

Town of Lake George Zoning Ordinance

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Prepared by:



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The Town of Lake George
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CHAPTER 175

ZONING

[HISTORY: Initially adopted by the Town Board of the Town of Lake George 10-16-1978; amended in its entirety 5-23-1990, and 7-14-2003. Subsequent and additional amendments noted where applicable.]

ARTICLE I TITLE; PURPOSE; JURISDICTION

~ 175-1. Short title

This chapter shall be known and cited as the "Town of Lake George Zoning Ordinance."

~ 175-2. Intent

The intent of this chapter is to establish comprehensive controls for the development of land in the Town of Lake George, based on the Comprehensive Development Plan for the town, and it is enacted in order to promote and protect health, safety, comfort, convenience and general welfare of the people.

~ 175-3. Purpose

Such regulations shall be made in accordance with the Comprehensive Development Plan and be designed to promote the health, safety, morals and the general welfare of the Town of Lake George and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to avoid undue concentrations of population and to facilitate adequate provisions of the transportation, water, sewerage, schools, parks and other requirements under and pursuant to Article 16 of Chapter 62 of the Consolidated Laws.¹ The height, number of stories and size of buildings, signs and other structures, the percentage of the lot that may be occupied, the size

¹ Editor's Note: See ~ 261 et seq. of the Town Law.

of yards and other open spaces, the density of population and the use of buildings, structures and land for trade, resort, residence or other purposes are hereby restricted and regulated as hereinafter provided. Further, it is the purpose of this chapter to preserve and protect the beauty and character of the Lake George Park and the waters of Lake George and its tributaries to the benefit of the community and to retain the natural vistas of the Adirondacks and of Lake George to the benefit of the residents and visitors to the community.

~ 175-4. Area of jurisdiction

This chapter regulates and restricts, as set forth above, the use of land throughout the entire area of the Town of Lake George outside the incorporated Village of Lake George.

~ 175-5. Authority of the Adirondack Park Agency

Nothing in this chapter shall be deemed to supersede, alter or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, to review and approve, approve subject to conditions, and disapprove those land uses and developments and subdivisions of land defined therein as Class A Regional Projects or to otherwise supersede, alter or impair the statutory function, duties and responsibilities of that Agency with regard to matters involving the Town of Lake George, provided that the Adirondack Park Agency cannot, in the context of its Class A Regional Project review, override a decision under this chapter not to permit a given land use or development.

ARTICLE II TERMINOLOGY

~ 175-6. Word usage²

Unless the context otherwise requires, the following definitions shall be used in interpretations and construction of this chapter. Words used in singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used"; and the word "shall" is mandatory and not optional, and the word "may" is permissive. Words not herein specifically defined shall have their ordinary dictionary meaning, as in Webster's New International Dictionary.

~ 175-7. Terms defined

As used in this chapter, the following terms shall have the meanings indicated:

A-WEIGHTED SOUND LEVEL – The frequency-weighted sound pressure level (in decibels) measured on a sound-level meter with an A-weighted scale as specified in the American National Standards Institute (ANSI) specifications for sound-level meters (ANSI-No. 4-1971).

ACCESSORY APARTMENT – An accessory use that serves as a dwelling unit which is located above a private garage, either attached or detached from the principal use, and which has separate living quarters, including separate cooking, sleeping and sanitary facilities. In addition, the entire lot area shall be double the lot area of that required for the principal use

ACCESSORY USE -- A use customarily incidental and subordinate to the principal use or principal structure, which does not change the character of the permitted principal use or principal structure and is located on the same lot and within the same zoning district with such permitted principal use or principal structure. The term does not include housekeeping cottages.

ACCESSORY STRUCTURE -- A structure subordinate and clearly incidental to the principal structure on the same lot and used for a purpose customarily incidental to those of the principal structure.

²Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

ADIRONDACK PARK AGENCY ACT -- Article 27 of the Executive Law of the State of New York, including any future amendments thereto.

ADIRONDACK PARK AGENCY or AGENCY -- The Adirondack Park Agency created by ~ 803 of Article 27 of the Executive Law of the State of New York.

ADIRONDACK PARK or PARK -- Land lying within the area described in ~ 9-0101, Subdivision 1, of the Environmental Conservation Law of the State of New York, including any future amendments thereto.

AGRICULTURAL ACTIVITY -- The activities of an active farm, including grazing, and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products and cutting timber for sale, silviculture, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

AGRICULTURAL SERVICE USE -- Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility of fruits, vegetables and other agricultural products; or similar use directly and customarily related to the supply and service of an agricultural use.

AGRICULTURAL USE -- The management of any land for agriculture; raising livestock; horticulture or orchards, including the sale of products grown or raised directly on such land; silviculture and including agricultural roads, agricultural drainage systems and farm ponds.

AGRICULTURAL USE STRUCTURE -- Any building or structure directly and customarily associated with an agricultural use.

ALTERATION -- As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

AMBIENT SOUND LEVEL -- The all-encompassing sound associated with a given environment, being a composite of sounds from many sources, both near and far. The evaluation of ambient sound level shall be done in accordance with American National Standards.

ANSI -- American National Standards Institute or its successor bodies.

APARTMENT HOUSE -- A type of multiple family dwelling arranged in single dwelling units and intended or designed to be occupied by three or more families living independently of each other, which may or may not have common utility services and entrances and of which units are rented.

AREA, GROUND FLOOR -- The total of areas taken on a horizontal plane at the main grade level of the principal and accessory buildings measured from the outside of the building.

AREA, LAND -- The total area within the property lines, excluding the external streets.

AUDIO DEVICE -- A machine capable of playing, reproducing and/or amplifying speech, including but not limited to a radio, tape player or compact disc player.

AUTO BODY REPAIR SHOP -- A service business for the repair of the body or frame of an automobile, including painting, straightening, sanding and welding.

BANK -- An institution which deals in money or credit and in which money and valuables may be stored for safekeeping.

BASAL AREA -- Cross sectional area of a tree measured at breast height, used as a method of measuring the volume of timber in a given stand.

BASE FLOW -- The stream discharge from groundwater runoff. The term "stream" includes any permanent or intermittent watercourse.

BED-AND-BREAKFAST -- A residence, occupied by the host, meeting the following criteria: a maximum of six rooms for rent or use; meals shall be served to guest only; and no cooking facilities in rooms. [Added 11-14-1994]

BERTH -- The place where a vessel lies when at anchor or at a wharf.

BLIND DRAIN -- A drain consisting of an excavated trench refilled with pervious materials, such as coarse sand gavel or crushed stone through which water percolates and flows toward an outlet, often referred to as a "French drain."

BOATHOUSE, PRIVATE -- A structure, which has direct access to a body of navigable water and is used only for the storage of vessels and associated equipment and does not have plumbing or sanitary drains or sanitary facilities.

BOAT STORAGE, COMMERCIAL -- A place, site or structure used to park, house or store on any one lot, more than three vessels, excepting canoes, rowboats, kayaks or other boats less than 18 feet in length for private gain within a marina. This use shall not include 'Storage, Commercial' as defined in this Chapter.

BOAT STORAGE, PRIVATE – A place, site or structure used to park, house or store on any one lot, three or fewer vessels, excepting canoes, rowboats and kayaks.

BOWLING ALLEY: A building or structure utilized primarily for the sport of bowling, and may include the incidental sale or dispensing of food and drink and the sale or rental of bowling equipment. It may also include video games/pinball machines as long as such does not comprise more than four percent (4%) of the gross floor area. The video games/pinball machines must be enclosed within the principal building.

BUFFER ZONE -- A strip of land covered with sufficient permanent planting (generally consisting of both trees and shrubs) to provide a continuous physical screen to mitigate conflicts of land use between two or more areas. No parking or storage of vehicles of any kind or objects within the buffer zone is permitted.

BUILDING OR STRUCTURE HEIGHT -- The vertical distance measured from the lowest portion of the proposed natural or finished grade of the building or structure site covered by the building or structure or finished grade of cut required to accommodate the building or structure to the highest point. The measurement is exclusive of church spires, cupolas, chimneys, ventilators, cooling towers, mechanical equipment or similar features customarily carried above roof level. These features shall not exceed an aggregate coverage of twenty percent (20%) of the roof area on which they rest. For the purposes of determining Class A Regional project jurisdiction, the exclusions noted above do not apply.

BUILDING FOOTPRINT The two dimensional plane area of a building or structure which results when the height dimension is removed and which shows an aerial view of said building or structure, including garages, sheds, porches, caves, covered breezeways, entryways and other similar attached appurtenances.

CAMPGROUND -- Any area designated for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facilities designated for temporary shelter.

CAR WASH -- A service business where automobiles are cleaned and in which accessory products may be sold.

CATCH BASIN -- An inlet structure for the collection of stormwater from impervious surfaces designed with a sump to trap sediment.

CEMETERY -- A burial place or ground operated and maintained by a church, private entity or a governmental agency, which can include a crematorium and aboveground storage vaults.

CLASS A REGIONAL PROJECT -- A land use or development which is classified as a Class A Regional Project in § 810 of the Executive Law, the Adirondack Park Agency Act, and set forth in Appendix A hereof.³

CLASS B REGIONAL PROJECT -- A land use or development which is classified as a Class B Regional Project in § 810 of the Executive Law, the Adirondack Park Agency Act, and set forth in Appendix B hereof.⁴

CLEAN FILL -- Noncontaminated concrete, dirt, bricks, soil and rocks.
[Added 4-19-1996]

CLEARCUTTING -- The cutting of more than 50% of any trees over six inches in diameter 4.5 feet above ground level over the entire area of the cutting. In no event shall the cutting violate the shoreline criteria of the Zoning Ordinance and the clearcutting regulations of the APA Act and regulations.

CLUB, MEMBERSHIP -- An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that they are not conducting any vending stands or merchandising or commercial activities, except as required for the membership and purposes of such club.

CLUSTER DEVELOPMENT -- A planned development or a subdivision plat or plats approved pursuant to this article, in which the applicable zoning ordinance is modified to provide an alternative permitted method for the layout, configuration, size and design of lots, buildings, and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

³Editor's Note: Appendix A is included at the end of this chapter.

⁴Editor's Note: Appendix B is included at the end of this chapter.

CO-LOCATION –The siting and/or mounting of multiple antennas used by the same wireless communications services provider or by two or more competing providers on the same telecommunications tower.

COMMENCEMENT OF APPROVED ACTION -- For purposes of ~ 175-41, Article VI, Planning Board review and decision and ~175- 95, Article XI, Board of Appeals, of this chapter, "commencement of the approved action" shall be defined as the physical commencement of construction, if the approved activity entails construction of any structure(s), or the actual commencement of the new use, if the approved activity entails any new or modified use.

COMMERCIAL DESIGN GUIDELINES – The Town of Lake George Commercial Design Guidelines is a companion document to this Chapter, which conveys desirable commercial design principles through illustrations and text.

COMMERCIAL USE -- Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. The term shall include but not be limited to the following: drive-in restaurant; filling station; restaurant; retail use; retail stand; riding academy; tavern, convenience store and marina.

COMMISSION -- The Lake George Park Commission.

CONDOMINIUM DEVELOPMENT -- A project of individual single-family dwelling units which may consist of one, a part of, or more than one structure wherein the dwelling units are individually owned, each owner holding a title thereto, while retaining together with all the other owners of units in the project an undivided interest in the common facilities and areas of the buildings and grounds which are used by all the residents, through an offering prospectus.

CONDOMINIUM UNIT -- An individual single-family dwelling unit within a condominium development.

CONSTRUCTION – Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

CONTINUOUS CRIB WHARF -- Any wharf, which is supported along its entire length by cribbing.

CONTRACTUAL ACCESS -- The right of a nonresident of a parcel or lot to use such parcel or lot as a means to utilize some feature or resource where said right is granted to a nonresident through membership in an organization or club or by legal contract or deed stipulation.

CONVENIENCE STORE – A retail establishment offering for sale pre-packaged food products, household items, newspapers and magazines, sandwiches and other prepared foods, generally for off-site consumption, but which may offer limited seating without wait service. A convenience store includes the terms “Delicatessen” or “Deli.”

CONVENTION AND EXHIBIT CENTER – A structure or combination of structures designed to support one or more of the following primary users: trade or consumer shows, annual conventions, corporate conferences, educational meetings, sales and incentive meetings and a sports arena. Secondly, such a use will support receptions/banquets, entertainment events, community events, school and youth events, or religious events. In support of the aforementioned activities, this use may also provide food services.

