesting	Conservation Zone
Recreational Facilities										S				S	S			
Water oriented businesses														S				
Open Space Recreation, Game Preserve, Private Park																		P
Water Treatment Plant and Associated Structures															P			
Marinas										S				S				
<p>* Where Hunting and Fishing Cabins are allowed, cabins 500 sq ft or larger require Site Plan approval</p> <p>**Subject to the provisions of Article 8</p>																		

### 3.4. Dimensional Requirements

#### 1.10.

- a) Table 2 ‘Dimensional Requirements’ specifies the form and dimensional

standards particular to each zoning district.

- b) The minimum lot size on Table 2 is required for every principal building, unless clustering pursuant to Article 6: Subdivision Regulations, is authorized by the Planning Board.
- c) Setbacks are measured as stated in Article 14: Definitions.
- d) The maximum height for structures in all zones is 40 feet.
- e) Boathouses in all zones must comply with minimum side yard (ft) requirements in measured by shoreline frontage and are subject to the requirements of Section 8.11.

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**TABLE 2:**

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	50% Frontage buildout required
High Density Residential	HDR	5000sqft	50	50%	10	10	10	1.5	50	50	y
High Density Residential Special	HDRS	20000sqft ***	100	25%	25	10	10	***	50	50	
Medium Density Residential	R-1	1acre	75	10%	25	15	10	1	100	50	
Low Density Residential	R-3	3acres	100	10%	50	20	10	3	125	75	
Medium Density Shorefront Residential	SR-3	3acres	100	10%	75	30	20	3	125	75	
Rural Residential	R-8	8acres	100	10%	50	20	10	8	150	75	
Low Density Shorefront Residential	SR-8.5	8.5acres	150	10%	100	30	20	8.5	150	75	
High Density Shorefront Residential	SR-1.5	1.5acres	100	50%	10	20	10	1.5	100	50	
Shorefront Preservation Residential	SPR	8.5acres	300	10%	100	30	20	8.5	300	100	
Residential Commercial	RC (Village )	7500sqft	60	80%	0	10	10	1.5	150	75	y
Highway Residential Commercial	HR/C	1acre ***	100	50%	25	25	25	1	100	75	
Village Center	VC (Village )	N/A	30	80%	0	0	10				y
Commercial	C (Village )	0.25acres	50	50%	15	10	10	1.5	50	50	y

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	50% Frontage buildout required
Industrial	I	5acres	150	50%	100	100	100	8.5	100	100	
Shorefront Resort Development	SRD (Village)	1acre	150	25%	50	25	25	2	150	50	y
					Public Highway, Street, Road, etc	75	25	25			
					State & Federal Highway						
Municipal Services Recreation	MS/R (Village)	3acres	100	5%	100	50	100	3	100	50	
Open Space Recreation	OS	8acres	150	5%	150	75	100	8	150	75	
Recreation/Timber Harvesting	R/TH	40acres	200	5%	200	100	100	40	200	100	
Conservation Zone	CZ	200	100	100	200	100	100				

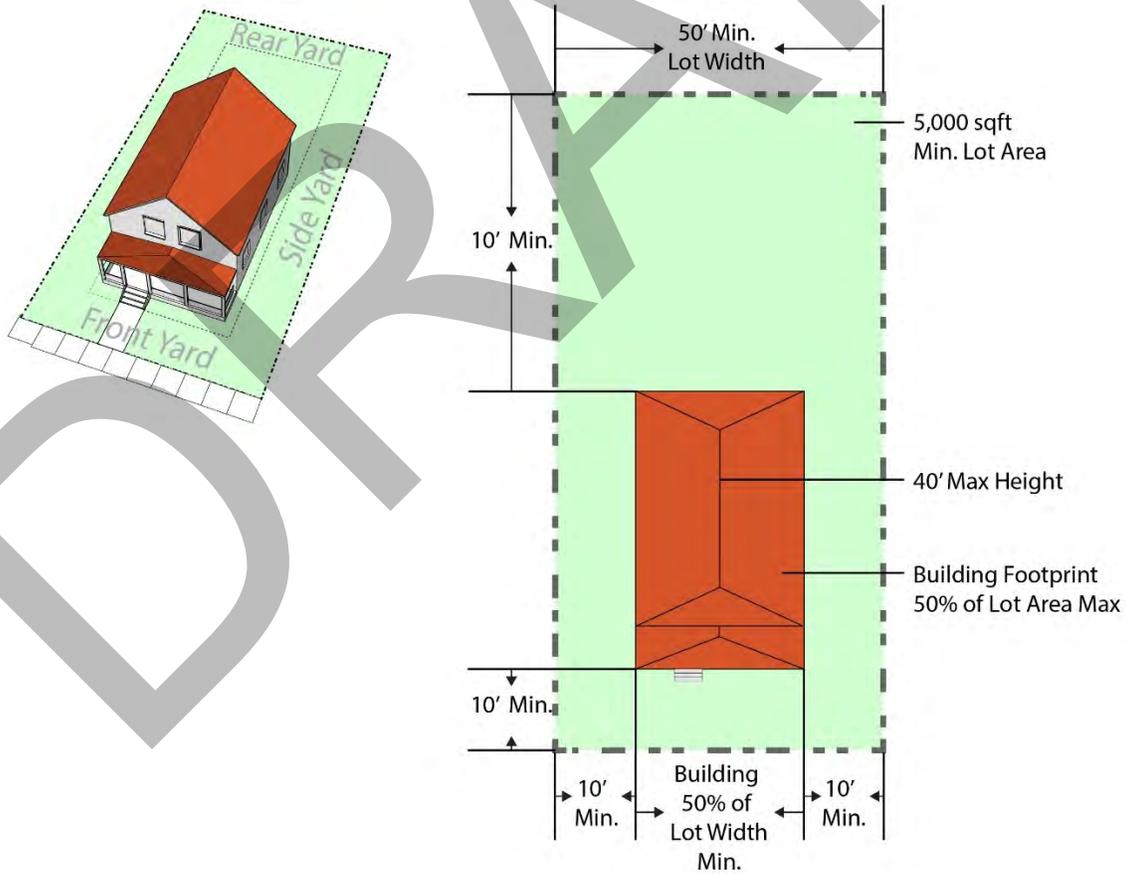
\* Front setback shall be the number of feet specified OR the average setback for all principal buildings within 100 feet on either side of the proposed structure, whichever is smaller.

\*\* The setback of the septic system from the shoreline shall be a distance of 100 feet from the closest part of the system to the mean high water mark.

\*\*\* If public water and sewer service is available and the lot is situated within APA hamlet land use area:  
 One and Two family lots may be 12000 square feet and lot widths may be 80 feet.  
 Land area required for multifamily units is 15000 square feet for three units, plus 3000 square feet for each additional unit  
 If public water is available and public sewer service is not available and the lot is situated within an APA hamlet land use area:  
 Land area required for multifamily units is 22500 square feet for three units plus 5000 square feet for each individual unit.

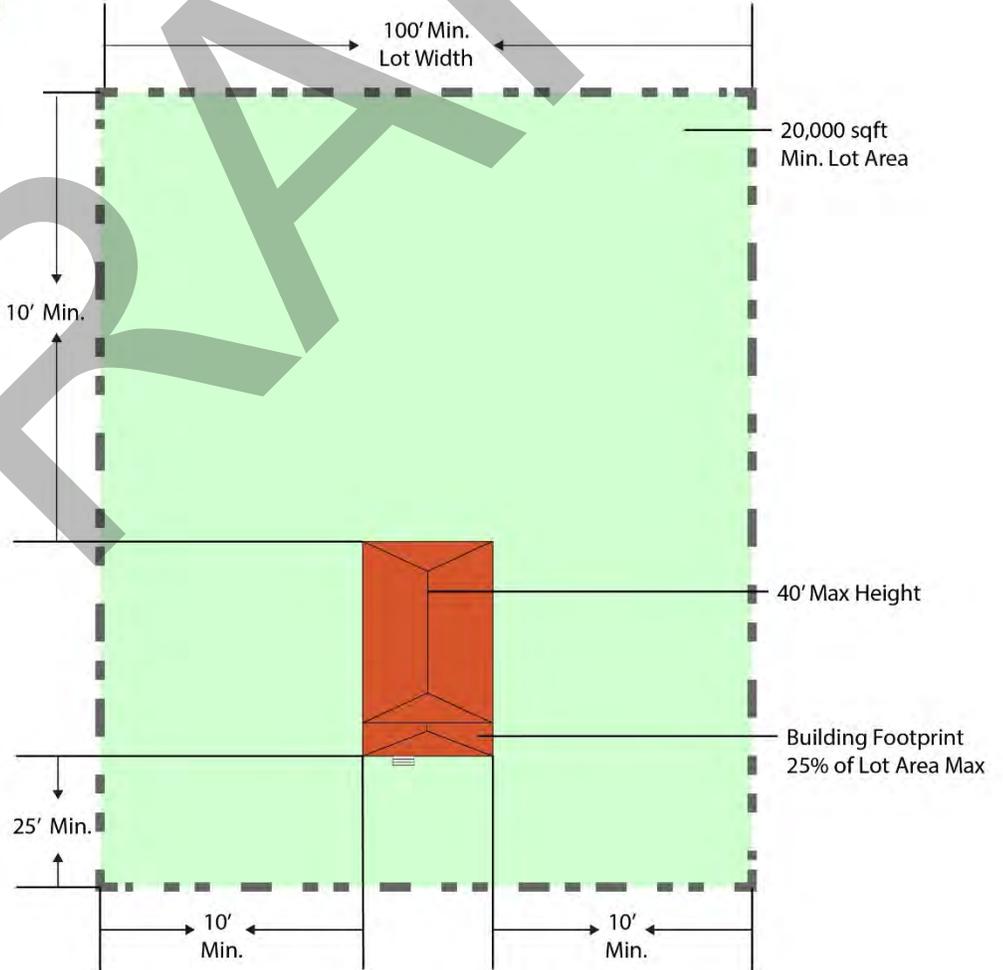
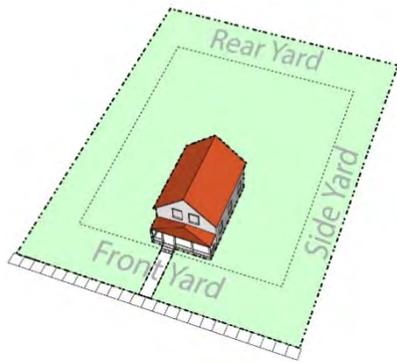
### 3.4.1 High Density Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
High Density Residential	HDR	5000sqft	50	50%	40	10	10	10	1.5	50	50	100	y



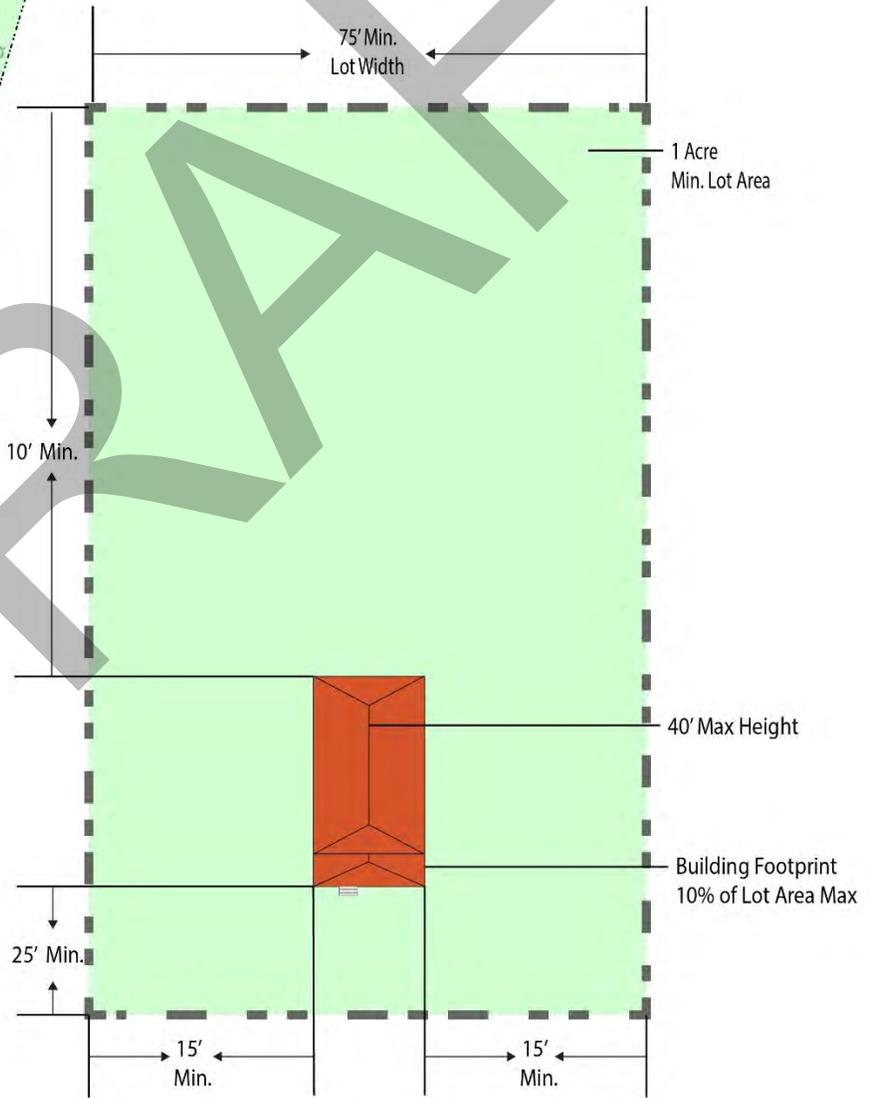
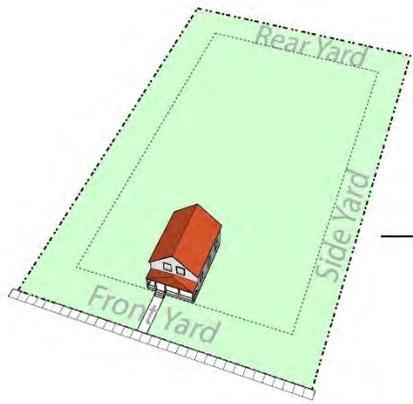
### 3.4.2. High Density Residential Special

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
High Density Residential Special	HDR S	20000sqft ***	100	25%	40	25	10	10	***	50	50	100	



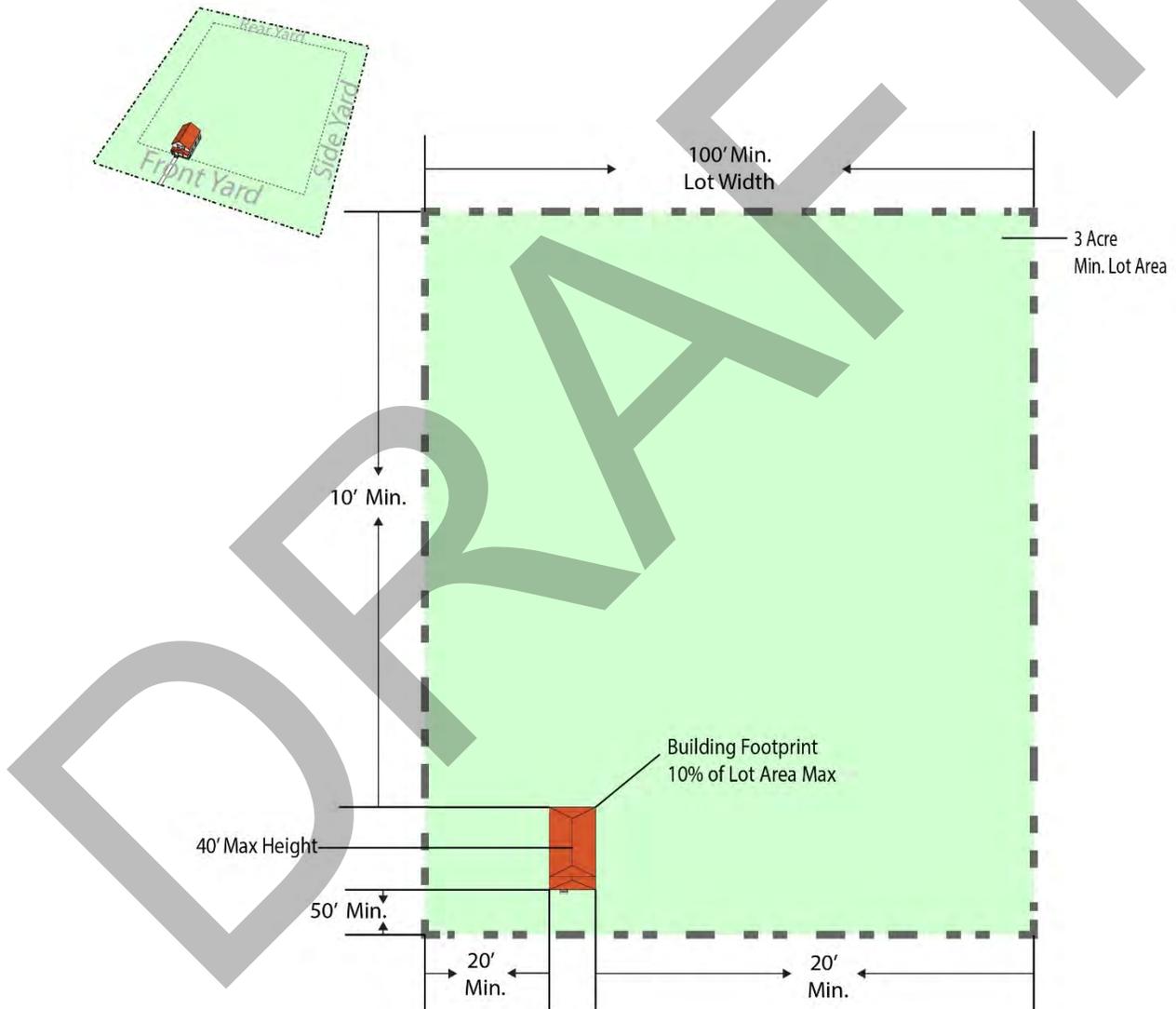
### 3.4.3. Medium Density Residential -R1

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Medium Density Residential	R-1	1acre	75	10%	40	25	15	10	1	100	50	100	



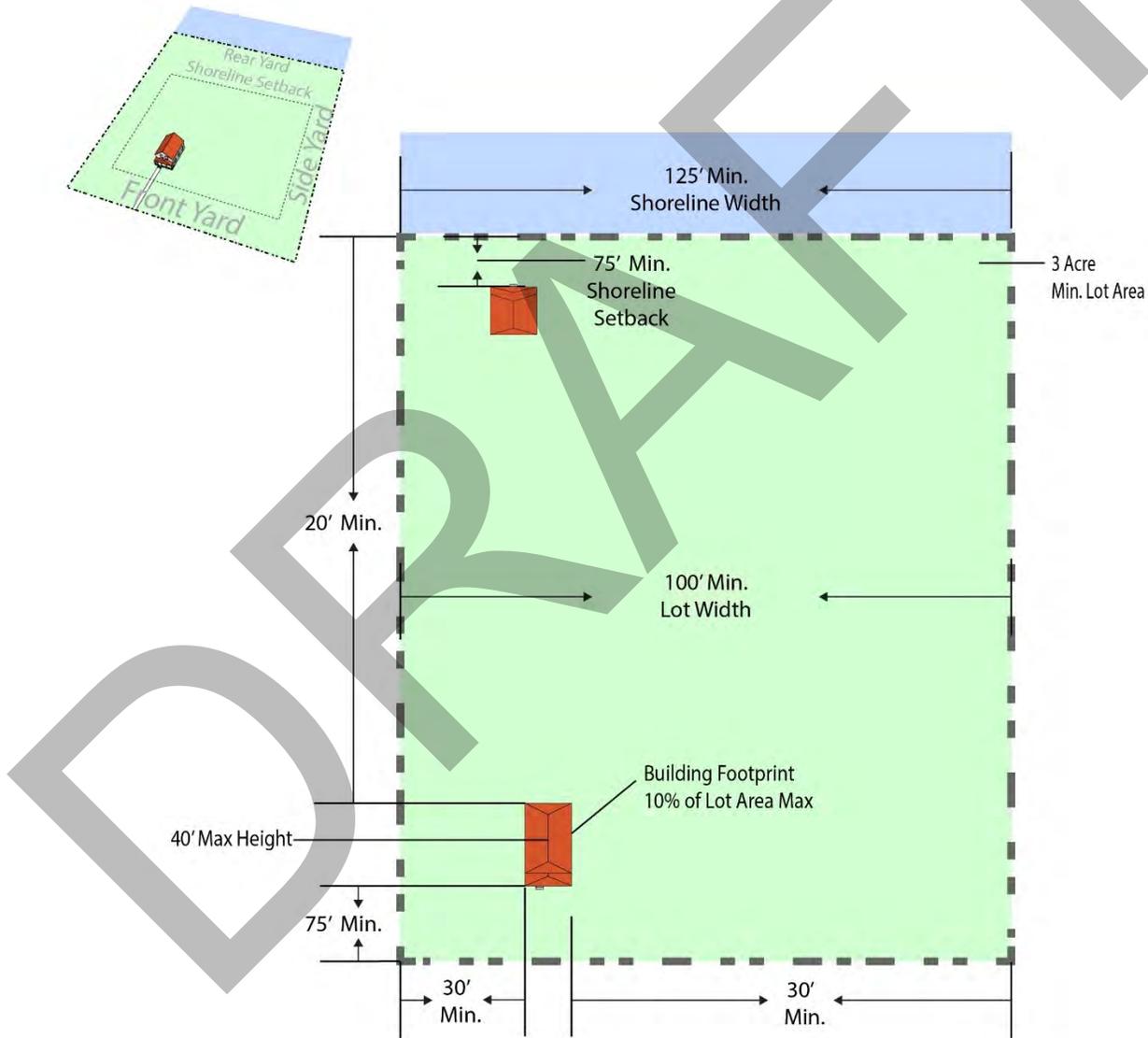
### 3.4.4. Low Density Residential R3

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Low Density Residential	R-3	3acres	100	10%	40	50	20	10	3	125	75	100	



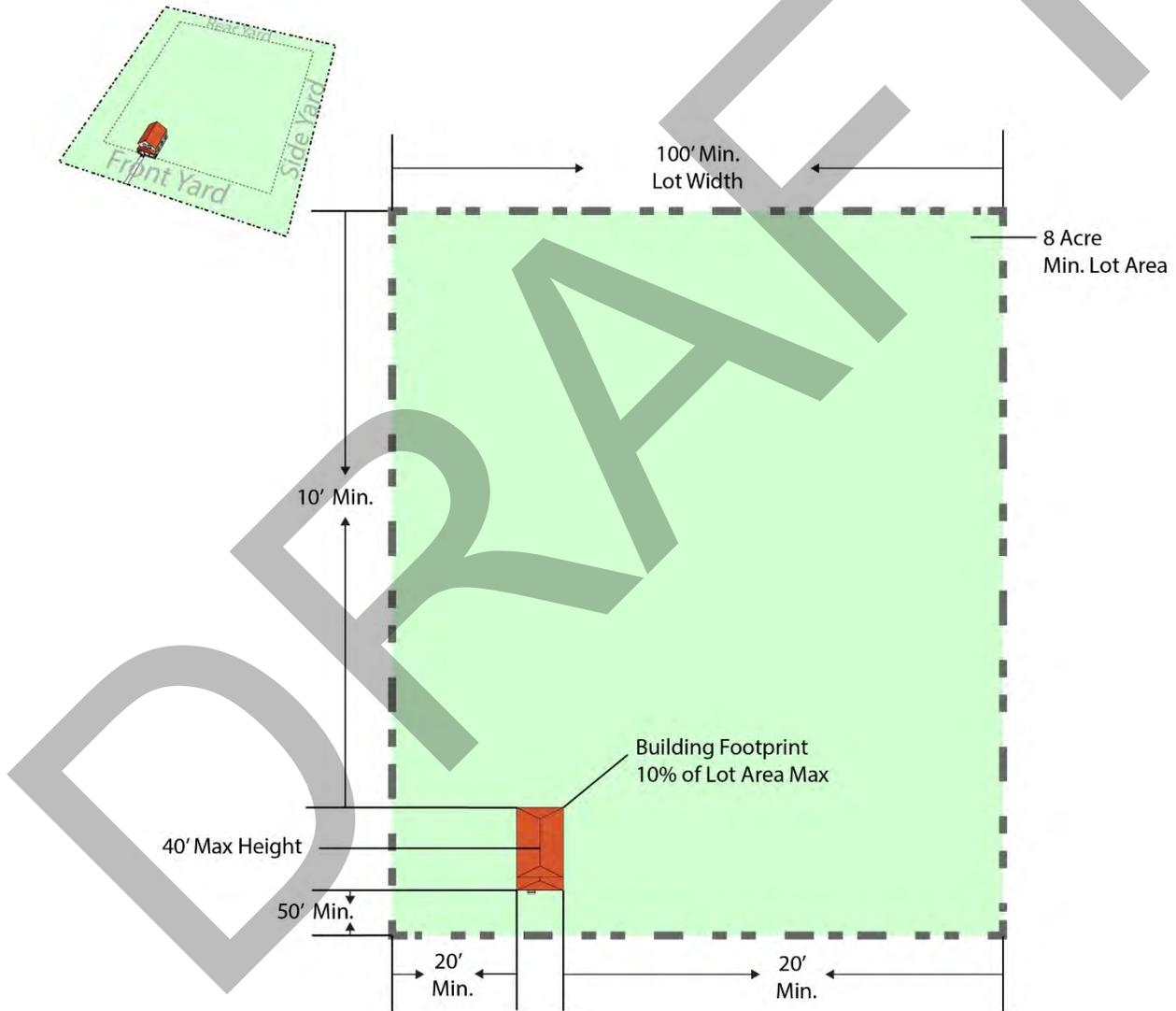
### 3.4.5. Medium Density Shorefront Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Medium Density Shorefront Residential	SR-3	3acres	100	10%	40	75	30	20	3	125	75	100	



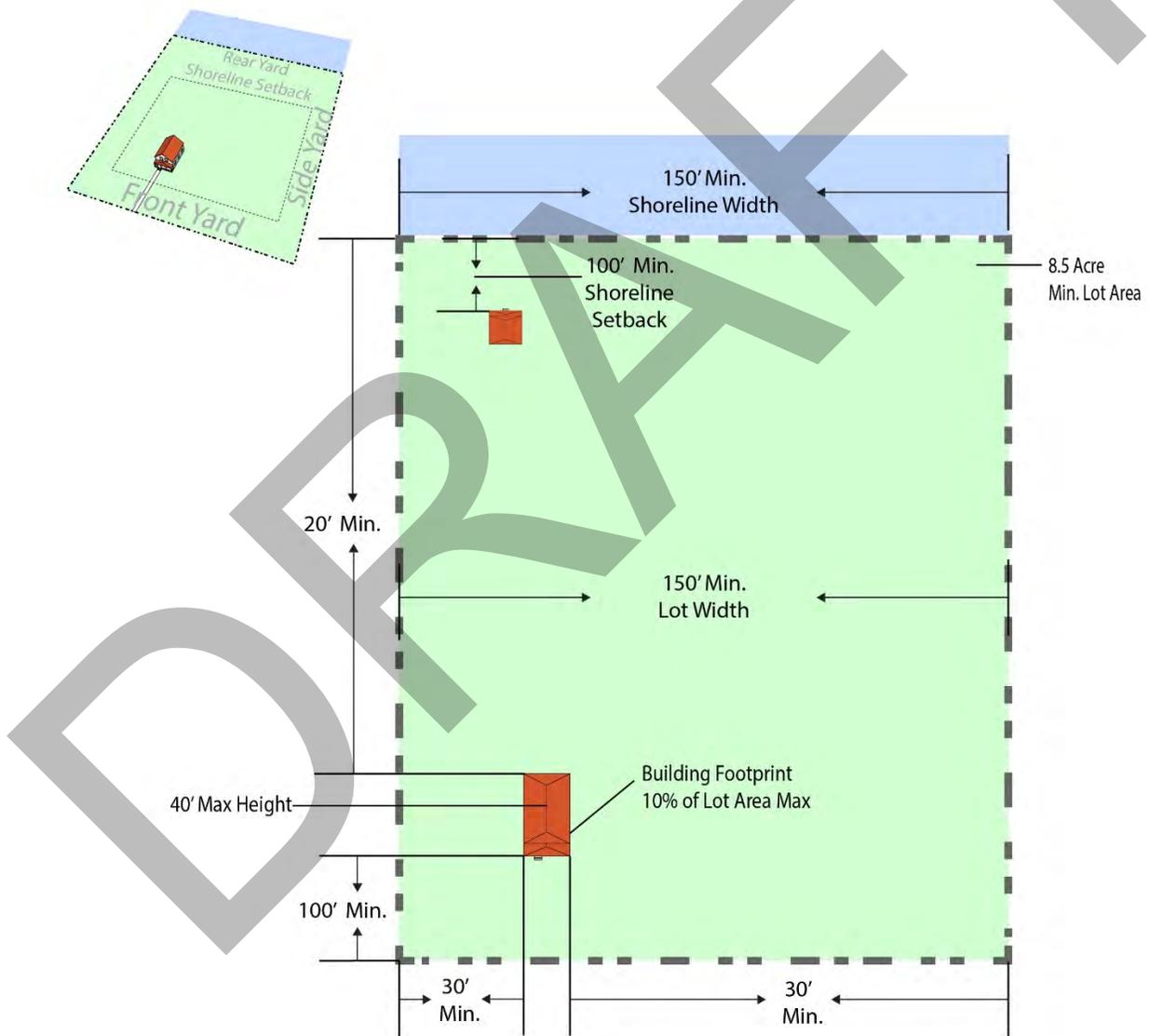
### 3.4.6. Rural Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Rural Residential	R-8	8acres	100	10%	40	50	20	10	8	150	75	100	



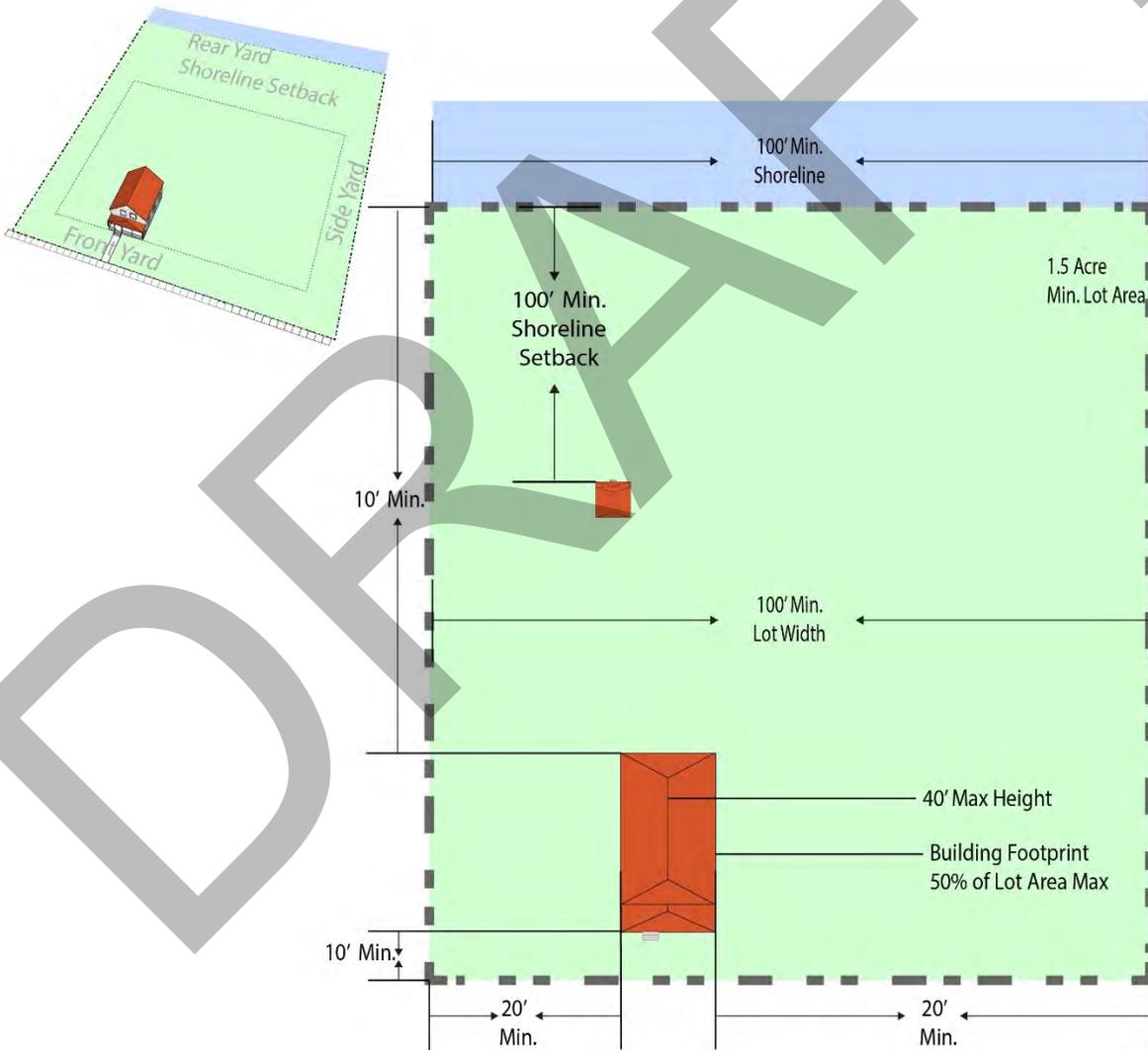
### 3.4.7 Low Density Shorefront Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Low Density Shorefront Residential	SR-2	8.5 acres	150	10%	40	100	30	20	8.5	150	100	100	



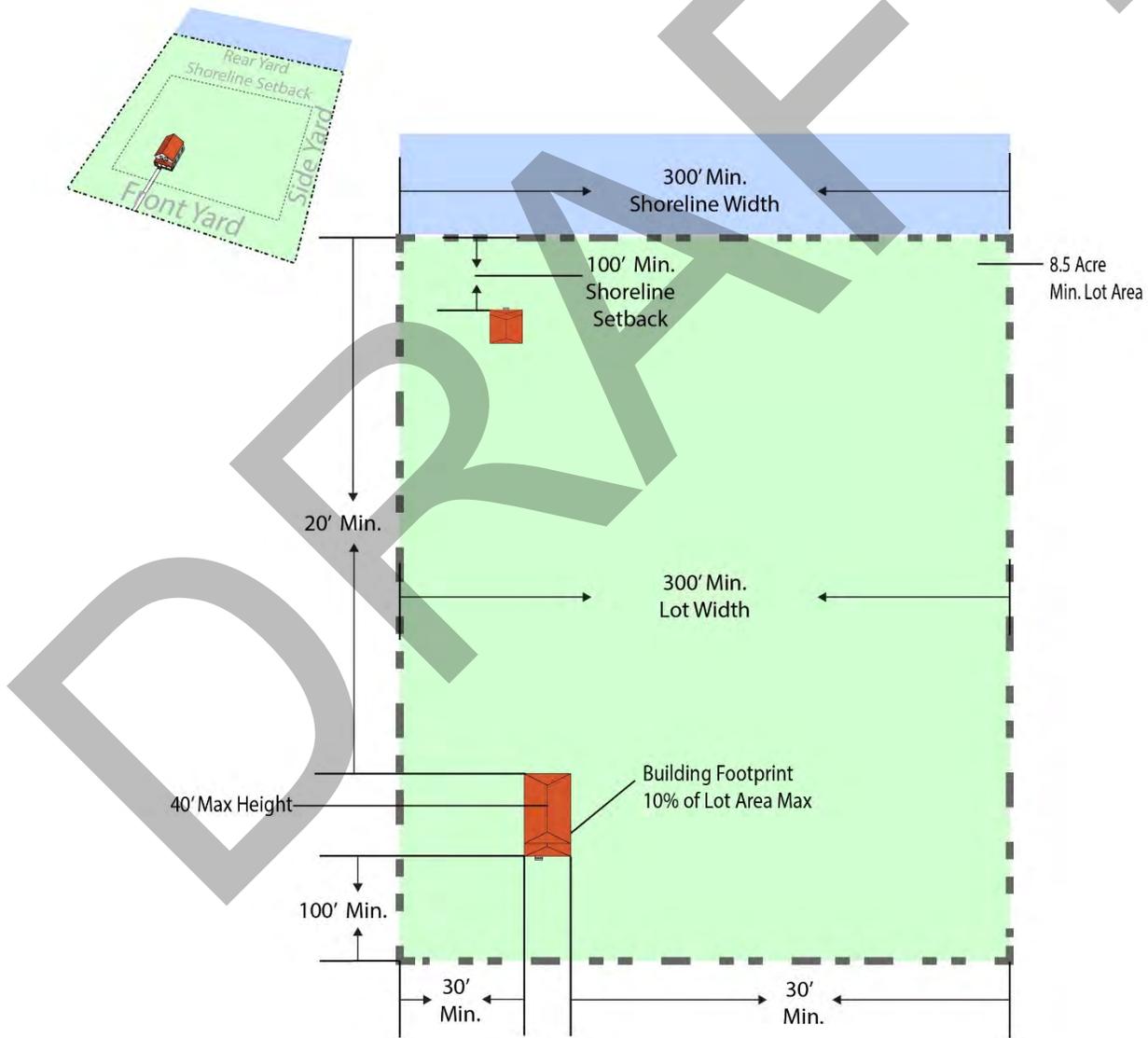
### 3.4.8. High Density Shorefront Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
High Density Shorefront Residential	SR-1	1.5 acres	100	50%	40	10	20	10	1.5	100	50	100	



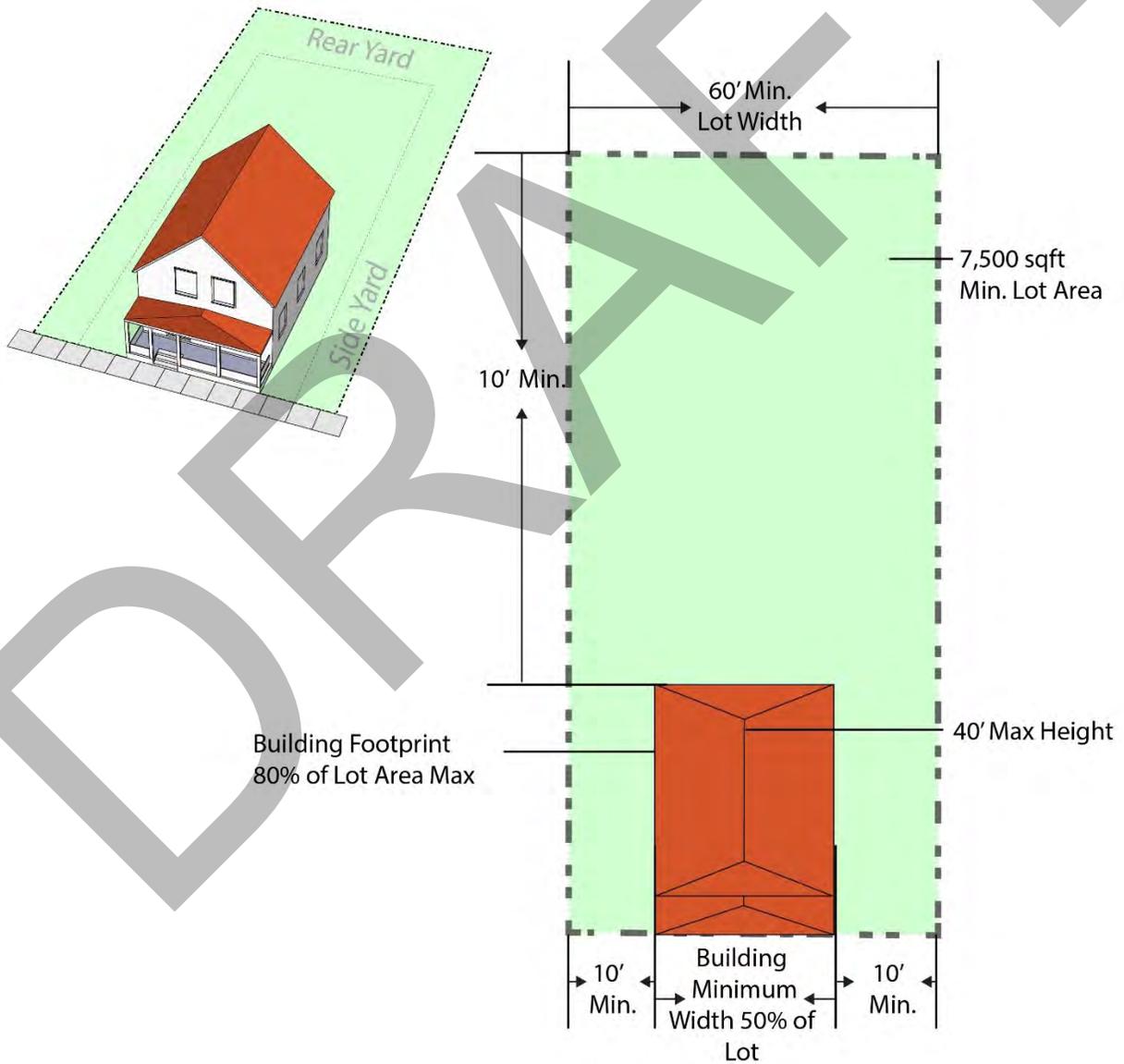
### 3.4.9. Shorefront Preservation Residential

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
Shorefront Preservation Residential	SPR	8.5 acres	300	10%	40	100	30	20	8.5	300	100	100	



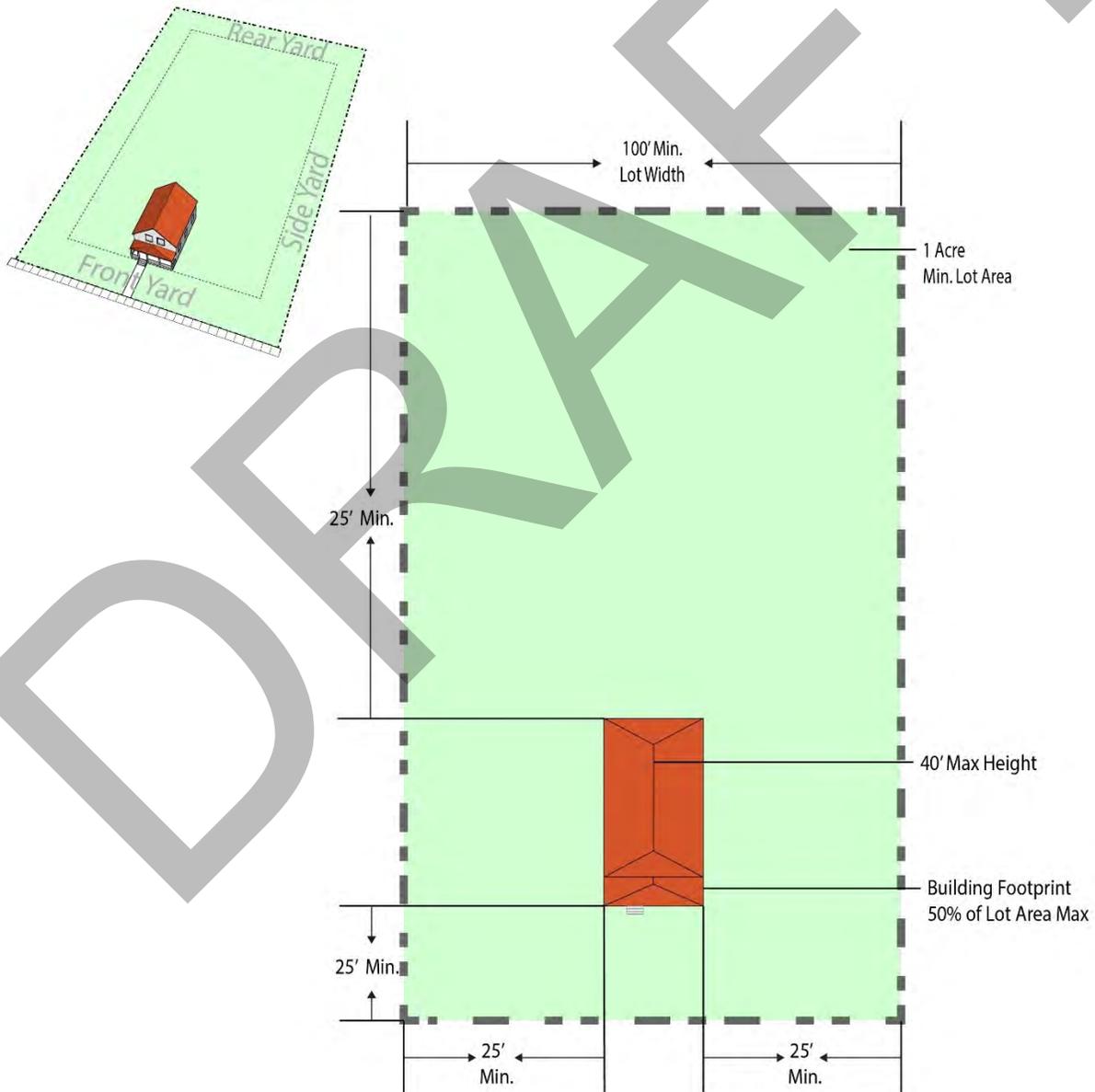
### 3.4.10. Residential Commercial

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
Residential Commercial	RC (Village)	7500sqft	60	80%	40	0	10	10	1.5	150	75	100	y



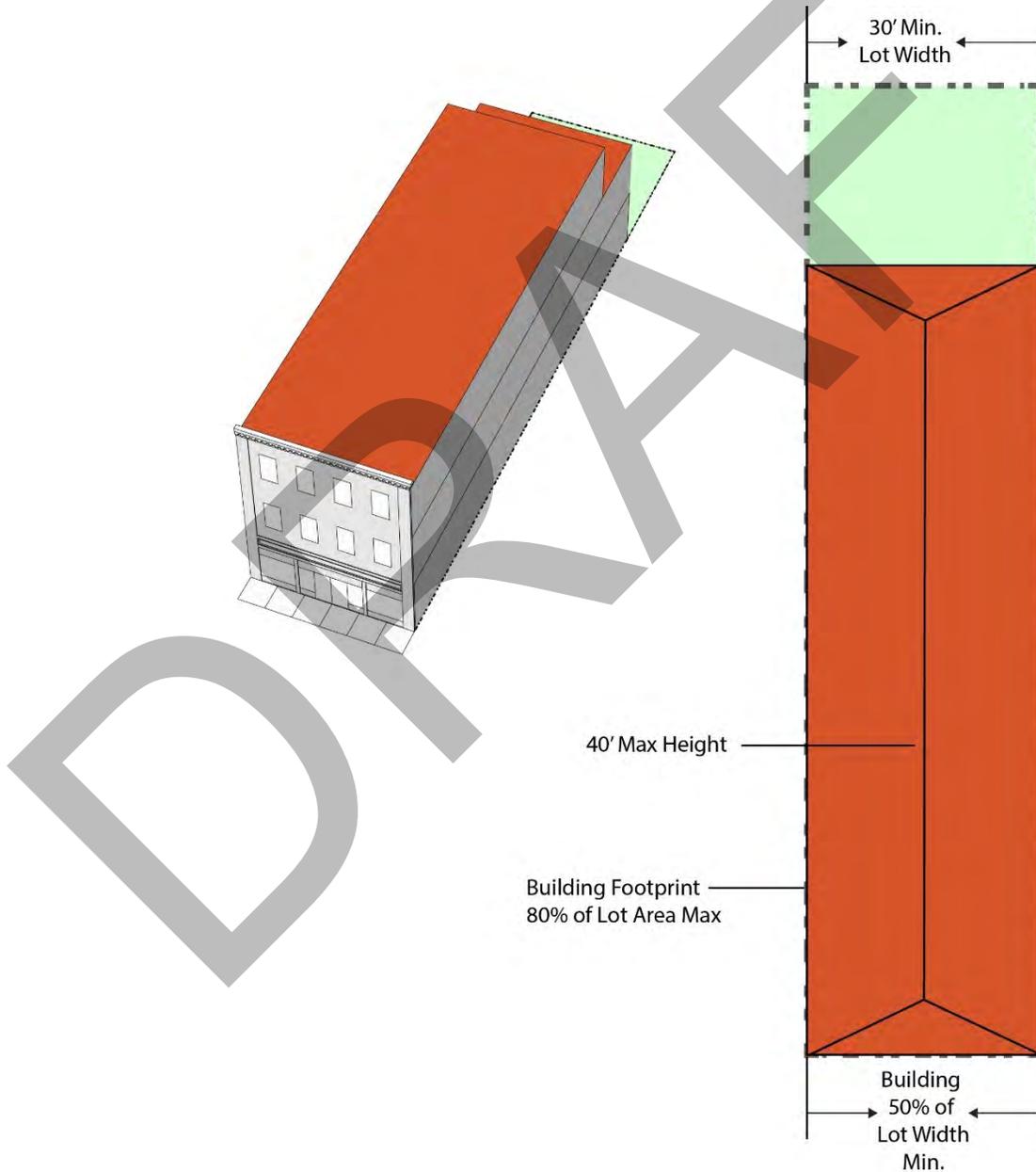
### 3.4.11. Highway Residential Commercial

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
Highway Residential Commercial	HR/C	1acre ***	100	50%	40	25	25	25	1	100	75	100	



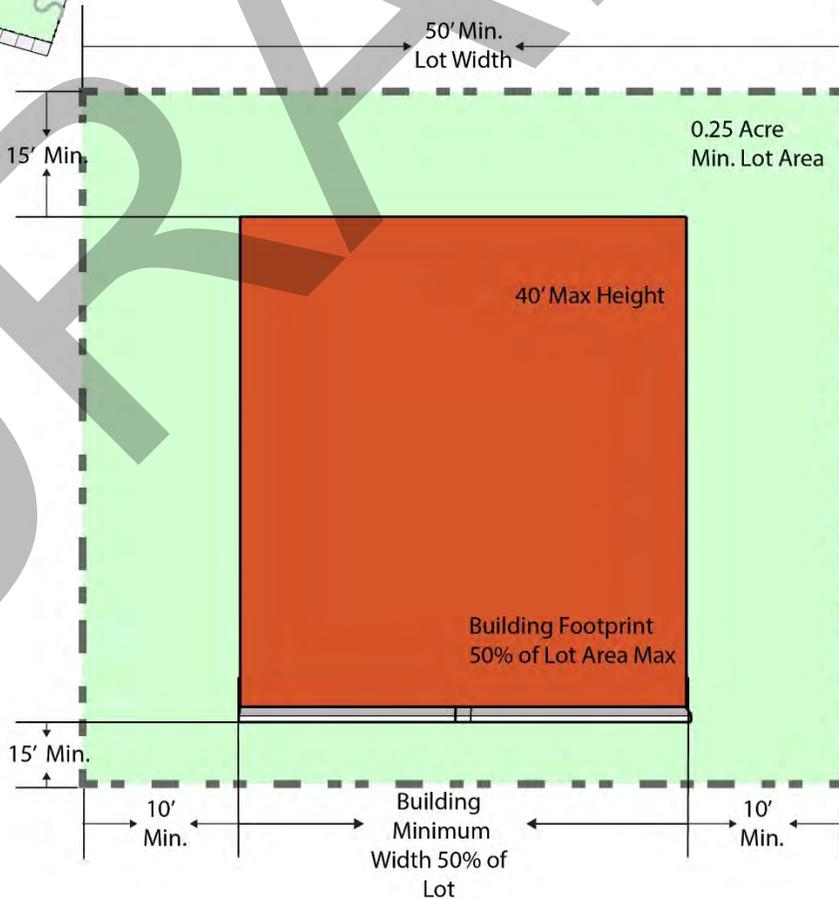
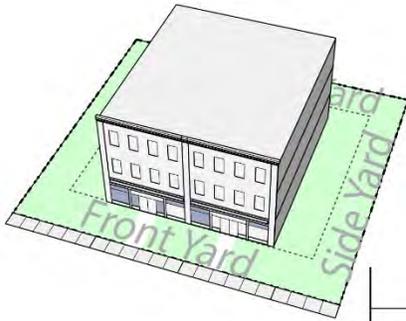
### 3.4.12. Village Center

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
Village Center	VC (Village)	N/A	30	80%	40	0	0	10					y



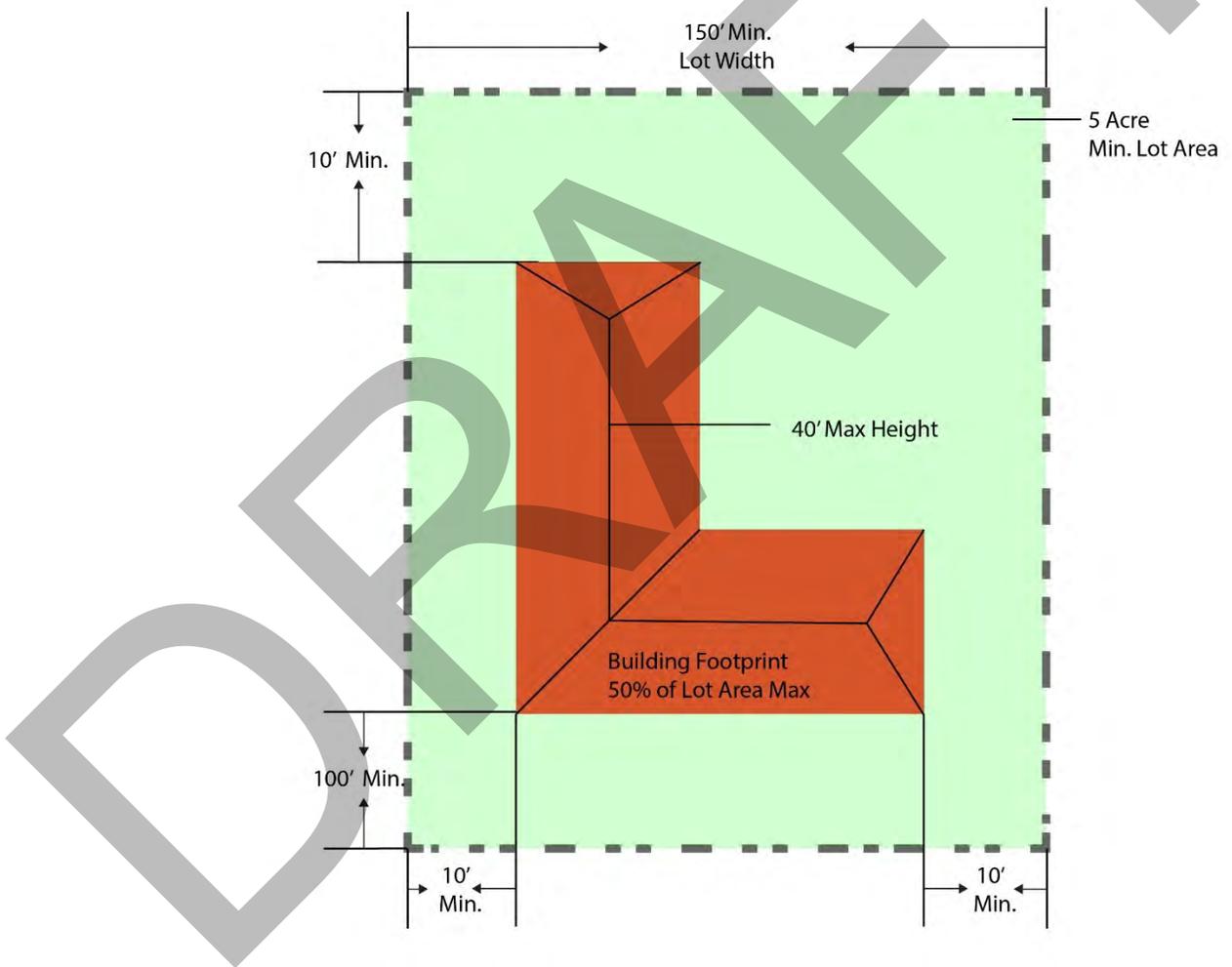
### 3.4.13. Commercial

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Commercial	C (Village)	0.25 acres	50	50%	40	15	10	10	1.5	50	50	100	y



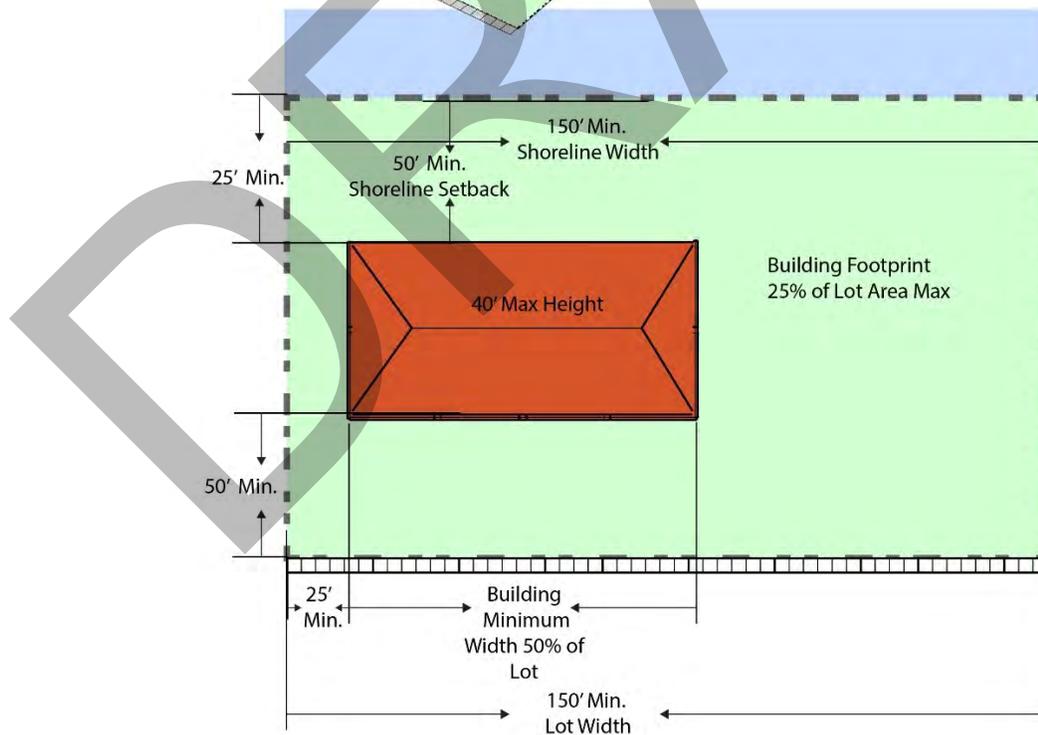
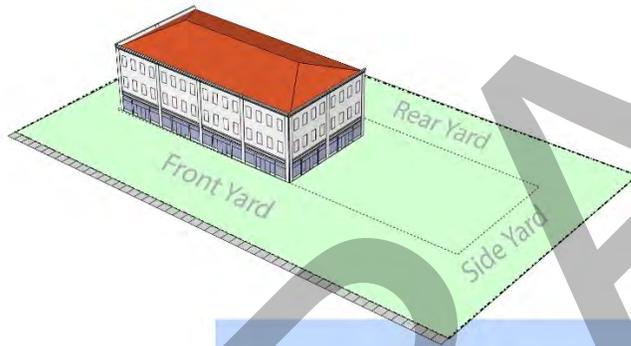
### 3.4.14. Industrial

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Serback (ft)**	50% Frontage buildout required
Industrial	I	5acres	150	50%	40	100	10	10	8.5	100	100	100	



### 1.11. 3.4.15. Shorefront Resort Development

Zone	Abbreviation	Minimum Lot Area	Minimum Lot Width (ft)	Maximum Lot Coverage (Building Footprint)	Maximum Structure Height (ft)	Minimum Front Setback (ft)*	Minimum Side Yard (ft)	Minimum Rear Yard (ft)	Minimum Shoreline Area (acres)	Minimum Shoreline Width (ft)	Minimum Shoreline Structure Setback (ft)	Minimum Shoreline Septic Setback (ft)**	50% Frontage buildout required
Shorefront Resort Development	SRD (Village)	1acre	150	25%	40	50	25	25	2	150	50	100	y
						Public Highway, Street, Road, etc							
						75	25	25					
						State & Federal Highway		****Not shown in Graphic****					



### 3.5. Architectural Overlay District Standards

- A. Purpose: This Overlay District is intended to promote the general welfare of the Village of Tupper Lake through the following goals:
1. To promote the retention of community character through preservation of the local heritage by recognition and protection of historic and cultural resources.
  2. To establish a clear process by which proposed changes affecting historic resources are reviewed by the Joint Planning Board and the Village Board.
  3. To mitigate the negative effects of proposed changes affecting historic resources.
  4. To encourage the continued use of historic resources and facilitate their appropriate reuse.
  5. To discourage the demolition of historic buildings.
  6. To require new infill development, and redevelopment of existing buildings that currently lack historic character, to be compatible with the historic character of the Village.
- B. All exterior alterations and renovations in the Architectural Overlay District shall be reviewed by the Planning Board acting in the capacity of an Architectural Review Board prior to work commencing. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of any property within the Architectural Overlay District, nor shall any person make any change in the exterior appearance of such property, its site, its light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements, without first obtaining a Certificate of Appropriateness or Finding of Economic Hardship from the Architectural Review Board, or upon order of the Code Enforcement Officer, Superintendent of Public Works, or Fire Chief for life safety reasons. Any exterior alteration made in the absence of such required approvals must be reviewed retroactively by the Architectural Review Board, applying the criteria for approval as though the work had not yet been completed. All changes to Village-owned property affecting the Architectural Overlay District shall be subject to the provisions of this ordinance.
- C. The Architectural Review Board shall approve the issuance of a Certificate of Appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of either the individual building, or of the neighboring properties in such district. In making this determination, the Architectural Review Board will be guided by the Secretary of the Interior's Standards for Rehabilitation of Historic Landmarks, and by the following principles:
1. The historic features of any building built before 1930 shall be altered as little as possible from their original design and any alterations made shall be compatible with the historic character of the building.
  2. Distinctive features, finishes and construction techniques or examples

of craftsmanship that characterize a historic structure should be preserved to the extent practicable.

3. To the extent practicable, new additions or exterior alterations visible to the public should not destroy historic materials that characterize the structure. Consideration should be given so that the new work is compatible with the massing, size, scale and architectural features to protect the historic integrity of the structure.
  4. New construction located within the Architectural Overlay District shall be compatible with the historic character of the Village.
  5. In applying the principle of compatibility set forth above, the Architectural Review Board shall consider the following factors:
    - a. the general design and character of the proposed alteration or new construction relative to existing features of the property;
    - b. the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
    - c. texture, materials, and color, and their relation to similar features of the property and other properties in the neighborhood;
    - d. visual compatibility with surrounding properties, including the proportions of the property's façade; proportions and arrangement of windows, doors, and other openings; roof shape; and rhythm of spacing of properties along the street, including set-backs; and
    - e. the importance of historic, physical, and visual features to the significance of the property.
- D. In passing upon an application for a Certificate of Appropriateness, the Architectural Review Board shall not consider changes to interior spaces or to exterior paint colors.
- E. Certificate of Appropriateness Application Procedure.
1. Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner shall file an application for a building permit and an application for such Certificate with the Architectural Review Board. The application, available on the Village's website and through the Village Clerk, shall contain:
    - a. Building permit application
    - b. Name, mailing address, email address, and telephone number of the Applicant;
    - c. Location and photographs of the property;
    - d. Elevation drawings of proposed changes, if available;
    - e. Perspective drawings, including relationship to adjacent properties, if available;
    - f. Samples of building materials to be used, including their proposed color;
    - g. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and

- colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
- h. Any other information that the Architectural Review Board may deem necessary in order to visualize the proposed work.
  2. No building permit shall be issued for the proposed work until a Certificate of Appropriateness has first been issued by the Architectural Review Board. The Certificate of Appropriateness required by this chapter shall be in addition to and not in lieu of any building or other permit that may be required by any other ordinance of the Village of Tupper Lake.
  3. The Architectural Review Board may delegate to the Board's Chairperson the authority to:
    - a. Determine whether proposed work constitutes ordinary maintenance and repair for which a Certificate of Appropriateness is not required;
    - b. Approve work that is considered replacement-in-kind;
    - c. Approve work that is of any other type that has been previously determined by the Architectural Review Board to be appropriate for delegation to the Chairperson.
  4. Waiver of standards. These standards should be applied to projects in a reasonable manner, taking into consideration economic and technical feasibility. The Architectural Review Board shall have the authority to waive one or more standards if they are not practical or are shown to be overly burdensome to the Applicant.
  5. Upon application for a Certificate of Appropriateness, a public notice of the proposal shall be posted by the owner or owner's representative on the property for a minimum of 10 days. This notice must remain in place until a decision to approve or deny the Certificate of Appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.
  6. The Architectural Review Board shall hold a public hearing prior to rendering a decision on any application for a Certificate of Appropriateness. Notice of the public hearing shall be published at least once in the Village's official newspaper at least 5 days prior to the public hearing. Notification shall be mailed by the applicant to all property owners within 500 feet of the affected property. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may

be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record. The record may also contain staff reports, public comments, and other evidence offered outside of the hearing.

7. The Architectural Review Board shall approve, deny, or approve with conditions or modifications the Certificate of Appropriateness within 45 days from the completion of the public hearing, except as noted below. The failure of the Architectural Review Board to act within 45 days from the completion of the public hearing, unless an extension is mutually agreed upon in writing by the Applicant and the Architectural Review Board, shall be deemed to constitute approval.
  8. In the event, however, that the Architectural Review Board shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid 45-day period, then the Architectural Review Board shall have a period of up to 90 days within which to act upon such an application.
  9. In the event, however, that environmental review of an application is required, the Architectural Review Board shall approve, deny, or approve with conditions or modifications the Certificate of Appropriateness within 65 days from the completion of environmental review. The failure of the Architectural Review Board to act within 65 days from the completion of the environmental review, unless an extension is mutually agreed upon in writing by the Applicant and the Planning Board, shall be deemed to constitute approval.
  10. All decisions of the Architectural Review Board shall be in writing. A copy shall be sent to the Applicant by mail, and a copy filed with the Code Enforcement Officer, and Village Clerk for public inspection, within 10 days of the date of the decision. The Architectural Review Board's decisions shall state the reasons for denying or modifying any application.
- F. Expiration of Approval; Extension of Approval if the construction of a project approved for a Certificate of Appropriateness has not commenced within twenty-four (24) months of the date of the approval, such approval shall expire, unless an extension has been granted by the Architectural Review Board following a written request by the Applicant. An application for an extension of Certificate of Appropriateness approval shall not be considered a new Certificate of Appropriateness application.
- G. Criteria for a Finding of Economic Hardship.
1. An Applicant whose Certificate of Appropriateness for a proposed alteration or new construction has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration or new construction, the Applicant shall establish that the denial of a Certificate of Appropriateness will prevent the owner from earning a

reasonable return on investment, regardless of whether that return represents the most profitable return possible. In the case of non-profit ownership, the Applicant shall establish that the denial of a Certificate of Appropriateness will seriously interfere with, or prevent, the owner from carrying out its chartered purpose. In either case the Applicant shall establish that the alleged hardship has not been created by the previous actions or inactions of any person having an ownership or management interest in the property after the effective date of the Architectural Overlay District.