DAY CARE CENTER – A site, building or place designed and/or operated to provide day care and/or instruction for three or more children and operated on a regular basis for a fee. Such centers must be licensed by the Office of Children and Family Services. This definition includes the terms “Family Day Care” and “Group Family Daycare”.

dB(A) – The abbreviation for A-weighted sound level in decibels.

DECIBEL – A unit for measuring the volume of sound equal to 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

DETENTION -- The practice and procedures associated with the delayed release of stormwater so as to reduce peak flow, maintain base flow, increase opportunity for recharge to groundwater and reduce opportunity for surface runoff and soil erosion.

DETENTION STRUCTURE -- A permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.

DEVELOP LAND -- To change the characteristics of a parcel of land in conjunction with residential, commercial, industrial or institutional construction or alteration.

DEVELOPMENT -- Any building, construction, expansion, alteration, modification, demolition or other activity, including land clearing, land disturbance, grading, roadway construction or expansion, mining or mineral extraction which materially changes the use or appearance of land or a structure, or the intensity of the use of land, or the creation of a subdivision which may result in such activity, but not including interior renovations to a structure, a change in use of a structure which results in no land disturbance and no increase in parking requirements, or the construction or modification of a dock, wharf or mooring. For purposes of Regional Project Jurisdiction this definition applies, except that "land use" includes a change in use of structure and the construction or modification of docks, wharves, or moorings.

DIAMETER AT BREAST HEIGHT (dbh) -- The diameter of a tree trunk measured 4.5 feet from the base of the tree.

DISTURBED AREA -- That part of a development site area where actual land disturbance, vegetation removal or construction of buildings, structures or utilities will occur or has occurred.

DOCK -- A wharf or portion of a wharf extending from or along the lakefront.

DOCK, PRIVATE. -- A wharf or portion of a wharf extending from or along the lakefront that is privately owned and not used for commercial purposes.

DOCKOMINIUM FACILITY -- A multi boat docking facility in which each boat slip is individually owned.

DRAINAGE AREA -- All of the area of land contributing runoff flow to a single point.

DRIVE-IN RESTAURANT -- A place where food or nonalcoholic beverages are served or sold for consumption outdoors or in vehicles, or where food is purchased at a counter for consumption indoors. This definition also includes the term "fast-food operation."

DUDE RANCH -- A resort, primarily for the riding of horses and other equestrian activities, including tourist accommodations and uses customarily accessory to tourist accommodations.

EMERGENCY -- A public calamity exposing any person or property to imminent danger of significant loss or harm.

EMERGENCY WORK – Work or activity that is necessary to prevent or recover from an emergency, including but not limited to work to repair electric, gas, water, sewage, telephone, or other essential public utilities or services.

EROSION -- The wearing away of the land surface by rain, flowing water, wind or other geological or mechanical agents.

ESSENTIAL PUBLIC SERVICES -- Services by public utilities or governmental agencies of gas, steam, sewer or water transmission or distribution systems.

FAMILY -- One or more persons occupying a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FILLING STATION -- A lot occupied or used for the sale of oil or other motor fuel, lubricants, tires and accessories for motor vehicles, including facilities for greasing, washing, cleaning, polishing, painting, repairing or otherwise servicing vehicles. This use may also include a convenience store, which is secondary to the principle use as filling station. The accessory convenience store would typically offer items for sale such as prepackaged food products, household items, newspapers, magazines, sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

FILTER STRIP -- A strip of permanent vegetation above ponds; diversion terraces and other structures graded by a uniform mild slope to retard flow of runoff, causing deposition of transported material, thereby reducing sediment flow.

FIRING RANGE – A facility out of doors or within a building, which is designed to accommodate the discharge of firearms and usually includes targets or skeet launchers.

FLOOR AREA; GROSS FLOOR AREA:

1. Residential: the area in square feet within the exterior walls of a dwelling unit and accessory structures including the sum total of all floor areas of all dwelling units, unattached or attached garages, porches, decks, etc.
2. Commercial or industrial: the total area in square feet within the exterior walls of a building or structure, and when applicable, the sum total of all floor areas of the principal and accessory buildings or structures under single ownership or business, including all garages, porches, decks, etc..

FLOW ATTENUATION -- Prolonging the flow time of runoff to reduce the peak discharge.

FORESTRY USE -- Any management, including logging, of forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems

FORESTRY USE STRUCTURES -- Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

FUNERAL HOME -- A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, but not including facilities for cremation.

GAME PRESERVE -- A land area used for the protection of wildlife, usually because of its unique natural character, which provides habitat, food or shelter for wildlife.

GARAGE, PRIVATE -- An enclosed space for the storage of motor vehicles. No business, occupations or service for profit shall be conducted therein. Space for only one vehicle may be rented therein to a nonresident of the premises.

GOLF COURSE -- An area or course for playing golf, consisting of at least nine holes, except miniature golf.

GROUP CAMP -- Any land or facility for seasonal housing and recreational, educational or business related use by private groups or semipublic groups, such as a Boy Scout or Girl Scout camp, fraternal lodge, or university or college conference center.

HEALTH-RELATED FACILITY -- A building or site used for the treatment of illness, disease, injury, deformity and other abnormal physical or mental conditions, including rehabilitation activities, and which is operated by individuals in the health industry licensed by the State of New York. All hospitals and institutions specializing in medical treatment, physical and mental therapy (including alcohol and drug treatment), nursing homes, and assisted living for all ages are considered to be health-related facilities.

HISTORIC SITE -- A site, district, building, structure, or object listed on the National or State Register of Historic Places or is designated locally pursuant to Chapter 72 of the Code of the Town of Lake George.

HOME OCCUPATION, TYPE 1: A profession or trade conducted entirely within a single or a single unit of a multiple family dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the residence for residential purposes, and does not change the character thereof, and does not involve the employment of anyone who does not reside in the residence. There shall be no exterior evidence, including signs, of such home occupation.

HOME OCCUPATION, TYPE 2: A profession or trade conducted entirely within a single or a single unit of a multiple family dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the residence for residential purposes, and does not change the character thereof. A Type 2 home occupation may employ up to two persons, in addition to those that live in the dwelling. There may be a sign advertising the presence of the home occupation in accordance with Article V, §175-32 3, Signs of this code. The sale of stock in trade or the entertainment of clients may be allowed.

HORSE STABLE, PRIVATE -- A stable for four horses or less, all owned by the owner of the stable, or being housed in the stable without charge.

HORSE STABLE, PUBLIC -- A stable for five or more horses and/or which is operated for a profit. [Added 7-11-1994 by L.L. No. 1-1994]

HOUSEKEEPING COTTAGES -- A single detached rental unit for transient occupancy. 'Housekeeping Cottages' are subject to the applicable provisions of this chapter including §175- 52, Tourist Accommodations.

HUNTING AND FISHING CABIN -- A cabin, camp or lean-to or other similar structure, of less than 500 square feet of gross floor area designed for occasional occupancy for hunting, fishing or similar purposes.

HYDROGRAPH -- A graph showing variation in stage (depth) or discharge of a stream of water over a period of time. The term "stream" includes any permanent or intermittent watercourse.

IMPERVIOUS AREA -- An area covered by pavement, rooftops and/or other structures or materials, which is either impervious to water or which substantially prevents the infiltration of water into the soil at that location.

INFILTRATION -- The downward movement of water from the surface to the subsoil. Infiltration rate is typically expressed as inches per hour.

INFILTRATION DEVICE -- A stormwater recharge area, dry well, recharge basin, retention basin or any other engineered structure designed to infiltrate stormwater.

INFILTRATION RATE -- A soil characteristic determining or describing the maximum rate at which water can enter the soil under specified conditions, including the presence of an excess of water.

JUNK VEHICLE -- Any unregistered, used motorized vehicle or recreational vehicle, or vessel, no longer intended or in condition for legal use. Junk vehicles are not permitted to be stored or disposed of on vacant lots or on open areas of occupied lots. [Amended 7-12-1999]

JUNKYARD [Amended 4-10-1995; 7-12-1999] -- Any open lot or area for the dismantling, storage or sale of parts, scrap or salvage or two or more unlicensed or unregistered or wrecked motor vehicles, machinery, scrap metal, waste papers, rags, used or salvaged building materials or other discarded materials.

KENNEL -- An establishment to house dogs, cats, and other household pets where grooming, breeding, boarding, training or selling of animals is conducted as a business. The occasional sale of puppies, kittens or other offspring from household pets shall not be considered a kennel.

LAND CLEARING -- The excavation, cutting, removal, alteration, destruction or clearing of perennial or annual vegetation, or the disturbance of soil.

LANDSCAPE -- All the natural features, such as fields, hills, forests, water, etc., that distinguish one part of the earth's surface from another part, usually that portion of land or territory which the eye can comprehend in a single view, including all of its natural characteristics.

LANDSCAPING -- The act of changing or enhancing the natural features of a plot, buffer zone, public open space or other area or portion of a lot (often as a beautifying feature of a building or land use) so as to make said area more attractive, to add visual screening and/or to provide safety features and to assist in protecting life and property. This may be accomplished by adding lawns, trees, shrubs, etc., or through the sculpting of the terrain, i.e., earth berms, ponds, walkways, retaining walls, rock outcrops, etc., and/or installing lights, light poles, flagpoles, fences and traffic malls for the direction of traffic. This does not include any man-made object that exceeds the maximum height requirement for a structure in the zone district in which it is located. Landscaping is subject to approval by the Town of Lake George Planning Board for Class B projects and site plan review is required and subject to review by the

Adirondack Park Agency and the Town of Lake George, where a project is classified as a Class A Regional Project. Landscaping involving new structures such as retaining wall, fences and poles will be subject to the shoreline setback requirements. Landscaping involving changes to watercourses or creation of ponds may require a permit from the APA and the DEC.

LANDSCAPE PLAN -- A plan of sufficient detail to describe proposed changes in topography, structures, vegetation and visual characteristics.

LAND USE AREA -- Those areas delineated on the official Adirondack Park Land Use and Development Plan Map, adopted under Article 27 of the Executive Law of the State of New York, and designated thereon as "Hamlet," "Moderate Intensity Use," "Low Intensity Use," "Rural Use," "Resource Management" and "Industrial," and such portions of those areas as are located within the Town of Lake George and delineated on the Adirondack Park Land Use and Development Plan Map incorporated by ~ 175-11, Article III, Adirondack Park Land Use and Development Plan Map, hereof.

LAND USE AND DEVELOPMENT -- Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. "Land use and development" shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance or interior alterations to existing structures or uses.

LIGHT INDUSTRIAL USE -- A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location. This term does not include mineral extractions, private and commercial sand and gravel extractions, including screening or crushing operations. sawmills, chipping mills, pallet mills and similar wood-using facilities

LINE, LOT -- Any line dividing one lot from another.

LINE, STREET OR ROAD -- The dividing line between the street right-of-way line and the lot.

LIVE ADULT ENTERTAINMENT -- Live performances which feature topless dancers, strippers, exotic dancers or similar entertainers as per Chapter 48 of the Code of the Town of Lake George.

LOADING SPACE, OFF-STREET -- One loading space for merchandise or freight shall constitute an area not less than 12 feet in width and 30 feet in length, with a vertical clearance of 15 feet or more.

LOT -- A parcel of land occupied or capable of being occupied by a structure or structures, including such open spaces as are required by this chapter.

LOT, CORNER -- A parcel of land at the junction of and fronting on two or more intersecting streets.

LOT COVERAGE -- The portion of a lot that is covered by the gross floor area or surface area of all principal and accessory buildings, paved parking lots and other non-permeable surfaces.

LOT, THROUGH -- An interior lot having frontage on two parallel or approximately parallel streets.

MAJOR PUBLIC UTILITY USE -- Any electric power transmission or distribution line and associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone interchange or truck cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to service a new residential subdivision; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building; and any water or sewage pipes or conduits designed to service 50 or more principal buildings.

MARINA -- Any waterfront facility which provides accommodation services for vessels by engaging in any of the following (see Article VII §175-54, Marinas, for additional standards):

- A. The sale of marine products or services.
- B. The sale, lease, rental or charter of vessels of any type.
- C. The sale, lease, rental or any other provision of storage, wharf space or mooring for vessels not registered to the owner of said facility, or a member of the owner's immediate family.
- D. The use of residential or association docks, wharfs or moorings by the owner of the facility, or the owner's family for boats belonging to the owner, or leasee, of the property in question.

MEAN HIGH WATER MARK OF LAKE GEORGE -- The fixed annual mean high water elevation of 320.2 feet above the mean sea level of Lake George, commonly referred to as the shoreline.

MEAN LOW WATER means an elevation of 317.74 feet above mean sea level as identified on the Rogers Rock Gage.

MINERAL EXTRACTION -- Any extraction, other than specimens or samples, of 50 or more cubic yards in any 24 consecutive months, from the land of stone, coal, petroleum products or other materials, except for commercial sand, gravel or topsoil extractions, including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

MINERAL EXTRACTION STRUCTURE -- Any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages; or other main buildings or structures.

MOBILE HOME -- Any vehicle or similar portable structure or any part thereof or addition thereto, with or without a foundation or wheels, jacks, skirting, wood or masonry block supports, designed or constructed to be towed on its own chassis (comprised of frame and wheels), driven or otherwise transported to its resting site and which is designed to permit occupancy for residential, business, commercial or office purposes. Such will include units that may contain parts that may be folded, collapsed or telescoped when being towed and expanded later, as well as two or more separate components designed to be joined into one integral unit, but excluding modular homes. Mobile homes used for commercial purposes will be treated as commercial uses.

MOBILE HOME COURT -- A parcel of land planned and improved for the placement of two or more mobile homes for continuous occupancy.

MODEL HOME AND SALES OFFICE -- Buildings used to promote the sale of lots or dwelling units located in the project being constructed or marketed by the developer or agent.

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

MOORING -- Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one point.

MOORING, COMMERCIAL – Leasing, renting or making a mooring available to any person for a fee or any form of compensation, or a mooring used for any commercial purposes.

MOORING, PRIVATE -- A privately owned mooring, which is not used for commercial purposes and / or is not rented.

MOTOR VEHICLE -- All vehicles propelled or drawn by power other than muscular power, originally intended for use on public highways. [Added 4-10-1995]

MOTORIZED VEHICLE SALES – The sale of any vehicle propelled or drawn by power, other than muscular power, that can be registered by a state department of motor vehicles.

MULCH -- A natural or artificially created layer of plant residue or other materials, such as sand or paper, on the soil surface, which reduces erosion, maintains soil moisture and facilitates seed germination.

MULTIPLE-FAMILY DWELLING -- Any building used or designed as a residence for three or more families, living independently of each other and doing their own cooking therein, including but not limited to apartment houses, townhouse developments, certain condominium developments and the conversion of existing single-family dwellings.

MUNICIPALITY -- The Town of Lake George.

NATIONAL REGISTER OF HISTORIC PLACES – The official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history of whose artistic or architectural value is unique.

NATURAL STREAM BUFFER – A strip of natural vegetation intended to protect the physical integrity of the stream ecosystem, provide distance between upland development and the stream or river, prevent flood damage and bank erosion, provide habitat, and enhance water quality.

NEIGHBORHOOD -- An area of a community with characteristics that distinguish it from other community areas and which may include distinct ethnic or economic characteristics, schools or social clubs or boundaries defined by physical barriers such as major highways and railroads or natural features such as rivers.

NONCONFORMING LOT -- Any legally created lot of record on the first date of adoption of this chapter which does not meet the minimum lot area

and/or lot width requirements of this chapter for the zoning district in which such lot is situated, and for which the owner of May 22, 1973 did not own adjoining land.

NONCONFORMING STRUCTURE -- Any structure which is lawfully in existence within a given zoning district on first date of adoption of this chapter, but which is not in conformance with the dimensional regulations for that zoning district, as listed in Schedule II of Article IV hereof.⁵

NONCONFORMING USE -- Any use which is lawfully in existence within a given zoning district on the first date of adoption of this chapter, but which is not a permitted principal, permitted accessory or special use for that zoning district, as listed in Schedule I of Article IV hereof,⁶ or a use for which a use variance had previously been granted.

NONPOINT SOURCE -- Any source from which pollutants are or may be discharged which is not a point source.

OFFERING PLAN -- A prospectus as required by ~ 352-e of the General Business Law.

OPEN CRIBBING -- The placement of crib members in such a manner that there is vertical spacing between the timbers which provides for a partial exchange of water through the crib structure itself.

OPEN SPACE -- Any parcel or area of land or water, essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

OPEN SPACE RECREATION USE -- Any recreation use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile trail, trail bike, jeep or all-terrain vehicle trail, cross-country ski trail, hiking and backpacking trail, bicycle trail, horse trail, playground, picnic area, public park, public beach or similar use. A use involving the filling of wetlands or substantial construction or land disturbance is not an open space recreation use."

OPEN SPACE RESOURCES -- Any parcel of land or area of land or water essentially unimproved.

⁵Editor's Note: Schedule II is included at the end of this chapter.

⁶Editor's Note: Schedule I is included at the end of this chapter.

OWNER – Any person who has regular control of a device or site, including but not limited to the owner of a freehold of the premises, or any lesser estate therein, or an agent or lessee of such person.

PARKING AREA -- Any place, lot, parcel or yard used in whole or in part for storing or parking six or more motor vehicles under the provisions of this chapter.

PARKING SPACE -- For the purpose of this chapter, one "parking space" shall constitute an area ten feet wide by 18 feet long, having an overall area of 180 square feet and having the necessary vertical clearance to accommodate an automobile.

PARKS AND PLAYGROUNDS, PUBLIC – A tract of land with or without a variety of recreational facilities, designated and used by the public for active and passive recreation. These uses may include the construction of structures and more than minimal land disturbance."

PEAK FLOW -- The maximum instantaneous flow of water from a given condition at a specific location.

PERMEABLE -- Ground surface through which water can percolate in a natural manner. Said ground surface could be undisturbed natural terrain or landscaped area with unpaved surfaces.

PERSON – Any individual, partnership, company, public or private corporation, association, firm, organization political subdivision, governmental agency, municipality, trust, estate, group of individuals or any other legal entity, except the State of New York.

PERSONAL SERVICES -- Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

PERSONAL WATERCRAFT – (PWC) A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel.

PERVIOUS PAVERS A porous paving product designed to allow water to pass through, but made to endure traffic by vehicles and pedestrians.

PIER -- A portion or component of a dock or wharf.

PILE -- A long slender column usually of timber, steel or reinforced concrete driven into the ground vertically to support an open-type wharf.

PLACE OF WORSHIP -- A building or place used for religious activities, including a church, synagogue, temple or mosque, which is used for the purpose of worship and activities customarily associated therewith.

POLLUTION -- The condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

POLLUTION SOURCE CONTROLS -- The structures and practices used in reducing contaminants from point and/or nonpoint sources.

POROUS PAVEMENT -- Open graded paving material, which allows water to pass through it.

PREDEVELOPMENT CONDITIONS -- Those site conditions which legally existed prior to the commencement of any activity regulated herein.

PRINCIPAL BUILDING -- Any of the following: single-family dwelling; mobile home; tourist cabin or similar structure for rent or hire involving 300 or more square feet of floor space; each dwelling unit of a multiple-family dwelling; a commercial or industrial use structure in excess of 300 square feet; and other structure which exceeds 1,250 square feet. In addition, each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure and each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space will constitute 1/10 of a "principal building." An accessory structure will not be considered a "principal building." In addition, all agricultural use structures and single-family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families will together constitute and count as a single "principal building."

PRINCIPAL USE -- The main or primary purpose for which land or a building is used or occupied or maintained. Where more than one use is on a lot, the more or most intense shall be considered the main or primary use.

PROFESSIONAL OFFICE -- Office used to conduct a professional occupation. A professional occupation is one which is engaged in professional services, including but not limited to all members of the field of medicine, a lawyer, an architect, engineer, surveyor, real estate broker, accountant, stockbrokers, corporate headquarters, and beauty salons. [Added 4-19-1996]

PROJECT -- Any land use or development activity proposed by an applicant which requires a permit or variance from the Town of Lake George, and/or which is subject to the Erosion, Sedimentation and Stormwater Runoff Control supplementary regulations contained herein.

PROJECT LIFE -- The anticipated or actual time span that a project will be used, utilized or remain in functional existence.

PUBLIC OR SEMIPUBLIC BUILDING -- Any college, school, hospital, animal hospital, municipal building, library, place of worship, museum, research center, rehabilitation center or similar building.

PUBLIC UTILITY USE -- Any public utility use, equipment or structure which is not a major public utility use. A "public utility use" does not include any use which is subject to jurisdiction of the Public Service Commission pursuant to Article VII of the Public Service Law.⁷

QUICK-LAUNCH FACILITY -- A commercial facility, located within a marina, where vessels are stored, launched and stored again individually for periods of less than one week at a time.

RAINFALL INTENSITY -- The rate at which rain is falling at any given instant, usually expressed in inches per hour.

RATIONAL METHOD -- A widely accepted method for calculating stormwater runoff, volume and rates of flow for watershed areas up to 20 acres.

REAL PROPERTY BOUNDARY -- An imaginary line along the ground surface, which separates the real property owned by one person from that owned by another person, and the vertical extension of such line.

RECREATIONAL FACILITIES, INDOOR, COMMERCIAL -- Recreational facilities open to the general public for private gain enclosed within a building, including but not limited to billiard and pool halls, bowling alleys, gymnasiums, skating rinks, swimming pools, tennis, handball, racquetball, and basketball courts.

RECREATIONAL FACILITIES, PRIVATE -- Recreational facilities supplemental to a principal use for the utilization by proprietors and guests, and excluding any use which is open to the public for a charge.

RECREATIONAL VEHICLE -- Any vehicle, which is propelled by any power other than muscular power that is designated for or capable of off-road

⁷Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

travel, such as a motorcycle, all-terrain vehicle (ATV), trail bike, minibike or a snowmobile. A recreational vehicle is also classed as a motor vehicle when such recreational vehicle is operated or driven upon a public highway.

REGULATED ACTIVITIES All building, construction, land clearing, land disturbances, tree cutting, disturbances to steep slopes, subdivision of land, and anytime there is a change in the use of a structure or the intensity of the permitted use of a structure.

REFUSE – COMPACTING VEHICLE – Any vehicle, which is either designed to be used or is used to compact and transfer refuse, garbage or trash.

REDEVELOPMENT -- Any activity which alters a previously developed site.

RESIDENTIAL USE – The use or structure or parts thereof as a dwelling.

RESTAURANT -- A place for the preparation, serving and consuming indoors of food and beverages, other than a tavern, for profit.

RETAIL USE -- The offering, for a fee, of goods and merchandise, excluding restaurants, to the general public and where the providing of services is clearly incidental to the sale of such goods or merchandise.

RETAIL STAND -- A place where goods or products are rented or sold outdoors.

RETAINING WALL -- A wall to maintain differences in ground elevation by holding back a bank of material.

RETENTION -- The practice of holding or directing stormwater, except that portion evaporated or bypassed in an emergency, in or to a given area so that all the stormwater will be infiltrated into the subsoil.

RETENTION POND -- A recharge basin, which is designed to infiltrate all of the stormwater it receives and which normally has no outflow.

REVEGETATION -- The natural or planted replacement of vegetation on a project site to reduce erosion, decrease runoff, improve water quality and improve aesthetic qualities of exposed soils.

RIDING ACADEMY -- Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

RINGLEMAN CHART – A chart used for measuring the opacity of smoke, as published by the United States Bureau of Mines in Information Circular No. 7718.

RUNOFF -- That portion of the precipitation, rain and/or snowmelt that cannot be absorbed by the soil within a drainage area that is discharged from the area in water channels, either natural, as a stream or man-made. Types of "runoff" include surface water, groundwater, snowmelt, stormwater and/or seepage.

RUNOFF CONTROLS -- Those structures and/or devices, including but not limited to dry wells, porous pavements, ditches, wetlands, holding ponds, recharge areas and retention/detention basins, which recharge groundwater and provide for peak flow attenuation.

SAND, GRAVEL OR TOPSOIL EXTRACTION, COMMERCIAL – means any extraction from the land of more than fifty cubic yards in any two year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality.

SAND, GRAVEL OR TOPSOIL EXTRACTION, PRIVATE – Any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than 50 cubic yards, extracted over 24 successive calendar months. If the location of extraction is within 50 yards from a water body, then private sand, gravel or topsoil extraction shall be prohibited. The term 'water body' shall be interpreted as defined in this Chapter and the regulations contained herein. Private sand, gravel and topsoil extraction shall not include transport of the extracted material off the owner's land, the processing of the extracted material, or a cement or asphalt plant.

SAWMILL, COMMERCIAL – Any building, site or place used for the cutting or milling of logs into dimensional lumber. This definition shall not include a 'temporary portable sawmill.'