2. Demolition of a structure located within, the Architectural Overlay District that was built before 1930 shall be allowed only in cases of economic hardship, or by order of the Code Enforcement Officer, Fire Chief, or other authorized life safety official.
3. In order to prove the existence of economic hardship sufficient to justify demolition, the Applicant shall establish to the satisfaction of the Architectural Review Board that:
  - a. The denial of the Certificate of Appropriateness will prevent the owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible; and
  - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return on investment; and
  - c. Diligent efforts to find a purchaser interested in acquiring the property and preserving it have failed; and
  - d. The alleged hardship has not been created by the previous actions or inactions of any person having an ownership or management interest in the property after the effective date of the Architectural Overlay District.
4. Or, in the case of non-profit ownership that:
  - a. The denial of the Certificate of Appropriateness will either physically or financially prevent, or seriously interfere with, the non-profit owner carrying out its chartered purpose; and
  - b. The property cannot be adapted for any other use that would result in the non-profit owner being able to carry out its chartered purpose; and
  - c. The alleged hardship has not been created by the previous actions or inactions of any person having an ownership or management interest in the property after the effective date of the Architectural Overlay District.

### **3.6. Design Standards for all buildings in all Zoning Districts**

- A. All principal buildings must be designed to be permanently erected on a permanent foundation and connected to all required utilities.
- B. New construction and/or renovations shall be compatible with local building traditions. Architecture must be compatible with existing commercial building

styles and types. Local representative traditions/styles, which include most of the typical late 19th and early 20th Century styles such as Victorian, Neoclassical, shingle and bungalow styles as well as Adirondack architecture, are allowed.

- C. All principal buildings within the municipal boundary of the Village of Tupper Lake must have principal entrances oriented toward the thoroughfares they face.
- D. All residential development on lots smaller than 1 acre must include a front porch for each single family home or for each unit in a duplex. Townhouses must have a front porch or architecturally articulated stoop. Apartment buildings may have stoops, porches, and/or awnings articulating the main building entrance along the street.
- E. All new buildings must be clad in a material that is at least 1mm thick.
- F. All new buildings on lots less than 20,000 square feet shall be as close to the street as practicable.
- G. Buildings shall include an architecturally articulated entrance facing the street; examples of architectural articulation include awnings, porches, stoops, porticos.
- H. Visible roofing materials should be asphalt or composite shingle, slate, cedar shake or standing seam metal. Colors shall be neutral to dark. Untreated galvanized roofing and highly reflective roofing shall not be allowed.
- I. Single-family dwellings must have a roof pitch of 5:12 or greater
- J. Fenestration. Doors and windows should be balanced in their placement on building facades. Though symmetry is not necessary, a general balance between facade elements is harmonious to the eye. Glass areas per floor should be greater at ground floors than at upper level floors.

### 3.7. Design Standards Specific to Zoning Districts

- A. All new development in the **Village Center District, the Commercial District, and the Residential/Commercial District** is intended to allow for the expansion of the Village in a walkable mixed use format that creates jobs and housing while following the historic precedent of character, block sizes and building rhythm of the Village.
  - 1. All new development in the Park Street Overlay District shall have a minimum height of two stories.
  - 2. Large parcels should be divided using public or private streets where buildings front on streets and shared parking lots are arranged behind and to the side of buildings rather than between buildings and the street.
  - 3. Buildings should be as close to the street as possible, and entries along the street should be as frequent as possible. For example, an apartment building longer than 50' along the street should have a street facing door for each apartment on the ground floor rather than a single shared entrance.
  - 4. Buildings should include an architecturally articulated entrance facing the street; examples of architectural articulation include awnings, porches, stoops, porticos.
  - 5. Buildings should include predominantly vertical proportions. Windows, other than shopfronts, should be taller than they are wide. Columns or other architectural details should divide long walls into vertically oriented

sections.

6. Building roofs should either be articulated and shielded with a detailed parapet wall, or they should be pitched with a similar pitch to local historic building examples.
7. Public facing facades of buildings should be embellished with architectural or decorative detail, windows, columns, doors, and other features that bring visual interest to the street
8. Architectural details shall define the base, middle, and top of a building with a hierarchy emphasizing the base and the top with appropriate detailing

### **3.8. Activities Prohibited in All Zoning Districts**

- A. The practice of soil stripping shall be limited to incidental filling of areas within Tupper Lake to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.
- B. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
  1. Electromagnetic interference from any use must not adversely affect the operation of any equipment located off the lot where the interference originates.
  2. Any activity or the operation of any use that produces glare or heat must be conducted so that no glare or heat from the activity or operation is detectable at any point off-site. Light pollution is not permitted; flickering or intense sources of light must be fully shielded.
  3. No use may emit odors of an intensity and character as to be detrimental to the public health, safety, and welfare. Odors lasting less than 15 minutes for every 24-hour period are exempt.
  4. No use may produce continuous, frequent, or repetitive vibrations that exceed 0.002g peak at up to 50 cycles per second frequency offsite, measured by seismic or electronic vibration measuring equipment, such as an accelerometer. Vibrations from vehicles that leave the site, such as trucks, trains, airplanes, and helicopters, are exempt from this requirement. Vibrations lasting less than five minutes for every 24-hour period are exempt.
- C. No material shall be used for incidental fill on any parcel within Tupper Lake except as such material shall be acceptable, clean fill as defined in 6 NYCRR Part 360.

# ARTICLE 4

## PLANNED DEVELOPMENT DISTRICTS

### 4.1 Intent

The Planned Development District (PDD) procedure provides a flexible land use and design regulation through the use of performance criteria so that development may be matched with sensitivity to the unique characteristics of a particular site, and innovative development techniques may be accommodated that might not otherwise be possible through strict application of existing zoning and subdivision requirements. The conventional use, area, form, materials, bulk, and density specifications set forth by other sections of this Land Use Code are intended to be replaced by an approved Planned Development District for a particular site, which then becomes the basis legislatively established by the Town Board and/or Village Board for detailed design, review and control of subsequent development within the designated site.

Thus, where PDD techniques are deemed appropriate through the rezoning of land to a Planned Development District by the Town Board and/or Village Board, the set of use and dimensional specifications elsewhere in this Land Use Code are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls. While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with the Tupper Lake Land Use Code, municipal service capability, and as otherwise specified in the Land Use Code, shall ensure the general welfare through equal treatment under the law, as well as precise control of all aspects of the Planned Development as approved.

### 4.2 Objectives

In order to carry out the intent of this article, a PDD shall achieve the following objectives:

- A greater choice in the types of environment, types of housing and dwelling unit types, lot sizes and community facilities available to existing and potential Town and/or Village residents at all economic levels.
- More usable open space and recreation areas.
- The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
- A creative use of land and related physical development which allows an orderly transition of land from rural to village uses.
- An efficient use of land resulting in smaller networks of utilities and streets and thereby lower costs.
- A development pattern in harmony with the objectives of the Comprehensive Plan.
- A more desirable environment than would be possible through the strict application of other articles of this Land Use Code.

### 4.3 General Criteria

The legislative determination to establish a Planned Development District shall be based upon the following standards:

- A. *Location*: A Planned Development District may be established at any location within the Town and/or Village if the objectives and provisions of this Local Law are satisfied as determined by the Town Board and/or Village Board, as applicable.
- B. *Development Area*: The minimum development area required to qualify for a Planned Development District shall be twenty (20) contiguous acres of land, and/or shall include at least two zoning districts. Where the applicant can demonstrate that the characteristics of the applicant's holdings will meet the objectives of this article, the Town and/or Village Board may consider projects with less acreage. The calculation of such land area shall not include existing streets, easements, parks or otherwise dedicated land or water areas in excess of five percent (5%) of the minimum gross acreage, lands designated on the official map for public purposes, or lands undevelopable by reasons of topography, drainage, periodic inundation by flood waters or adverse sub-soil conditions. Sites proposed for development for two or more use classifications shall consist of the aggregate of the gross land areas required for each use.
- C. *Ownership*: The tract of land proposed to be a Planned Development District may be owned, leased or controlled either by a single person or a corporation or limited liability company or by a group of individuals or corporations or limited liability companies. An application must be filed by the owner(s) or contract vendee(s) or jointly by the owner(s) and contract vendee(s) of all property included in the project. In the case of multiple ownership, the approved plan and all amendments shall be binding on the contract vendee and all owners and all successors in title and interest.
- D. *Permitted Uses*: Any use may be permitted within an area designated as a Planned Development District subject to the provisions of this section and the conditions of approval of the Planned Development District concerned, if any. For a Planned Development District involving mixed uses the following uses may be permitted if they are appropriate and compatible with the surrounding uses:
  - 1. Residences may be of any variety of type and density as appropriate within the intent and objectives of this Planned Development District section;
  - 2. Private garages, storage spaces, recreational and community facilities shall be permitted as appropriate within the Planned Development District;
  - 3. Recreational and open space uses shall be planned to serve the residents or permitted users of the lands within the Planned Development District and, when appropriate, the surrounding community or as a regional tourist attraction;
  - 4. Commercial, service and other non-residential accessory uses may be permitted or required where such are scaled to serve the residents and permitted users of the lands within the Planned Development District and, when appropriate, the surrounding community or as a regional tourist attraction, and;

5. Commercial, service, industrial and other non-residential uses may be permitted as principal uses if such uses are integral to the design and intent of the Planned Development District and if such uses are supportive of the Planned Development District and the surrounding community and, where appropriate, serve as a regional tourist attraction in terms of design, character and work force, and if such uses are consistent with the Tupper Lake Land Use Code. Consideration shall be given to such uses as currently exist on the property in its community setting to determine the appropriateness of any such uses.
- E. *Intensity of Land Use*: The intensity allowed within the Planned Development District shall be as determined by the approved Planned Development District site plan except that in no case shall the overall intensity of the Planned Development District exceed the amount of development potential of the applicable Adirondack Park Agency Land Use Intensity Zones, with allowed bonuses for clustering, in which the Planned Development District is situated. The conventional use, area, bulk and density requirements of the zoning districts of the Tupper Lake Land Use Code in which the lands within the Planned Development District are situated shall not apply to the lands within the Planned Development District.
  - F. *Common Property*: Common property in a Planned Development District is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners, occupants and permitted users of the Planned Development District lands. The ownership of such common property may be public or private. When common property exists in private ownership, management structure and satisfactory arrangement for payment of appropriate user fees and charges can be required for the improvement, operation and maintenance of such common property and facilities, including improvements such as private streets, drives, services, parking areas and recreational and open space areas.
  - G. *Public Benefits*: What the proposed district would offer to the Town, Village, or the community at large.

#### **4.4 Approval Procedure**

In its review and approval of applications to create Planned Development Districts, the Town and/or Village shall assure compliance, if required, with the provisions of the State Environmental Quality Review Act and its implementing regulations.

- A. *Application requirements*: Application for establishment of a Planned Development District shall be made in writing to the Town Board and/or Village Board, as applicable, and shall be accompanied by the applicable fee in accordance with the fee schedule established and periodically reviewed by the Town Board and/or Village Board, as applicable. Whenever any Planned Development District is proposed, before any permit for the erection of a permanent building in such Planned Development District shall be granted, and before any subdivision plat of any part thereof may be filed in the office of the Franklin County Clerk, the applicant shall apply for and secure approval of such Planned Development District by the Town Board and/or Village Board, in accordance with the following procedures:

1. The Applicant shall submit a sketch plan of the application to the Town Board and/or Village Board, as applicable. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and shall clearly show the following information:
    - a. The location of the various uses and their areas in acres.
    - b. The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
    - c. Delineation of the various areas indicating for each such area its general extent, size and composition in terms of type of use; in the case of nonresidential uses, the nature of the proposed use and its intensity; in the case of residential use, total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, apartments); and general description of the intended market structure for each such area.
    - d. The interior open space system.
    - e. The overall drainage system.
    - f. If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion, flooding and/or ponding, a topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining the above susceptible soil areas, if any.
    - g. Principal ties to the community at large with respect to transportation, water supply and sewage disposal, and other utilities.
    - h. General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
    - i. A location map showing uses and ownership of abutting lands.
  2. In addition, the following documentation shall accompany the sketch plan:
    - a. Evidence of how the applicant's particular mix of land uses meets existing community demands to include area-wide as well as local considerations.
    - b. Evidence that the application is compatible with the goals of local and area-wide Comprehensive Plans, if any.
    - c. A general statement as to how common open space is to be owned and maintained.
    - d. If the development is to be phased, a general indication of how the phasing is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project.
    - e. Evidence of the Applicant's capacity to carry out the plan and the Applicant's awareness of the scope of the application, both physical and financial.
- B. *Advisory referral to Planning Board:* The Town Board and/or Village Board shall refer the application to the Joint Planning Board for review and recommendation in a nonbinding advisory report within sixty (60) days of the date of completed application. The review at this stage is intended to obtain the input of the Planning Board on the application. It is not intended to serve as a site plan or subdivision review, which would only occur after a decision by the Town Board and/or Village Board on the PDD request. Any referral of a Planned Development District zoning amendment by the Town Board and/or Village Board to the Planning Board for recommendation shall include a referral to the Planning Board of the open development area pursuant to the terms of Town Law Section 280-a(4).

1. The Planning Board will schedule a public workshop on the application, which may be conducted as part of its regularly scheduled meeting. The intent of the workshop is to share information between the Applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board and/or Village Board later in the review process.
2. Within 60 days of receipt of the Application from the Town Board and/or Village Board, the Planning Board will prepare an advisory report to the applicant and the Town Board. The Planning Board's report will describe the beneficial aspects of the proposal and make recommendations for the amelioration of any adverse aspects of the proposal. The Planning Board's report and the application will then be transferred back to the Town Board and/or Village Board, as applicable, for its final decision on the application.
3. In its review of the application, the Planning Board shall consider the application materials described in Section A and among other factors, the following:
  - a. the need for the proposed land use or uses at the proposed location,
  - b. the existing character of the neighborhood in which the use or uses would be located,
  - c. the location of principal and accessory buildings on the site in relation to one another,
  - d. the pedestrian circulation and open space in relation to structures,
  - e. the traffic circulation features within the site and the amount, location and access to automobile parking areas,
  - f. the quantity and quality of public benefits provided,
  - g. utilities,
  - h. height and size of buildings,
  - i. signs,
  - j. driveways,
  - k. impact(s) on neighbors, and
  - l. exterior lighting within the development.
4. The Planning Board may recommend at this stage such changes in the proposed Planned Development District plan that it deems necessary to protect established or permitted uses in the vicinity, promote and protect the orderly growth and sound development of the Town and/or Village and otherwise meet the requirement of this Land Use Code.
5. The Planning Board shall recommend approval, approval with modifications, or disapproval by the Town Board and/or Village Board of such Planned Development District application and shall report its findings to the Town Board and/or Village Board within sixty (60) days following the receipt of the completed application referred by the Town Board and/or Village Board and a Public Hearing. In the event the Planning Board does not make such report within said sixty (60) day period, the application shall be deemed recommended.

*C. Town Board and/or Village Board Action:*

1. Upon receipt of the advisory report from the Planning Board, the Town Board and/or Village Board, as applicable, shall set a date for and conduct a public hearing, in accordance with the provisions of applicable law, for the purpose of considering establishing a PDD for the applicant's plan.
2. The Town Board and/or Village Board shall refer the application to the Superintendent of Public Works for their review.

3. The Superintendent of Public Works shall submit a report to the Town Board and/or Village Board within 30 days of the referral, commenting on and making appropriate recommendations as to the feasibility and adequacy of the design elements of the application.
4. Within 45 days after the public hearing, the Town Board and/or Village Board, as applicable, shall render its decision on the application. If the Town Board grants the Planned Development District, the Zoning Map shall be so noted. The Town Board and/or Village Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening; land use mixes; order of construction and/or occupancy; circulation systems, both vehicular and pedestrian; necessity of sites within the area for necessary public services such as schools, firehouses and libraries; protection of natural and/or historic sites; and other such physical or social demands.
5. Any Planned Development District approved by the Town Board and/or Village Board shall also be deemed an "open development area" for purposes of Town Law Section 280-a. in the event any lot or building is not on a public street or highway, in order to provide access from public roads to development parcels within the Planned Development District via easement or right of way.

D. *Relationship to Other Requirements:* Upon approval of the Planned Development District by the Town Board and/or Village Board, application shall be made within sixty (60) days for approval of all or some portion of the intended development, in accordance with the more specific review requirements of the Town's Subdivision Regulations (including, but not limited to the requirements found in Article 6), the Site Plan review and approval procedure contained in Article 5, and other applicable regulations.

E. *Financial security.* No building permits shall be issued for construction within a PDD district until improvements are installed or a performance bond or letter of credit posted in accordance with the same procedures as provided for in § 277 of the Town Law and § 7-730 of the Village Law relating to subdivisions. Other such requirements may also be established from time to time by the Town Board and/or Village Board.

F. Additional performance requirements which may have been specified by the Town Board and/or Village Board in its Planned Development District approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, shall also be strictly enforced, with the Town Board and/or Village Board acting to return the property to its prior zoning classifications unless the Town Board and/or Village Board, upon specific application and for good cause authorizes an extension of such performance requirement.

#### **4.5 Effect of Development Conditions**

All conditions imposed by the Town Board and/or Village Board, as applicable, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and

shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said site. Such conditions shall further be a part of any Certificate of Occupancy or Use issued for any use or structure in such development.

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# ARTICLE 5

## SITE PLAN REVIEW

### 5.1. Intent

The purpose of Site Plan Review is to provide for the review and approval of development plans to ensure that land development occurs in harmony with surrounding uses without adversely impacting neighboring parcels, property values, public facilities, infrastructure, or the natural environment. Site Plan Review allows for discretionary review of the site configuration and architectural design of projects which, due to their magnitude, are more likely to have significant impacts on their surroundings.

### 5.2. Planning Board Authorization

- A. The Planning Board is hereby charged with carrying out the review and approval functions provided for in Town Law § 274-a and Village Law § 7-725-a: to review and approve, approve with modifications and conditions, or disapprove site plans. Prior to issuing a building permit for the construction or expansion of any use as specified in Table 1: Use Regulation, a Site Plan and supporting documentation shall be submitted to the Planning Board for its review and approval.
- B. No building permit shall be issued for any proposed improvements that would be in violation of use restrictions, required setbacks, building coverage limits or any other provisions of this Ordinance. Any change of use of an existing structure to a use that requires Site Plan approval shall be subject to the requirements of this article.
- C. Submission of a development review application authorizes the Planning Board, Code Enforcement Officer, or any Village or Town Official they may designate to enter the property for the purpose of inspection and enforcement of the Zoning, building, and health laws.

### 5.3. Applicability

- A. In addition to uses specified in Article 3, Table 1, Site Plan Review is required prior to a change in use or building permit being issued for any development project which meets or exceeds the below thresholds:
  - 1. New construction of a principal building of at least 5,000 square feet in gross floor area, except in a case that involves the construction of only a single-unit dwelling or a two-unit dwelling.
  - 2. A 2,500 square foot or more increase in gross floor area to an existing principal building, except in a case that involves the construction of only a single-unit dwelling or a two-unit dwelling.
  - 3. Substantial renovation of any principal building which is at least 10,000 square feet in gross floor area.
  - 4. Substantial facade alteration to the front or corner side facades of a principal building, other than a single-unit or two-unit dwelling.
  - 5. New construction or reconstruction of a parking facility larger than six parking spaces.
  - 6. The demolition of a principal building in the Village Center Zone.

7. New construction or substantial renovation of any principal building in the Industrial zone.

#### **5.4. Waiver of Requirements**

When considering a proposed site plan, whether it is a sketch plan, preliminary site plan, or final site plan, the Planning Board may waive one or more items or design details of the plan that are otherwise normally required under Section 5.5 or 5.6 to be shown on the plan, if at its discretion it determines that the lack of such information is not a hindrance to its consideration of the proposed site plan.

#### **5.5. Preliminary Site Plan Review**

A. Preliminary Review (sketch plan) with the Planning Board shall precede the submission of a detailed site plan. The purpose of the Preliminary Review is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required in the detailed site plan. A Preliminary Review will be scheduled at the next Planning Board meeting after the Code Enforcement Officer deems the sketch plan materials are complete. The Planning Board may, in appropriate cases, waive further Site Plan Review based upon the information provided in the sketch plan after review of the same.

B. The Planning Board Preliminary Review of the Site Plan (sketch plan) shall include, but is not limited to, the following considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation.
2. Location, arrangement and sufficiency of off-street parking and loading.
3. Location, arrangement size and design of buildings, lighting and signs.
4. Relationships of the various uses to one another and their scale.
5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent use and adjoining lands.
6. Adequacy of storm water and sanitary waste disposal.
7. Adequacy of structures, streets, and landscaping in areas susceptible to flooding and ponding and/ or erosions.
8. Compatibility of development with natural features of the site and with surrounding land uses.
9. Adequacy of flood-proofing and prevention measures consistent with the Flood Damage Prevention Law.
10. Stormwater Pollution Prevention Plan (SWPPP), as required by law.
11. Adequacy of building orientation and site design for energy efficiency.
12. The extent to which the proposed plan conserved energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
13. Adequacy of open space for informal, passive recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
14. Adequacy of pedestrian access circulation convenience and safety.

C. Referrals

At its sole discretion, the Planning Board may consult with agencies or

individuals, including but not limited to the Code Enforcement Officer, Town or Village Superintendent of Public Works, Town or Village Fire Chief, Franklin County Soil and Water Conservation District, County of Franklin Industrial Development Agency, Franklin County Ag & Farmland Protection Board, Franklin County Emergency Services, and other local and county officials, in addition to representatives of federal and state agencies including the USDA Natural Resource Conservation Service (NRCS), the New York State Department of Transportation (NYSDOT), and the New York State Department of Environmental Conservation (NYSDEC), the New York State Open Space Regional Advisory Committee (RAC), and the Adirondack Park Agency (APA). Consultation where fees are involved requires approval by the Village Board. These fees shall be borne by the Applicant.

D. Fees

1. Upon formal submittal of an application, any applicable fees must be paid in accordance with the Village or Town fee schedule, as applicable.

E. Preliminary Review Submission Requirements

1. The Applicant must submit two (2) paper copies and one digital (PDF) of a completed Development Review Application form and a sketch plan on a location map (e.g., tax map) showing:
  - a. boundaries and dimensions of parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and streets;
  - b. approximate location of all existing structures on or immediately adjacent to the site;
  - c. existing features of the site including water bodies, on-site wastewater or sewer systems, water systems or wells, storm water control systems, power and communication utilities; and
  - d. tentative location and arrangement of proposed structures and uses, distances of proposed structures from property lines, proposed means of ingress and egress, parking areas and traffic circulation and other information which may be necessary to generally describe the project.

2. Incomplete Application

The Planning Board may, at its option, determine that an application lacks information necessary to determine compliance with approval standards and find an application incomplete. The Applicant may resubmit an application which overcomes the reason(s) for incompleteness. The determination of incompleteness shall be in the form of written findings which state the reason(s) for the decision.

F. Planning Board Review

At the Preliminary Review the Planning Board shall discuss with the Applicant the applicable requirements of the Land Use Code, identify potential problems concerning the project, suggest possible modifications which may be necessary to obtain Site Plan approval, and describe what additional information should be submitted with a Final Site Plan.

G. Public Hearing

1. Upon the Planning Board's certification that the preliminary site plan application is complete and satisfactory, the Planning Board may hold a public hearing, which shall be conducted within sixty-two (62) days from the day the site plan materials are deemed complete.
2. In determining whether a public hearing is necessary, the Board shall be guided by the expected level of public interest in the project.
3. Applicants may request a Public Hearing. When an Applicant requests a Public Hearing, no Site Plan Review may be disapproved without such a hearing.
4. The Applicant shall be informed of the Public Hearing date by the Code Enforcement Officer at least ten (10) days before said hearing.
5. Notice of the Public Hearing shall be advertised in the official newspaper at least five (5) days prior to the date of said Public Hearing, and the Applicant shall be billed by the official newspaper.
6. Notice of the Public Hearing shall be mailed to the owners of record as of the last filed assessment roll within 500 feet of the subject property at least five (5) days prior to the Public Hearing.
7. At the Public Hearing, the Planning Board shall consider the application and receive information from the applicant, the Code Enforcement Officer and other parties who have information concerning whether the proposed project complies with the approval standards, in such manner as the Planning Board may prescribe. The Planning Board may, at its option, close the hearing or continue the hearing.

#### H. Effect of Preliminary Review

1. Preliminary Review shall not be construed as a Site Plan approval, conditional approval, or denial. Preliminary Review shall not be construed as an exclusive review of all aspects of a final Site Plan. Preliminary Review may be reasonably relied upon by the applicant as a guide to submitting a final Site Plan, concerning those matters discussed at the Preliminary Review, and shall in no way limit the Board's ability to request information and examine issues discovered after or re-examine issues discussed during preliminary review.
2. The Planning Board may prepare a statement including recommendations as to desirable revisions to be incorporated in the final site plan application. The Planning Board may recommend further study of the proposal and resubmission of the Preliminary Site Plan.

### **5.6. Final Site Plan Approval**

#### A. Submittals

1. After receiving approval, with or without conditions, from the Planning Board on a preliminary site plan and approval for all necessary permits and Highway Work Permits from state and county agencies, the applicant may prepare a final site plan and submit it to the Planning Board for its review and approval.
2. If more than six (6) months have elapsed between the time of the Planning Board's statement on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary Site plan for further review and possible revisions prior to accepting the proposed final site plan for review.

3. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the Planning Board and any other agencies at the preliminary review.
4. All compliances shall be clearly indicated by the Applicant.

**B. Materials Required**

Site Plan Review applications must include a site plan drawn to a scale of at least one inch equals 30 feet on one or more sheets, stamped by a New York State licensed architect, landscape architect, engineer, or surveyor, that contains the information listed below. The Applicant must submit two (2) paper copies and one digital copy of the following materials:

1. Completed and signed Development Review Application form, including a description of proposed project.
2. Payment of all application fees, based on the most recent fee schedule adopted by the Village Board or Town Board, as applicable.
3. Completed and signed Part I of the Short Environmental Assessment Form (SEAF) or Full Environmental Assessment Form (FEAF), whichever is required;
4. Evidence of site control or written approval from the owner to submit the sketch plan, if not the owner of the land under consideration.
5. Name, address, telephone number, and email address of the owner, applicant and the person or firm preparing the site plan.
6. Date of preparation, clear scale, and north arrow.
7. Statement of intent that describes the project.
8. Project boundaries.
9. Existing zoning and proposed use.
10. The dimension of lots, property lines, and adjacent rights-of-way on the subject property.
11. Relationship of the subject property to adjacent public infrastructure, including sidewalks, streets, street lighting, street trees, traffic control devices, right-of-way signs, catch basins and inlets, parks and dedicated open spaces, water and sewer services, and any other structures in the right-of-way.
12. Context of development within 200 feet of the site, including location and scale of principal buildings, and site ingress and egress points.
13. Location of any existing water bodies, wetlands, floodplains, steep slopes (slopes in excess of 15%), or federal or state designated significant habitats on and within 200 feet of the site.
14. Location of any designated local, state, or national landmark or historic district on and within 200 feet of the site.
15. Existing and proposed improvements on the site, including structures, easements, vehicular and pedestrian access, landscape, established trees (six inch diameter at breast height or more), fences or walls, stormwater facilities, lighting, parking and loading facilities, and signs, as applicable.
16. Location of above-ground or below-ground utilities.
17. Detailed architectural drawings, drawn to a scale of one inch equals four feet, including proposed building materials.
18. Location, design and size of all signs and lighting fixtures.
19. A landscape plan, including grading, erosion, and proposed development of buffer areas and other landscaping.
20. Identification of any necessary federal, state, and county permits required for

execution of the project.

21. Such other information as the Planning Board may deem necessary for proper consideration of the application, such as reports or other relevant documentation prepared by appropriate professionals.

## 5.7. Approval Standards

A. The Planning Board must make findings of fact on the following criteria:

1. The project complies with all applicable standards of this Local Law and the Tupper Lake Economic Development Strategy, Tupper Lake Smart Growth Project, and Tupper Lake Revitalization Strategy and Action Plan.
2. The project will be sited and designed so as to be harmonious with the surrounding area and not interfere with the development, use, and enjoyment of adjacent property.
3. The project will promote building design that responds to the surrounding neighborhood and demonstrates respect for surrounding historic resources, while allowing for a diversity of architectural styles and original and distinctive design approaches.
4. The project will ensure safe and efficient access for all site users, including pedestrians, cyclists, transit passengers, the mobility impaired, and motor vehicles, as applicable.
5. The project will be located, designed, and/ or managed to meet its anticipated travel demand, and will include reasonable efforts to minimize single-occupancy vehicle trips, reduce vehicle miles travelled, and promote transportation alternatives.
6. The project will provide for the adequate protection of significant natural, cultural, heritage, and scenic assets on or near the site.
7. The project contributes to existing pedestrian-oriented rights-of-way in relation to the public realm and streetscape.
8. The project will utilize plant materials that are capable of withstanding the climatic conditions of Tupper Lake and the microclimate of the site, and will be planted so as to maximize prospects for healthy growth.
9. The project will make for the most efficient use of land and municipal services, utilities, and infrastructure.

B. General Development Considerations

The following general development considerations include aspects of project development which apply generally to all types of development. Certain projects may be partially or completely exempt from the general development considerations, depending upon the nature and location of the project.

1. *Impact on Surrounding Area* - When a proposed use represents a basic change in the pattern of existing uses in the surrounding area, appropriate methods of minimizing adverse impacts to the area are to be employed. Methods may include landscape screening, fencing, increase in setbacks, careful siting of buildings and parking areas, special treatment of outdoor lighting and signs, plus other measures where appropriate, to address specialized impacts of some types of development. Where the surrounding area's pattern of existing use is similar to the proposed use, the project should maintain the existing character of the area through the use of consistent building height and setbacks.

2. *Traffic and Parking* -The proposed traffic circulation pattern should promote safe and efficient vehicle and pedestrian movement. Vehicle and pedestrian routes are separated whenever possible or are otherwise designed to reduce auto/pedestrian hazards. The number of vehicle access points on to public rights-of ways are minimized and clearly designed or signed to promote safe and efficient vehicle movement. When feasible, vehicle access points are jointly shared with abutting drives. Access to public rights-of-ways is designed to promote safe traffic movement. Parking areas conform to the requirements of Article 7. Provisions for joint parking are encouraged.
3. *Natural Amenities* – Existing mature trees are retained wherever feasible. Visual quality is maintained and enhanced through open space and landscaping. Areas of scenic value are to be maintained through siting structures below ridgelines and crests, use of native vegetation to screen structures is employed. Surface water bodies and wetlands are to be separated from development.
4. *Natural Hazards and Site Development* - The proposal demonstrates attention to natural hazards such as degree of slope, soil and geologic characteristics. Buildings and roads should be sited and aligned to avoid natural hazards. Areas of shallow depth to bedrock, slow percolation rates, high water tables, hardpans and steep slopes are avoided. Development which would subject life and property to harm or damage is avoided in floodplains. Site grading retains natural topography to the extent feasible and minimizes interference with natural surface water drainage patterns. Site drainage emphasizes natural drainageways rather than closed conduit systems. Practices to minimize the increase in the amount and rate of surface water runoff are addressed.

**5.8. Expiration of Approval**

- A. The site plan expires within eighteen (18) months of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
- B. The Planning Board may extend the time for expiration of an approved site plan for one year upon a showing of good cause by the applicant. A request for extension must be submitted in writing to the Code Enforcement Officer within the original period of validity.

**5.9. Modifications to Approved Site Plans**

- A. If at any time subsequent to the approval of a final site plan by the Planning Board, an Applicant or property owner desires to modify the site plan as approved, an application with the revised site plan shall be submitted to the Planning Board for its consideration of approval.
- B. The Planning Board may hold a Public Hearing on said application of the proposed site plan in accordance with Section 5.5 (G), and impose any conditions, modifications or additional requirement upon the approval as it may determine appropriate in the furtherance of this Local Law.
- C. Such modification may be made without resubmittal and approval by the Planning Board, upon receipt of a building permit, if all of the following conditions apply:

1. Does not involve a violation of any conditions imposed by the Planning Board in its original granting of final site plan approval;
2. Does not involve the shift of the location of one or more buildings or structures a distance exceeding ten (10) feet in any one direction from the location shown on the final site plan as approved, provided, however, that such a shift does not result in an encroachment on any required yard setback or buffer area;
3. Does not alter the location of any proposed points of ingress into or egress from the site, or proposed traffic flow within the site;
4. Involves the construction of or alteration to less than 500 square feet of interior space, or construction which results in the increase in the amount of square feet of an existing building of less than ten (10) percent, whichever is less;
5. Involves the construction, alterations or renovations to the exterior of a building without any change in building footprint or change to façade design (including change in cladding materials), provided said alterations do not affect the size and locations of windows or doorways, or are changes necessitated by New York State Fire Prevention Code and Building Construction Code or its successors;
6. Does not involve the installation of any aboveground utilities as above-ground utilities can be unsightly and difficult to move after installed; and
7. Is reviewed and approved by the Code Enforcement Officer and Planning Board Chairperson.