SAWMILL, TEMPORARY PORTABLE – A sawmill for use by an owner on his or her property. Use of this equipment for more than a period of 4 consecutive months shall be subject to site plan review.

SCREENING -- Foliage, mounds, trees, shrubs or landscaped natural materials and plants which obscure the visual character and suppress the noise of any given building or use of land. Where natural plant material is not

practical, fences and/or other artificial material may be partially or totally substituted, according to individual site conditions.⁸

SEASONAL USE – Refers to a use that occurs only during the period May 1 through October 31.

SEDIMENT -- Eroded soil particles which are transported by wind or water.

SEDIMENTATION -- The process by which sediment is deposited in streams or lake bottoms.

SELECTIVE TREE CUTTING -- The removal of single or scattered trees of any size, resulting in the appearance of the land area as not having been substantially disturbed.

SELF-SERVICE STORAGE FACILITY – Any facility that is designed and used for storage space by various rental occupants who each have access to a secure section they lease for the purpose of storing and removing personal property. The tenant or occupant of the self-storage facility has care, custody and control of his/her stored goods and the lessor or landlord is not responsible for ordinary negligence which results in damage to the stored goods.

SENSITIVE RECEPTOR – Any occupied property or, if a condominium, apartment house, duplex or attached business, within any adjoining unit; or place of business which is affected adversely by noise.

SEQRA -- The State Environmental Quality Review Act;⁹ a process that introduces the consideration of environmental factors into the early planning stages of actions in order to avoid adverse impacts on the environment.

SETBACK -- The established line beyond which no part of a building shall extend.

SHORELINE -- That line at which land adjoins the waters of lakes, ponds, rivers and streams within the town at the mean high water mark.

SHORELINE SETBACK -- The shortest distance, measured horizontally, between any point of a building or structure (except docks and boathouses) and the shoreline of any lake or pond or any river or stream navigable by boat, including canoe.

⁸ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁹Editor's Note: See Article 8 of the Environmental Conservation Law.

SHORELINE LOT WIDTH -- The distance, measured along the mean high water mark, between the boundary lines of a lot as they intersect the shoreline of any lake or pond or any river or stream navigable by boat, including canoe.

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

SIGN AREA -- That portion of the advertising surface of a sign, measured from the outside dimensions thereof, on which any name, text, device, signal, ornament or advertising matter is displayed or visible. A sign having more than one face or advertising surface or a group of connected or related signs shall be deemed only one sign and shall have the total "sign area" of all such surfaces; provided, however, that if a sign is lettered on both sides, back to back, only one side shall be included as the total "sign area" thereof.

SIGNIFICANT HABITAT -- That area or region important in fulfilling the daily or seasonal habitat requirements of any species of plant or animal designated as endangered, threatened, rare or of special concern by the Department pursuant to ECL §§ 11-0535 and 9-1503 and the Department's regulations thereunder, or by any individual species or any group or natural community of nonlisted plants and animals of significant economic, recreational, aesthetic, ecological or scientific importance.

SILTATION TRAP -- A structure designed to trap sand and silt-sized particulate matter from stormwater.

SINGLE-FAMILY DWELLING -- A building of one or more stories of height above the main grade level, which is designed or used exclusively as the living quarters for one family, whether seasonal or year round.

SINGLE-FAMILY DWELLING UNITS -- One or more rooms designed or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within each unit for the exclusive use by a person or persons of a single household unit or family. This term excludes any units associated with tourist accommodations.

SITE The location of a structure or proposed development or potential building lot.

SKI CENTER, CROSS-COUNTRY -- An area developed for cross-country skiing including groomed and ungroomed trails and which may include ski rental and sales, instruction, and eating facilities. This use shall not include overnight accommodations.

SLOPE -- The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

SOLID CRIB WHARF -- Any wharf constructed of or on fill materials, such that lack of spacing in the fill restricts the free exchange of water from one side of the wharf to the other.

SOUND LEVEL – The quantity in decibels measured by a sound-level meter satisfying the requirements of American National Specification for Sound-Level Meters S1.4 – 1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018. Sound level is the frequency-weighted sound-pressure level obtained with the standardized dynamic characteristic fast or slow and weighting A, B and C; unless indicated otherwise, the A-weighting with a slow response is understood.

SOUND- LEVEL METER – An instrument, including a microphone, an amplifier, an output meter and frequent-weighting network for the measurement of sound levels. Sound-level meters shall conform to the requirements of ANSI specifications for sound-level meters S1.4.1971, Types 1, 2, S1a or S2a.

SOUND-PRESSURE LEVEL – Twenty times the logarithm to the base 10 of the ratio of the root mean squared pressure of a sound to a reference pressure of 20 micropascals. The unit applied to this measure shall be the decibel (dB).

STABILIZATION -- The proper placing, grading and/or covering of soil, rock or earth to ensure their resistance to erosion, sliding or other movement.

STORAGE, COMMERCIAL – A business for hire in which a 'warehouseman,' as defined in Section 7-102 of the Uniform Commercial Code of New York State, takes possession of goods and is responsible for the care and control of the stored goods. Goods stored for hire shall be completely enclosed within a building and may include boats, motorcycles, jet skis, or similar recreational vehicles. 'Storage, Commercial' shall be differentiated from 'Self-Service Storage Facility' in that commercial storage involves the conscious creation of a bailment between the bailor and 'bailee,' as defined in the Uniform Commercial Code of New York State.

STORAGE SHED – An enclosed accessory structure used to store materials or equipment which supports the principal use of the site.

STORAGE TRAILER – Equipment, such as a box or utility trailer, that is propelled or drawn by power and used for the primary purpose of storage of goods, supplies, or equipment for a ‘commercial use’ or ‘residential use.’ This term is not intended to include a travel trailer or trailers that transport or store boats, snowmobiles, motorcycles, personal watercraft or similar recreational vehicles.

STORM DRAINAGE SYSTEM -- All structural works and ground alterations, as well as natural drainage patterns, which affect or regulate the flow of surface drainage, including those used to intercept, collect and transmit water or to discharge water above or below ground level.

STORMWATER -- Water produced by precipitation, including snow melt, which does not evaporate and which flows over a natural or human-made surface or into a natural or human-made channel.

STORMWATER CONCEPT PLAN or SCP -- A report prepared in accordance with Appendix F of this section¹⁰ or on behalf of a project sponsor, which includes analysis of a site's environmental characteristics, potential impacts of the development on water resources and the effectiveness and acceptability of the proposed stormwater management system in order to determine the types of stormwater measures necessary for the proposed development.

STORMWATER CONTROL MEASURES -- All those natural and man-made structures, infiltration devices, erosion controls, systems, facilities, agreements, institutional arrangements and financial provisions to manage stormwater, including but not limited to any of the following: dry wells, pits of crushed rock, infiltration trenches, retention ponds, detention ponds, blind ditches, swales, pipes, culverts, natural depressions, porous paving, recharge areas and basins.

STORMWATER CONTROL REPORT or SCR -- A report prepared in accordance with Appendix F of this section¹¹ or on behalf of a project sponsor which evaluates the quantity and quality of stormwater runoff resulting from the proposed project. The report shall include a set of drawings and other documents to provide all the necessary information and specifications pertaining to stormwater management and associated pollution control for a particular site. The SCR is intended to implement the SCP.

¹⁰Editor's Note: Appendix F is included at the end of this chapter.

¹¹Editor's Note: Appendix F is included at the end of this chapter.

STORMWATER DESIGN PLAN -- The written narrative, maps and diagrams prepared for the purpose of runoff control on a specific development site, based upon survey and analysis of the site.

STORMWATER MANAGEMENT:

(1) For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by human-made changes to the land.

(2) For qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

STORMWATER MANAGEMENT MAINTENANCE AGREEMENT -- An agreement between the project sponsor and some other entity to ensure adequate maintenance and repair of the stormwater management system over the life of the project.

STORMWATER MANAGEMENT PLAN or PLAN -- A local stormwater management plan adopted by a municipality pursuant to this section and ECL ~ 43-0112.

STORMWATER RECHARGE AREA -- An area of land used for the purpose of infiltrating stormwater.

STORMWATER REGULATORY PROGRAM or PROGRAM -- A local stormwater regulatory control program adopted by a municipality pursuant to 6 NYCRR 646-4 and ECL ~ 43-0112.

STORMWATER RUNOFF -- Any surface water runoff or runoff in channels which results directly either from a rainstorm or from the melting of snow.

STREAM CORRIDOR -- That area within 100 feet of the high water mark of any stream or river protected and/or regulated by New York State Department of Environmental Conservation, or wetlands adjacent thereto.

STREAM: Includes any permanent or intermittent watercourse.

STREET or ROAD -- A public or private way which affords the principal means of access to abutting properties, including any highway.

STREET OR ROAD GRADE -- The officially established grade of the street upon which a lot fronts; or if there is no officially established grade, the existing grade of the street shall be taken as the "street grade."

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

SUBCATCHMENT -- An identifiable drainage area contained within a larger watershed or drainage area.

SUBDIVISION -- A 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 by any person or by any other person controlled by or under common control with any such person or any group of persons acting in concert as part of a common scheme or plan. This shall not apply to conveyances of small amounts of land to correct a boundary of a lot so long as such conveyance does not create additional lots. The term includes any map, plot or other plans, whether or not previously filed. It also includes any grading, road construction, installation of utilities or other improvements or any other land use or development preparatory or incidental to such activity. It does not include the lease of land for hunting or fishing and other open space recreational uses.

SURFACE WATER RUNOFF -- Water which flows over the land and does not percolate into the soil, and which may run off as a sheet, rill or stream flow.

SWIMMING POOL, COMMERCIAL -- A structure, either permanent or temporarily designed, for the purpose of wading or swimming and holding more than 100 gallons of water, open to the general public for private gain. A swimming pool is a permitted accessory use at locations providing tourist accommodations.

SWIMMING POOL, PRIVATE -- A structure, either permanent or temporary, for the purpose of wading or swimming and holding more than 100 gallons of water that shall be located in the side or rear yard of a single-family dwelling, two-family dwelling or multiple-family dwelling.

TAVERN -- A place in which the principal income is derived from the sale or serving of alcoholic beverages for consumption on the premises, with or without live entertainment.

TELECOMMUNICATIONS FACILITIES: Any commercial equipment used in connection with the provision of wireless communication services, including

cellular telephone services, personal communication services, radio and television broadcasting services, and are regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws.

TELECOMMUNICATIONS TOWER: Any ground mounted pole, spire, or combination thereof, including supporting lines, cables, wires, braces and masts built for the purpose of mounting a telecommunications facility which is capable of receiving and/or transmitting signals.

TIMBER HARVESTING -- The cutting of trees over six inches in diameter at 4.5 feet above ground level.

TIMBER HARVESTING, COMMERCIAL – The cutting of 50% or more of trees of at least 4 inches (dbh) measured on a 5-acre property or greater.

TIME OF CONCENTRATION -- The time required for water to flow from the most remote point of a watershed, in a hydraulic sense, to the outlet.

TOURIST ACCOMMODATIONS -- A building or group of buildings, for both indoor and outdoor activities, whether detached or in connected units, used as individual sleeping or temporary dwelling units, designed for transients and providing for accessory off-street parking facilities. The term "tourist accommodations" includes buildings designated as tourist courts, motor lodges, motel, hotel, , and overnight cabins. Accessory uses including pools and tennis courts can be included as allowed uses. [Amended 10-19-1998]. This use should not be interpreted as including tourist time-share projects and housekeeping cottages. Retail uses are permitted as accessory uses provided they meet the definition of "accessory structure" or "use". 'Tourist accommodations'; are subject to the applicable provisions in this chapter including Article VII, §175-52, Tourist Accommodations.

TOURIST ATTRACTION -- Any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to animal farms, amusement parks, replicas of real or fictional places, things or people and natural geological formations, booths and structures for conducting games and entertainment, including horseback riding, swimming, tennis, miniature golf, arcades, food and mechanical rides.

TOURIST TIME-SHARE PROJECT -- Use of a building or group of buildings for individual sleeping or temporary dwelling units in which three or more unrelated purchasers, in exchange for consideration, receive ownership in or a right to use the same accommodations or facilities for different intervals of less than a full year during any given year and which extends for a period of more

than one year and in which the units are available for use by the general public when not occupied by their owners. [Added 10-19-1998]`Tourist time share projects' shall be subject to the applicable sections of this chapter including Article VII, §175-52, Tourist Accommodations.

TOWNHOUSE DEVELOPMENT -- A multiple-family dwelling project of individual single-family units arranged in a row of at least three such units each on its own separate lot of record and wherein each unit has its own front and rear access to the outside, no unit located over another unit and each unit is separated from any other unit by one or more common walls.