#### **5.10. Successive Applications**

- A. A disapproved application may not be reconsidered for a minimum of one year from the date of denial, unless substantial new evidence is submitted by the applicant, or a significant mistake of law or of fact was made in the prior disapproval, that justifies reconsideration of the application. If the application is resubmitted earlier than one year from the date of disapproval, the subsequent application must include a detailed statement of the grounds justifying its consideration.
- B. If the Code Enforcement Officer finds that there are no new grounds for consideration of the application, he/she will summarily, and without hearing, deny the request.

# ARTICLE 6

## LAND SUBDIVISION REGULATIONS

### 6.1 Authority

- A. By the authority of Town Law § 276, 277, 278, and 279, Village Law § 7-728, 7-730, 7-732, and 7-738 and Chapter 10 of the Municipal Home Rule Law of the State of New York, the Joint Planning Board of the Town and Village of Tupper Lake is authorized and empowered to:
1. Review and approve, conditionally approve or disapprove Plats showing lots, blocks or sites, with or without streets or highways, within the Town of Tupper Lake and within the Village of Tupper Lake;
  2. Approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County;
  3. Conditionally approve Preliminary Plats;
  4. Require an Applicant to provide a Clustered subdivision layout.

### 6.2 Declaration of Policy

- A. It is declared to be the policy of these regulations 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 Town and the Adirondack Park, to satisfy the criteria for approval by the Adirondack Park Agency of a local land use program pursuant to Section 807 (2) of the Adirondack Park Agency Act, and to generally further the health, safety and welfare of the community.
- B. It is further declared to be the policy of these regulations to consider land Subdivision Plats as part of a plan for the orderly, efficient and economical development of the Town and Village. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient and logical system conforming to the Official Map, if such exists, and shall be properly related to the proposals set forth in the Tupper Lake Economic Development Strategy, Tupper Lake Smart Growth Project, and Tupper Lake Revitalization Strategy and Action Plan, and shall be of such width, grade and location as to accommodate prospective traffic, to facilitate fire protection and to provide access of firefighting equipment to buildings; and that proper provision shall be made for parks, playgrounds and other recreational or open space areas.
- a. Specifically, the policy of the Joint Planning Board is to consider land subdivisions as part of a plan for the orderly, efficient, and economical development of the Town and Village and in a manner that is reasonable and in the best interests of the community. This policy is articulated to ensure that the highest standards of site, building and landscape design are met conscientiously, through the use of qualified technical and

aesthetic judgment and principles of sustainability consistent with the Tupper Lake Economic Development Strategy, Tupper Lake Smart Growth Project, and Tupper Lake Revitalization Strategy and Action Plan and any future Comprehensive Plan. The Joint Planning Board will be guided in its consideration of an application for the subdivision of land by the following general requirements:

- i. **PHYSICAL CHARACTERISTICS.** Land must be buildable and free of hazard. The physical characteristics of the land to be subdivided shall be such that it can be used for natural resource conservation or building purposes without danger to health and safety or peril from fire, flood, or other menace. Proper provision must be made for stormwater management, water supply, sewage and other needed improvements and, consideration be given to the future development of adjoining lands. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, lot sizes and arrangement and the future development, and, natural and cultural resources of adjoining lands. All parcel developments shall meet Town, County, State, and Federal regulations and requirements.
- ii. **NATURAL AND HISTORIC FEATURES.** Land is to be subdivided in a way that protects the natural, cultural and scenic resources of the Town and Village for the benefit of all residents. To the extent practicable, all existing features of the landscape, such as trees of significant diameter-at-breast-height (DBH) caliber, vegetative communities, rock outcrops, important ecological communities, surface and groundwater resources, unusual glacial formations, flood courses, cultural and historic sites, viewsheds, and other such irreplaceable assets shall be preserved thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only. Provision shall be made for maintaining undeveloped natural areas and corridors to mitigate any adverse environmental impacts of a proposed subdivision.
- iii. **CONFORMITY.** Subdivision plans shall be properly related to and conform to the Official Map. Proposed development shall be planned such that it is compatible with sound development patterns of adjacent and neighboring properties within the Town and Village of Tupper Lake. Subdivided lots shall be of such character that they can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- iv. **PARKS AND OPEN SPACE.** Park areas of suitable location, size and character for playground and other recreational or open space purposes shall be shown on the subdivision plat in proper cases and when required by the Planning Board. Provision shall be made for adequate permanent reservations of open space, pedestrian trails, viewing areas, and parks, and such areas shall be shown on the plat.

C. **Failure to notify.** Failure to notify the Code Enforcement Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action

- and financial penalties.
- D. **Cluster requirement.** Applicants for major subdivisions may be required to submit a plan for a cluster subdivision as provided for in §278 of New York State Town Law, §7-738 of New York State Village Law, and Section 6.9 of this Article.
  - E. **Supersedence.** It is the express intent of the Town Board that this Article shall supersede §§ 261-b, 274-a, 274-b, 276, 277, 278, 279 and any other provision of Article 16 of the Town Law inconsistent with the provisions herein, pursuant to § 10 of the Municipal Home Rule Law.
  - F. **Fees.** The amount of fees required under this chapter shall be established from time to time by resolution of the Town Board and/or Village Board, except that the amount of professional review fees held in escrow for each particular application may be established by the reviewing agency. The administrative fees established by the Town Board and/or Village Board shall approximate the actual cost to the Town or Village of providing the related administrative services.
  - G. **Subdivisions Straddling Municipal Boundaries.** Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Town or Village Attorney, as applicable, and the Highway Superintendent of the adjoining municipality, that the access road is adequately improved or that a performance security has been duly executed and is sufficient security to ensure access has been constructed. In general, lot lines shall be laid out so as not to cross municipal boundary lines.
  - H. **Resubdivision.** Whenever any resubdivision of land in Tupper Lake is proposed, the subdividing owner or their authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.
  - I. **State Environmental Quality Review Act.** The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.

### 6.3 Approval Standards

- A. Character of Land.
  - 1. Land to be subdivided shall be of such character that it can be used safely for building purposes or other uses without danger to health or peril from fire, flood or other menace, while minimizing impacts on existing natural or public resources. In general, future uses upon land to be subdivided should be able to blend harmoniously with the surrounding topography, vegetation, and other natural features, and should avoid the need for costly land alterations or intricate engineering to overcome adverse site conditions. The Board in its discretion may consider any proposed subdivision in light of any or all the objectives and guidelines set forth in the Development Objectives for Use in Review of Regional Subdivisions  
Section 6.16.5 of this Article.
- B. Conformity to Official Map and Master Plans.  
Subdivisions shall conform to the Land Use Code, the Official Map of the Town, and shall be in harmony with the *Tupper Lake Economic Development Strategy*, *Tupper Lake Smart Growth Project*, and *Tupper Lake Revitalization Strategy and Action Plan*.

- C. Specifications for Required Improvements.  
All rights-of-way and other public places shown on the plat will be installed in accordance with standards, specifications, and procedures acceptable to the Village and / or Town Superintendent of Public Works and Fire Departments. Rights-of-way will be coordinated so as to compose a convenient and connected system conforming to this Land Use Code and Town of Tupper Lake Local Law No. 1 of 2018.
- D. Lots shown on the plat will:
  1. Conform with the standards of this Local Law.
  2. Not result in split zoning classifications.
  3. Provide adequate access to a public or private right-of-way, or have access to such right-of-way with a permanent access easement.
- E. Monuments  
Suitable monuments will be placed at block corners and other necessary points as may be required by the Planning Board, with locations shown on the plat.

#### 6.4 **Applicability; Legal Effects**

##### A. **Applicability of These Regulations.**

- a. Any division of a lot into two (2) or more lots, whether new roads, public facilities, or municipal utility extensions are involved or not.
- b. Any other land transaction where these Land Subdivision Regulations or any other applicable law requires filing of a plat with the County Clerk.

##### B. **Legal Effect: Land Use Code**

Whenever any subdivision of land is proposed to be made and before any site modifications are made and before any permit for the erection of a structure in such proposed subdivision is granted, the subdivider or a duly authorized agent must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

##### C. **Legal Effect: Filing of Plats with County Clerk**

Before any plat or licensed survey map showing proposed subdivision of land in the Town or Village of Tupper Lake is filed with the County Clerk, the plat or licensed survey map must be approved by the Code Enforcement Officer or the Planning Board, as applicable, in accordance with the procedures of this law, Town Law Section 276 and Village Law 7-728.

##### D. **Plat Void If Revised After Approval**

No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat or licensed survey map showing subdivision of land after approval has been given by the Code Enforcement Officer or Joint Planning Board and endorsed in writing on the plat or licensed survey map, unless the plat or licensed survey map is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat or licensed survey map is recorded without complying with this requirement, it shall be considered null and void.

##### E. **Planning Board Use of Consultants and Services of County and Regional Planning Staff**

The Planning Board may choose at any point in a subdivision review process to request consultants or refer to the county or regional planning staffs for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters. The

cost shall be borne by the applicant. The Planning Board shall give the applicant written notice of the cost it incurred for consultants, and the applicant shall pay the cost within thirty (30) days of mailing of the notice.

**F. Plat Review of Uncompleted Subdivisions**

The Planning Board may, on direction of the Town Board, review, for purposes of revision, any plat within the Town boundaries already on file with the County Clerk if 20 percent or more of the lots within the plat are unimproved for reasons other than poor drainage. Legislative authority for such review is found is authorized under New York State Town Law § 276 and Village Law § 7-728.

**6.5 Types of Subdivisions and Procedures**

- A. These regulations recognize three types of subdivisions, which are subject to the following review and approval procedures:
1. *Boundary Line Adjustment*: requires only the review of the Code Enforcement Officer, provided that:
    - a. The remainder of the parcel from which the transfer is made meets Land Use Code requirements; and
    - b. No extension or improvement of an existing, or creation of a new public road or public water or sewer utility is involved.
    - c. If a Boundary Line Adjustment purports to transfer more than ½ acre, it may be referred to the Planning Board for subdivision classification; and
    - d. If any discretionary review is required, including environmental quality review, the matter shall be referred to the Planning Board for subdivision classification and review.
  2. *Minor Subdivision*: Review includes two required submissions by subdivider and may include a public hearing if considered desirable by the Planning Board. This includes any subdivision containing not more than four lots, parcels or sites that do not require any new streets or extension of other public service(s).
  3. *Major Subdivision*: Review includes three required submissions by subdivider and at least one (1) public hearing by the Planning Board.

**6.6 Classification of Land Subdivisions**

**6.6.1 Sketch Plan**

**A. Fees**

1. Upon formal submittal of an application for Minor Subdivision or Major Subdivision, any applicable fees must be paid in accordance with the Town or Village fee schedule, as applicable. Review of Sketch Plan submittal does not require formal application or fee.

**B. Sketch Plan Submittal**

1. Prior to any subdivision of land, the Applicant shall submit to the Clerk of the Planning Board at least ten days prior to a meeting of the board (2) paper copies and one digital (PDF) of a Sketch Plan of the proposed subdivision for the purposes of classification and preliminary discussion.

2. The Sketch Plan of the proposed subdivision indicating the general layout of proposed streets, lots, and other improvements.
  3. A location map or sketch, approximately in the scale of one inch equals 400 feet, showing the general relationship of the proposed subdivision to its surrounding area, including the general location of major streets, schools, parks, and other relevant developments.
  4. A depiction of land reserved for streets, stormwater management, sewers, water, fire protection, public buildings, utilities, and other facilities.
- C. Requirements and Classification
1. The Town and / or Village Code Enforcement Officer, as applicable, shall classify the subdivision. If the Sketch Plan is classified as a Minor Subdivision, the Applicant shall then comply with the procedure outlined in Section 6.6 of this Article. If it is classified as a Major Subdivision, the Applicant shall then comply with the procedures outlined in Sections 6.6, 6.7, 6.8, and 6.9 of this Article. The Board shall also determine at this time whether the subdivision shown by the Sketch Plan is a regional subdivision and thereby subject to the special requirements of Section 8 hereof.
- D. Planning Board Recommendations Concerning Sketch Plan.
1. The Planning Board may request the Applicant to consult with appropriate technical review or assistance agencies (such as but not limited to the Franklin County Soil & Water Conservation District, the Adirondack Park Agency, and the State or County Department of Health) to determine appropriate measures to mitigate or eliminate any adverse physical, biological, aesthetic, or public considerations limiting development of the site.
- E. Waiver of submission requirements.
1. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

## **6.7 Review of Minor Subdivision Plats**

### **6.7.1. Preliminary Plat Submittals**

1. A Development Review Application form, available from the Code Enforcement Officer.
  1. Unless otherwise agreed by the Planning Board the Applicant shall submit a Development Review Application to the Code Administrator for Minor Subdivision Plat approval within six months after classification of the subdivision shown by the Sketch Plan as a Minor Subdivision by the Planning Board, and the Board's recommendations thereon. Failure to do so within such time period may require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plat shall conform to the layout shown on the Sketch Plan, reflecting any recommendations made by the Planning Board, and shall include the elements described in Section 6.5.1 hereof.
2. Two (2) paper copies and one digital copy (PDF) of the preliminary plat prepared by a professional engineer or land surveyor licensed by the State of New York.

3. Evidence of site control.
4. A preliminary subdivision plat or survey map drawn to a scale of at least one inch equals 100 feet with the following information:
  - a. A north point indication, scale, date of preparation of the preliminary layout, and the signature of the licensed professional engineer or land surveyor preparing the same.
  - b. A legal description of the land proposed to be subdivided, by deed description, surveyed by a New York State licensed land surveyor. The locations and coordinates of all monuments must be referenced to the nearest approved control point as directed by the Village and / or Town Superintendent of Public Works, if such control points exist. In the absence of such control points, the surveyor must extend a control point satisfactory to the Superintendent(s), as applicable.
  - c. Sufficient information to locate accurately the proposed subdivision in relation to its general vicinity, by means of reference to streets, railroad lines, recorded plats, etc.
  - d. The boundary lines of the proposed subdivision, drawn to scale, including angles and distances, and a statement of the total area encompassed by such boundary lines.
  - e. The location, dimensions, and layout of rights-of-way, blocks, easements, improvements, and utilities within and contiguous to the proposed subdivision, as well as the location and dimensions of such major features as railroad lines, waterways, and exceptional topography.
  - f. The layout, number, dimensions, and area of each lot within the proposed subdivision.
  - g. The location, dimensions, description of use or function, and layout of all parcels of land intended to be dedicated for public use or reserved as common space for subdivision property owners, such as parks and other open spaces.
  - h. The location of all existing and proposed connections with existing and proposed water, sewer, and other utility lines, and an indication of provisions for and location of stormwater management facilities.
5. An outline and description of all public improvements, if required, together with such preliminary drawings and information as required by Village and / or Town departments and interested agencies.
6. When required by the Planning Board:
  - a. A topographic map with contours at specified intervals.
  - b. The location, size, and approximate grades of proposed sewers or on-site wastewater systems, as applicable.
  - c. Cross-sections of proposed rights-of-way, showing street widths and grades, bicycle and pedestrian facilities, green infrastructure, and street trees.
  - d. The proposed location of water, gas, electric, cable, data delivery, and telephone outlets or lines.

### **6.7.2. Preliminary Plat Review**

- A. Subdivider to Attend Planning Board Meeting.  
The Applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.

- B. Date of Official Submission and Referral to County Planning Agency Where Necessary.

The date of the submission of the Subdivision Plat shall be considered to be the date on which both a completed application for Minor Subdivision Plat approval and the required fee have been filed with the Clerk of the Planning Board. Where required by Section 239-k or 239-n of the General Municipal Law, the County Superintendent of Highways or Commissioner of Public Works shall be notified, and a copy of the completed application shall be forwarded to the County planning agency having jurisdiction, if any, for that body's report and recommendations.

- C. Public Hearing.

A public hearing shall be held by the Planning Board within forty-five (45) days from the date of official submission of the Subdivision Plat for approval. Such hearing shall be advertised at least once in the official newspaper designated by the Town Board.

### **6.7.3. Planning Board Review and Decision**

- A. Action on Minor Subdivision Plat.

Not more than sixty (62) days after the submission of the Minor Subdivision Plat for approval, the Planning board shall by resolution conditionally approve, disapprove, or grant final approval and authorize the signing of the Subdivision Plat. This time period may be extended by written agreement of the Applicant and the Planning Board. Failure of the Planning Board to act within such sixty (62) day or otherwise agreed upon period shall be deemed final approval of the plat and a certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand.

- B. In making its decision the Board shall apply the standards and requirements set forth in Article 6 hereof insofar as those standards are pertinent to the proposed subdivision. The Board in its discretion may require the Applicant to satisfy the provisions of Section 6.10 of this article with respect to any required improvements associated with the proposed subdivision. The Board shall also consider the recommendations of the Code Enforcement Officer and any findings or recommendations of technical review or assistance agencies consulted by the Applicant at the Board's request pursuant to Section 6.5.1 (D) of this article. The grounds for disapproval, or for the conditions and requirements of conditional approval, shall be explicitly set forth in the Board's determination.

- C. Upon granting approval of the plat, the Planning Board has granted final approval the subdivider shall file the plat with the Franklin County Clerk within six (6) months. If the signed Final Plat is not filed with the County Clerk within six months, approval will expire.

- D. Every copy of the final Minor Subdivision plat approved by the Joint Planning Board in the Village of Tupper Lake shall carry the following endorsement, to be completed and signed by the Planning Board Chairperson:

"Approved by Resolution of the Planning Board of the Village of Tupper Lake, New York, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to all requirements and conditions of said Resolution. Any change, erasure,

modification or revision of this plat, as approved, shall void this approval.  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Chairperson  
\_\_\_\_\_.”

- E. Every copy of the final Minor Subdivision plat approved by the Joint Planning Board in the Town of Tupper Lake shall carry the following endorsement, to be signed by the Planning Board Chairperson:

“Approved by Resolution of the Planning Board of the Town of Tupper Lake, New York, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to all requirements and conditions of said Resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval.  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Chairperson  
\_\_\_\_\_.”

## **6.8 Review of Major Subdivision Plats**

### **6.8.1 Preliminary Plat Submittals**

- A. A Development Review Application form, available from the Code Enforcement Officer.
1. Unless the Applicant elects to avoid the submission of a Preliminary Plat pursuant to Section 6.8.3 (A), the Applicant shall submit a Development Review Application for a Preliminary Plat approval. Unless otherwise agreed by the Planning Board the Applicant shall submit a Development Review Application to the Code Administrator for Minor Subdivision Plat approval within six months after classification of the subdivision shown by the Sketch Plan as a Major Subdivision by the Planning Board, and the Board's recommendations thereon. Failure to do so within such time period may require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plat shall conform to the layout shown on the Sketch Plan, reflecting any recommendations made by the Planning Board, and shall include the elements described in Section 6.5.1 hereof.
- B. Two (2) paper copies and one digital copy (PDF) of the preliminary plat prepared by a professional engineer or land surveyor licensed by the State of New York.
- C. Evidence of site control.
- D. A preliminary subdivision plat or survey map drawn to a scale of at least one inch equals 100 feet with the following information:
1. A north point indication, scale, date of preparation of the preliminary layout, and the signature of the licensed professional engineer or land surveyor preparing the same.
  2. A legal description of the land proposed to be subdivided, by deed description, surveyed by a New York State licensed land surveyor. The locations and coordinates of all monuments must be referenced to the nearest approved control point as directed by the Village and / or Town Superintendent of Public Works, if such control points exist. In the absence of such control points, the surveyor must extend a control point satisfactory to the Superintendent(s), as applicable.

3. Sufficient information to locate accurately the proposed subdivision in relation to its general vicinity, by means of reference to streets, railroad lines, recorded plats, etc.
  4. The boundary lines of the proposed subdivision, drawn to scale, including angles and distances, and a statement of the total area encompassed by such boundary lines.
  5. The location, dimensions, and layout of rights-of-way, blocks, easements, improvements, and utilities within and contiguous to the proposed subdivision, as well as the location and dimensions of such major features as railroad lines, waterways, and exceptional topography.
  6. The layout, number, dimensions, and area of each lot within the proposed subdivision.
  7. The location, dimensions, description of use or function, and layout of all parcels of land intended to be dedicated for public use or reserved as common space for subdivision property owners, such as parks and other open spaces.
  8. The location of all existing and proposed connections with existing and proposed water, sewer, and other utility lines, and an indication of provisions for and location of stormwater management facilities.
- E. An outline and description of all public improvements, if required, together with such preliminary drawings and information as required by Village and / or Town departments and interested agencies.
- F. When required by the Planning Board:
1. A topographic map with contours at specified intervals.
  2. The location, size, and approximate grades of proposed sewers or on-site wastewater systems, as applicable.
  3. Cross-sections of proposed rights-of-way, showing street widths and grades, bicycle and pedestrian facilities, green infrastructure, and street trees.
  4. The proposed location of water, gas, electric, cable, data delivery, and telephone outlets or lines.

### **6.8.2. Preliminary Plat Review**

- A. Subdivider to Attend Planning Board Meeting.  
The Applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.
- B. Date of Official Submission and Referral to County Planning Agency Where Necessary.  
The date of the submission of the Subdivision Plat shall be considered to be the date on which both a completed application for Minor Subdivision Plat approval and the required fee have been filed with the Clerk of the Planning Board. Where required by Section 239-k or 239-n of the General Municipal Law, the County Superintendent of Highways or Commissioner of Public Works shall be notified, and a copy of the completed application shall be forwarded to the County planning agency having jurisdiction, if any, for that body's report and recommendations.
- C. Public Hearing.
1. Within forty-five (45) days after the date of official submission of the Preliminary Plat, the Planning Board shall hold a public hearing, which shall

be advertised at least once in the official newspaper designated by the Town Board and / or Village Board, as applicable, at least five (5) days before such hearing or fourteen (14) days before such hearing if the Planning Board determines an environmental impact statement is required under SEQRA.

2. Not more than sixty-two (62) days after the date of official submission of the Preliminary Plat for approval, the Planning Board shall approve, conditionally approve with or without modification or disapprove such Preliminary Plat. This time period may be extended by written agreement of the subdivider and the Planning Board.

D. Study of Preliminary Plat.

The Planning Board shall study the Preliminary Plat, taking into consideration the provisions of these regulations, the requirements of the community, and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and design of streets, and to the relation to topography, water supply, sewage disposal, drainage, lot sizes and arrangement, the placement of utilities and future development of adjoining lands yet to be subdivided and the requirements of the *Tupper Lake Economic Development Strategy, Tupper Lake Smart Growth Project, Tupper Lake Revitalization Strategy and Action Plan*, the Official Map and the Land Use Code. In addition, the Planning Board shall consider any findings or recommendation of technical review or assistance agencies consulted by the Applicant at the Board's request pursuant to Section 6.5.1 (D) of this article.

### **6.8.3. Planning Board Review and Decision of Major Subdivision Final Plats**

A. Application.

Unless otherwise agreed by the Planning Board and the Applicant, the Applicant shall submit an application for Major Final Subdivision Plat approval within six months after Preliminary Plat approval. Failure to do so within such time period may require resubmission of the Preliminary Plat to the Planning Board. The application shall be on a form provided by the Planning Board, and shall include the elements described in Section 6.8.1 hereof, and the Plat shall conform to the Preliminary Plat, as modified by the Planning Board if such Preliminary Plat was approved with modifications.

B. Number of Copies.

Two (2) copies of the application for Major Subdivision Plat approval shall be presented to the Planning Board at the time of submission of the Subdivision Plat.

C. Date of Official Submission and Referral to County Planning Agency Where Necessary.

The date of submission of the Subdivision Plat shall be considered to be the date on which both a completed application for approval of the Subdivision Plat, including any endorsements required by paragraph D of this section, have been filed with the Planning Board, and the required fee has been paid, if any. Where material changes have been made in the plat since the previous referral of the preliminary plat to county officials as required by Section 3 (D) of this Article, the Planning Board shall make another such referral as described in that section.

D. Endorsement of State and County Agencies.

Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the Subdivision Plat requiring approval by the Department of Environmental Conservation and/or the State or County Department of Health have received at least preliminary approval(s) of such facilities.

E. Public Hearing.

Within forty-five (45) days of the date of official submission of the Subdivision Plat for approval, a public hearing shall be held by the Planning Board. This hearing shall be advertised at least once in the official newspaper designated by the Town Board, at least five (5) days before such hearing, and further advertised in such manner as the Board deems appropriate for full public consideration of such Plat, provided however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under Section 3 of this article, and modified in accordance with requirements of such approval if such preliminary plat was approved with modification, the Planning Board may waive the requirement for such public hearing.

F. Action on Major Subdivision Plat.

Not more than sixty (62) days after the submission of the Major Subdivision Plat for approval, the Planning board shall by resolution conditionally approve, disapprove, or grant final approval and authorize the signing of the Subdivision Plat. This time period may be extended by written agreement of the Applicant and the Planning Board. Failure of the Planning Board to act within such sixty (62) day or otherwise agreed upon period shall be deemed final approval of the plat and a certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand.

G. In making its decision the Board shall apply the standards and requirements set forth in Article 6 hereof insofar as those standards are pertinent to the proposed subdivision. The Board in its discretion may require the Applicant to satisfy the provisions of Section 6.10 of this article with respect to any required improvements associated with the proposed subdivision. The Board shall also consider the recommendations of the Code Enforcement Officer and any findings or recommendations of technical review or assistance agencies consulted by the Applicant at the Board's request pursuant to Section 6.5.1 (D) of this article. The grounds for disapproval, or for the conditions and requirements of conditional approval, shall be explicitly set forth in the Board's determination.

H. The grounds of a modification, if any, or the grounds for disapproval shall be stated in the records of the Planning Board. When approving a Preliminary Plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form. Within five (5) days of the approval of such Preliminary Plat it shall be certified by the Planning Board as approved and a copy filed in the Code Administrator's office, a certified copy mailed to the owner, and a copy forwarded to the Town Board. Failure of the Planning Board to act within such sixty (60) day or otherwise agreed upon period shall be deemed approval of the Preliminary Plat. When granting approval of a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to (1) the modifications to the Preliminary Plat, (2) the character

and extent of any required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals, and general welfare (3) the amount of improvements or the amount of all bonds therefore which it will require as prerequisite to Subdivision Plat approval. Approval of a Preliminary Plat shall not constitute approval of the Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat, and as a guide to the preparation of the Subdivision Plat. The Applicant shall have the option to file a final plat for a Major Subdivision under Section 4 of this Article and avoid the process of filing and obtaining approval of a Preliminary Plat under Section 6.7.4 hereof. In such event, the Applicant shall submit a written statement making such election and waiving the right to obtain approval of a Preliminary Plat.

#### **6.8.4. Planning Board Final Approval and Filing**

A. Final Approval and Filing.

Upon receiving final approval pursuant to Section 6.8.3 of this article and being properly signed by the duly designated officer of the Planning Board or upon receiving a certificate from the Town Clerk as to the Planning Board's failure to act within the prescribed time period, a Subdivision Plat shall be filed or recorded in the Office of the Franklin County Clerk. However, the signature of the duly designated officer of the Planning Board, or the certificate from the Town Clerk, shall expire ninety (90) days from the date of such signature or the issuance of such certificate unless within such ninety (90) day period the plat has been duly filed or recorded in the Office of the County Clerk. In addition to such filing or recording, in the case of a Class B regional subdivision, a copy of the permit issued under 6.16 hereof shall be recorded by the Applicant within sixty (60) days in the Adirondack Park Agency Regional Project Permit Book in the Office of the County Clerk.

1. Every copy of the final Minor Subdivision plat approved by the Joint Planning Board in the Village of Tupper Lake shall carry the following endorsement, to be completed and signed by the Planning Board Chairperson:

“Approved by Resolution of the Planning Board of the Village of Tupper Lake, New York, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to all requirements and conditions of said Resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval. Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Chairperson \_\_\_\_\_.”

2. Every copy of the final Minor Subdivision plat approved by the Joint Planning Board in the Town of Tupper Lake shall carry the following endorsement, to be signed by the Planning Board Chairperson:

“Approved by Resolution of the Planning Board of the Town of Tupper Lake, New York, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to all requirements and conditions of said Resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval. Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Chairperson \_\_\_\_\_.”

B. Plat Void if Revised After Approval.

No changes, erasures, modifications, or revisions shall be made in any

Subdivision Plat after approval has been given by the Planning Board and a duly designated officer thereof has signed the Plat, unless such Plat is first resubmitted to the Planning Board and such Board approves in writing any modifications. In the event that any such modified or revised Subdivision Plat is recorded without complying with this requirement, such recording shall be null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

## **6.9 Cluster Development**

### **A. Shoreline Clustering.**

The Planning Board is empowered to modify the minimum lot area, minimum lot width and minimum shoreline lot width requirements of the Land Use Code. The shoreline clustering standards are set forth in Article 3 of the Land Use Code. The Planning Board shall specifically find, in connection with any approval of such shoreline clustering, that the subdivider will, whether by deed restriction, restrictive covenant or other similar appropriate means, insure the retention in open space of the undeveloped portions of shoreline resulting from utilization of these provisions. No subdivision shall be approved by the Planning Board pursuant to this section which shall not reasonably safeguard the appropriate use of adjoining land.

### **B. Non Shoreline Clustering.**

The Planning Board is further authorized to modify the minimum lot area and width requirements of the Land Use Code by allowing lands to be set aside for park, recreation or other open space or municipal purposes directly related to the plat, so long as the subdivision complies with the average density of lots or dwelling units permitted in the zoning district wherein such lands lie. The Planning Board, as a condition of plat approval, shall establish in the case of lands for park, recreation or other open space or municipal purposes, such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes, and may further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenant, conveyance of a scenic easement or other conservation restriction to the Town, or other appropriate means against any development or land use inconsistent with their retention in open space.

### **C. Procedure.**

#### **1. Request by Applicant.**

An Applicant may request the use of this section simultaneously with the submission of the Sketch Plan, as described in Section 6.6.1. Any submission subsequent thereto shall require a resubmission of the Sketch Plan.

#### **2. Alternate Sketch Plan.**

An Applicant shall present for the Planning Board's consideration, along with a proposal utilizing the provision of this section, an alternate sketch plan, with lots meeting the minimum lot area, minimum lot width, and minimum shoreline lot width requirements of the Land Use Code.

#### **3. Plat Submission.**

Upon determination by the Planning Board that the sketch plan utilizing the provisions of this section is suitable, the procedures for Minor Subdivision

or Major Subdivision, attendant to and subsequent to the Sketch Plan submission, as set forth in this article, shall be followed in regular order.

4. Local Filing, Notation on Zoning Map.  
Any Subdivision Plat finally approved which involves clustering modifications as provided for in this section shall be filed, in addition to the filing required by Section 6.7.3. or 6.8.4. hereof, with the Town Clerk.
5. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Land Use Code.

## **6.10 Required Improvements**

### **A. Improvements and Performance Bond.**

Before the Planning Board grants final approval of a Subdivision Plat, the Applicant shall follow the procedure set forth in either sub-paragraph (1) OR sub-paragraph (2) below:

1. The Applicant shall either file with the Town and/or Village Clerk, as applicable, a certified check to cover the full cost of the required improvements OR the Applicant shall file with the Town and/or Village Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law and further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.
2. The Applicant shall complete all required improvements to the satisfaction of the Code Administrator who shall file with the Planning board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the Applicant shall file with the Town and/or Village Clerk a certified check or performance bond covering the costs of satisfactorily completing such improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

### **B. The required improvements shall not be considered to be completed until the improvements and their installation have been approved by the Code Administrator and a map has been submitted to the Planning Board indicating the location of monuments marking all underground utilities as actually installed. If the Applicant completes all required improvements according to subparagraph (2), then such a map shall be submitted prior to final approval and the signing of the plat by the duly designated officer or the Chairman of the Planning Board. If the Applicant elects to provide a bond or certified check for all required improvements as specified in subparagraph (1), or part of the required improvements as specified in subparagraph (2), such bond shall not be released until such a map is submitted.**

### **C. Modification of Design of Improvements.**

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary or desirable to modify the location or design of such required improvements, the Code Enforcement Officer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided these modifications are within the spirit and intent of the Planning

Board's approval and any conditions attached thereto, and do not amount to a waiver or substantial alteration of any improvements required by the Board. The Code Administrator shall issue any authorization under this paragraph in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

D. Inspection of Improvements.

1. At least five (5) days prior to commencing construction of any required improvements the Applicant shall pay to the Town clerk any inspection fee required by the Town Board and shall notify the Board in writing of the time when he proposes to commence construction of such improvements so that the Board may cause inspection by the Code Administrator to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
2. The construction of all required improvements shall be supervised by a New York State licensed engineer employed by the Village or Town, as applicable, at the expense of the Applicant. After completion of construction, the supervising engineer must certify to the Village and / or Town Superintendent of Public Works, as applicable, that all required improvements have been constructed as required.

E. Proper Installation of Improvements.

If the Code Administrator or designated engineer shall find, upon inspection of the improvements performed before the expiration date of any performance bond, that any of the required improvements have not been constructed in accordance with approved plans and specifications filed by the Applicant or any conditions of Planning Board approval, he shall so report to the Town Board and Planning Board. The Town Board then shall notify the Applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No Plat shall be approved by the Planning Board as long as the Applicant is in default on a previously approved Plat.

## 6.11 Public Streets, Parks and Recreation Areas

A. Public Acceptance of Improvements.

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such Subdivision Plat. All roadways dedicated in the Town shall follow the Town of Tupper Lake Road Dedication Standards in accordance with. 1 of 2018 and Section 6.12 hereof.

B. Ownership and Maintenance of Park, Recreation or Open Space Area.

When a park, playground, or other recreation area or open space shall have been shown on a Plat, Planning Board approval of the Plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town and/or Village Board, as applicable, covering future conveyance and dedication of the area, and where such requirement is considered necessary or desirable by the Planning Board to realize best used of the site, provision for the cost of grading, development, equipment and maintenance of any such recreation area.

- C. The acceptance of improvements shall be made only by the adoption of a Village or Town Board resolution, as applicable, after the respective Superintendent of Public Works files a certificate with the Town/Village Clerk certifying that all improvements have been constructed or installed as required. All accepted easements must be filed with the plat and copies forwarded to the Village or Town Superintendent of Public Works, as applicable.

## **6.12 Design and Construction of Streets and Roads**

In considering applications for subdivisions of land, the Planning Board shall adhere to and be guided by the requirements and standards hereinafter set forth. Such standards shall be considered to be minimum requirements and may be waived by the Board only under circumstances set forth in Section 6.12 herein, except that in no case shall the requirements of Section 6.16 of this article be waived.

### **6.12.1. Design and Layout**

- A. **Special Treatment Along Major Streets.**  
When a subdivision abuts or contains an existing or proposed major 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 alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- B. **Minor Streets.**  
Minor streets shall be laid out so that their use by through traffic will be discouraged.
- C. **Dead-End Streets.**  
Dead-end or loop residential streets will be permitted wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, the Board may require the reservation of a 20-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street, when the Board in its discretion feels such easement is necessary or desirable. Where possible and desirable, subdivisions containing 20 lots or more shall have at least two street connections with existing streets, or streets shown on the Official Map, if such exists, or streets on an approved Subdivision Plat for which a bond has been filed.
- D. **Provision for Continuation or Projection of Certain Streets.**  
The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining existing subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuation or projection undesirable or impracticable, this requirement may be modified.
- E. **Provision for Future Resubdivision.**  
Where a tract is subdivided into lots two or more times as large as the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in the Land Use Code.
- F. **Service Streets or Loading Space for Commercial Development.**

Paved rear streets of not less than 18 feet in width, or in lieu thereof, adequate and suitable surfaced off-street loading space, may be provided in connection with lots designed for commercial use.

G. Other Required Streets.

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 right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

H. Street Names.

1. Type of Name.

All street names shown on a Preliminary Plat or Subdivision Plat shall be subject to approval by the Planning Board. In general, streets shall have names and not numbers or letters.

2. Names to be Substantially Different.

Proposed street names shall be substantially different so as not to be confused in sound or spelling with present street names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90 degrees without a change in street name, except for residential loop streets.

### 6.12.2. Construction

- A. The Town of Tupper Lake has adopted standards for construction of new roadways to be dedicated as part of the Town road system in Town of Tupper Lake Local Law No. 1 of 2018.
- B. All roadways to be dedicated to and accepted by the Town shall be certified to be in compliance with these standards by a Professional Engineer licensed to practice in New York State, herein referred to as the Project Engineer. The Project Engineer shall be chosen by, and the costs of the Project Engineer shall be borne in all regards and respects by, the party seeking to dedicate the road.
- C. Before the roadway is dedicated to and accepted by the Town, two paper copies and one digital copy of as-built plans approved by the Project Engineer shall be submitted to the Town Clerk and the Highway Superintendent.
- D. Approval by the Highway Superintendent that the project meets the standards shall be required prior to acceptance by the Town board. Both the Highway Superintendent and the Town Board must accept the roadway before it is accepted as a part of the Town road system. The Town reserves the right to not accept a roadway, notwithstanding that all portions of the standards of Town of Tupper Lake Local Law No. 1 of 2018 have been met.
- E. All requests for the dedication of a roadway shall be made pursuant to New York State Law and the standards of Town of Tupper Lake Local Law No. 1 of 2018, shall be made in writing, and shall be accompanied by a proposed warranty deed conveying said highway to the Town, with all necessary releases from mortgages or other claimants. All deeds and plans must meet requirements for filing with the Franklin County Clerk. In addition, a complete release of any and all liens arising out of the construction of the dedicated improvements, or receipts in full lieu thereof, and if required in either case, an affidavit so far as the Developer has personal knowledge or information, the releases and receipts include all labor and materials for which a lien could be filed.

F. Improvements within Certain Areas of the Town.

The Planning Board may apply the following additional requirements to subdivisions within the HDR and HDRS zoning districts, and to any other, subdivisions which the Board deems necessary or desirable. Streets and rights-of-way shall be graded and improved with street pavement, curbs and gutters, sidewalks, bikeways, storm drainage facilities, water mains, sewers, street lights and signs, street trees, and fire hydrants, except where waivers may be requested; the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Planning Board. Such grading and improvements shall be approved as to design and specifications by the Planning Board.

### 6.13 Revegetation of Disturbed Soil Areas

A. Applicability and Compliance.

Areas on which vegetation has been destroyed or removed, excluding areas proposed for road surfaces or shoulders, driveways, building sites or parking lots shall be successfully revegetated or otherwise stabilized with structural measures to minimize the potential for soil erosion as soon as practicable. Revegetation measures and efforts shall be evaluated by visual inspection which shall include identification and measurement of the actual condition of new healthy vegetation. Such evaluation shall be made not sooner than one hundred and eighty (180) calendar days from the date of planting. Evaluation and determination of compliance with this standard shall be made within three hundred sixty (360) calendar days from the date of planting. Failure on the part of the Planning

Board or a designee thereof to make such evaluation and determination of compliance shall not relieve the subdivider of any obligation under this section. Corrective action shall be instituted and completed within fifteen (15) working days upon determination of unsatisfactory compliance with this section. In making any determination required by this section, the Planning Board or its designee shall consider significant rills, gullies, loss of mulch, loss of seed, or failure of seed germination as evidence of unsatisfactory compliance herewith.

B. Staging of Revegetation Operations.

Construction operations requiring revegetation of an aggregate area larger than twenty thousand (20,000) square feet should generally be done in stages, each stage consisting of no more than twenty thousand (20,000) square feet of surface area. Each stage shall receive complete treatment for revegetation or mulching as described in Appendix E of these regulations as if the stages were individual constructions.

C. Timing of Operations.

Upon completion of final grading of any area, revegetation operations shall begin within five (5) working days and shall be completed within ten (10) working days, provided however, that where this is not possible or desirable because of weather conditions or other circumstances, such revegetation operations shall be performed as soon as reasonably possible. In the event that more than five (5)

working days shall elapse between any consecutive construction operations that materially disturb the soil, such areas shall be adequately mulched or otherwise stabilized with structural measures within five (5) working days of disturbance and shall be completed within ten (10) working days to minimize the potential for soil erosion.

#### **6.14 Lots**

- A. Lots to be Buildable.  
The lot arrangement shall be such that in constructing a building in compliance with the Land Use Code, there will be no foreseeable difficulties for reasons of topography, access or other existing physical or biological conditions. Except where Section 6.9 of these regulations is being utilized, lots shall meet or exceed the minimum lot area, minimum lot width, and minimum shoreline lot width requirements of the zoning regulations for the zoning district(s) involved.
- B. Side Lines.  
Side lines of lots shall be generally at right angles to straight street lines and radial to curved street lines, unless a different alignment will give a better street or lot plan.
- C. Corner Lots.  
In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.
- D. Driveway Access.  
Driveway access and grades shall conform in general to the terrain, but shall not exceed a 12% grade over any 150 foot length, shall not exceed 15% over any lengths, and shall not exceed 3% within fifty feet of the street pavement or driving surface, as measured along the center line of the driveway.
- E. Access by Means of Private Rights-of-Way.  
Access to more than three lots by means of a private right-of-way shall be deemed acceptable only if such right-of-way is designed and improved in accordance with Section 6.12 of this Article.
- F. Monuments and Lot Corner Markers.  
Permanent monuments meeting Town specifications as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Planning Board may require, and their location shall be shown on the Subdivision Plat.

#### **6.15 Drainage Improvements**

- A. Removal of Spring and Surface Water.  
Except where a wetland is involved as defined in the Zoning Regulations, the Planning Board may require the subdivider to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Storm Water Easements or Drainage Rights-of-Way.  
Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement or drainage right-of-way shall be provided as

- required by the Planning Board, but in no case more than 50 feet in width.
- C. Drainage Structure to Accommodate Potential Development Upstream.  
Any culvert or other drainage facility shall be large enough to accommodate the peak runoff rate from its entire upstream drainage area, whether inside or outside the subdivision, under conditions of total potential development permitted by the Zoning Regulations in such contributing drainage area a 10-year, 24-hour rainfall if the contributing drainage area is one square mile or less, a 25-year, 24-hour rainfall if the contributing area is between one and four square miles or a 100-year, 24-hour rainfall if the contributing drainage area is more than four square miles.
  - D. Responsibility For Drainage Downstream.  
The subdivider shall also furnish a study of the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility within the Town during a ten year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the alleviation of said condition.
  - E. Land Within Flood Hazard Area.  
Land within the "Special Flood Hazard Area" designated by the Federal Emergency Management Agency shall not be platted for residential occupancy, nor for any other uses which are non-permissible under the Land Use Code, unless the Code Administrator certifies that the portion of such Special Flood Hazard Area to be developed is not subject to flooding.

## **6.16 Regional Subdivisions**

### **6.16.1. Applicability and Determination**

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

### **6.16.2. Special Additional Procedures Regarding Class B Regional Subdivisions.**

- A. Special Requirement for Approval of Class B Regional Subdivisions.  
When a proposed subdivision is a Class B regional subdivision, the Planning Board shall not render approval or conditional approval under Section 6.7.3 (A) hereof nor shall the Board render approval or approval with modifications under Section 6.8.3 (F) hereof, unless the Board first determines that the subdivision would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Town or the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the subdivision taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the subdivision.
- B. In making this determination, the Planning Board shall consider those factors

pertinent to the subdivision contained in the development considerations set forth at Appendix C hereof, and in so doing, the Planning Board shall be guided by the development objectives and general guidelines set forth at Section 6.16.5. When the Planning Board renders final approval of a Class B regional subdivision under Section 6.7.3 (A) or 6.8.3 (F), the Board shall issue a permit authorizing the subdivider to undertake the subdivision in accordance with any terms and conditions set forth therein. The Planning Board, in conjunction with its approval of any Class B regional subdivision, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure that guidelines as to intensity of development as provided in the Land Use Code shall be respected, and the imposition of reasonable conditions to insure that the subdivision will be adequately supported by services and improvements made necessary thereby and to insure that the subdivision will be completed in accordance with the terms of the approval and permit. In addition, the Planning Board may incorporate any such requirements and conditions in the permit issued with regard to such Class B regional subdivision.

C. When a proposed subdivision is a Class B regional subdivision, within ten (10) days following receipt of a completed application under Section 6.7.1. (A) or Section 6.8.1. (A), the Planning Board shall furnish the Adirondack Park Agency a copy of the application and plat together with such further pertinent information as the Agency may deem necessary. The Planning Board shall also mail a copy of the notice of public hearing on the subdivision to the Agency at least five (5) days before such hearing. The Agency shall be a full party in interest with standing to participate in the hearing and other proceedings pursuant to this section relative to Class B regional subdivisions,

### **6.16.3. Criteria and Certain Procedures for Adirondack Park Agency Review of Class A Regional Subdivisions.**

- A. The Adirondack Park Agency's review of Class A regional subdivisions within the territory of the Town pursuant to and in accordance with Section 809 (9) of the Adirondack Park Agency Act, shall be governed by the criteria and certain procedures hereinafter set forth, as well as those set forth in the Act and the applicable Agency rules and regulations.
- B. As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A regional subdivision, the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the application and formulating advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Land Use Code. Not later than thirty (30) days following receipt by the Planning Board from the Agency of such notice of application completion with regard to a Class A regional subdivision, or such shorter period as may be agreed upon in writing by the Agency and the Town, the Planning Board shall, by certified mail, provide to the Agency its advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Town Land Use Code. Should the Planning Board fail to provide such recommendations within such thirty day or otherwise agreed-upon period, the Agency may make the finding required by sub-paragraph (C) hereof without receipt of such recommendations.
- C. The Adirondack Park Agency shall not approve a Class A regional subdivision

unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the subdivision that the subdivision would comply with all the pertinent requirements and conditions of the Town Land Use Code. In making the determination required by Section 809 of the Adirondack Park Agency Act as to the impact of a proposed Class A regional subdivision upon the resources of the Adirondack Park, including the ability of all levels of government to provide supporting facilities and services made necessary by the subdivision, the Agency shall make a net overall evaluation of the subdivision in relation to the development objectives set forth at paragraph Section 6.16.5 of this Section.

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

The Planning Board may establish whatever joint procedures with the Adirondack Park Agency for review of Class A regional subdivisions which the Board in its discretion deems desirable to minimize duplication and generally expedite the review process.

#### **6.16.5. Development Objectives for Use in Review of Regional Subdivisions.**

The principal natural and public resource aspects of a proposed subdivision site to be considered in connection with the determination required by Section 6.16.2. and referred to by Section 6.16.3., together with representative means for avoiding undue adverse impact thereupon include the following:

- A. Soils.
  - 1. Soils, general.
    - a. Objective: prevent accelerated soil erosion and the potential for earth slippage.
    - b. General guideline: respect existing natural features, such as slope, soil texture and structure; minimize removal of vegetative cover; rapidly revegetate cleared areas; limit cuts and fills; and employ such erosion control devices and measures as are necessary to promptly stabilize slopes and surfaces and to control runoff
  - 2. Agricultural soils.
    - a. Objective: conserve viable agriculture soils.
    - b. General guideline: avoid activities on Class I and Class II agricultural soils (as defined by the USDA Natural Resources Conservation Service) presently in agricultural service which would diminish or preclude continuing use thereof for agricultural purposes.
- B. Topography.
  - 1. Topography, general.
    - a. Objective: minimize topographic alterations.
    - b. General guideline: minimize excavation, cuts and fills and site grading by employing to advantage existing topographic features; and avoid development activities on steep slopes where environmental damage and costly development problems could result therefrom.
- C. Surface waters.

1. Water quality and eutrophication
  - a. Objective: maintain or enhance existing physical, chemical and biological water quality characteristics and prevent any undue acceleration of existing rates of eutrophication of bodies of water.
  - b. General guideline: maintain wide buffer strips of natural vegetation bordering water bodies; minimize channel disturbance and alterations; preserve shoreline vegetation; minimize hydrologic changes which would result from damming or impounding; avoid introduction of nutrients from the use of fertilizers and from sewage effluent; and avoid introduction of toxic materials to water bodies.
2. Surface drainage.
  - a. Objective: retain existing surface water drainage and runoff patterns and existing flow characteristics.
  - b. General guideline: minimize alterations to existing drainage patterns and drainage courses; preserve drainageways in their natural state; and provide, where necessary, natural ponding areas and other measures designed to provide natural retention of stormwater runoff if development includes a significant area of impervious surface.
3. Floodplains.
  - a. Objective: maintain the storage capacity of floodplains and their existing ability to convey water downstream; and avoid activities in floodplains which will result in dangers to life, safety and property if subjected to flooding.
  - b. General guideline: avoid the placement of buildings intended for human habitation, commercial use and industrial use within floodplains; avoid the use of fill to create elevated sites; and within any floodway special zoning district and any floodway fringe special zoning district, conform all development plans to the floodplain regulations.
- D. Groundwater.
  1. Objective: preserve quality, infiltration rate and levels of groundwater.
  2. General guideline: comply, at a minimum, with applicable governmental water pollutant discharge restrictions; particularly avoid discharges of effluent potentially degrading to groundwater quality in proximity to major aquifers and aquifer recharge areas; and avoid impairment of aquifer recharge areas which could result from covering them with impervious surfaces.
- E. Shorelines.
  1. Objective: maintain or enhance the existing physical, biological and aesthetic characteristics of the shoreline of all lakes, ponds, rivers and streams.
  2. General guideline: comply, at a minimum, with applicable governmental shoreline restrictions; minimize construction or development of any kind near or on the shorelines; avoid physical modifications of the shorelines themselves; minimize the removal of vegetation along shorelines; locate buildings so as to be partially screened from the shorelines by natural vegetation; and maximize the preservation of stretches of shoreline in a natural, unchanged and undeveloped state.
- F. Mineral resources.
  1. Objective: conserve existing known mineral resources.
  2. General guideline: avoid activities which would preclude present or future use of important mineral resources that may be of economic significance to the region.
- G. Air quality.
  1. Objective: maintain or enhance existing air quality.
  2. General guideline: adhere to applicable governmental air quality standards;

- provide adequate air pollution abatement devices; and reduce dust levels caused by construction activities.
- H. Noise levels.
1. Objective: limit additions to noise levels.
  2. General guideline: adhere, at a minimum, to applicable governmental noise level standards; utilize noise abatement equipment; and maintain natural buffers, such as existing topographic relief and vegetation.
- I. Wetlands.
1. Objective: preserve the hydrologic, wildlife, vegetational, aesthetic, educational, open space and recreational values of wetlands.
  2. General guideline: avoid development in marshes, bogs, swamps and periodically inundated lands or on lands immediately adjacent thereto if such development could result in environmental damage to the marsh, bog, swamp or periodically inundated land.
- J. Aquatic communities.
1. Objective: protect, generally, the existing natural aquatic plant and animal communities and preserve rare and endangered aquatic plant and animal species.
  2. General guideline: preserve key spawning areas, nursery grounds, food sources and food source areas; preserve habitats of rare and endangered plant and animal species; maintain adjacent vegetated areas generally as habitats and buffer zones; minimize shoreline alterations, such as beach construction and emplacement of docks, rafts, boat-launching facilities and breakwaters; and avoid introduction of toxic materials and nutrients to water bodies.
- K. Terrestrial vegetation.
1. Vegetation, general.
    - a. Objective: preserve or quickly restore terrestrial vegetation.
    - b. General guideline: minimize clearing of vegetation in light of development objectives; avoid clearing vegetation where damage will result to remaining vegetation from such factors as wind, erosion and frost; and protect remaining vegetation during the construction period.
  2. Rare and endangered terrestrial plant species.
    - a. Objective: preserve rare and endangered terrestrial plant species.
    - b. General guideline: locate development and other intensive human activities so as to protect the location and habitats of rare and endangered plant species and allow for the continuing propagation of these species.
  3. Productive commercial forest land.
    - a. Objective: conserve productive forest lands.
    - b. General guidelines: avoid impairment of productive forest lands for commercial forest production by employing sound forestry practices and by employing such planning techniques as clustering of development.
- L. Fragile ecosystems at higher elevations.
1. Objective: minimize disturbance of fragile ecosystems at higher elevations.
  2. General guideline: avoid development at elevations of 2,500 feet or more.
- M. Terrestrial wildlife.
1. Terrestrial wildlife, general
    - a. Objective: maximize the preservation of terrestrial wildlife species.
    - b. General guidelines: preserve key wildlife habitats, such as deer wintering yards, nesting areas, productive feeding areas and important vegetation transition areas; and maintain wildlife diversity to the extent possible in

- view of project objectives by maintaining a diversity of habitat.
2. Rare and endangered terrestrial wildlife species.
    - a. Objective: preserve rare and endangered terrestrial wildlife species.
    - b. General guideline: locate development and other intensive human activities so as to protect the location and habitats of rare and endangered terrestrial wildlife species and allow for the continuing propagation of these species.
- N. Aesthetics.
1. Aesthetics, general
    - a. Objective: preserve and enhance, where possible, impact of the project upon the existing aesthetic qualities of the project site and its environs.
    - b. General guideline: utilize existing vegetation and topographical features; and employ careful siting methods so as to minimize the visual impact of all development activities.
  2. Scenic vistas.
    - a. Objective: maintain the scenic qualities of views from vistas designated in the Adirondack Park State Land Master Plan.
    - b. General guideline: avoid visibility of buildings and other development and land use alterations generally from vistas by employment of vegetative screening, existing topography and careful siting methods.
  3. Travel corridors.
    - a. Objective: preserve the scenic qualities of views from public roads and trails and from boats and canoe routes.
    - b. General guidelines: employ vegetative screening, existing topography and careful siting methods to minimize the visual impact of buildings and other development and land use alterations.
- O. Open space.
1. Open space, general.
    - a. Objective: maintain the open space character of the project site, adjacent land and surrounding areas.
    - b. General guideline: preserve vegetative screening and existing topography; employ clustering and careful siting methods where appropriate to minimize the impact of development activities and land use alterations on open space; and preserve undeveloped areas as large as possible in view of project objectives.
  3. Outdoor recreation.
    - a. Objective: maintain the quality and availability of land for outdoor and open space recreational purposes.
    - b. General guideline: provide on the project site sufficient open space area for outdoor recreational use by those persons who will use the proposed project, taking into account the existing recreational resources available in the area; and locate buildings and other development so as not to interfere with those areas to be used as hiking, bicycling and cross-country-skiing trails, as well as trail bike, jeep, all-terrain-vehicle and horse trails, playgrounds, picnic areas, campgrounds, parks, beaches and similar uses.
- P. Adjoining and nearby land uses.
1. Surrounding land uses, general.
    - a. Objective: minimize incompatibility of new development with the character of adjoining and nearby land uses.
    - b. General guideline: take into account the existing and potential land uses

in the vicinity of the project site in determining what new land use activities are suitable for the project site; avoid new intensive development in open space areas; and avoid substantially altering existing residential and other land use patterns.

2. Adjacent state land.

- a. Objective: preserve the wild and natural character of adjacent state lands designated as wilderness, primitive or canoe by the Adirondack Park State Land Master Plan.
- b. General guideline: minimize development activities which would materially impair the wilderness attributes of these state lands; and design and construct development that is located within 1/8 mile of these state lands so as to minimize its visual and audial impact in these wilderness-like areas, thereby ensuring the continued compatibility of state and private types of ownership.

Q. Wild, scenic and recreational study rivers.

1. Objective: protect or enhance the natural qualities of any river designated to be studied for possible inclusion in the state's wild, scenic or recreational river system.
2. General guideline: maintain buffer zones and existing vegetation along designated study rivers; avoid intensive development within 1/4 mile of such rivers; minimize alterations to such rivers and their banks; and preserve the free-flowing character of such rivers.

R. Historic sites.

1. Objective: protect archeological sites, historic sites and unique historical structures for their educational and cultural value to the area, region or state.
2. General guideline: preserve and restore archeological sites, historic sites and unique historic structures to the extent warranted by their respective significance; and avoid land uses and development on adjoining and nearby lands which would be incompatible with the significance of such sites and structures.

S. Special interest areas.

1. Objective: preserve special interest areas, such as unique natural features and their surrounding environs.
2. General guideline: avoid physical and aesthetic alteration and impairment of the natural condition of unique physical features, such as gorges, waterfalls and interesting geological formations; provide for their continuing protection; and utilize these special interest areas as assets to development.

T. Government considerations.

1. Service and finance.
  - a. Objective: fully explore and assure the ability of government to provide governmental services and facilities made necessary by the project.
  - b. General guideline: phase development activities to a level commensurate with the financial capability of the various levels of government to provide the governmental services and facilities that will be generated by the development, such as transportation systems, schools, health care, sewage and solid waste disposal systems, water supply systems and fire and police protection; require that, as nearly as possible, the balance between the cost of public services required to adequately serve the development as compared with the anticipated tax and other revenues to be generated by the development be favorable at each level of government or taxing jurisdiction affected by the project; and include in development plans provisions to maintain or improve existing services

and alleviate any potential adverse impact upon the ability of the government to provide services and facilities.

2. Regulation.

- a. Objective: conform development activities to all applicable governmental rules and regulations.
- b. General guideline: comply with all applicable ordinances, rules and regulations of all governmental agencies with responsibilities for such activities, including those of towns and villages, counties, the State Departments of Health and Environmental Conservation and the Adirondack Park Agency.

U. Public utilities and community resources.

1. Objective: assure the adequacy of such public utility services and community resources as shall be necessary for the project.
2. General guideline: avoid excessive demands on the capabilities of public utilities, such as electricity and communication services; and avoid necessity for major uncompensated increases in community services and activities, such as recreational facilities, social, cultural and health services and transportation facilities.

**6.17 Building Permits**

No building permit will be issued prior to the filing of the final plat with the Franklin County Clerk.

# ARTICLE 7

## ACCESSORY BUILDINGS AND USES

### 7.1 General

- A. Accessory uses and buildings are permitted in conjunction with allowed principal uses.
- B. Accessory uses and buildings must be:
  - 1. Customarily found in association with the principal use.
  - 2. Clearly incidental and subordinate to the principal use in terms of area and function.
  - 3. Located on the same parcel as the principal use.
- C. Accessory buildings:
  - 1. Shall comply with the maximum building coverage requirements of the zone.
  - 2. May encroach upon required corner side, interior side, and rear yards, so long as they are not expressly restricted in the standards in Article 7, and do not in the aggregate occupy more than 50% of the area of any individual required yard.
  - 3. May not encroach upon required front yards or front setbacks of the front building wall of a principal building, unless expressly allowed in the standards in Article 7.
  - 4. Shall be located at least five (5) feet from lot lines, except where there is no required yard or where lot lines share a right-of-way line with an alley.
  - 5. Shall be located no closer to the principal building than five (5) feet.
  - 6. Are limited to a maximum height of 18 feet, unless otherwise allowed or restricted by the standards of Article 3
  - 7. Require a building permit if hundred forty-four (144) square feet or more in size.
  - 8. Such as gazebos (pergolas), clothes drying poles, play structures, trellises, and similar structures shall not exceed ten (10) feet in height.
- D. All accessory uses and structures shall meet any applicable federal, state, and local requirements, including but not limited to, licensing, health, safety, and building and fire code requirements.

### 7.2 Access, Parking, and Circulation in all Zoning Districts

- A. Purpose.

The design objective for the access, parking, and circulation standards is to:

  - 1. Emphasize the importance of site accessibility from a variety of modes of transportation wherever appropriate, including pedestrians, bicycles, automobiles, and current or potential future transit service;
  - 2. Ensure the appropriate site location and design features that mitigate the impact of parking lots on other land uses and design goals for surrounding districts;
  - 3. Create the least visible impact of parking on adjacent private and public property;
  - 4. Promote parking designs that minimize runoff and incorporate infiltration of stormwater into the ground; and
- B. Loading Areas
  - 1. In C, PSA, or VC zoning districts no loading berth may be located on a front facade, and no loading area may be located in a front yard.
  - 2. Where any loading area is located within 50 feet of, and visible from, an interior side or rear lot line that abuts any lot in a C, CZ, OS, PSA, R-1, R-3, R-8, SR-1, SR-2, SR-3, SPR, SRD zoning district the loading area must be screened by a vegetated buffer yard, designed per Section 7.6 Type B.

C. Parking design standards.

1. Except in the case of single-family and two-family dwellings, there shall be no parking allowed in any required front yard, side yard or rear yard setback areas, except in established driveways.
2. The minimum allowable dimensions of a parking space in a parking lot shall be nine feet wide by eighteen feet long, the minimum allowable dimensions for a parallel parking space shall be seven feet wide by eighteen feet long. Parking spaces so designated for persons with disabilities shall include on one side a minimum of an additional four feet of width in order to accommodate wheelchair lifts.
3. Travel aisles for vehicles within a parking lot shall be a minimum of 22 feet in width for aisles intended for two-way traffic. Where angled parking with one-way traffic circulation is proposed, the minimum aisle width shall be 13 feet if the angle of the parking spaces is 45° from the perpendicular, and 18 feet if the angle of the parking spaces is 60° from the perpendicular.
4. All off-street parking shall be surfaced so as to be durable and well-drained with design consideration based on the expected level of traffic for the parking area and shall be provided with necessary access drives.
5. Permeable pavement should be used when practicable to reduce stormwater runoff.

D. Pedestrian design standards

1. Pedestrian walkways must provide connecting main entrances to parking, adjacent public rights-of-way and transit stops, and all uses on a site that allow for public access. Pedestrian walkways must be paved with a fixed, firm, and non-slip material.
2. Pedestrian facilities must be provided between rows of parking spaces.

E. Landscape Plan.

1. All developments subject to Site Plan Review (Article 5) must submit a landscape plan. Where developments involve either 10,000 square feet or more of development area or construction or reconstruction of a parking lot containing 20 or more spaces, the landscape plan must be stamped by a New York State licensed landscape architect. Single-family dwellings, two-family dwellings, and multi-unit dwellings of 6 units or less are exempt from this requirement.
  - a. At least 10% of the interior of the parking lot, calculated as the total surface area of all parking spaces, drive aisles, and interior landscape, must be landscaped.
  - b. Where any parking lot is located along, within 50 feet of, and visible from, a public right-of-way the parking lot must be screened by a vegetated buffer, per Section 7.6 Type A, B, or C as determined by the Planning Board based on the neighborhood context.
  - c. Where a proposed parking lot is larger than nine spaces in size, there shall be planted one deciduous canopy tree for every five parking spaces proposed. Said trees shall be of a species with a height at maturity of at least 30 feet, of a species known to be compatible with regional climate conditions, and shall be at least 2.5 inches in diameter and four feet from the ground at time of planting. Trees used to meet this requirement must be planted within the perimeter of the parking area.
  - d. Where any parking lot is larger than 9 (nine) spaces the parking lot must be screened by a vegetated buffer yard, designed per Section 7.6 Type A, B, or C.

F. Clear-Vision Area

1. A clear vision area shall be maintained on each corner of property at the intersection of two streets or a street and a railroad railway. No fence, wall, sign, hedge, other plantings or structure that would impede visibility between the height of 3 feet-to-10 feet shall be established in the clear vision area.

2. The preceding shall not apply to the following:
3. utility poles, warning signs and signals
4. a structure or appurtenance to a structure lawfully existing as of the date of enactment of this Local Law;
5. a place where the natural contour of the ground does not permit cross-visibility at the intersection.
6. A clear-vision area shall consist of a triangular area, two sides of which are lot lines for a distance of twenty (20) feet, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.
7. *Commercial, Industrial, Institutional Driveway Clear Vision Areas:* Drives to public streets shall have a minimum vision clearance area formed by the intersection of the driveway street, right-of-way and a straight line joining said lines fifteen (15) feet from their intersection. Every sign hereafter erected or displayed shall comply with the provisions of this Code.

### **7.3. Fences and Walls**

Fences and walls in the Village of Tupper Lake are required to comply with the Village of Tupper Lake Fencing Law or any successor requirements.

In the Town of Tupper Lake the building line and yard requirements of this code shall not apply to fences or retaining walls or other walls not over 6 feet in height; except that 1) fences or wall in required clear sight areas adjacent to street intersections may not be taller than 3 feet, and 2) fences and walls of 100 square feet or more in face area must comply with the shoreline setback requirements for structures.

### **7.4 Outdoor Lighting**

- A. Appropriately regulated and properly installed outdoor lighting will contribute to the safety and welfare of the residents of the Town and Village. Principal among these concerns is:
  1. The degradation of the nighttime visual environment by production of unsightly and dangerous glare;
  2. Lighting practices that produce excessive glare and brightness that interferes with the health and safety of the Village and Town of Tupper Lake's citizens and visitors;
  3. Unnecessary waste of energy and resources in the production of too much light or wasted light;
  4. Interference in the use or enjoyment of property that is not intended to be illuminated at night by light trespass, and the loss of the scenic view of the night sky due to increased sky-glow; and
  5. The impact of inappropriately designed outdoor lighting that disrupts nocturnal animal behavior, particularly migrating birds and other species.
- B. This section is intended to assist property owners in their efforts to provide a safe and secure environment, control energy costs and keep unnecessary direct light from shining onto abutting properties, streets, or night skies. It is also intended to reduce the problems of glare, minimize light trespass, and help reduce the energy and financial costs of outdoor lighting by establishing regulations which limit the area that certain kinds of outdoor lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the Village and Town of Tupper Lake.
- C. Any lights used to illuminate the exterior of a single-family, two-family, multiple-family, dormitory or other group residence, or manufactured home park, or a commercial,

industrial, or other nonresidential space or parcel, including buildings, signs and other structures, parking and pedestrian areas and landscaping, shall be designed and installed such that:

1. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens, and any flood or spot luminaire with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct light-emitting part of the luminaire;
2. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens, and any flood or spot luminaire with a lamp or lamps rated at a total of more than 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary;
3. The maximum height of the luminaire may not exceed 25 feet.

D. Exceptions to the above shall be:

1. Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or less, and any flood or spot luminaire with a lamp or lamps rated at 900 lumens or less, may be used without restriction as to light distribution or mounting height, except that if any spot or flood luminaire rated 900 lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions;
2. Luminaires used for public roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.

E. Light Trespass Standard

1. Site lighting fixtures shall be selected and designed with International Dark-Sky Association features to focus lighting downward without excessive illumination of the upper residential stories of buildings or of the night sky.
2. All light fixtures, including security lighting, shall be located, aimed and shielded so that the direct illumination from the fixture shall be confined to the property boundaries of the source.
3. Any privately or publicly owned outdoor light fixture with a lamp of initial output over 10,000 lumens located within 50 feet of any residential (including multi-family residential) property or public right-of-way shall utilize an internal or external shield, with the light fixture and shield oriented to minimize light trespass over the adjacent property or right-of way line. If an external shield is used, its surface must be painted black to minimize reflections.

F. Prohibited Outdoor Lighting. The following types of outdoor lighting are prohibited:

1. Outdoor floodlighting by flood light projection above the horizontal plane.
2. Search lights, flood lights, laser source lights, or any similar high intensity light, except in emergencies by police, fire, or medical personnel or at their direction; or for meteorological data gathering purposes.
3. Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

G. Exceptions.

1. Airport Lighting

- a. Required navigational lighting systems at airports for the safe and efficient movement of aircraft during flight, take off, landing and taxiing is exempt from the provisions of this Section. Lighting used for illumination of aircraft loading, unloading, and servicing areas is exempt from the lumens maximum although

- it must conform to all other requirements of this Section. All other outdoor lighting at airport facilities shall comply with the provisions of this Section.
2. Emergency Lighting by Emergency Services
    - a. Searchlights, floodlights, laser source lights, strobe or flashing lights, or any similar high intensity lights are permitted when used in emergencies by police, fire, medical, or utility personnel or at their direction.
  3. Construction and Renovation of Municipal Facilities
    - a. All outdoor lighting used for construction or major renovation of municipal buildings, structures and facilities is exempt from the provisions of this Section.