TOWNHOUSE UNIT -- An individual single-family dwelling unit within a townhouse development.

TRAILER -- A non-motorized piece of equipment that is propelled or drawn by a vehicle propelled by power. A trailer shall include a 'storage trailer,' 'travel trailer,' utility trailers, and trailers used to transport or store a boat, snowmobile, motorcycle, personal watercraft or similar recreation vehicle. See definitions of 'Boat Storage, Commercial' and 'Boat Storage, Private.'

TRAVEL TRAILER -- A temporary dwelling unit for an individual or a family group designed for highway transportation without a special oversize permit.

TRAVEL TRAILER PARK -- Any lot or parcel of land upon which two or more travel trailer sites are located, established or maintained for occupancy by travel trailers of the general public as temporary living quarters for recreation or vacation purposes.

TWO-FAMILY DWELLING -- A building, also known as a duplex, on a single lot containing two single-family dwelling units. A two-family dwelling is considered a multiple family dwelling for purposes of Regional Project jurisdiction.

UNREASONABLY LOUD OR UNNECESSARY NOISE -- Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities.

VARIANCE, AREA -- The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or topographical requirements of this chapter. [Added 8-10-1992]

VARIANCE, USE -- The authorization by the Zoning Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by this chapter. [Added 8-10-1992]

VESSEL -- Any description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

VETERINARY CLINIC -- A facility providing health services and medical or surgical care to animals suffering from illness, disease, injury, deformity and other abnormal conditions, including related facilities such as laboratories and boarding facilities. The definition includes the term "Veterinary Hospital".

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

WATERSHED MANAGEMENT OR FLOOD CONTROL PROJECT -- Any dam, impoundment, dike, riprap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds. Any such project for which a permit or approval is required prior to commencement from the Department of Environmental Conservation is not a "watershed management or flood control project" or a use for the purposes of this chapter.

WATERBODY - means any lake pond, river, stream, intermittent stream or wetland.

WATER TABLE -- The upper surface or top of the saturated portion of the soil or bedrock layer, indicating the upper extent of groundwater.

WATERSHED -- The total drainage area contributing runoff to a single point.

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

WHARF -- Any structure or device built or used as a berthing place for vessels, including any dock, pier, pile, lateral projection, walkway, quick launch facility, or structure or area used for the dry storage of vessels as part of a quick launch facility.

WHARF, COMMERCIAL -- Leasing, renting or making a wharf or mooring available to any person for a fee or any form of compensation.

WHARF, PRIVATE -- A privately owned wharf, which is not used for commercial purposes and is not rented.

WHOLESALE TRADE -- Establishments or places of business primarily engaged in selling merchandise to retailers, industries, commercial institutions or professional business users or to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies.

YARD -- An open unoccupied space on the same lot with a building or structure.

YARD, FRONT -- An open unoccupied space on the same lot with the principal building, between the front line of the principal building and the front line (street right-of-way line) of the lot and extending the full width of the lot. Properties adjacent to the lake shall have their front yard facing the lake. Shoreline setback requirements shall apply.

YARD, REAR -- A space on the same lot with the principal building, between the rear line of the principal building and the rear line of the lot and extending the full width of the lot. Properties adjacent to the lake shall consider the rear yard to be the space between the principal building and the street right-of-way line.

YARD, SIDE -- An open unoccupied space on the same lot with the principal building, situated between the side line of the principal building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

ARTICLE III ESTABLISHMENT AND DESIGNATION OF DISTRICTS

~ 175-8. Establishment of districts¹²

For the purposes of promoting the public health, safety, morals and general welfare of the Town of Lake George, the town is hereby divided into the following types of districts, which have the following purposes:

Map Symbol	District Name	Purpose
LC-50 LC – 25 LC – 8.5	Land Conservation District	<ul style="list-style-type: none"> ➤ Protect physical and biological resources ➤ Promote efficient forest management and recreation opportunities ➤ Preserve the open space character of the Town ➤ Protect life and property from processes of nature
RR-10, RR-8.5 RR-7 RR-5	Residential Rural Density Districts	<ul style="list-style-type: none"> ➤ Provide for predominantly low density residential development ➤ Protect natural resources ➤ Protect the open space character of the Town
RM-1 RM-2 RH	Residential Medium Density Districts Residential High Density District	<ul style="list-style-type: none"> ➤ Provide for medium and high density detached single-family residential use ➤ Protect existing residential character
RS-1 RS-2 RSH	Residential Special Districts	<ul style="list-style-type: none"> ➤ Protect the integrity of existing detached, single-family residential use
RCM-1 RCM-S2A RCM-S2B	Residential Commercial Medium Density	<ul style="list-style-type: none"> ➤ Provide for a mixture of residential uses and compatible commercial uses ➤ Tourist attractions (RCM-S2B only) ➤ Prevent strip development
RCH RCH-S1	Residential Commercial High Density Districts	<ul style="list-style-type: none"> ➤ Provide for a mixture of residential uses and compatible commercial uses
RCH-LS	Residential Commercial High Density – Lakeshore District	<ul style="list-style-type: none"> ➤ Provide a mixture of residential and compatible commercial uses on or near the lakeshore
TC-A	Tourist Commercial-A District	<ul style="list-style-type: none"> ➤ Delineate areas where predominantly commercial uses have occurred ➤ Provide for commercial growth in areas where it has traditionally occurred
TC-B	Tourist Commercial-B District	<ul style="list-style-type: none"> ➤ Delineate areas where predominantly commercial uses have occurred ➤ Provide for commercial growth in areas where it has traditionally occurred ➤ Permit and regulate live adult entertainment
SO	Shoreland Overlay	See Article V, ~ 175-23

¹²Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

~ 175-9. Zoning Map¹³

Said districts are bounded as shown on the map entitled "Zoning Map of the Town of Lake George," adopted and certified by the Town Clerk and which, with all explanatory matter thereon, is hereby made a part of this chapter.

~ 175-10. Interpretation of boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries.

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

C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at a distance specified on the Zoning District Map.

D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Lake George, unless otherwise indicated.

E. All offshore islands in Lake George and within the Town of Lake George shall be in the LC Land Conservation District.

F. Where district boundaries are so indicated that they approximately follow the mean shoreline such boundaries shall be construed as following the shoreline; and in the event of change in the shore, such boundary shall be construed as moving with the actual shoreline.

¹³Editor's Note: The Zoning Map is on file in the office of the Town Clerk and is available for inspection there during regular office hours.

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

~ 175-11. Adirondack Park Land Use and Development Plan Map¹⁴

The boundaries within the town of the land use areas established by the Official Adirondack Park Land Use and Development Plan Map, as may be from time to time amended, pursuant to ~ 805, Subdivision 2, of the Executive Law, the Adirondack Park Agency Act, are indicated by the separate map entitled "Adirondack Park Land Use and Development Plan Map of the Town of Lake George," lawfully in existence on the first date of adoption of this chapter, , which map accompanies this chapter and which is hereby adopted and declared to be part of this chapter and hereafter known as the "Park Plan Map." Any change of the boundaries within the town of a land use area by an amendment of the official Adirondack Park Land Use and Development Plan Map pursuant to ~ 805, Subdivision 2, of the Executive Law, the Adirondack Park Agency Act, shall take effect for the purposes of this chapter concurrently with that amendment without further action, and the Park Plan Map shall be promptly changed in accordance with that amendment. The amendment provisions of Article XI of this chapter do not apply to the Park Plan Map, which is amended only pursuant to the provisions of the Adirondack Park Agency Act. Copies of the Park Plan Map, which may from time to time be published and distributed, are accurate only as of the date of their printing and shall bear words to that effect.

¹⁴ Editor's Note: The Adirondack Park Land Use and Development Plan Map is on file in the office of the Town Clerk and may be inspected there during regular office hours.

ARTICLE IV DISTRICT REGULATIONS

~ 175-12. Schedules of regulations¹⁵

The restrictions and controls intended to regulate development in each district are set forth in the attached schedules which are supplemented by other sections of this chapter. Unless otherwise indicated, the regulations shall be deemed to be minimum requirements in every instance of their application.

~ 175-13. Interpretation and applicability; general requirements

A. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare and to prevent the unrestricted use of signs. This chapter shall not be deemed to affect in any manner whatsoever any covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements, covenants or agreements, the provisions of this chapter shall prevail.

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

(1) No building, structure, dock, boathouse or sign shall be erected, moved, altered, rebuilt or enlarged, nor shall any land, water or structure be used, designed or arranged to be used, for any purpose except in conformity with this chapter and with the schedules constituting this Article, for the district on which such structure or land or water is located.

(2) Every building, structure or sign shall be located on a lot as herein defined. Each principal building, as herein defined, shall require the minimum lot area in the affected zone in which it is located. More than one residential structure may be located on a lot, provided that it has received approval from the Planning Board through site plan review and is located so

¹⁵Editor's Note: The following schedules are included at the end of this chapter: Schedule I: Use Controls; Schedule II: Dimensional Requirements; and Schedule III: Off-Street Parking and Loading Requirements.

that a separate lot conforming to all of the standards herein could be erected around each residential structure.

(3) No yard or other open space necessary for any building under these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building or any other lot.

~ 175-14. Use regulations

A. Permitted uses. A use shall be permitted in a given zoning district if it is listed in Schedule I as a permissible use for that district, provided that all other requirements of this chapter are met.

B. Accessory use or structure. An accessory use or accessory structure shall be permitted if the use to which it is accessory is a lawful use pursuant to the terms of this chapter and for which a permit or variance has been issued, if required, pursuant to the terms of Article XI. An accessory use is allowed in two or more contiguous zoning districts, provided that both the principal use or principal building and the accessory use are permitted in each of those zones.

C. Nonpermitted uses. Any use which is not a permitted use by right or by site plan review in a given zoning district or which is not an accessory use to such a permitted use or site plan review use shall be a nonpermitted use and shall be prohibited in that zoning district, unless a use variance has been granted in accordance with this chapter.

D. Site Plan Review Uses. A use listed in Schedule I or regulations hereof as a Site Plan Review Use for a given zoning district shall be permitted in that district when approved in accordance with Article VI hereof, provided that all other requirements of this chapter are met.

~ 175-15. Schedule I: Use Controls¹⁶

Schedule I lists the uses permitted by right and the uses permitted by site plan review for each zoning district established in this chapter.

~ 175-16. Schedule II: Dimensional Requirements¹⁷

¹⁶Editor's Note: Schedule I is included at the end of this chapter on page li.

¹⁷ Editor's Note: Schedule II is included at the end of this chapter on page liv.

Schedule II lists the density requirements and the dimensional and bulk requirements for each zoning district established in this chapter.

ARTICLE V SUPPLEMENTARY LOT REGULATIONS

~ 175-17. Lot regulations

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations:

A. Subdivision of a lot.

(1) Any person undertaking a subdivision shall comply with Chapter 150, Subdivision of Land, and any lot, parcel or site resulting from a subdivision shall be able to comply with the requirements contained in this chapter.

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

B. Existing undersized lots. Any lot lawfully held in single and separate ownership prior to the date this chapter was first adopted, whose area and/or width and/or depth are less than the specified minimum lot requirements of the chapter for that district, may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

(1) Such lot does not adjoin another vacant lot or lots held by the same owner, whose aggregate area is equal to or greater than the minimum lot area required for the district.

(2) Such lot or lots are lawfully in existence prior to October 16, 1978, and have obtained all the necessary approvals including the Town of Lake George Planning Board.

(3) The following minimum yard dimensions are maintained: at least 3/4 of the required footage for side, front and rear yards.

(4) Such lot or lots comply with all other requirements for that district.

D. Access to lots. A lot to be used for building purposes shall have direct frontage on a street or legal deeded right-of-way, except in the RR Residential Rural District and LC Land Conservation District, pursuant to ~ 280-a of the Town Law.

E. Lots under water or subject to flooding. No more than 10% of the minimum area requirement of a lot may be land which is under water or subject to periodic flooding. Land, which is under water that is open to use by persons other than the owner of the lot, shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this section, land in the bed of a stream not exceeding five feet in width at mean water level and land in any pond not exceeding 150 square feet in area shall not be considered as under water. This does not include land used for a swimming pool. This section does not apply to lots fronting Lake George, where in computing the lot area the lake shall not be counted.

~ 175-18. Excavations for construction of buildings¹⁸

Excavations on the same lot in connection with the construction of a building for which the land use and development permit has been issued shall be permitted in any district. In the event that building construction operation is arrested prior to completion of the building, the premises shall be cleared of rubbish, building materials or other unsightly accumulations; any excavation for a building basement, foundation, utility or otherwise for a depth greater than two feet below grade shall be filled and the topsoil replaced or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area. Where necessary, suitable gates shall be installed and provided with locks. Such clearing, filling and/or a fence shall be completed not later than the expiration date of the land use and development permit.

~ 175-19. Transition areas

A. Lots in two districts. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot may extend into the more restricted portion not more than 10% of the depth of the less restricted lot or 100

¹⁸ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

feet, whichever is less, provided that the lot has frontage on the street in the less restricted district.

B. Yard requirements for zones abutting residential zones. Where the corner lot of a zone other than residential fronts on a street that is otherwise residential, yard requirements for the frontage on such residential street shall be the same as required for the residential district.

C. Off-street parking area requirements for zones abutting residential zones.

Off-street parking areas shall be so developed that no fixed lighting nor vehicular lights shine into adjacent residential or highway zones. Entrances and exits for off-street parking areas in zones other than residential or off-street parking accessory to other than residential uses shall be located on or as close as possible to the streets in the district of which the parking is accessory and in all cases so as to avoid putting traffic onto residential streets.

~ 175-20. On-site sewage disposal

[Amended 7-11-1994 by L.L. No. 1-1994]

If a lot cannot be serviced by an existing public sewer, then the installation of any on-site sewage disposal system shall conform to the Lake George Consolidated Health District Regulations.¹⁹

~ 175-21. Erosion, sedimentation and stormwater runoff control

[Amended 7-11-1994 by L.L. No. 1-1994; 4-10-2000]

A. Findings of fact.

(1) The Town of Lake George finds that all building, construction, land clearing, tree cutting, land development and disturbances to steep slopes, subdivision of land and changes in the use of or the intensity of the permitted use of a structure (hereafter referred to as regulated activities) contribute to increases in erosion and sedimentation, which can lead to uncontrolled drainage.

(2) Further the Town of Lake George finds that increases in erosion and sedimentation, leading to uncontrolled drainage

¹⁹Editor's Note: See Ch. A180.

and runoff associated with regulated activities may have a significant impact upon the health, safety and welfare of the community for the following reasons:

(a) Stormwater can carry pollutants into receiving waterbodies and degrade water quality.

(b) The increase in nutrients in stormwater runoff accelerates eutrophication of receiving waters.

(c) Improper design and construction of drainage facilities can increase the velocity of runoff thereby increasing stream bank erosion and sedimentation.

(d) Construction requiring land clearing and the alteration of natural topography tends to increase erosion.

(e) Siltation of waterbodies resulting from increased erosion decreases the capacity of the waterbodies to hold and transport water, interferes with navigation, and harms flora and fauna.

(f) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.

(g) Improperly managed stormwater runoff can increase the incidence of flooding and the level of floods which occur, endangering property and human life.

(h) Substantial economic losses can result from these adverse impacts on the waters of the municipality.

(i) Many problems can be avoided if sound stormwater runoff management practices are in effect.

B. Statutory authority: Article 9 of the Town Law and Environmental Conservation Law (ECL) ~ 43-0112.

C. Purpose and objectives. The purpose of these regulations is to protect and safeguard the general health, safety and welfare of the public residing in or visiting the municipality by preserving and protecting the quality of the ground and surface waters. These regulations have the following specific objectives:

(1) Prevent any increase in stormwater runoff from any regulated activities in order to reduce flooding, siltation and streambank erosion.

(2) Prevent any increase in pollution caused by stormwater runoff from regulated activities, which would otherwise degrade the quality of water in Lake George and its tributaries and render it unfit for human consumption, interfere with water-based recreation or adversely affect aquatic life.

(3) Prevent any increase in the total annual volume of surface water runoff which flows from any specific site during and following any regulated activity over that which prevailed prior to the onset of the regulated activity.

(4) Control erosion and sedimentation and reduce effluent and nutrient flow from the shoreland.

(5) Preserve the natural character, scenic beauty and aesthetic value of the mountains and hillsides, guard against property damage and personal injury, minimize the potential for erosion, soil failure, stream siltation and contamination of surface waters caused by the misuse of steep slope areas, and to conserve existing vegetation and woodlands.

(6) Ensure compliance with the shoreline restrictions of the Adirondack Park Agency.

D. Jurisdiction; general applicability. These regulations shall apply to all regulated activities within the Town of Lake George, both public and private, except activities, which are expressly exempt pursuant to Subsection E (9) of these regulations. These regulations also apply where there is a change in the use of a structure, or the intensity of the permitted use of a structure. Permits and approvals required by these regulations may be incorporated into the building permit, site plan or zoning approvals issued under separate provisions of the town's regulatory program.

E. Prohibitions.

(1) Except for the activities exempted in Subsection E (9) of this section, no person shall build, construct, erect, expand or enlarge any building, structure, alter the use or increase the intensity of use of a building or structure, or place or construct any impervious surface such as pavement, blacktop, macadam, packed earth and crushed stone without first receiving approval of a stormwater design plan unless otherwise exempted herein. Approval of the

plan for minor projects shall be obtained from the Zoning Officer. Approval of the plan for major projects shall be obtained from the Planning Board.

(2) Subdivision of land shall be done in accordance with the Town of Lake George Subdivision Regulations²⁰ and the requirements of these regulations. Approval from the town and/or filing of the subdivision with the County Real Property Tax Office shall not occur until the Planning Board has approved a stormwater design plan. These regulations shall not apply to persons engaged in activities for which required municipal permits and approvals were lawfully in existence on the first date of adoption of these erosion and stormwater regulations.

(3) No owner of real property shall maintain a condition which due to a human disturbance of land, vegetative cover or soil, results in the erosion of soil into any water body. The Zoning Officer shall notify a property owner of such condition on his property and shall afford a reasonable time period to correct any such condition before a violation shall be deemed to exist.

(4) Except for the activities exempted in Subsection E (9) of this section, no person shall operate a land-clearing machine such as a backhoe, grader or plow or similar device so as to clear or grade land or otherwise remove vegetative cover or soil or to overlay natural vegetative cover with soil or other materials when such activities involve an area of land greater than 5,000 square feet or involve a jurisdictional project without first having met the requirements of these regulations.

(5) No person shall fail to comply with any provision or requirement of any approval issued pursuant to these regulations.

(6) No person shall create a condition of flooding, erosion, siltation or ponding resulting from failure to maintain previously approved stormwater control measures where such condition is injurious to the health, welfare or safety of individuals residing in the town or injurious to any land within the town. The Zoning Officer shall notify a property owner of such condition on his property and prescribe measures necessary to reestablish effective performance of the approved stormwater control measures. The Zoning Officer shall afford such property owner a reasonable time period in which to correct any such condition, before a violation is deemed to exist.

(7) No person shall build, alter or modify a stormwater control measure without first receiving approval from the Town of Lake George. Such

²⁰ Editor's Note: See Ch. 150, Subdivision of Land.

building, alteration and/or modification does not include the ordinary maintenance, cleaning and/or repair of stormwater control measures.

(8) No person shall engage in clear cutting, as defined herein, of forest areas without first receiving approval from the Town of Lake George. This requirement may be adjusted at the discretion of the Zoning Officer or Planning Board in order to allow for flexibility of development plans, i.e., placement of buildings, driveways, lawns and recreational facilities.

(9) The following activities are exempt from the requirements of these regulations:

(a) Emergency repairs to any stormwater control measure.

(b) Development involving land disturbance and land clearing of less than 5,000 square feet, which does not result in the creation of new impervious surfaces of more than 1,000 square feet.

(c) Any logging and agricultural activity, which is consistent with a soil conservation plan approved by the appropriate County Soil and Water Conservation District or a timber management plan, prepared or approved by the Department of Environmental Conservation, as applicable.

(d) Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.

(e) Construction of an approved wastewater treatment system and construction of a wharf, dock, boathouse and mooring.

F. Project classification for regulated activities.

(1) Minor projects. The following regulated activities shall be considered to be minor projects:

(a) Any regulated activity, change of use, or change in intensity of use affecting less than 15,000 square feet.

(b) Creation of a two-lot, three-lot or four-lot subdivision which may result in the construction of no more than one single-family residential structure and related accessory structures per lot and will require

land-clearing or alteration activities of less than 15,000 square feet per lot and less than 15,000 square feet total for any subdivision road.

(c) Any building, alteration or modification of a stormwater control measure, excluding maintenance, cleaning or repair of such stormwater control measure.

(d) Any regulated activity associated with a single-family structure and related accessory structures.

(e) Tree removal or land clearing of less than 15,000 square feet.

(2) Major projects.

(a) Any project or regulated activity, change of use, or intensity of use not expressly exempted from these regulations or defined as a minor project shall be a major project.

(b) The following shall be considered to be major projects:

[1] Any part of the activity listed in Subsection F(1)(a), (b), (c), (d) or (e) which occurs on:

[a] An area with a slope of 15% or greater when measured in any direction over a distance of 100 feet from the center of the proposed building site; or

[b] An area with a soil percolation rate slower than 60 minutes per inch.

[c] Tree removal or land clearing of 15,000 square feet or more.

[d] Soils of high potential for overland or through soil pollution transport.

[2] Any minor project may be treated as a major project due to specific site limitations, anticipated environmental impacts, or advisability of additional public notice or comment. The criteria shall include (but is not limited to) whether the site lies within or near:

[a] A critical environmental area established by SEQRA;

[b] A wetland;

[c] A stream corridor;

[d] An area of significant habitat for any wildlife or plant species;

[e] An area of particular scenic, historic or natural significance.

[3] The Planning Board shall determine if a project is “major” or “minor” upon application of the Zoning Officer or any person who owns property adjacent to or within 500 feet down gradient of a proposed project.

(3) The project sponsor of a minor project that will be treated as a major project shall be given a written statement of the reasons for such a determination.

G. Design requirements and performance standards.

(1) Minor projects. The following requirements shall apply to minor projects:

(a) Landowners proposing activities meeting the criteria for classification as a minor project and involving the installation of impervious area are required to apply for and obtain a building permit from the Town of Lake George. The building permit application shall be reviewed by the Zoning Officer for compliance with the requirements of these regulations. Information regarding proposed stormwater control measures shall be included with the building permit application. The applicant may select from the stormwater control measures included in Appendix E,²¹ provided that the stormwater control measures are in keeping with the standards of these regulations. The applicant must demonstrate to the satisfaction of the Zoning Officer that adequate conditions exist to install the stormwater control method selected or proposed. The Zoning Officer may require that the stormwater control measures proposed, which are not included herein or in Appendix E, be stamped by an engineer,

²¹Editor's Note: Appendix E is included at the end of this chapter.

architect or landscape architect with a license from the New York State Department of Education.

[1] Stormwater runoff may be calculated in accordance with the methodologies for determining stormwater volume and flow rates for major projects found in Appendix F, Part III,²² or, in the alternative, at a flat rate of 1.5 gallons of stormwater for every square foot net increase in impervious area. Net increase is the difference between predevelopment and post-development conditions. All water from newly created impervious areas, which would otherwise run off the parcel, shall be directed to an infiltration device. Location of the infiltration devices shall be determined based upon soil test results.

[2] Stormwater shall be managed on site using stormwater control measures designed to afford optimum protection of ground and surface waters. Stormwater control measures shall be selected by giving preference to the best-management practices for pollutant removal and flow attenuation as specified in Appendix H.²³

(b) Stormwater control measures may include, but shall not be limited to, dry wells of precast concrete, pits of crushed rock lined with geotextile fabric, and infiltration trenches. Such measures may also include natural and human-made landscape features such as depressions, blind ditches, retention ponds, swales and others. Inlets to infiltration devices shall be protected from sediment at all times in order to maintain their capacity. (See Part III of Appendix E.)

(c) Infiltration devices shall not be installed up gradient within 20 feet of the subsurface treatment system of a wastewater treatment system. Infiltration devices for roadways, parking lots and other areas subject to vehicle traffic shall not be installed within 100 feet of any water well, wetland or water body.

(d) Infiltration devices and buildings shall be designed to maintain maximum attainable horizontal distance separation from wells, water bodies and wetlands. Pumping stormwater shall not be permitted.

(e) The bottom of any infiltration device shall be a minimum of two feet above the seasonal, high ground watermark and two feet above bedrock.

²²Editor's Note: Appendix F is included at the end of this chapter.

²³Editor's Note: Appendix H is included at the end of this chapter.