## 7.5 Signs

All new, reconstructed, altered, or relocated signs must comply with the standards of this section.

A. Purpose. The purpose of this section is to:

1. Provide minimum standards to protect the public health, safety, and welfare by controlling the number, size, design, materials, location, construction, installation, illumination, and maintenance of all signs and sign structures in the Town and Village of Tupper Lake;
2. Protect and enhance the Town and Village aesthetic environment and appearance, including scenic views;
3. Create a more attractive economic and business climate and to enhance and protect the physical appearance of the community;
4. Conserve the value of buildings and properties;
5. Preserve the right of free speech and expression in the display of signs;
6. Provide for the orderly and reasonable elimination of existing signs that are not in conformance with this Article;
7. Reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and provide more visual open space; and
8. Promote attractive signs, which clearly present the visual message in a manner that is compatible with the sign's surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

B. Sign Permits.

A sign permit allows for signs to be erected, installed, reconstructed, altered, or relocated in conformance with this Law and all other applicable regulations.

1. All sign types described in Sections F and G require a sign permit before they may be constructed, reconstructed, altered, or relocated. Signs described in Section L do not require a sign permit, but must follow applicable standards.
2. The following alteration and maintenance activities do not require a sign permit:
  - a. Painting, cleaning, or other normal maintenance and repair of a sign, provided that no change is made to any structural or electronic component of the sign.
  - b. Changing permitted items of information, the message of an existing changeable message component of a sign, or the sign face within an existing sign structure, provided that no change is made to any structural or electronic component of the sign.

3. Signs projecting into a public right-of-way require approval from the Town or Village Superintendent of Public Works and/or Franklin County Highway Department and/or New York State Department of Transportation, as applicable, and must have a clearance of not less than 8 feet above the sidewalk or surrounding ground and not less than 15 feet above any public driveway or street.
  4. Procedure.
    - a. Permits to be issued by Code Administrator: Applications for sign permits shall be submitted to the Code Administrator, including payment of the applicable fee, on designated forms and two (2) copies of plans showing sign area, size, character, structural design, dimensions and clearances, method of illumination, proposed location, and structural aspects and method of installing on fastening the sign and its support structures. Once it is determined that the application is complete, the application will be considered by the Code Enforcement Officer.
    - b. Within fifteen (15) days of the determination of completeness, the Code Administrator shall approve, deny, or conditionally approve the permit. Where the Code Administrator is of the opinion the sign and its structural elements may be unsafe, they may withhold the issuance of the permit until the applicant submits a written statement from a registered structural engineer certifying the safety and adequacy of such sign and the method of erection and support.
  5. Expiration. If the work authorized under a sign permit is not completed within one year after the date of issuance, the sign permit expires.
  6. Revocation. The Code Enforcement Officer may revoke any sign permit where there has been a violation of this Law, misrepresentation of fact on the sign permit application, or threat to the public health, safety, and welfare.
  7. Appeals. An aggrieved party may appeal the sign permit decision of the Code Enforcement Officer to the Zoning Board of Appeals in accordance with Article 12. Appeals must be filed within 60 days after the filing of a decision in the office of the Town or Village Clerk, as applicable.
  8. Sign Certificate of Compliance. All signs constructed or altered after July 1, 2019 require a Certificate of Compliance, non-compliant signs must be removed or brought into compliance within 30 days of notice of non-compliance. After sign installation, the applicant shall request the Code Administrator to inspect such sign to determine conformity with the approved application and plans. If the sign is in compliance, the Code Administrator shall Issue a Certificate of Compliance If the sign does not comply, the sign Certificate of Compliance will not be issued. The applicant or owner of such sign may correct the deficiency within thirty (30) days of inspection. If the deficiency is corrected within thirty (30) days a Certificate of Compliance will be issued by the Code Officer. If the deficiency is not corrected, the sign shall be removed by request of the Code Administrator to the legislative body of the municipality wherein such sign is located.
  9. Permit Number to be Affixed to Sign. Prior to its display, the owner of an approved sign requiring a sign permit shall affix, in the lower right-hand corner of the sign, the sign permit number.
- C. General.
1. No sign or other outdoor devices for the purpose of advertising of any kind may be erected or established in the Town or Village of Tupper Lake except in conformance with the standards in this section.
  2. All signs with a surface area greater than 24 square feet require a sign permit and must comply with applicable regulations of this section. Sign alteration and

maintenance activities such as painting, cleaning, or other normal maintenance and repair do not require a building permit, provided that no change is made to any structural or electronic component of the sign.

3. Construction or alteration of a sign may require a Building Permit and a Sign Permit for signs that require structural support, electrical power, plumbing, or any other work that would normally require a building permit.
4. Temporary signs are allowed for a maximum of 30 days per occurrence, up to a maximum of three display periods per calendar year.
5. The provisions of this section do not apply to safety signs, street signs, historical markers or highway directional signs erected by municipal or public agencies.
6. All temporary signs must be non-illuminated. Allowed permanent signs may be non-illuminated, or illuminated by internal light fixtures or external indirect illumination, unless otherwise specified.
7. No sign shall be placed on the roof, chimney, or balcony of any structure or building.
8. Signs proposed for Class A or Class B Regional Projects within the Adirondack Park shall be subject to the sign standards contained in 9 NYCRR in Appendix Q-3 of the Adirondack Park Agency Rules and Regulations.
9. Signs may not contain mirrors.
10. Signs may not contain day-glow, phosphorescent, fluorescent, or reflective material or paint.
11. Any otherwise lawful noncommercial copy may be substituted for any commercial copy on any sign that is allowed by this Article.

#### D. Location

1. Each sign, with the exception of off-premise signs erected in conformance with Section G hereof, must be located on the same site as the subject of the sign.
2. No sign, other than signs placed by agencies of government with appropriate jurisdiction, or a sign whose placement is authorized by such agencies, may be erected or placed on public property.
3. No permanent or temporary sign may be erected or placed at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position shape or color of the sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of the words "Stop," "Look," "Drive-in," "Left" "Danger," or any other words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse pedestrians, cyclists, or motorists. The regulations of the New York State Department of Transportation must be followed with respect to the placement of a permanent or temporary sign within the right of way of a state highway.
4. No sign may be installed in a way that obstructs free and clear vision, or free use, of any public right-of-way, intersection, ingress or egress point, parking space, drive aisle, driveway, building entrance, fire escape, standpipe, or accessibility ramp.
5. No sign may be placed so as to obstruct any window or door, with the exception of window signs per Section F.3.h. hereof.

#### E. Sign illumination.

1. Sign lighting fixtures must be selected and designed with International Dark-Sky Association features to focus lighting downward.
2. In this section the term "illuminated sign" applies to both signs that are illuminated by external and internal illumination.
3. No light shall be cast upward beyond a horizontal plane level with the light source, or onto any adjoining property.

4. An illuminated sign or lighting device shall not be placed or located as to permit the beams and illumination to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
5. Any illuminated sign or sign-lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights.
6. Signs must have photocells that automatically dim in dark conditions in direct correlation to natural ambient light conditions. At no time shall the sign lights be greater than 0.3 footcandle above ambient light conditions measured from a distance of 30ft.
7. External Illumination
  - a. An externally illuminated sign is characterized by the use of artificial light reflecting off its surface.
  - b. External light sources intended to illuminate the sign face must be fully shielded, direct light only in a downward manner, and placed close to, and directed upon, the sign face.
  - c. Externally illuminated signs must be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare.
8. Internal Illumination
  - a. An internally illuminated sign is characterized by the use of artificial light projecting through its surface.
  - b. Internal illumination is permitted only as graphics on an opaque dark colored background or as halo lighting, no illuminated backgrounds are allowed
  - c. Internal illumination is limited to letters, numbers, symbols, and accents. No more than 50% of the maximum total sign area allowed may be internally illuminated. Any remaining area must remain opaque.
9. Direct Illumination
  - a. A directly illuminated sign is characterized by the use of exposed lamps, such as neon tubes, LEDs, or incandescent bulbs that have no shielding and are visible to the eye. Direct illumination of signs is not permitted in the Town of Tupper Lake.
10. Electronic Message Centers (EMCs)
  - a. An electrically-activated display that utilizes computer-generated messages, animation, or other electronic means of changing to present variable messages and/or graphic presentations. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix. Electronic Message Centers (EMCs) are not permitted in the Town of Tupper Lake.

#### F. On-Premise Signs

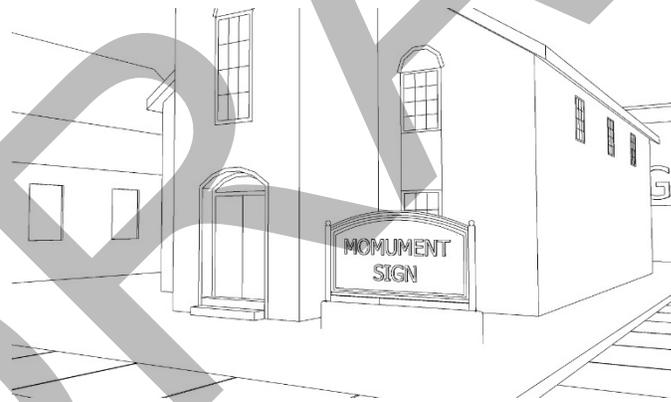
An on-premise sign is a sign erected, maintained, or used for the purpose of the display of messages relating to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

1. Sign Types: Awning Signs, Canopy Sign, Iconic Sign, Monument Sign, Porch Sign, Projecting Sign, Sidewalk Sign, Wall Sign, Marquee Sign, and Yard Sign.
2. Number of Signs. Not more than two (2) on-premise signs may be erected or maintained per establishments, except for Permanent Exempt Signs. Not more than one free-standing sign may be erected upon any individual business premises.
3. Total Sign Area.
  - a. Free Standing Signs. Such signs shall not exceed five (5) feet in height. Two types of freestanding signs allowed in Tupper Lake are Yard Signs and Monument Signs.

Yard signs may be a maximum of 6 square feet and must be in the front yard of the building they are associated with.



Monument Signs are allowed in the Industrial and Highway Commercial zones only. Monument signs must have a stone or masonry base. Monument Signs have a maximum sign area of 15 square feet.



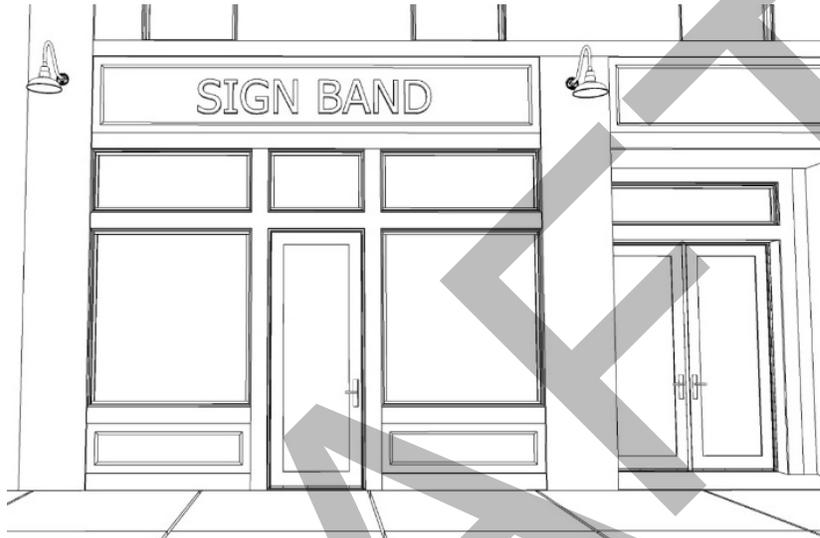
- b. Projecting Signs and shingle signs. No projecting sign or shingle sign shall extend above the roofline of the wall or the top of a parapet wall, whichever is higher. Overhead clearance and projection into public right-of-way shall be maintained so that signs shall projects over such right-of way for a distance not to exceed three (3) feet, of an overhead clearance of not less than eight (8) feet. Projecting signs and shingle signs have a maximum sign area of 6 square feet.



- c. Canopy Sign: A canopy sign is made of individual letters attached to the top of a projection from a commercial building above entrance doors. Canopy Sign letters may be a maximum of 18" tall and the length of a canopy sign must not exceed 3 times the width of the door the canopy is associated with.



- d. **Sign Band Signs:** The sign band is an architecturally integrated part of a commercial or mixed-use building separating the first floor from the second floor. A sign band sign is completely contained within the architectural sign band area and consists of individual letters or symbols that may be made of wood, plastic, fiberglass, metal, ceramic, or masonry. Letters and symbols in a sign band may be a maximum of 18" tall. The total maximum area allowed for a sign band sign is the length of the sign band in feet multiplied by 0.9 sqft.



- e. **Box Sign:** A box sign is a wood or metal rectangular box that is designed to hold a plastic, plexiglass or metal sheet with sign graphics printed, painted, adhered to the sheet surface. box signs are usually, but not always, internally illuminated. Box signs are not permitted under this code, any existing box sign will be allowed to continue in use for 10 years or until the business associated with the sign is closed or moves, whichever is shorter.



- f. Marquee Sign: marquee signs combine fixed sign elements with movable type and are integrated into an architectural covering above the entrance to a theatre, restaurant, or hotel with event space. Marquee signs may be up to 4' tall, up to 20' long, and may project 8' from the building face (subject to site conditions and approval of right of way jurisdictions).



- g. Sidewalk Signs: One sidewalk sign is allowed for each retail, restaurant, and



café use in the Village Center zone. Sidewalk signs may be no more than 4' tall and no more than 2.5' wide. Sidewalk signs must be removed from the sidewalk when businesses are closed and must not impede traffic along sidewalks or block the required 5' ADA clear path.

h. Window signs.

- (a) Window signs may be internally illuminated; however, blinking, flashing and chasing light sources are not allowed;
- (b) Window signs are only allowed on ground-story windows and doors;
- (c) Window signs may be affixed to or painted on the interior or exterior of the exterior glazed surfaces of the building, provided the signs do not obstruct more than 30% of the total area or more than 30% of a single pane of glazing; and
- (d) The area of a window sign shall be measured by multiplying the height by the width of a rectangle drawn around all of the window sign components (e.g., lettering, diagrams, and images).

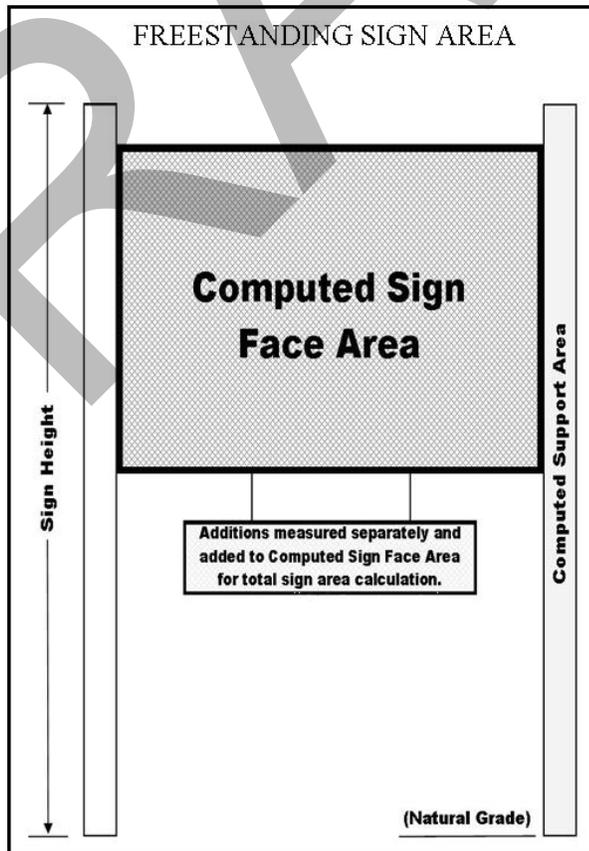
G. Off-Premises Signs: No sign shall be erected or maintained more than two hundred (200) feet from the business or activity with which it is related. No off-premises sign shall have a sign area of more than ten (10) square feet, nor shall any such sign be a luminous sign.

H. Sign Measurement

1. Sign area.

Signs shall be measured as the total area of a sign, as follows:

- a. For freestanding signs, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming

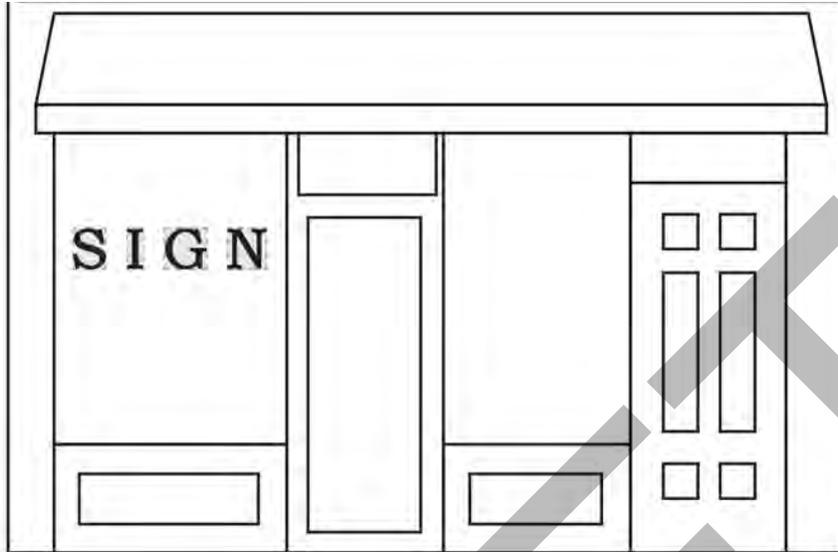


the sign face or background used to differentiate the sign from the structure against which it is placed.

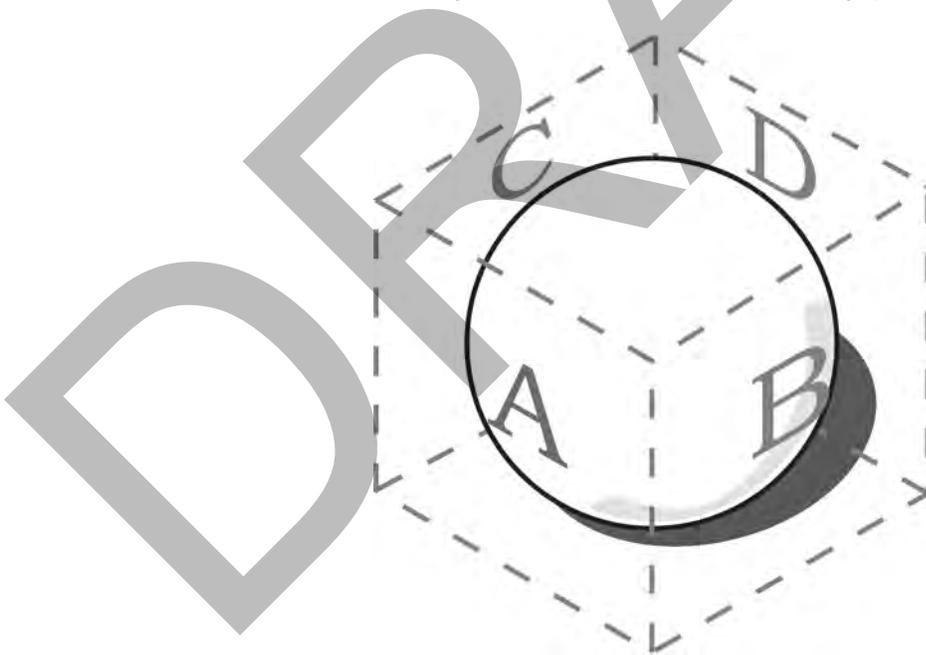
- b. For signs on a building facade consisting of freestanding letters or features, the sign area is calculated as the total area of each rectangle that encompasses each individual letter or feature. Sign area does not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face.



- c. Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or features, provided that the portion of the film around the individual letters or features is fully transparent.



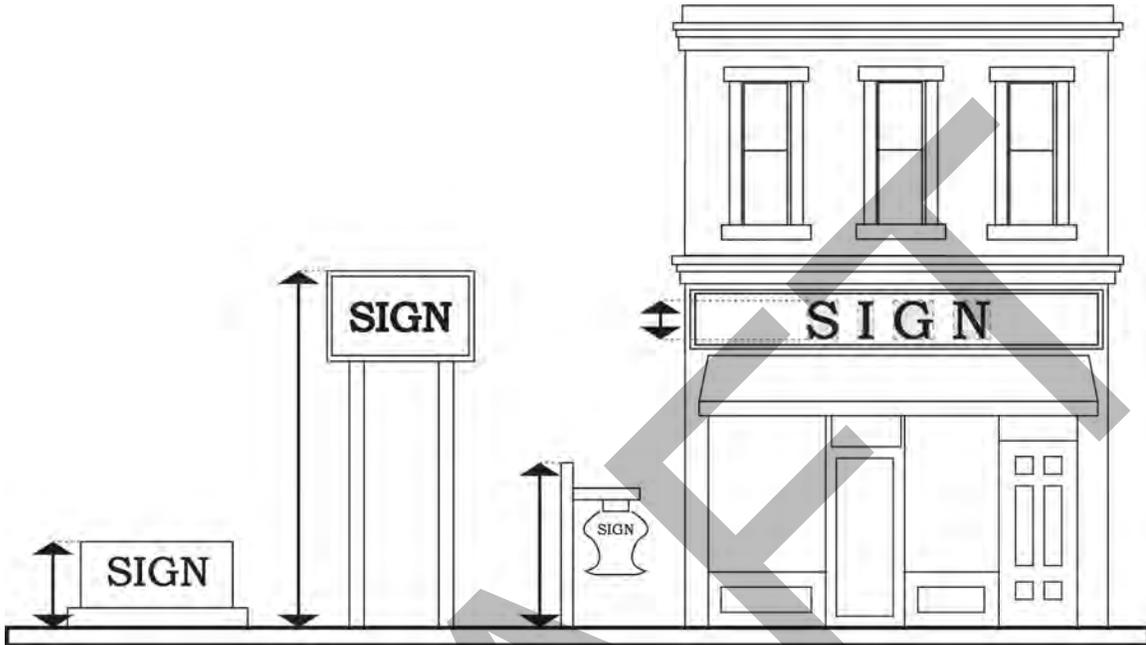
- d. The sign area of a three-dimensional, free-form or sculptural (non-planar) sign is calculated as 50% of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.
- e. If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back to back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area.



## 2. Sign Height.

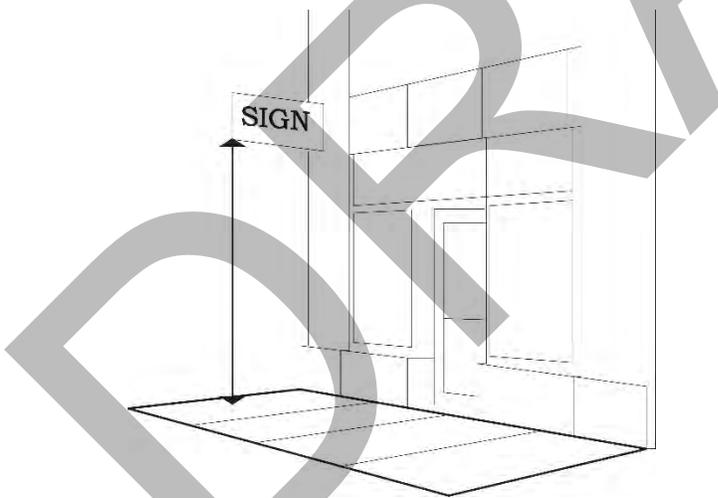
Sign height is measured as the vertical distance from the base of a sign or sign structure, to the highest point of the sign or sign structure. Building mounted sign height

is measured from the bottom of the sign to the top of the sign. No portion of a building mounted sign may protrude above the building the sign is mounted to.



3. Vertical clearance.

For signs attached to a building, vertical clearance is measured as the vertical distance from the sidewalk or nearest ground level to the lowest point of the sign.



I. Construction

All signs must be erected in compliance with building, electrical, and fire codes, and with the following requirements as applicable:

1. Supports and braces must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically practicable.

2. All signs attached to a building must be installed and maintained so that wall penetrations are watertight and do not exceed allowable stresses of supporting materials.
3. When a building-mounted sign is removed, the wall must be repaired and restored to its original condition prior to sign installation.
4. All signs and their supporting structures must be enclosed so as to prevent inhabitation by birds, rodents, insects, and other wildlife.
5. All signs must be designed and constructed to withstand wind loads, dead loads, and snow loads as required by the New York State Fire Prevention and Building Code.
6. Materials for signs must be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance. Glass forming any part of a sign, with the exception of exposed lamps, must be safety glass.
7. Signs constructed of fabric or fabric-like material must be held taut within frames.
8. Audio components are prohibited as part of any sign, with the exception of drive-through menu boards associated with a Drive-Through Facility.
9. Conduits and other electrical components must be designed as an integral part of the overall sign structure and hidden from view to the extent technically practicable. Visible transformers are prohibited.
10. All exposed elements of any sign structure shall be composed of wood, stone, ornamental metal, or materials which have a similar appearance.
11. All electrical fixtures, devices, circuits, conduits, raceways, or any apparatus used to illuminate any sign must be installed and maintained in compliance with the National Electric Code (NEC). A Nationally Recognized Testing Laboratory (NRTL) listing label number must be provided for any sign with electrical components.

J. Maintenance

1. Signs and sign structures, together with their supports, braces, guy wires, anchors, and electrical components, must be maintained in a proper state of repair. Any damage to or deterioration of a sign must be repaired immediately or within 30 days of receipt of notice from the Town or Village of Tupper Lake Code Enforcement Officer, as applicable.
2. When an existing sign is removed, replaced, or repaired, all brackets, poles, wiring, and other supporting hardware that are no longer required must be removed, and any surfaces to which the sign may have been attached must be repaired or painted, immediately or within 30 days of receipt of notice from the Town or Village of Tupper Lake Code Enforcement Officer, as applicable.
3. Where a sign is totally or partially illegible, where sign copy has been removed, or when an establishment to which the sign pertains has been discontinued for three or more months, the sign must be repaired, reused, or removed immediately or within 30 days of receipt of notice from the Town or Village of Tupper Lake Code Enforcement Officer, as applicable. If the property owner fails to repair, reuse, or remove the sign within the timeframe established by the respective Code Enforcement Officer, the sign may be removed by the Town or Village at the property owner's expense.
4. If a sign is in an unsafe or non-secure condition, the sign must be repaired or removed immediately or within three days of receipt of notice from the Town or Village of Tupper Lake Code Enforcement Officer, as applicable. The respective Code Enforcement Officer shall order the removal of any sign that is an immediate peril to persons or property summarily, without notice, and at the property owner's expense.

K. Prohibited Signs

1. The below listed signs, as well as any sign type not expressly allowed by this Law, are prohibited:
  - a. Abandoned or illegally erected signs.
  - b. Mechanically activated signs, other than barber poles and clocks. No sign or part thereof shall contain or consist of any banner, pendant, ribbon, streamer, spinner, or other similar moving fluttering or revolving device.
  - c. Signs containing or illuminated by flashing, intermittent, rotating or moving light or lights, except for time and temperature indicators.
  - d. Roof signs.
  - e. Neon and tubular gas signs.
  - f. Banners attached to privately owned light poles.
  - g. Pole signs.
  - h. Freestanding signs or devices motivated by wind, thermal changes, or other environmental input, such as flags, spinners, pennants, pinwheels, balloon signs, air-activated graphics, or other devices or displays that respond to naturally or artificially induced external motivation, except for flags erected in conformance with Section I. Exempt Signs.
  - i. Vehicle Signs, including signs on motor vehicles that are inoperable, do not display a current vehicle inspection sticker or license plate, are not principally used as a mode of transportation for business purposes, and/or are conspicuously parked or located on a lot for more than 24 hours to advertise a product or service, or to direct the public to a business or activity located on or off the premises.
  - j. Signs that are burned, cut, painted, pasted, or otherwise marked on or affixed to a tree, standpipe, fire escape, utility pole, trash receptacle, bench, or any other unapproved structure or surface.
  - k. Signs that simulate in color, size, or design, any traffic control sign or signal, or that make use of words, symbols, or characters in a manner that may interfere with, mislead, or confuse pedestrian, cyclist, or vehicular traffic.
  - l. Signs exceeding allowed height or area for the zone where the sign is located.
  - m. Example images for Prohibited Signs:





From left to right, top row: Blade Sign; Neon/Tubular Gas Sign;  
bottom row: Sign with 100% of Area Internally Lit, Pole sign.

## L. Exempt Signs

### 1. Permanent Exempt Signs

- a. Athletic field sign.
- b. Number and nameplates identifying residences or businesses mounted on a house, building, apartment, or mailbox, not exceeding one square foot in area.
- c. ATM Sign.
- d. Building Directory Sign.
- e. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations, not exceeding six square feet.
- f. Signs integral to fuel pumps including on-pump gasoline price signs.
- g. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- h. On-premises directional signs for the convenience of the general public, such as identifying parking areas and fire zones, when not visible from a right-of-way.
- i. Nonilluminated warning, private drive, posted or no trespassing signs, not exceeding two square feet.
- j. Lawn signs identifying residences, not exceeding one square foot or two square feet if double-faced. Such signs are to be nonilluminated except by a light which is an integral part of a lamppost if used as a support.
- k. In any District where agricultural uses are permitted, an incidental sign advertising the sale of farm products produced on the premises may be up to twenty-four (24) square feet in area.
- l. Window Sign.
- m. Neon or exposed bulb signs that were originally installed before 1970.
- n. Light pole banners for public decorations/events.

### 2. Temporary Exempt Signs.

The following temporary signs do not require a sign permit, but must follow applicable standards:

- a. Construction Sign.
- b. Non-commercial sign.

- c. Real estate sign.
- d. Yard/garage sale sign.

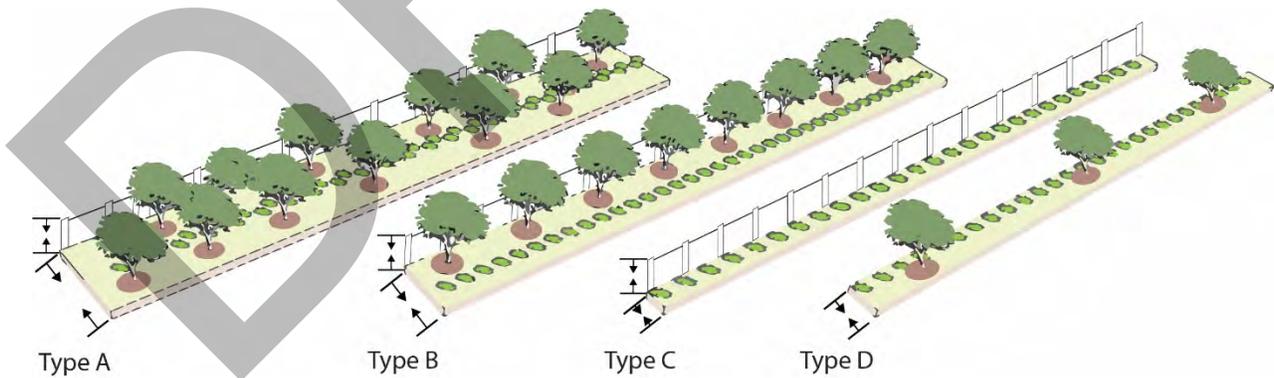
M. Nonconforming Signs

1. A nonconforming sign that was lawfully established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation, but that does not now comply with the provisions of this Law, may be repaired, altered, or relocated in accordance with Article 10.

**7.6 Required Buffer Zones**

**A. The Planning Board, through the Site Plan Review process shall have the ability to require buffers as described in this section.**

1. A natural, pre-existing grade separation may be conserved, or a man-made berm retained or installed, in lieu of a fence or wall to the extent that the height of the berm or preexisting grade separation meets the minimum required height of the fence or wall.
2. Buffer Yard Landscape
  - a. Required buffer yard landscape must be of the following dimensions at installation:
    - a. Shade trees must be of a minimum caliper of two inches.
    - b. Ornamental trees must be of a minimum caliper of one and one-half inches.
    - c. Shrubs must be of a five gallon container minimum.
3. Pre-existing, equivalent vegetation that is conserved within the buffer yard may substitute for any required landscape installation, so long as the pre-existing vegetation is healthy and growing.
4. Any required trees or shrubs may be installed at varying distances to create a naturalistic landscape design, so long as the per linear foot requirement is applied as an average, and the landscape is arranged so as to provide sufficient screening.
5. All required plant materials within the buffer yard must be maintained in a healthy, growing condition over their lifetime, or replaced where necessary.