(f) Temporary erosion controls shall be required to prevent siltation of water bodies during construction.

(g) Stormwater control measures proposed to be installed at locations with a soil percolation rate slower than 60 minutes per inch shall be designed by an engineer, architect or landscape architect with a license from the New York State Department of Education.

(h) Tree Removal and Land Clearing.

(i) Within 35 feet extending inland from all points along the mean high water mark, no vegetation may be removed. This area shall be maintained as an undisturbed natural buffer strip.

(ii) The general exception to this standard shall be an allowance for lake access and beaches. The creation of a continuous clear-cut opening in the buffer strip shall not exceed 20% of the shoreline frontage on any individual lot. The clear-cut should be angled across the lot so as to allow for a view and access, but reduce runoff. The pathway created should be constructed or surfaced to be effective in controlling erosion.

(iii) From beyond 35 feet from the mean high water mark, the cutting of trees and shrubbery shall be allowed when in compliance with other provisions set forth in this chapter. In any event, the cutting of trees and clearing of vegetation shall be the minimal amount required for the use to be permitted.

(2) Major projects. The following requirements shall apply to major projects:

(a) Stormwater volumes and rates of flow shall be calculated using the methods specified in Appendix F.²⁴

(b) Design requirements for stormwater control measures.

[1] Stormwater control measures shall be designed so that there will be no increase in runoff volume from a ten-year-

²⁴ Editor's Note: Appendix F is included at the end of this chapter.

frequency/twenty-four-hour-duration storm event following development over the predevelopment volume.

[2] For storm events exceeding the ten-year design storm, the stormwater control measures shall function to attenuate peak runoff flow rates for a twenty-five-year frequency storm to be equal to or less than predevelopment flow rates. For development greater than five acres, consistent with New York State guidelines, stormwater control measures shall function to attenuate peak runoff flow rates for a one-hundred-year storm to be equal to or less than predevelopment flow rates. Attenuation of the one-hundred-year storm is intended to reduce the rate of runoff from development to prevent expansion of the one-hundred-year floodplain so as to alleviate flooding of improved properties and roadways. The minimum requirement for peak flow attenuation can be waived for the one-hundred-year storm event where it can be proven that downstream flooding is not a concern, such as where excess stormwater runoff is discharged to Lake George or to a regional stormwater facility designed to handle additional volume and peak discharge. The cumulative effect of all proposed development projects within the watershed should be considered in making this determination. Rainfall intensity curves for Lake George, New York, shall be used in the design of the stormwater control measures. These curves, entitled "Rainfall Intensity Curves," are available from the Zoning Officer. Additionally, for development greater than five acres, coverage is required under a state pollutant discharge elimination system (SPDES) general stormwater permit administered by the Department of Environmental Conservation.

[3] Infiltration devices shall be designed such that the bottom of the system will be a minimum of two feet above the seasonal high groundwater level to be realized following development. Where compliance with this requirement would prevent compliance with Subsection G(2)(b)[5] of this section, compliance with this requirement may be waived. This provision shall not apply to wet ponds and similar stormwater control measures, which are designed to be built in the saturated soil zone.

[4] Infiltration devices for major projects shall be located a minimum of 100 feet from Lake George and any down gradient drinking water supply, lake, river, protected stream, water well, pond or wetland; a separation of more than 100 feet may be required in cases where contamination of the water supply is possible due to highly permeable soils, shallow groundwater and similar situations. The separation distance shall be a minimum of 50 feet from up gradient water supplies. Designs shall mitigate adverse effects that groundwater recharge will have on adjacent wells, water supplies, wastewater treatment systems, buildings, roadways, properties and stormwater control measures. Stormwater recharge areas shall be located a

minimum of 100 feet from the subsurface treatment system of a wastewater treatment system unless it is demonstrated that a lesser separation will not adversely affect the functioning of such leach fields.

[5] Infiltration devices shall be designed to extend a minimum of 10% of the infiltration surface area below the prevailing frost depth or four feet (whichever is greater) in order to provide infiltration during winter months.

[6] Infiltration devices shall be designed based on the infiltration capacity of the soils present at the project site. Soil evaluation methods shall be in accordance with the methods listed in Appendix F.²⁵

[7] Order of preference for stormwater control measures.

[a] Stormwater control measures shall be used in the following order of preference:

[i] Infiltration devices.

[ii] Artificial wetlands and acceptable natural treatment systems.

[iii] Flow attenuation by use of open vegetated swales and depressions.

[iv] Stormwater detention.

[b] Stormwater control measures shall be selected by giving preference to the best-management practice for pollutant removal and flow attenuation as indicated on the Comparative Pollutant Removal Chart in Appendix H.²⁶

[8] All stormwater control measures shall be designed to completely drain to return to design levels in accordance with the following:

[a] Infiltration basin: five days.

[b] Infiltration trench: 15 days.

²⁵Editor's Note: Appendix F is included at the end of this chapter.

²⁶ Editor's Note: Appendix H is included at the end of this chapter.

[c] Dry well: 15 days.

[d] Porous pavement: 24 hours unless temporary flooding is a design element, then the flooding should dissipate within 2 hours.

[e] Vegetation depression: one day.

[9] Pretreatment devices such as sediment traps, detention/stilling basins, filter strips, grassy swales or oil/water separators shall be provided for runoff from paved areas or other areas subject to human-induced pollution, including grease and oils, fertilizers, chemicals, road salt, sediments, organic materials and settleable solids, which shall be sufficient to remove pollutants from the runoff.

[10] Stormwater control measures shall, at a minimum, incorporate the best available pollutant removal technology, which shall mean that which constitutes appropriate and cost-effective means for removing pollutants from runoff so that the resulting treated stormwater will not degrade the water quality of any water body.

[11] Stormwater control measures shall be designed to preserve and maintain the base flow in all streams passing through, adjoining or receiving runoff from the site.

[12] For development or redevelopment the applicant shall be required to prepare concept plans and to develop construction estimates for stormwater control measures to control existing stormwater discharges from the site in accordance with the standards of this section to the maximum extent practicable. At a minimum, the control measures shall include those reasonable and necessary to infiltrate the runoff from the first 1/2 inch of precipitation from any storm event for all areas within the site which have been previously developed. The phased implementation of such stormwater control measures for previously developed areas may be authorized.

[13] Development which involves the creation of areas subject to intensive landscape maintenance, such as golf courses, public parks and botanical gardens, shall require that a pest control and fertilizer management plan shall be prepared and included with the permit application.

(c) Tree removal and land clearing. Major land clearing or tree removal projects need the approval of the Planning Board, through site plan review.

(3) General requirements for major and minor projects. The following requirements shall apply to major and minor projects:

(a) Stormwater control measures shall include such other measures as are deemed necessary to prevent any increase in pollution caused by stormwater runoff from development which would otherwise degrade the quality of water in Lake George and its tributaries, render it unfit for human consumption, interfere with water-based recreation or adversely affect aquatic life. The Zoning Officer shall make this determination for minor projects, and the Planning Board shall make this determination for major projects.

(b) Stormwater control measures shall be designed to minimize adverse impacts to water bodies, minimize disturbance of water bodies, minimize land clearing, minimize the creation of impervious surfaces and to maximize preservation of natural vegetation and existing contours.

(c) Emergency overflow provisions shall be made as necessary to prevent erosion, flooding and damage to structures, roads and stormwater control measures.

(d) For land clearing of forested land areas. In addition to other regulations of this chapter, tree removal will require a residual stand of trees, one inch in diameter and larger measured at a point 4.5 feet above the ground, having at least 60 square feet of basal area per acre. Tree removal on lots of less than one acre shall have a proportional amount of the 60 square feet of basal area (for example, a 0.5 acre parcel will require a residual stand of 30 square feet of basal area). The residual trees shall be well distributed over each acre or parcel and provide maximum screening from public rights-of-way, including the waters of Lake George. This requirement may be adjusted at the discretion of the Planning Board in order to allow for flexibility of development plans, i.e., placement of buildings, driveways, lawns and recreational facilities.

(4) Plan submission requirements are as follows:

(a) Prior to undertaking a minor or major project, a site plan and stormwater management plan must be filed with the Zoning Officer. Upon receipt, the Zoning Officer shall determine whether the action qualifies as a minor project or a major project.

(b) The stormwater management plan may be part of a site plan or supportive specifications or other written material and should indicate the manner in which the applicant will meet the required performance standards. The Zoning Officer shall make a determination of whether such

stormwater management plan shall be prepared by the developer, engineer or landscape designer.

(c) All plans shall be mapped at a scale of one inch equals 100 feet or less and shall contain:

[1] A plan of the site, drawn to a scale of not less than 100 feet to the inch, showing the location and description of property boundaries, site acreage, existing natural and man-made features on and within 100 feet of the site boundary, including roads, structures, water sources, utilities, topography, including existing contours with intervals of not more than two feet where the slope is 10% or greater and not more than five feet where the slope is less than 10%. The plan shall include a copy of the soil survey map, soil map unit description and depth to the seasonal high water table according to the Soil Conservation Service Form No. 5, Engineering Interpretation Record. This information is available from the Warren County Soil and Water Conservation District.

[2] The location and description of proposed changes to the site and existing development of the site, including:

[a] All excavation, filling and grading proposed to be undertaken. The depth, volume and nature of the materials involved shall be identified on the plan.

[b] All areas requiring clearing, identified as to the nature of vegetation affected.

[c] All areas where topsoil is to be removed and stockpiled and where topsoil is to be ultimately placed.

[d] All temporary and permanent vegetation to be placed on the site identified as to planting type, size and extent.

[e] The location and description of all temporary and permanent erosion and sediment control measures.

[f] The description of the proposed stormwater drainage system, including the proposed location of stormwater control measures, and:

[i] The designated volume, rate, flow path, detention and retention of stormwater on site.

[ii] The amount and rate of off-site stormwater discharge from the site.

[iii] The description of the pollutants likely to be generated on site.

[iv] The anticipated pattern of surface drainage during periods of peak runoff, upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within the drainage system.

[v] The location of all roads, driveways, sidewalks, structures, utilities and other improvements.

[vi] The final contours of the site, at intervals of no greater than two feet.

[g] A schedule of the sequence of installation of planned soil erosion and sediment and runoff control measures as related to the progress of the project, including anticipated starting and completion dates.

[h] Where there are newly graded banks or slopes in the plan, an outline shall be prepared, indicating the:

[i] Method of vegetative stabilization (hydro seeding or hand planting of trees, shrubs or ground cover).

[ii] Site preparation needed (grading and shaping).

[iii] Need for lime and fertilizer.

[iv] Type of plant material or seed mixture to be used.

[v] Mulch to be applied and method used (mechanical mulching using hay, paper mulch applied by hydro seed or hand mulching using wood bark or landscaping fabrics).

[vi] Maintenance needed to ensure that the planting will live its life expectancy.

H. Erosion control measures.

(1) Temporary erosion control shall be provided for all disturbed areas in accordance with the New York Guidelines for Urban Erosion and Sediment Control. The temporary erosion control measures shall be maintained continuously until permanent control measures are in service. Infiltration devices shall be protected from siltation during the period of construction and until the site is successfully revegetated by use of silt screens, inlet protection devices, sediment detention ponds or other suitable erosion control measures.

(2) Staging of construction to facilitate erosion control shall be required. Only those areas where construction is actively occurring shall remain open and unvegetated. All areas that are not within an active construction area shall be mulched and stabilized or shall be mulched and revegetated. An active construction area is defined as one that has seen substantial construction within the past seven calendar days. Mulching or revegetation for erosion control shall be completed within 10 calendar days following the last substantial construction activity.

(3) Compliance with the following restrictions shall be required:

(a) No vegetation shall be felled into any lake, pond, river, stream or intermittent stream and, if inadvertently felled into one of these water bodies, shall be removed immediately from the water body. The removal of dead, or dying, diseased trees or trees presenting a health or safety hazard shall not be exempt from this requirement.

(b) Within 500 feet of the mean high water mark of any lake, pond, river, stream or wetland, no land area, including areas stockpiled with earthen materials, which has been cleared may be made or left devoid of growing vegetation for more than 24 hours without a protective covering securely placed over the entire area and/or erosion control measures properly installed to prevent sediments from entering the waterbody. Acceptable protective coverings include natural mulch of a depth of two inches, rock riprap, nondegradable materials such as plastic or canvas coverings, and impervious structures.

(c) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within 10 calendar days from the substantial completion of such clearing and construction. Acceptable revegetation shall consist of the following:

[1] Reseeding with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient

coverage, but not less than 50% of the total disturbed area, to control erosion until such time as the cover crop is established over 90% of the seeded area.