TYPE A

TYPE B

TYPE C

TYPE D

Buffer yard depth (min)	25'	15'	5'	7' or required corner side or front yard depth for the zone, whichever is greater
Fence/wall type	Solid	Solid	Solid	N/A
Fence/wall height (min/max)	4'/6'	4'/6'	4'/6'	N/A
Shade trees (min per 100')	8	6	N/A	3
Ornamental trees (min per 100')	In lieu of planting a required shade tree, 3 ornamental trees may be planted	In lieu of planting a required shade tree, 3 ornamental trees may be planted	N/A	In lieu of planting a required shade tree, 3 ornamental trees may be planted
Shrubs (min per 100')	50	40	33	33

## 7.6 Sewage Disposal and Water Supply Systems

- A. Village: No new land use or development shall be permitted unless provision is made to connect such development to the public sanitary sewerage system and the public water supply system.
- B. Town: Where a public sanitary sewerage system is not available, an on-site sewage disposal system shall be installed and located in accordance with the New York State Department of Health requirements contained in the Water Treatment Handbook, Individual Household Systems Where a public water supply system is not available, on-site water supply systems shall be installed in accordance with the New York State Department of Health requirements contained in the Rural Water Supply Handbook.

## 7.7 Temporary Buildings

- A. All temporary uses and buildings must comply with the standards of this section.
- B. No temporary use may be established on a public right-of-way or public park without the authorization of the Legislative body of the municipality.
- C. Temporary uses that require a temporary use permit are subject to the following general requirements, as applicable:
  1. A coordinator must be identified that will perform the coordinating role for management of the temporary use and to liaise with the Village or Town, as applicable.
  2. If the operator of the temporary use is not the owner of the site where the temporary use will be located, written permission from the property owner is required.

3. The operator of the temporary use must ensure adequate traffic control, emergency vehicle ingress and egress, provision for trash/recycling and sanitary facilities, and measures for security and crowd control, as necessary.
  4. All temporary buildings must be cleared from the site within 24 hours after the use is terminated, unless an exception is granted by the Code Enforcement Officer.
  5. A Site Plan may be required, where applicable, to demonstrate compliance with this Land Use Code and all other requirements.
- D. No temporary use may result in adverse effects upon the public health, safety, and welfare, as determined by the Code Enforcement Officer.

### **7.8 Contractor Trailers**

- A. Contractor trailers (including mobile homes and shipping containers) are allowed only in connection with active construction activities and must be removed once the building permit expires.
- B. Sleeping or cooking facilities within the trailer are prohibited.
- C. No trailer may be used as the main office or headquarters of any firm.

### **7.9 Travel Trailers**

- A. Purpose; findings.
  - a. It is hereby determined by the Town and Village of Tupper Lake that unregulated travel trailers and motor homes can constitute a hazard and menace to the health and safety of the residents of the Town and Village of Tupper Lake.
  - b. It is further determined that the citizens of the Town and Village of Tupper Lake have vested legislative authority in its respective Town and Village Boards which are entrusted with, among other duties, the protection of the order, conduct, safety, health and well-being of persons and properties therein and the protection and enhancement of the Town and Village's physical and visual environment.
  - c. It is further determined that the Town and Village, by local law, can exercise police power to regulate the parking of travel trailers and motor homes within the Town and Village of Tupper Lake and to make the appropriate rules, regulations, resolutions and laws tending to promote the general well-being of the persons and property situated therein.
- B. Restrictions.
  - a. No permit is needed to occupy a travel trailer or motor home in the Town or Village of Tupper Lake for one period per year of up to 14 consecutive days, including the 14th day.
  - b. For occupation of a travel trailer or motor home for longer than the annual fourteen-day period, a permit must be obtained from the Town or Village Clerk, as applicable, for a fee in an amount set from time to time by the Town or Village Board. This permit is valid for 30 days annually. It may be renewed by action of the Town or Village Board with an additional fee as set by the Town or Village Board for an additional ninety-day annual period. No further renewals shall be granted. If renewals are not approved, the travel trailer or motor home must be moved from the Town or Village or vacated within three business days.
  - c. All travel trailers or motor homes that are occupied must have a source of potable water and an approved waste system, each complying with all state, county and other municipal regulations.

# **ARTICLE 8**

## **ADDITIONAL REQUIREMENTS FOR SPECIFIED USES**

### **8.1 Purpose**

The Additional Requirements for Specified Uses place restrictions on specific uses because of the potential impacts on surrounding properties. These restrictions are applied to a project to mitigate impacts including noise, off-site parking, traffic and unsightliness, odors, dust and fumes. The regulations promote the public health and general safety and neighborhood character of the immediate neighborhood and the entire Village and Town of Tupper Lake community.

### **8.2 Adult Uses**

- A. Adult uses shall be allowable only in an Industrial Use District in order to prevent or contain increased crime, diminished property values, blight, and adverse effects on surrounding businesses that can occur when adult uses operate in a neighborhood. The characteristics of these uses are heightened by their concentration in any one area, thereby having deleterious secondary effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses, particularly in regard to areas where minors may regularly assemble, as it is in the public interest to preserve the integrity and character of the Village and Town of Tupper Lake.
- B. Special requirements are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors. The adult uses as defined in Article 14: Definitions are to be restricted as to location in the following manner in addition to any other requirements of this Local Law:
  - 1. Any of the above uses shall not be located within a five-hundred-foot radius of any area zoned for residential use.
  - 2. Any of the above uses shall not be located within a one-half mile radius of another such use.
  - 3. Any of the above uses shall not be located within a five-hundred-foot radius of any school, church or other place of religious worship, playground, or playing field.

### **8.3 Restaurant / Tavern**

- A. Uses with drive-through service shall design traffic circulation to avoid pedestrian/auto conflict points. Lanes for drive-through service shall accommodate vehicles without standing of vehicles on streets and sidewalks.
- B. Outdoor trash and garbage areas shall be completely screened by walls, fencing or vegetative material in accordance with the provisions of Article 7.
- C. Restaurants/bars are limited to 5,000 square feet per establishment.

- D. Bakery floor area used for production is limited to 1,000 square feet per establishment.
- E. Outdoor dining shall not interfere with ingress and egress points, including building entrances, parking spaces, and drive aisles, and shall maintain a minimum of five feet of sidewalk clearance at all times.
- F. Outdoor dining areas shall be located on private property.
- G. Ventilation systems may not be installed on any front facade unless the applicant can prove that no other feasible alternative is available. To the maximum extent feasible, ventilation systems shall be directed away from adjacent properties.

#### **8.4 Home Occupations**

Where permitted, home occupations shall meet the following requirements:

- A. Character of Dwelling: The occupation is conducted entirely within a dwelling and is clearly incidental and secondary to the use of the dwelling for residential purposes.
- B. Floor Area: No more than one-third (1/3) of the gross floor area of the dwelling shall be used for the occupation.
- C. Employees: No more than one person other than family members residing on the premises are employed in the conduct of the occupation.
- D. Home agriculture activities do not include the care and keeping of livestock (including horses, cattle, goats, sheep, pigs, oxen, poultry, bison, fallow deer, donkeys, mules, and fur bearing animals raised for commercial purposes), nor kennels.
- E. Home occupation activities do not allow heavy equipment parking, commercial vehicle parking, commercial uses, or repair and storage.
- F. Outside Display and Storage: In the conduct of the occupation, no materials or equipment are displayed or stored out-of-doors.
- G. Parking: Parking for vehicles necessary to carry out the occupation shall be limited to four (4) automobile spaces located off-street.
- H. No offensive noise, vibration, smoke, dust, odors, heat, glare or radiation is detected beyond the property line.

#### **8.5 Chicken Coops**

Backyard chickens, if properly maintained, promoting food sustainability, increasing animal welfare, and providing fresh eggs free from pesticides and chemicals, without presenting a nuisance to neighboring residents or properties.

- A. Number of Chickens
  - 1. A maximum of one chicken may be kept on a lot for each 1,000 square feet of rear yard area, up to a maximum of 10 chickens per lot.
  - 2. Roosters and Guinea Fowl are expressly prohibited, regardless of the age or maturity of the bird. If the gender of a chick cannot be determined at hatching, a chick of either gender may be kept on the property for no more than six months.
- B. Construction
  - 1. Chicken coops are only allowed in rear yards; must be at least ten feet from any building used for dwelling purposes, and five feet from interior or corner side lot lines.
  - 2. A minimum of two square feet of coop area must be provided for each chicken within the coop.
  - 3. A nest box must be provided for every five birds. The nest box must be located in a dark and secluded area, be weatherproof, be dry with friable nesting material, provide ventilation, and allow the bird to perch and alight.

4. The coop must be adequately constructed to protect the birds from predators and weather extremes. The coop must be well ventilated, allowing for fresh air and natural light.
  5. The birds must not be subjected to dim or continuous lighting or kept in permanent darkness. In the daytime, the birds must be able to see each other, their food and water sources, as well as their surroundings clearly. Use of artificial light is permitted as long as it does not exceed a maximum day-length of 16 hours and is distributed evenly.
  6. Bedding must be kept in a dry, mold-free, friable condition, and replenished as necessary. Bedding from timber-based products sourced from chemically-treated wood is not permitted.
- C. Open Space
1. Each chicken must have continuous access to at least four square feet of range and foraging area.
  2. The range and foraging area must be fenced, well-drained and clean at all times, offer access to living vegetation whenever conditions allow, be resistant to erosion by activities of the birds, and provide access to water, shelter, and feeding areas.
  3. Areas of retreat or cover, such as trees or shrubs, must be available and provided in a manner that encourages ranging behavior and ensures maximum use of the ranging and foraging areas available.
  4. All facilities, equipment, fittings, and ranging areas must be designed and maintained so that they do not pose a risk of injury to the birds.
- D. Care of Chickens
1. It shall be unlawful for any person to allow chickens to run at large upon the streets, alleys, or other public places of the Village and Town, or upon the property of any other person.
  2. Birds must be properly selected for the region's specific climate conditions so that they voluntarily choose to go outdoors in all but the most extreme weather.
  3. Chickens must be kept in coops from dusk to dawn.
  4. Coops must be managed to ensure the regular removal of manure and the elimination of ammonia, dampness, and mold.
  5. Chicken feed must be in rodent-resistant and weatherproof containers.

#### **8.6 Theaters and similar places of assembly.**

- A. Uses which are primarily open for business during evening and weekend hours are encouraged to arrange for joint parking areas with businesses having opposite business hours.
- B. Passenger loading and unloading areas shall be provided, either on-or-off street and designed to minimize interference with other traffic.

#### **8.7 Recreational Facilities**

- A. Such uses, including outdoor areas devoted to the activity shall not be located closer than five hundred (500) feet from a residential dwelling. other than a dwelling on the same premises.
- B. Setbacks for such uses shall be determined from the extent of any outdoor areas

devoted to the activity. No development except access drives shall be permitted in setback areas. Setback areas shall be grassed or otherwise landscaped.

- C. All buildings and structures shall be located at least one hundred (100) feet from any bounding lot or street line.

#### **8.7.1 Drive-In Theaters**

- A. In the case of a drive-in theater, the screen shall be located so as not to face any street or highway or shall otherwise be screened to completely obstruct the screen from the view of passing motorists. Individual loud speakers for each car shall be provided and no central loud speaker shall be permitted
- B. Traffic from such use shall not be directed into residential areas.

#### **8.8 Tourist accommodations, hotels, motels**

- A. Such uses shall not direct traffic into residential areas.
- B. Vehicle parking and maneuvering areas shall be sufficient to safely accommodate passenger loading and unloading and prevent vehicles backing on to public streets and roads.

#### **8.9 Public service facilities**

Public service facilities are permitted by Site Plan Review are subject to the following review criteria:

- A. the use would not impair the potential for commercial development in the district, and;
- B. the activity associated with the proposed use would not be unduly hampered by surrounding commercial development, and
- C. the proposed use would likely contribute to the economic well-being of the district.

#### **8.10 Industrial uses**

Facilities located within the Industrial Zone shall conform to the following standards, which are minimum requirements for Site Plan approval:

- A. The processing or manufacturing of finished products or parts from previously prepared materials (including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products) shall be contained entirely within a fully enclosed building.
- B. All incidental outdoor storage shall be screened from public view by opaque fencing, screening, or landscaping.
- C. A light industrial use may include a showroom or ancillary sales of products related to the items manufactured on-site.
- D. Storage of materials that are explosive, corrosive, combustible, or which are controlled substances due to being pharmaceutical in nature, infectious in nature, putrescent in nature, or which have a toxic or deleterious health or environmental impact are prohibited.
- E. Any heat, glare, dust, smoke, fumes, odors, or vibration shall be confined to the building.
- F. No side or rear yard setbacks are required where side or rear property lines abut a

railroad right-at-way or spur track.

- G. Access points shall avoid directing traffic into residential areas.
- H. All materials, including wastes, shall be stored in a manner which will not attract or aid the propagation of insects, rodents or create health or fire hazards. All areas for storage of wastes shall be completely screened by walls, fencing or landscaping.

### **8.11 Marinas and their associated uses**

Recreational uses shall be designed to enhance the accessibility of residents and visitors to Raquette Pond and to improve the recreational quality of the area.

- A. Two boathouses are permitted per lot; additional boathouses are allowed subject to the following criteria:
  - 1. Docks, piers, boathouses, marinas, swimming floats and other water-related structures shall not be placed in any location which would interfere with navigation of the waterway or free access to another's property.
  - 2. Water related structures shall conform to the required side yard setbacks as determined from the linear projection of the side lot lines into the waterway from the shoreline.

### **8.12 Motorized Recreational Trails**

- A. Recreational trails designated for use by motorized vehicles (such as for snowmobiles, trailbikes and other off-road vehicles) shall meet the following requirements:
  - 1. A parking area is available to accommodate trailers and hauling vehicles, either on or off site.
  - 2. Winter/summer trails are combined to permit multiple use of trails.
  - 3. The degree of altering the natural environment is moderate.
  - 4. Unused logging roads, utility right of ways, or abandoned access routes are used where available.
  - 5. Use of surfacing is infrequent.
  - 6. Trails are signed with rustic design.
  - 7. Pedestrian and equestrian travel is incidental and may be prohibited.
  - 8. Loop type trails are provided; dead-end trails are avoided.
  - 9. Bridges or other improvements are of native materials and rustic design.

### **8.13 Single- and Two-family Dwellings**

#### **8.13.1 Single-family Dwellings**

- A. Water supply and sanitary sewage disposal systems meeting the requirements of the New York State Department of Health shall be provided.
- B. Manufactured and modular homes shall be located on a permanent continuous foundation within sixty (60) days after a building permit is granted, and not on posts or blocks: and shall be situated on a lot meeting the minimum requirements for the district wherein the proposed home is to be located: and not more than one (1) home shall be located on a lot.
- C. All single-family and two-family dwellings (including modular homes and manufactured homes) shall be at least fourteen (14) feet wide, have a peaked roof.

### **8.13.2 Multi-Family Dwellings**

- A. Number of Permitted Units.  
The permitted number of units is based upon the minimum lot size requirements of the district as described in Article 3. Where a fractional number of units is calculated, the number of permitted units shall be the nearest whole number rounded up from .5
- B. Provision for Outdoor Area.  
Building, parking area, sidewalks and driveway plans should result in useful outdoor areas for dwelling units. Small narrow strips of left-over areas with little usefulness are to be avoided.
- C. Use of Unoccupied Portion.  
Where land which was used to determine the number of permitted units will not contain living units, but is to be used for improved or unimproved recreational uses, open space or will be otherwise similarly undeveloped. Maintenance of the area and guarantees of its undeveloped condition will be provided by the applicant in the form of homeowners associations, deed restrictions, maintenance contracts, scenic easements or similar devices. This requirement shall not apply where the extent of the occupied portion is such that no additional living units could be constructed.
- D. Siting of Improvements.  
Buildings shall be sited so as to minimize obstruction of significant scenic views enjoyed by existing neighboring residences. Buildings shall be sited and/or landscaped so as to not interfere with significant scenic views visible from travel corridors.
- E. Fee Simple Ownership.  
Where fee-simple ownership of individual units contained in multi-family structures is the form of ownership, minimum lot sizes may be reduced accordingly provided the number of permitted units as determined in 4.53.6.(c)(i) is not exceeded.

### **8.14 Gas Stations and Automobile Service Stations**

- A. A solid wall or fence or permanent evergreen screen planting at least four (4) and not over six (6) feet high shall separate the use from abutting residential uses. Buffers may also be required by the Planning Board in accordance with Section 7.6 Required Buffer Zones.
- B. Tanks
  1. Storage of flammable and combustible liquids, including gasoline and diesel fuel, in tanks aboveground and outside buildings is permitted only in an Industrial Zoning District.
  2. All tank installations of more than 2,000 gallons must be provided with a constant monitoring electronic leak-detecting system that gives visual and audible warning signals and must be of a type approved by the Code Enforcement Officer.
- C. Driveways shall not exceed forty (40) feet in width at the curb line and thirty (30) feet at the property line. On corner lots. driveways shall be located at least

- twenty-five (25) feet from the intersection of the side and front lot line
- D. Refuse Areas.
1. The storage of refuse and recyclables must be provided inside a fully-enclosed building or within an outdoor area enclosed by walls or opaque fencing. Any refuse area located outside of a fully enclosed building must be sited as follows:
    - a. Refuse areas, including dumpsters and garbage cans, must be located in the rear yard adjacent to the principal building.
    - b. Refuse areas must be screened by a fence or enclosure of at least six feet in height on all sides, or as necessary to conceal any dumpsters or other refuse structures. Enclosures must be remain locked and closed, except when in use.
  - E. No gasoline or oil pump, no oiling or greasing mechanism and no other service appliance installed in connection with any gasoline sales station or public garage shall be within 50 feet of any street right-of-way. Gasoline pumps and other service appliances shall be located at least ten (10) feet behind the front and/or side lot lines.
  - F. The general elevation of the vehicle-servicing area shall not be raised higher than two feet from the surrounding properties.
  - G. Gasoline sales stations are limited to a maximum of four individual filling pumps. A multiple pump stanchion is counted according to the number of pumps; for example, a double stanchion is counted as two pumps.
  - H. For unstaffed self-wash facilities, a security system must be installed and maintained, including a functional security camera to monitor all areas of the car wash.
  - I. Vehicle rental and sales must be located within a fully enclosed building.
  - J. Any repair and service operations must be performed within a fully enclosed building. Bay doors may be open during hours of operation.
  - K. No partially dismantled, wrecked, or unregistered vehicle may be stored outdoors on the premises.

### **8.15 Grocery Stores**

- A. Parking Areas.  
Where parking areas abut residential property, a five-foot grassed or landscaped bufferstrip shall separate parking areas from such residential property. Sight-obscuring fences or landscaping shall be installed to screen parking areas from abutting residential uses. Buffers may also be required by the Planning Board in accordance with Section 7.6 Required Buffer Zones.
- B. Refuse Areas.
1. The storage of refuse and recyclables must be provided inside a fully-enclosed building or within an outdoor area enclosed by walls or opaque fencing. Any refuse area located outside of a fully enclosed building must be sited as follows:
    - a. Refuse areas, including dumpsters and garbage cans, must be located in the rear yard adjacent to the principal building.
    - b. Refuse areas must be screened by a fence or enclosure of at least six feet in height on all sides, or as necessary to conceal any dumpsters or other refuse structures. Enclosures must be remain locked and closed, except when in use.

## **8.16 Professional Offices**

### **A. Parking.**

Parking areas shall be separated from abutting residential uses by a five (5) foot grassed or landscaped buffer strip. Parked vehicles shall be screened from abutting residential areas by fencing or landscaping.

## **8.17 Self-storage facility**

Self-storage facilities shall conform to the following standards, which are minimum requirements for Site Plan approval:

- A. The individual storage units of a self-storage facility shall be located in a fully-enclosed building, with access to individual storage units provided from common areas located indoors.

## **8.18 Kennels**

Kennels shall conform to the following standards which shall be minimum requirements:

- A. Minimum lot size is 5 acres.
- B. Setback: The actual kennel facility and all associated runs or fenced areas shall be setback a minimum of one hundred fifty (150) feet from all lot lines.
- C. All kennel facilities shall be adequately screened by fence, plantings, or landscaping from streets and adjacent properties in accordance with Section 7.6 Planted Buffers.
- D. The Applicant shall demonstrate all animal wastes shall be disposed of properly to avoid odor, diseases, and contamination of drinking water supplies.
- E. Fencing or walls surrounding exterior exercise areas shall be between six and seven feet in height to prevent escape, and shall be buried a minimum of one foot to prevent escape by digging beneath the fence.

## **8.19 Day Care – Pet**

Day Care – Pet facilities is a Retail Business that shall conform to the following standards, which shall be minimum requirements for approval:

- A. Total gross square footage of Day Care – Pet facilities is limited to 5,000 square feet.
- B. All Day Care – Pet facilities all associated runs or fenced areas shall be adequately screened by fence, plantings, or landscaping from streets and adjacent properties.
- C. All animal wastes shall be disposed of properly to avoid odor, diseases, and contamination of drinking water supplies.
- D. Fencing surrounding exterior exercise areas shall be between six and seven feet in height to prevent escape, and shall be buried a minimum of one foot to prevent escape by digging beneath the fence.
- E. Indoor area per animal shall be a minimum of 16 sq. ft. in size.
- F. Outdoor runs per animal shall be a minimum of 4-1/2 feet wide and 12 feet long and shall be appropriately separated from adjacent runs by fencing concrete, block or other appropriate materials.
- G. Any exterior boarding quarters and exercise areas located outside shall be designed to provide shelter against weather. Exterior boarding quarters are prohibited in the

Village Center Zone.3.

- H. All Day Care – Pet facilities shall be adequately screened by walls, fencing, plantings, or landscaping from streets and adjacent properties in accordance with Section 7.6 Required Buffer Zones.

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# ARTICLE 9

## NON-CONFORMING BUILDINGS, USES, STRUCTURES

### 9.1. Lawful Use

#### 9.11. Lot of Record

A lot having less than the minimum area and dimensional requirements as required by the Zoning District in which the lot is located may be used for any purpose permitted in the Zoning District provided such lot has been a recorded lot on a plat or deed recorded in the Franklin County Clerk's Office prior to the date of adoption of this Code (<<month>><<day>>, 2019). Permitted uses on such lots shall conform to all other applicable regulations of this Code to the extent possible provided that within the Town such lot does not adjoin other lots in the same ownership, provided however that all such lots in the same ownership may be treated together as one lot. No nonconforming lot may be subdivided to increase the nonconformity.

#### 9.12. Prior Approvals

Uses which have been granted approvals in the form of Zoning Certificates, Special permits, Variances, Sign Permits, or other permits pursuant to the Zoning Ordinance repealed by this code shall remain in full force and effect.

##### A. Proof of Nonconformity.

1. The burden of establishing the prior existence of a nonconformity is on the applicant. When applying for any permit or approval related to a nonconformity, the applicant may be required to submit evidence of a prior permit or other documentation showing that the nonconformity existed prior to the date on which it became nonconforming.

##### B. Continuance of Existing Lawful Non-Conforming Uses.

1. Unless otherwise prohibited by law or ordinance, any existing lawful use, building, sign, structure or lot existing prior to the enactment of this code which does not conform to the provisions thereof may be continued, and no change of title or possession or right to possession of any such building, structure or lot shall be construed to prevent the continued non-conforming use of such building, structure or lot except as hereinafter provided, including uses which were lawfully non-conforming pursuant to the former Zoning Ordinance or local law as amended, which is hereby superseded. Any rights conferred upon a nonconformity run with the property and are not affected by changes in tenancy or ownership.

## **1.12. 9.2. Change or Cessation of Non-Conforming Use**

A non-conforming use of a building or structure or lot shall not be changed or extended to another non-conforming use; no building, structure or lot upon which a non-conforming use ceases for a period of five (5) years or is superseded by a permitted use subsequent to the enactment of this Code shall again be devoted to any use prohibited in the District in which such use is located.

### **9.21. Restoration of Damaged Structures and Uses**

1. When a building or structure containing a non-conforming use is damaged or destroyed, and the cause of damage was not by any means within the control of the owner and to an extent of not more than fifty (50) percent of its replacement value, the non-conforming use may be restored, reconstructed and re-established for such non-conforming use.
2. If such damage exceeds fifty (50) percent of the replacement value no such reconstruction or restoration for the resumption of the non-conforming use shall be permitted, unless a Building Permit for such non-conforming use is issued within one (1) year of the date of damage or destruction. Any reconstruction and use shall be in accordance with the regulations governing the districts in which such building or structure is located, except as provided herein.
3. The replacement value of the structure is based on: a) the sale of that structure within the previous year or, if that is not available; b) an appraisal within the last two years or, if that is not available; c) the amount for which the structure was insured prior to the date of the damage or destruction or, if that is not available; d) an alternative method determined acceptable by the Code Enforcement Officer.

### **9.22. Extensions of Non-Conforming Use**

- A. Subject to the granting of a variance by the Zoning Board of Appeals after public hearing, a non-conforming use of a building or structure may be extended throughout any portion of a building or structure if such building or structure was manifestly designed or arranged for such use prior to adoption of this code; no such building or structure shall be enlarged, extended or moved to another portion of the lot which it occupies; nor shall any non-conforming use of a building or structure be extended to occupy any of the land outside any such building, unless such, and was in use for a non-conforming purpose at the time of the enactment of this Code.
- B. A non-conforming use of land may not be extended beyond the limits in use at the time of enactment of this Code.

### **9.23. Determinations of Non-Conformity**

The Code Administrator shall issue a written determination for the continuance of non-conforming uses; such certificate shall clearly identify the use as non-conforming and subject to the applicable requirements of this Land Use Code.

### 1.13. 9.3. Nonconforming Signs

#### 9.31. Description

A nonconforming sign is a sign that was lawfully erected prior to the effective date or subsequent amendment of this Local Law, but which has been made nonconforming by this Land Use Code.

#### 9.32. Findings

- A. The Town Board of the Town of Tupper Lake, and the Village Board of the Village of Tupper Lake have found, upon due inquiry and investigation, that the operation of improperly illuminated signs creates negative environmental impacts that are unacceptable and should not be permitted in residential and commercial neighborhoods and that legislative action is required to protect people and neighborhoods in the Town and Village of Tupper Lake from such negative impacts.
- B. The Town Board of the Town of Tupper Lake, and the Village Board of the Village of Tupper Lake have further found that such operation is injurious to the public health and safety, reduces property values and deprives persons in adjacent neighborhoods of the peaceful enjoyment of their property. Termination is necessary because there are limited effective means of reducing such negative environmental impacts to the extent appropriate for the protection of nearby residential neighborhoods and owners of residential property.
- C. The use of illuminated signs in a manner not in accordance with this Land Use Code shall be deemed injurious to the public health and welfare in residential and commercial zones. All such uses of real property which permit the placement of illuminated signs shall be declared illegal and shall be terminated as provided herein.
- D. All commercial and residential uses of land which permit the operation of illuminated signs, which have either legislatively and/or judicially been determined, prior to or as of the date of this Article shall be permitted to continue to the extent and scope as established in such determination for a period listed, from the enactment of this chapter, at which time all such operations shall cease:

Fair market value on date of notice of removal requirement	years allowed
under \$1,999	3
\$2,000 to \$3,999	4
\$4,000 to \$5,999	6
\$6,000 to \$ 7,999	7
\$8,000 to \$9,999	9
\$10,000 and over	10

- E. Any owner of real property in the Town or Village of Tupper Lake who permits the emplacement of illuminated signs at the time of enactment of this chapter and who has not already applied to the Town of Tupper Lake Zoning Board of Appeals and/or Village of Tupper Lake Zoning Board of Appeals, as applicable, for a determination of whether the land use was preexisting as of (<<month>><<day>>, 2019) shall have 90 days from the enactment of this chapter to make and submit an application to the respective ZBA seeking a determination establishing the existence, scope and extent of this use on the premises prior to (<<month>><<day>>, 2019). In the event the ZBA determines

such use is a legal preexisting nonconforming prior use prior to (<<month>><<day>>, 2019), such use will be entitled to continue the scope, size and intensity that was determined to exist prior to (<<month>><<day>>, 2019), for a period of two years from the enactment of this Article.

### **9.33 Alteration**

A nonconforming sign in an Industrial Zone or Planned Development District may remain in use, so long as the sign is not altered to expand or create a new nonconformity. A nonconforming sign shall be otherwise maintained and repaired, and the sign face and sign message may be changed, so long as these alterations do not increase the size, height, or degree of illumination of the sign.

### **9.34 Relocation**

No nonconforming sign may be relocated in whole or part to any other location on the same or any other lot, unless the sign conforms to the standards of this Land Use Code.

### **9.35 Restoration of Damaged Signs**

When a nonconforming sign is damaged or destroyed to the extent of 50% or more of its replacement value, the sign may be repaired or rebuilt only if it conforms to the provisions of this Land Use Code. When a nonconforming sign is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the nonconformity is not expanded and no new nonconformity is created.

### **9.36 Removal of Abandoned Signs.**

Any nonconforming sign that is located on a property that becomes vacant and unoccupied for a period of one year or more is deemed abandoned. Abandoned nonconforming signs must be removed by the owner of the sign or the property owner of the premises. No permits or approvals may be issued for properties with nonconforming abandoned signs until such signs are removed.

# ARTICLE 10

## PLANNING BOARD

### 10.1 Planning Boards

#### A. Town

Pursuant to Section 271 of New York State Town Law, a Planning Board of the Town is hereby created and is referred to in this local law as the "Planning Board." The Planning Board may, pursuant to Section 272 of the Town Law establish such rules and regulations as are necessary for the transaction of their business and as are not inconsistent with the terms and provisions of this local law.

#### B. Village

Pursuant to Section 7-718 of New York State Village Law a Planning Board of the Village is hereby created and is referred to in this local law as the "Planning Board." The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this local law. The Planning Board may pursuant to Section 7-720 of the Village Law establish such rules and regulations as are necessary for the transaction of their business and as are not inconsistent with the terms and provisions of this local law.

### 10.2. Establishment of Joint Planning Board

A. Upon the effective date of both this Land Use Code and the Intermunicipal Cooperation Agreement executed between the Town of Tupper Lake and the Village of Tupper Lake, the existing Planning Boards of the Town and Village of Tupper Lake shall be abolished and all matters currently pending before either the Planning Board of the Village of Tupper Lake or the Planning Board of the Town of Tupper Lake shall be transferred to the Joint Planning Board.

#### B. Terms

1. One member of the Planning Board shall hold office for a one-year term and shall be appointed by the Town Board of the Town of Tupper Lake.
2. Two members of the Planning Board shall hold office for two-year terms, one of whom shall be appointed by the Town Board of the Town of Tupper Lake and the other of whom shall be appointed by the Mayor of the Village of Tupper Lake, subject to the approval of the Board of Trustees of the Village of Tupper Lake.
3. Two members of the Planning Board shall hold office for three-year terms, one of whom shall be appointed by the Town, Board of the Town of Tupper Lake and the other of whom shall be appointed by the Mayor of the Village of Tupper Lake, subject to the approval of the Board of Trustees of the Village of Tupper Lake.
4. Two members of the Planning Board shall hold office for four-year terms, one of whom shall be appointed by the Town Board of the Town of Tupper Lake and the other of whom shall be appointed by the Mayor of the Village of Tupper Lake, subject to the approval of the Board of Trustees of the Village of Tupper Lake.
5. Upon the expiration of the terms of office of the initial members of the joint Planning Board, the successors shall be appointed for seven-year terms which appointments shall be made by whomever appointed the predecessor in office.
6. If a vacancy occurs, other than by expiration of the terms of office, the vacancy

shall be filled by whomever appointed the member creating the vacancy, for the balance of that term.

7. The Mayor of the Village of Tupper Lake shall have the power to remove members appointed by the Village of Tupper Lake, subject to the provisions of Section 7-718 of the Village Law of the State of New York and the following:
  - a. Four (4) or more absences in a calendar year.
    - i. Each appointed member of the Joint Planning Board is expected to attend all scheduled Joint Planning Board meetings. Absence from four (4) or more such meetings shall be grounds for removal from the Planning Board.
  - b. Failure to complete training requirements.
    - i. Each member of the Joint Planning Board shall complete a minimum of four hours of training each year in accordance with New York State Village Law Section 7-718 (7-a). Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subsection.
8. The Town Board of the Town of Tupper Lake shall have the power to remove members appointed by the Town of Tupper Lake, subject to the provisions of Section 271 of the Town Law of the State of New York, and the following:
  - a. Four (4) or more absences in a calendar year.
    - i. Each appointed member of the Joint Planning Board is expected to attend all scheduled Joint Planning Board meetings. Absence from four (4) or more such meetings shall be grounds for removal from the Planning Board.
  - b. Failure to complete training requirements.
    - i. Each member of the Joint Planning Board shall complete a minimum of four hours of training each year in accordance with New York State Town Law Section 271(7-a). Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subsection.

C. Membership

1. No person who is a member of the Town Board of Tupper Lake shall be eligible for membership on the Planning Board.
2. No person who is a member of the Village Board of Tupper Lake shall be eligible for membership on the Planning Board.

D. Chairperson

1. The joint Planning Board shall annually elect a Chairperson from its members and prescribe rules for its conduct. The Boards of the Village and Town of Tupper Lake shall annually appoint the secretary for the joint Planning Board who shall not be a member, and at a compensation to be set by said Boards.
2. The Chairperson of the Planning Board shall designate an alternate member to substitute for a regular member in the event that a regular member is unable or unwilling to vote because of a conflict of interest, recusal, absence, abstention, or any other reason and an alternate member is present at the meeting when the designation takes place.

### 10.3. Powers and Duties

- A. The Planning Board shall discharge the following duties pursuant to this Land Use Code:
1. The Planning Board shall be responsible for formulation of the Land Use Code, review of amendments to the Land Use Code, holding hearings on a proposed Land Use Code or amendments, and reporting its findings and recommendations concerning the Land Use Code or amendments to the Village and / or Town Board, as applicable.
  2. The Planning Board shall be responsible for review of applications for Site Plan approval in accordance with Article 5. As provided for in Article 5, the Planning Board shall be responsible for either making a determination to grant approval, approval subject to revisions, or denial of site plan approval.
  3. In accordance with Article 6, the Planning Board shall be responsible for reviewing all preliminary and final subdivision plats and making a recommendation on any action to be taken by the Village and / or Town Board, as applicable.
  4. The Planning Board shall review and issue an advisory opinion to the Zoning Board of Appeals on all applications referred to them as provided in Article 11.
  5. The Planning Board shall be responsible for review of matters relating to land development referred to it by the Village and / or Town Board. The Planning Board shall recommend appropriate regulations and action on such matters.

# ARTICLE 11

## ZONING BOARD OF APPEALS

### 11.1. Authorization

Any variance to this code shall be granted by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this article. In granting a variance, the Zoning Board of Appeals may impose conditions necessary to protect the health, safety and welfare of the neighborhood, village, or town. These conditions may include specifying dimensional or area requirements, location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses to minimize public services burdens, requiring such action by the applicant as a condition to approval, to insure the completion of the development in accordance with the applicable conditions.

### 11.2. Application

A property owner(s) or his agent(s) may initiate a request for a variance by filing an application with the Zoning Board of Appeals using forms supplied by the board including other information, maps and drawings necessary to show the proposed variance and its relationship to surrounding properties.

### 11.3. Powers and Duties

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decisions or determination of the Town and / or Village Code Enforcement Officer, as applicable.

#### 11.3.2. Standards for Granting Variances

##### A. Area Variances

A variance to allow a permitted or special use to be located on a property which does not conform to the area and/or dimensional requirements of the district in which it is located (See Article 3) may be granted only in the event that each and all of the following circumstances are found to exist by the Zoning Board of Appeals and are each so stated in the board's findings:

1. The strict application of area and dimensional requirements would result in a specified practical difficulty to the applicant, and:
  - a. the practical difficulty arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district,

- b. the requested variance is the minimum variance which would alleviate the practical difficulty,
- c. the difficulty cannot be eliminated by some other feasible method,
- d. the requested variance will not produce a substantial change in neighborhood character and will not be materially detrimental to adjoining properties or natural resources,
- e. any increase in density will not be unnecessarily burdensome on public services and facilities,
- f. in view of the manner in which the difficulty arose, and in consideration of the above factors, the interests of justice will be served by granting the variance.

**B. Use Variances**

A variance to allow a use within a district other than a permitted use or special use may be granted only in the event that each and all of the following circumstances are found to exist by the Zoning Board of Appeals and are each so stated in the board's findings:

- 1. The strict application of the use provisions of this code would result in a specified unnecessary hardship to the applicant, and:
  - a. the hardship arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district,
  - b. the circumstances giving rise to the hardship are not of the applicant's own making,
  - c. the property in question cannot yield a reasonable return if used for any permitted or conditional use within the district,
  - d. the variance would not produce a substantial change in the character of the neighborhood and would not be materially detrimental to adjoining property or natural resources.

**11.3.3. Interpretation**

The Zoning Board of Appeals shall have the power to:

- A. Interpret, upon request, the provisions of this Local Law in such a way as to carry out the intent and purpose of this Local Law. Where the Local Law is clearly silent and the intent is not known, the issue shall not be acted upon but shall instead be referred to the Village or Town Board, as applicable, for consideration of an amendment.
- B. Determine the precise location of the boundary lines between zones when there is dissatisfaction with a decision made by the Town or Village Code Enforcement Officer.
- C. Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. If the use is clearly different from any of the uses indicated in this Local Law, then the issue shall be referred to the Village or Town Board, as applicable, for consideration of an amendment.

#### **11.4. Referrals**

- A. The Zoning Board of Appeals shall refer all completed use variance applications to the Joint Planning Board for its recommendation, and where required by Section 239-m of the General Municipal Law, to the County planning agency having jurisdiction for its recommendation. In no case shall final action under Section 239-m be taken until the planning board and county planning agency (if appropriate) have submitted their reports or until thirty (30) days have passed since the date of referral, whichever comes first.

#### **11.5. Variance Application and Decision**

- A. Within fifteen (15) days of receipt of a completed application for a variance, the zoning board of appeals shall give notice of a public hearing to be held on the application no 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 held under paragraph (a) of this section, the zoning board of appeals shall grant, grant with conditions, or deny the requested variance. The decision of the board shall be in writing and shall contain each of the findings specified in Section 6.030 of this code, and the factual basis for each finding from the record of the hearing, which shall support the decision of the board.

# **ARTICLE 12**

## **ADMINISTRATION & ENFORCEMENT**

### **12.1. Code Enforcement Officers**

- A. The provisions of this Local Law shall be enforced by the Town of Tupper Lake Code Enforcement Officer and Village of Tupper Lake Code Enforcement Officer, respectively.
- B. The Code Enforcement Officer(s) shall administer and enforce all of the provisions of this Local Law.
- C. The Code Enforcement Officer(s) shall receive applications and issue permits for the erection, alteration, removal, and demolition of buildings and structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of insuring compliance with the provisions of this Local Law.
- D. The Code Enforcement Officers shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, and to insure compliance during the entire course of construction with the requirement of such laws, ordinances, or regulations.
- E. The Code Enforcement Officers shall make all inspections which are necessary or proper for the carrying out of these duties.

### **12.2. Appeal from Action of Planning Board or Zoning Board of Appeals**

An action, omission, decision or ruling of the planning board or zoning board of appeals pursuant to this code may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made not later than sixty-two (62) days from the effective date of the decision or ruling or the date when the action or omission occurred.

### **12.3. Form of Petitions Applications and Appeals**

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

### **12.4. Application Fees**

Fees shall be paid upon the submission of petitions, applications, and appeals, provided for by the terms of this Code in such amount or amounts as shall be established by the Town Board and Village Board of Trustees from time to time. Such fees shall not be refundable.

### **12.5. Recess of Hearing**

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

### **12.6. Right of Inspection**

The filing of an application for a variance under Article 11 hereof, an application for Site Plan Review under Article 5 hereof, shall be deemed a granting of approval by such person to the Planning Board, Zoning Board of Appeals and Code Administrator, and to such persons as they may designate to conduct such examinations, tests and other inspections of the sites which are the subject of such applications as the body or officer having jurisdiction deems necessary and appropriate for the purposes of this code. Entrance upon the applicant's property where practicable shall be made only after reasonable prior notice to the applicant.

# ARTICLE 13

## AMENDMENTS

### 13.1. Amendments

The purpose of this article is to allow for amendment to this code and to the zoning map whenever the public necessity and convenience and the general welfare in response to changed conditions or changes in policy require such amendment, by following the procedures of this Article.

#### 13.1.1 Initiation

- A. The Village Board of Tupper Lake, Town Board of Tupper Lake, Joint Planning Board, or respective Town or Village Superintendent of Public Works may initiate a text or Zoning Map amendment.
- B. A property owner may petition the Village or Town to initiate a text amendment.
- C. A property owner, or person expressly authorized by the property owner in writing, may initiate a Zoning Map amendment for his/her property.
- D. The property owners of fifty percent or more of the frontage in any zone or part thereof may present a petition duly signed and acknowledged, to the Village Board and / or Town Board, as applicable, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof.

#### 13.1.2 Procedure

- A. A text and/or Zoning Map amendment request must be filed with the Village Clerk or Town Clerk, as applicable. Once it is determined that the application is complete, the Village Clerk or Town Clerk must forward the application to the Joint Planning Board.
- B. Within 30 days of the determination of completeness, the Joint Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Town and / or Village Board.
- C. Public Hearing.  
A public hearing shall be held prior to amendment, at which parties in interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the town and/or village. Written notice mailed by ordinary mail sufficient to give ten (10) days notice of any proposed amendment affecting property within one-hundred (100) feet of the property proposed for amendment, or property within five-hundred (500) feet of the boundaries of any village, town, county, or state park shall be given to the property owners in the case of property one-hundred (100) feet from the property in question, and to the clerk of the town, village or county in the case of property in question five-hundred (500) feet from such municipalities, and to the regional state park commission, if any, having jurisdiction over such state park.

- D. Legislative Body to Amend.  
The legislative body (Town Board or Village Board of Trustees) of the municipality wherein the proposed amendment is located shall have the power and authority to decide upon such amendment.
- E. Referrals.  
The legislative body shall refer proposed amendments to the Joint Planning Board for its recommendation. The Joint Planning Board shall have thirty (30) days to report and recommend and shall be presumed to support the proposed amendment if it does not report its recommendations within thirty (30) days to the legislative body.
- F. Procedure in Event of Protest.  
In the case of a protest against the proposed amendment signed by the owners of twenty per cent or more of the area included in such proposed change, or by the owners of twenty per cent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty per cent or more of the land directly opposite thereto. Extending one hundred (100) feet from the street frontage of such opposite land, such amendments shall not become effective except by the favorable vote of three-fourths of the members of the legislative body.
- G. Records of Amendments.  
The clerk of the legislative body shall maintain records of amendments to the text of this Land Use Code and to the Zoning Map.

### **13.2. Approval Standards**

A text amendment is a matter of legislative discretion that is not controlled by any one of the following standards, but rather on a balancing of these standards. The Joint Planning Board must make written findings of fact on, and the Village and Town Board must consider, the following criteria:

- A. The proposed text and/or Zoning Map amendment is consistent with the spirit and intent of this Land Use Code;
- B. The proposed Zoning Map amendment is compatible with the existing form, pattern, use, and zoning of nearby property;
- C. The proposed text and/or Zoning Map amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy;
- D. The proposed text amendment does not create an undue number of nonconformities;
- E. The proposed Zoning Map amendment is consistent with the trend of development, if any, in the general area of the property in question;
- F. The proposed text and/or Zoning Map amendment promotes the public health, safety, and welfare of the Town and Village of Tupper Lake.

# ARTICLE 14

## DEFINITIONS

**Abandoned Automobile:** Any motor vehicle that is not registered or is incapable of meeting minimum New York State motor vehicle inspection standards.

**Abut:** Contiguous to; adjoining with a common boundary line or right-of-way.

**Access:** The place, means or way by which pedestrians, vehicles or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement.

**Accessory Building:** Any structure subordinate to a principal structure or development on the same lot and used for purposes customarily incidental to those of the principal structure. Accessory structures include but are not limited to portable, demountable, or permanent enclosures, shade structures, carports, garages, and storage sheds.

**Accessory Dwelling Unit:** A second habitable living unit located in or detached from a principal structure that is subordinate in size to the principal dwelling unit on the lot and provides the basic requirements of living, sleeping, eating, cooking, and sanitation.

**Adult Bookstore:** An establishment having five percent or more of its stock-in-trade books, magazines, films for sale, or viewing on premises by use of motion-picture devices or any other means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities of anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

**Adult Cabaret:** A business establishment which features topless dancers, strippers, go-go dancers, exotic dancers or similar entertainers, or live entertainments, in which persons regularly appear in a state of nudity, or where live performances are characterized by the exposure of specified anatomical areas or by specified sexual activities. Adult cabaret establishments specifically exclude minors, or minors are specifically prohibited by statute or ordinance, regardless of whether any such business is licensed to sell alcoholic beverages.

**Adult Theater:** A business used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specific sexual activities or specified anatomical areas for observation by patrons therein.

**Adult Use:** A business that provides sexual entertainment to customers, including but not limited to Adult Bookstores, Adult Cabarets, or Adult Motion Picture Theaters, or combinations thereof.

**Agricultural Use:** Means any management of land for agriculture: raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land; together with any buildings or structures customarily incidental to such agricultural use.

**Air-Activated Graphic:** a sign, all or any part of, which is designed to be moved by action of forced air so as to make the sign appear to be animated or otherwise have motion.

**Alley:** A permanent minor right-of-way providing secondary access to an abutting lot.

**Alteration:** As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extension horizontally or vertically or by relocation; or any change in the supporting members of a building, such as bearing walls, columns, beams or girders; or any change to another or different use.

**Amendment:** Any repeal, modification or addition to a regulation, any new regulation, any change in the number, shape, boundary or area of a District, or any repeal, abolition, change or addition to the zoning map.

**Apartment:** Any building or portion thereof which is designed and leased as a residence of two (2) or more families living independently of each other.

**Aquifer:** An underground water supply area generally characterized by slopes of between 0-8 % in combination with the downward movement of water through the soil at a rate greater than six (6) inches per hour.

**Awning Sign:** A sign printed on any of the surfaces of an awning, and which may include an under-awning sign attached to and mounted under the awning.

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

**Balloon Sign:** A sign that is an air-inflated graphic, which may be of various shapes, made of flexible fabric, resting on the ground or a structure and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached, or held in place by a cord, rope, cable, or similar method. See also 'air-activated graphics.'

**Banner Sign:** A temporary sign composed of cloth, canvas, plastic, fabric, or similar lightweight, nonrigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.

**Blade Sign:** A temporary sign constructed of cloth, canvas, plastic fabric, or similar lightweight, nonrigid material and supported by a single vertical pole mounted into the ground or on a portable structure.

**Boundary Line Adjustment:** A modification or adjustment of the boundary or boundaries between the properties of adjoining landowners, including a conveyance of a

portion of either property to the adjoining landowner, in which no new land use or building rights are created.

**Building:** A combination of any materials, whether portable or fixed, having a roof supported by walls or columns for the shelter, for enclosure of persons, animals or property. The term “building” shall also mean “manufactured housing” and “modular home.”

**Building Height:** The vertical distance measured from the average elevation of the proposed finished grade to the highest point (excluding chimneys, antennas or other similar protuberances) of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**Building, Principal:** A building within which is conducted the primary uses of the lot on which the building is located.

**Cabin, Hunting or Fishing:** Means a cabin, camp or lean-to or other similar structure designed and used for occasional occupancy for hunting, fishing, or similar recreational purposes. Hunting or Fishing Cabins contains only one story, or one story and a loft; built on posts or piers and does not have a permanent foundation; not have a conventional on-site wastewater treatment system, and a pit privy or chemical toilet serves instead as a permanent facility for septic; does not have pressurized or indoor plumbing, though it may have a sink and grey water leach pit; and is not connected to any public utilities, such as electric, phone, cable, water, or sewer.

**Campgrounds:** Any lot, parcel or tract of land or portion thereof together with attendant facilities thereon, used, designed, maintained or held out for hire to accommodate campers and their temporary living and sleeping quarters including tent and Recreational Vehicles.. A tent or RV may occupy a site in a campground for no longer than 120 days in a year. For the purpose of this definition, 'camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter' shall not include any single vehicle exceeding eight feet in width or 35 feet in length or any combination of vehicles, including a trailer or semi-trailer exceeding eight feet in width or a total of 55 feet in length, nor shall any campground permit structural additions to or removal of wheels for vehicles admitted or furnish all-weather water supply or sewage disposal connections at individual sites.

**Class A Regional Subdivision:** A subdivision which is classified as a Class A regional project pursuant to Section 810 of the Adirondack Park Agency Act.

**Class B Regional Subdivision:** A subdivision which is classified as a Class B regional project pursuant to Section 810 of the Adirondack Park Agency Act.

**Clinic:** A medical or dental facility which provides outpatient care only and which may be occupied by one or several practitioners and house laboratory and clinical equipment. Such facilities shall be deemed as 'professional offices' for the purposes of this code.

**Code Enforcement Officer:** The person appointed by the Town Board or Village Board,

respectively, to administer and enforce these regulations and other similar laws, codes and regulations pursuant to the Tupper Lake Land Use Code.

**Collector Street:** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**Commercial Vehicle:** When the vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,000 pounds or more whichever is greater; or is designed or used to transport more than 8 passengers (including the driver) for compensation; or is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under the regulations.

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

**Contractor Trailer, Temporary:** A mobile home, travel trailer, truck trailer, or other structure used as an on-site management or marketing office in conjunction with a construction project.

**Coverage Gross Lot:** The percentage of the total lot area covered by buildings and paving.

**Coverage Lot:** The percentage of the total lot area covered by buildings.

**Deck:** An above natural grade platform without full weather enclosure, except for railings of railing height walls. Decks may be attached to other structures and may be roofed.

**DEAD-END STREET** means a street or a portion of a street with only one vehicular traffic outlet.

**Development:** Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures. Development shall include landscaping which is intended to be used in connection with another land use and development or which is independently jurisdictional.

**Dedication:** The designation of land by its owner for any general or public use.

**District:** Area within which certain uses of land and buildings are permitted and certain others prohibited: yards and other open spaces are required, lot areas, building height limits and other requirements are established, all of the foregoing being identical for the District.

**Drive-Through Facility:** A facility that dispenses goods through an attendant window or automated machine to persons remaining in vehicles in a designated drive aisle.

**Duplex:** A building designed for occupancy by two families living independently of each

other.

**Dwelling Multi-Family:** A building designed for occupancy by two (2) or more families including apartments, duplexes, time share units, and other buildings having one or more party walls, including the conversion of an existing single-family dwelling into multiple units.

**Dwelling, Single-Family:** A building designed for occupancy by one (1) family.

**Easement:** The granting of the right to use a specified portion of land for specific purposes.

**Electronic Message Center:** An electrically-activated display that utilizes computer-generated messages or other electronic means of changing sign copy to present variable messages and/or graphic presentations. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.

**Family:** One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding, rooming or tourist home or a club, fraternity or motel or hotel.

**Floodplain:** An area of land subject to periodic but infrequent flooding of the magnitude of a 100 year flood. This area comprises the maximum area of the floodplain that, on the average, is likely to be flooded once every 100 years (i.e. that has a one percent chance of being flooded each year. The boundaries of the floodplain are generally shown on the maps titled "Special Flood Hazard Areas" of the U.S. Department of Housing and Urban Development.).

**Floor Area:** The gross area, under roof, of all the floors of a building, measured between exterior faces of walls.

**Forestry Uses:** Any management, including but not limited to logging, of a forest, woodland or plantation and related research and activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

**Garage, Commercial:** A commercial use used for the storage, repair, rental, sale and/or servicing of motor vehicles, not including auto wrecking or the storage of wrecks, dismantled or abandoned vehicles, parts of motor vehicles or junk out-of-doors.

**Garage, Private:** Accessory building, portion of a principal building, designed for housing private motor vehicles, not more than two (2) of which may be commercial vehicles.

**Gas/Auto Service Station:** A commercial use involving the supply of fuel and oil for motor vehicles and where accessories for motor vehicles are dispensed, sold or offered and where repair service, if any, is incidental and is conducted entirely within an enclosed building and no outdoor storage of abandoned, dismantled, or wrecked motor vehicles parts or junk is permitted, and provided such use may also involve the sale of other goods not related to motor vehicles, including but not limited to food products primarily for

off-premises consumption. Temporary outdoor storage of vehicles to be repaired is permitted.

**Gas Station:** A commercial use involving all of the activities of a 'Gas/Auto Service Station' excepting repair services.

**Group Camp:** Any land or facility for seasonal housing and recreational, educational or business related use by private groups or semiprivate groups together with the buildings, structures, improvements and uses customarily incidental thereto.

**Heavy Commercial:** Intensive, high-impact employment uses, which are generally incompatible with mixed-use residential neighborhoods and typically benefit from isolated locations, often adjacent to highway access points. Includes storage of commercial vehicles, landscaping company operations, contractor lay-down areas and staging areas, or any activity that produces heat, glare, dust, smoke, fumes, odors, or vibration.

**Home Agriculture:** A use of land for the raising of agricultural products livestock, horticulture for gain but excluding the raising or keeping of fur bearing animals, riding academics, livery or boarding stables, snake farms, zoos and similar activities, and provided such parcel of land shall be at least ten (10) acres in size.

**Home Occupation:** A lawful use conducted in a residential district in the premises of a dwelling unit by the permanent residents thereof, said use being secondary to the use of the premises for dwelling purposes and which complies with the terms and requirements of this code, Article 5. Section 5.4.

**Hospital:** Any institution receiving in-patients and rendering medical, surgical and/or obstetrical care. The term hospital shall also include sanitariums and rest homes or nursing homes for the aged, or any other facility which provides inpatient care for mental patients, alcoholics or drug addicts.

**Hotel or Motel:** Any group of dwelling units whether detached or attached which are used primarily to provide sleeping accommodations for the transient public.

**International Dark-Sky Association:** A non-profit organization whose goals are to build awareness of the value of dark skies, and of the need for quality outdoor lighting.

**Joint Planning Board Or Board:** the Joint Planning Board of the Town of Tupper Lake and Village of Tupper Lake.

**Junkyard:** An industrial use involving land or buildings used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles, machinery or parts thereof.

**kennel:** Any place at which there are kept four or more domestic animals more than four months of age or any number of dogs that are kept for the primarily commercial purposes of sale or for the boarding, care or breeding for which a fee is charged or paid.

**Landscaping:** Vegetative material such as trees, shrubs, perennial flowers, hedges, grasses, vines and other ground cover and non-growing materials such as gravels, stones, bark, materials, ponds and similar man-made water bodies.

**Light Pole Banner:** A temporary banner or sign that is designed to be attached to a permanent light pole, utility pole, or other pole structure, and where the temporary sign element can be changed without modifying the permanent structure.

**Lodge or Resort:** A commercial use designed primarily to house the transient public, including accessory uses and buildings customarily incidental thereto and where the services and facilities provided in connection therewith are primarily available to guests of the facility.

**Lot:** A parcel of land considered as a unit. used or proposed to be used for a certain use or uses or occupied or to be occupied by a building and its accessory buildings and which has or will have a separate and distinct legally describable existence, from land or water surrounding the subject parcel of land.

**Lot Corner:** A lot having frontage on two (2) or more streets at their intersection.

**Lot Depth:** The average horizontal distance between the front and rear lot lines.

**Lot Interior:** A lot other than a corner lot, with frontage only on one street.

**Lot Line:** Any property line bounding a lot.

**Lot Line Adjustment:** See *'Boundary Line Adjustment'*

**Lot Line Front:** For an interior lot, the lot line abutting a street; for a corner lot, a lot line abutting either street. In the case of a corner lot, the code administrator shall determine the front lot line.

**Lot Line Rear:** The line generally opposite or parallel to the front lot line, except in a through lot which shall have two (2) front lot lines. The rear lot line is less than ten (10) feet long or the lot is pointed at the rear, the rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the front lot lines, at the point most distant from the front lot line which is at least ten (10) feet wide, or if the front lot line is curved, parallel to the chord of the arc of said front lot line.

**Lot Line Side:** Any lot line other than a front lot line or a rear lot line.

**Lot of Record:** Any lot designated as a separate and distinct parcel of land on an approved subdivision plat or in a deed recorded in the Franklin County Clerk's Office prior to April 1989.

**Lot Through:** An interior lot, fronting on two (2) streets.

**Lot Net Area:** The total horizontal area included within the rear, side and front lot lines. No street, alley, public way, public land or area proposed for any of the foregoing purposes shall be included in determining the net area of the lot.

**Major Street:** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

**Major Subdivision:** Any subdivision of five or more lots, parcels or sites, or any subdivision requiring any new street or other public service(s).

**Marina:** A water-related facility primarily designed and used for the storage, docking, launching, anchoring and operation of boats, together with the accessory uses and structures customarily incidental thereto, including the sale or provision of sundry items, fuels, oil, boating accessories, repair and maintenance of boats.

**Mean High Water Mark:** Means the average annual high water level, from which structures and sewage disposal systems shall be set back according to the requirements of this code.

**Minor Street:** A street intended to serve primarily as an access to abutting properties.

**Minor Subdivision:** means any subdivision containing not more than four lots, parcels or sites and not requiring any new street or other public service(s).

**Monument Sign:** A freestanding sign attached to a pedestal or perimeter wall.

**Motor Vehicle Service Station:** A business that offers repairs to motor vehicles, including, but not limited to, repair or replacement of cooling, electrical, fuel, and exhaust systems; brake adjustments, relining, and repairs; wheel servicing, alignment, and balancing; repair and replacement of shock absorbers; detailing; and replacement or adjustment of muffler systems, hoses, belts, fuses, windshield wipers, and the like. Motor Vehicle Service Station also includes repairs to two-wheeled and three-wheeled motor vehicles, and may include incidental, ancillary towing and collision service. The business may also supply gasoline or oil or other fuel for the propulsion of motor vehicles and may include car wash facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such motor vehicles.

**Municipality:** As used in this code means either the Town of Tupper Lake or the Village of Tupper Lake depending upon the geographic location of a subject development, amendment or other item regulated by this code.

**Natural Resource Amenities:** Means those features of scenic, recreational, and economic value such as scenic views, surface water bodies, large forested land areas and wetlands, the extensive alteration of which could result in a detriment to the economic, scenic and recreational assets of the municipality.

**Natural Resource Constraints:** Those features which by reason of their value, intolerance to human activity, potential hazard to property and life, and costs to construction of permanent improvements, post limitations concerning the location of development. Such features include poor soils, flood hazards, steep slopes, aquifers, water bodies, wetlands, and elevations above 2,500 feet.

**Neighborhood Scale Commercial:** Customary neighborhood retail and personal service amenities, including: food retail (supermarket/grocery/bakery/butcher with retail sales of candy, ice cream, gifts, flowers and similar sundry items); community-serving retail (convenience store, farmers market, hardware store, drugstore/pharmacy, clinic, art gallery/studio, photography store/studio, florist, bicycle sales/repairs, plant nursery which may include outside displays, painting and decorating, bookstore or newsstand, photocopying/related printing;)  
neighborhood services (bank or other financial institution, theater, gym, health club, exercise studio, laundromat, dry cleaner, hair care/barbershop or beauty parlor/dressmaker/tailor, shoe maker/repair), restaurant or coffee shop, caterer) and civic and community facilities (community/recreation center, museum, performing arts, education facility, professional office, post office).

**Non-Conforming Use:** Use of a building and/or land not allowed as either a permitted or special use by the regulations of the District wherein the use is located which was a lawful use and in existence prior to the adoption of this code.

**Office Business:** A commercial use where persons are engaged in the following activities, including but not limited to insurance, real estate, banking, travel agencies, appraisal, auctioneering, business and trade organizations, brokers, credit unions, savings and loans, financing corporations, and similar activities.

**Office, Professional:** A facility for the processing, manipulation, or application of business information or professional expertise, and which may or may not offer services to the public. A professional office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, or engaged in the repair of products or retail services. Professional offices may include government offices, the practice of an accountant, architect, landscape architect or other design professional, engineer, insurance agent, attorney, real estate agent or broker, securities broker or similar profession, or the place of business or practice of a group of such professionals operating as a partnership, corporation or other legal business arrangement.

**Off-Premise Sign:** An off-premise sign is a permanent sign erected, maintained, or used for the purpose of the display of messages not related to the use of, products sold on, or the sale or lease of, the property on which it is displayed. Also may be referred to as a billboard.

**On-Premise Sign:** An on-premise sign is a sign erected, maintained, or used for the purpose of the display of messages or which otherwise directs attention to the use of, products sold on, services provided on, or the sale or lease of the property on which it is displayed.

**Official Map:** The Map established by the Town Board pursuant to Section 270 of New York State Town Law and Section 7-724 of New York State Village Law.

**Outdoor Storage:** Means the practice of commercial uses whereby goods for sale or rental and/or equipment used to provide services offered in connection with the activity are located out-of-doors, not in a building.

**Parapet or Parapet Wall:** That part of any wall above roof line.

**Pennant:** A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands, or supported on small poles, intended to flap in the wind.

**Practicable:** Capable of being done after taking into consideration cost, time, technology, and logistics in light of overall project purposes.

**Preliminary Plat:** A drawing or drawings clearly marked "preliminary" showing the layout of a proposed subdivision as specified in Article 6 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form.

**Public Service Facility:** Non-commercial uses of a public, semi-public, religious, educational or fraternal nature, including, but not limited to, hospitals, public and private schools, libraries, places of worship, fraternal clubs, parks, cemeteries, and similar facilities.

**Recreational Facility:** A facility for spectator and participatory uses conducted within an enclosed building, such as movie theaters, sports arenas, bowling alleys, gymnastics and tumbling centers, skating centers, game centers, roller rinks, pool halls, and similar uses. Also means a facility for spectator and participatory uses conducted outdoors or within partially enclosed structures, such as amusement parks, fairgrounds, campgrounds, batting cages, drive-in movie theaters, recreational vehicle parks, petting zoos, miniature golf courses, group camps, tourist attractions, ski centers and their related tourist accommodations, recreational trails, golf courses and driving ranges, playgrounds, picnic areas, public parks, and public beaches and similar uses.

**Recreational Trail:** Means a designated way used for recreational travel by hiking, ski-touring, biking snowshoe, horseback, snowmobile, trail bike, off-road vehicle or other recreational means of transportation.

**Recreational Vehicle:** Includes travel trailers, motor homes, house trailers, campers, house coaches and houses-on-wheels, and this article adopts by reference the definitions used by the New York State Department of Motor Vehicles and excludes mobile homes.

**Regional Subdivision:** Any Class A regional subdivision or Class B regional subdivision.

**Required Improvements:** Any activities or improvements required by Article 6 of these regulations, except as may be waived by the Planning Board, including but not limited to streets and roads, utility installation, road ditches, drainage facilities and culverts,

monuments, park and recreation areas, and revegetation operations.

**Residential Care Facility:** A licensed care facility that provides 24-hour medical or non-medical care to persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Residential care facilities include nursing homes, independent living, assisted living, continuum of care, and hospice facilities.

**Restaurant:** An establishment where food is prepared and available to the general public, for a determined compensation, primarily for consumption within a structure on the premises and where the consumption of food in motor vehicles on the premises is neither encouraged nor permitted. A snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, or park operated by the agency, or group, or an approved vendor, operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**Retail business:** A business that provides goods or services directly to the consumer, and where such goods or services are available for immediate purchase on the premises by the purchaser.

**Right of Way:** The area between boundary lines of a street or other dedicated area.

**Sawmill:** A facility, generally operating on one or more full-time work shifts, five or more days per week, constructed for the processing of timber logs into forestry products, such as milled lumber, cants, treated posts, firewood and wood by-products, such as slab wood, wood chips, bark chips and sawdust, and including planing and sizing facilities, kilns, storage yards and accessory maintenance facilities incidental to sawmill operations. For purposes of this law the term sawmill does not include portable devices used on a temporary basis for cutting timber harvested on the property where the portable device is temporarily located.

**Screen:** To obscure a building, structure, area, or activity from the vision of adjacent property owners or the general public by means of planting or fencing.

**Semi-trailer:** A detachable trailer for hauling freight, with wheels at the rear end, the forward end being supported by the rear of a truck tractor when attached; also called a tractor-trailer.

**Setback, Building:** The minimum allowable horizontal distance from a property line to the nearest vertical wall or other element of a principal building as defined herein. All decks, porches and other structural elements of a structure are considered part of the structure for purposes of this Code.

**Shallow Depth to Bedrock:** A characteristic of the soil where the depth of soil from the surface to the underlying bedrock is less than five to seven feet, creating impediments for construction activities, foundations and proper functioning of sewage systems.

**Shipping Container:** A standardized, re-sealable article of transportation equipment, including one on a chassis, that is designed for repeated use to facilitate unitized freight

handling by one or more means of transportation. Includes but is not limited to intermodal shipping containers, the body of a semi-trailer or straight box truck, but does not include a motor vehicle.

**Shoreline:** Means that line of which land abuts the waters of lakes, ponds, rivers and streams at mean high water.

**Sign:** Any permanent or portable structure, or part thereof, or any device attached to a structure or painted or represented on a structure which displays or includes any lettering, wording, image, model, drawing, banner, flag, insignia, device, marking or representation used as, or which is the in the nature of an announcement, direction, or advertisement visible from a right-of-way whose purpose and design is to convey messages by means of words or images. Public art that contains no commercial messages is not a sign.

**Sign Copy:** The graphic content or message of a sign.

**Sign Face:** The surface upon, against, or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

**Sign, Temporary:** Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure which is permanently embedded in the ground.

**Site Control:** Evidence of a deed, lease, or purchase agreement.

**Sketch Plan:** A sketch of a proposed subdivision showing information specified in Article 6 of these regulations, to enable the sub divider to save time and expense in reaching general understanding with the Planning Board as to the form of the layout and the site of the proposed subdivision in relation to the provisions of these regulations.

**Ski Center:** Means any trail or slope for Alpine or Nordic skiing, including lifts, terminals base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

**Street or Road:** Includes streets, roads, avenues, lanes or other traffic ways (not including private rights-of-way providing access to four or fewer lots).

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

**Subdivider:** Any person, firm, corporation, partnership or association, or an authorized representative of any of the above, who shall affect any subdivision or part thereof as defined herein.

**Subdivision:** Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses. Subdivision of land shall not include a Boundary Line Adjustment as defined herein, provided that the agreement or deed(s) containing the Boundary Line Adjustment provide that no new land use or building rights are created by the instrument(s), which shall be binding on all parties and their successors and assigns.

**Subdivision Plat or Final Plat:** A drawing, in final form, showing a proposed subdivision containing all information or detail required by Article 6 of these regulations, to be presented to the Planning Board for approval, and which if approved, may be duly filed by the applicant in the office of the County Clerk.

**Tavern:** A commercial use establishment not part of a restaurant, hotel, or tourist accommodation where the on-premises sale and consumption of alcoholic beverages is the primary activity.

**Tourist Accommodations:** Commercial uses providing sleeping accommodations for the transient public, including hotels and motels.

**Tourist Homes:** Commercial uses providing sleeping accommodations for the transient public.

**Townhome:** A single-family dwelling unit constructed as part of a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on at least two sides.

**Use, Principal:** The main or primary purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

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

**Wholesale Use:** A commercial use primarily involving the bulk sale of goods for resale to a person other than the direct consumer.

**Yard, Front:** The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such rear lot line.

**Yard, Rear:** The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such rear lot line.

**Yard, Side:** The space within the lot extending the full distance from the front yard the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

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