[2] Replanting with native woody and herbaceous vegetation accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

[3] Any other recognized method which has been reviewed and approved by the municipality as satisfying the intent of this requirement.

(d) Any area of revegetation must exhibit survival of a minimum of 75% of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75% survival for one year is achieved.

(e) Ground clearing or grading activities which occur during the period October 15 to April 15, during which germination of vegetation typically will not take place, shall be required to incorporate extra measures during revegetation in order to reduce erosion and maintain water quality. These extra measures include but are not limited to the use of screen mesh, netting, extra mulch and siltation fences.

I. Maintenance of stormwater control facilities. A building permit, which includes provisions for stormwater management, shall include, at a minimum, provisions for the future maintenance of the site, consistent with the following:

(1) Applicability. Prior to issuance of a certificate of occupancy for any major project, or any minor project, the applicant shall provide for arrangements for the future maintenance of stormwater control measures subject to the approval of the Town of Lake George. This may include, but shall not be limited to, the following:

(a) Approval of the bylaws and/or certificate of incorporation of a transportation corporation or homeowners' association.

(b) Posting of a performance bond.

(c) Placing of funds on deposit.

(d) A stormwater management maintenance agreement between the owner(s) of the site and the municipality consistent with the terms

and conditions of Appendix G entitled "Sample Stormwater Control Facility Maintenance Agreement."²⁷

(2) Purpose. Stormwater management maintenance arrangements shall be those necessary to ensure that stormwater control measures are maintained in working condition throughout the life of the project.

(3) Notice. The stormwater management maintenance agreement shall be recorded in the office of the County Clerk, or its terms shall be incorporated into covenants appearing in the deed, declarations of covenants and restrictions or other such documents to ensure that record notice of its terms is provided to future owners of the site. It shall also be included in the offering plan, if any, for the project.

(4) Initial maintenance security. The project owner(s) or sponsor shall establish a maintenance security in the form of a bond, letter of credit, escrow account or other acceptable security, for the purpose of rebuilding, maintaining or repairing the stormwater control facilities during the first two years following the approved completion of construction.

J. Permit application review procedures.

(1) Plan review. It is the responsibility of the applicant to provide a detailed plot plan showing the location and dimensions of all existing and proposed structures and impervious surfaces, watercourses, water bodies, wetlands, wells, septic systems and stormwater control measures on the site and within 100 feet of the site. The applicant shall also provide a location map of the site. Applications shall be submitted on forms prescribed by the Town of Lake George.

(2) Minor projects. The zoning office of the Town of Lake George shall have responsibility for the review, approval and issuance of building permits for minor projects. The zoning office may request technical assistance from the Commission.

(a) Prior to permit decisions a test pit may need to be witnessed.

(b) The Zoning Officer shall determine whether public interest or other considerations warrant notice to adjacent owners.

²⁷ Editor's Note: Appendix G is included at the end of this chapter.

(c) Prior to the issuance of a permit for any project, the Zoning Officer shall determine that the project as proposed is in accordance with the design standards of these regulations.

(3) Major projects. Major projects shall require site plan review in accordance with this chapter of the Town Code.

(a) Preparation of a stormwater control report (SCR) in accordance with Appendix F is required.²⁸ Preparation of a stormwater concept plan (SCP) in accordance with Appendix F may be required if deemed necessary by the Planning Board. The SCP and SCR shall be prepared by an engineer or architect or landscape architect licensed to practice under the laws of the State of New York, who shall be employed by the applicant or developer to design and supervise the installation of all stormwater management facilities.

(b) The stormwater concept plan and stormwater control report will be considered during the public hearing held as part of the site plan review conducted by the Planning Board.

(c) The final subdivision plat shall contain stormwater control measures for all commonly owned roads, buildings, parking areas and impervious areas. Approved stormwater design plans shall be filed together with the final subdivision plat with the County Clerk.

(d) Prior to the approval of the final subdivision plat or commonly owned facilities, the Planning Board shall determine that there is sufficient information to support a finding that the stormwater control measures can be designed and constructed in accordance with the regulations of this section.

K. Criteria for issuance of building permits and approvals.

(1) An application for a building permit may be approved, denied, or approved with modifications or conditions.

(2) A building permit shall not be issued unless the project meets the design requirements and performance standards set forth in these regulations. In addition, all required conditions shall be met and the applicant must have submitted all necessary documents and maps. Upon receipt of all necessary information the following items will be considered prior to issuance of the building permit:

²⁸Editor's Note: Appendix F is included at the end of this chapter.

(a) That the project will not have an undue adverse impact on the health, safety and welfare of the public or on the resources of the Lake George Park and will not lead to a diminution of water quality, an increase in erosion, or an increase in stormwater runoff from the site either during or following construction.

(b) That the stormwater control measures proposed for the proposed project represent the best possible methods and procedures for controlling stormwater runoff that is feasible and practicable at the particular project site.

(c) That adequate and sufficient measures have been taken to ensure accountability and responsibility for proper maintenance of the stormwater control measures to be installed.

(d) That the proposed project minimize, to the extent practicable, flooding, siltation or streambank erosion and, to the extent practicable, any increase, directly or indirectly, in pollution to Lake George or its tributaries from stormwater runoff.

L. Variances.

(1) If during the review of an application it is determined that the application of any design or dimensional requirement contained in this section will result in the denial of the project, the applicant shall be afforded an opportunity to modify the project plans or in the alternative to make application for a variance. Upon denial of any permit application for a project for failure to conform to specific provisions of this section, the applicant may make an application for a variance to the Zoning Board of Appeals.

(2) Variance applications shall be on such forms as may be prescribed by the Zoning Board of Appeals.

(3) The granting of any variance shall be done in accordance with ~ Article XI, 175.95.C (3), Board of Appeals.

(4) No variance shall be granted by a municipality until first providing notice to the Commission a minimum of 15 days in advance. The Commission shall be deemed a party to the proceeding for all purposes with the right to initiate or intervene in any action or proceeding in which the grant or denial of a variance is an issue or in any proceeding involving an interpretation of the municipality's plan or program.

M. Enforcement and penalties.

(1) Violations. Any development activity that is commenced or is conducted contrary to this section may be restrained by injunction or otherwise abated in a manner provided by law.

(2) Civil and criminal penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this section shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for a period not to exceed 60 days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(3) Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the municipality may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(4) Notice of violation. When the municipality determines that an activity is not being carried out in accordance with the requirements of this section, it shall issue a written notice of violation to the owner of the property.

(a) The notice of violation shall contain:

[1] The name and address of the owner or applicant;

[2] The street address when available or a description of the building, structure or land upon which the violation is occurring;

[3] A statement specifying the nature of the violation;

[4] A description of the remedial measures necessary to bring the development activity into compliance with this section and a time schedule for the completion of such remedial action;

[5] A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

[6] A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

(b) The notice of violation shall be served upon the person(s) to whom it is directed either personally, in a manner provided for personal service of notices by the court of local jurisdiction, or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested, to such person at his or her last-known address.

(c) A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken to the municipality.

~ 175-22. Restoration

[Amended 7-11-1994 by L.L. No. 1-1994]

Any clearing, excavation or development of land in violation of this chapter shall be corrected forthwith after written notice by the Zoning Officer. In the event that corrective action is not taken as directed within a reasonable time, in the opinion of the Zoning Officer, the Town of Lake George may, at its own expense, take corrective action to restore the property. The cost thereof shall become a lien upon the property upon which such illegal activity occurred.

~ 175-23. Shoreland Overlay District

A. Purpose and applicability.

(1) The purposes of the Shoreland Overlay District regulations shall be to protect the lakefronts and the shorelines of the Town of Lake George and to maintain safe, healthful conditions and to prevent and control water pollution and to control building sites and the placement of structures and to preserve shore cover and natural beauty. The use of land and water, the size, type and location of structures on lots, the installation of waste disposal facilities, the filling, grading, lagooning and dredging of any land and the cutting of shoreline vegetation shall be in full compliance with this section, other provisions of this chapter and other applicable ordinances and regulations.

(2) The Shoreland Overlay District is an environmental overlay district superimposed over the conventional Zoning Map of the Town of Lake George. Uses permitted in the underlying zone may require a special permit subject to conditions in the Shoreland Overlay District. In case of conflict, the more restrictive regulation shall apply.

(3) Areas to be regulated. Areas regulated by this section shall include all the lands in the Town of Lake George which are located:

(a) Within 300 feet of the mean high water mark of navigable lakes and ponds.

(b) Within 300 feet of the mean high water mark of navigable rivers or streams.

B. General guidelines for land use and development. Before any land use and development activity has begun in the Shoreland Overlay District, the Zoning Officer shall determine what permits are necessary for that activity. Furthermore, no activity or development will be allowed until it has been determined by the Zoning Officer that the development or activity will not significantly result in unsafe or unhealthful conditions, erosion or sedimentation, water pollution or damage to spawning grounds, fish and wildlife habitat nor result in conflicts of use and that it will conserve and restore vegetation, scenic vistas to and from the water, points of public access and the water and the natural beauty of the area.

C. Site Plan Review. All land use and development in the Shoreland Overlay District shall be subject to site plan review.

D. General standards. In addition to the standards set forth throughout this chapter, the following standards shall apply throughout the Shoreland Overlay District:

(1) Construction on any Shoreland Overlay District lot shall be carried out in such a manner so as to minimize the erosion caused by such activity. Construction and excavation activities shall be carried out in the shortest period of time possible.

(2) Shoreline areas, excepting beaches, shall never be exposed (unvegetated) for longer than the time period designated by the Zoning Officer and when exposed shall adequately be protected from erosion.

(3) All structures, including accessory structures, except docks and boathouses that are within 300 feet of the mean high water mark of Lake George shall be screened by vegetation or landscaped in such a way so that the view of the structures from the water is filtered and the visual impact minimized. This screening will be of a buffer type "B" as described in the Landscape and Screening provisions of the Commercial Design Guidelines, unless otherwise prescribed by the Planning Board. The intent of these regulations is to provide a filtered view to promote a "see out not in" policy.

(4) All parking, loading or service areas shall be constructed of permeable materials.

(5) Lighting devices shall be oriented so as to minimize disturbances on surrounding properties.

(6) No neon signs will be permitted which are visible from the exterior of a building.

(7) The outdoor display of merchandise is prohibited.

E. Minimum shoreline lot width.

(1) For Residential uses, the minimum shoreline lot width is defined in Schedule II. :

(2) For commercial uses: 100 feet or that required by Schedule II of Article IV,²⁹ whichever is greater, provided that the minimum shoreline lot width for motels, hotels and tourist accommodations shall be that footage required by Article VII, ~ 175-52, Tourist Accommodation, hereof.

(3) For mixed residential and commercial uses: 50 feet for the first single-family dwelling, as herein defined, plus 100 feet for every single-family dwelling thereafter, plus 100 feet or that required by Schedule II of Article IV,³⁰ whichever is greater, provided that the minimum shoreline lot width for motels, hotels and tourist accommodations shall be that footage required by Article VII, ~ 175-52, Tourist Accommodation hereof.

F. Minimum shoreline setback. The minimum shoreline setback, as that term is defined in Article II, ~ 175-7, Terms Defined, hereof, for all buildings and structures, except docks and boathouses, shall be that required by Schedule II of Article IV hereof.³¹

~ 175-24. Provisions for contractual access

A. General. In the case of the shorelines of all lakes and ponds or any river or stream navigable by boat, including canoe, the following minimum shoreline frontages shall be required for deeded or contractual access to all

²⁹Editor's Note: Schedule II is included at the end of this chapter.

³⁰Editor's Note: Schedule II is included at the end of this chapter.

³¹ Editor's Note: Schedule II is included at the end of this chapter.

such lakes, ponds, rivers or streams. For five or more lots, parcels or sites or multiple-family dwelling units not having separate and distinct ownership of shore frontage, the following shall be required:

(1) Site plan review by the Planning Board.

(2) A plan shall be submitted delineating areas for swimming, recreation, docking, building placement, parking and landscaping.

(3) In addition to the following standards below, the Planning Board shall consider that such use does not impair the natural appearance of said parcel; does not overcrowd the parcel or the adjacent water surface; does not produce unreasonable noise to the surrounding properties; and does not pose any substantial hazards.

B. Standards.

(1) The first four lots, parcels or sites or multiple-family dwelling units not having separate and distinct ownership of the shore frontage shall require not less than 200 feet of shoreline, and each additional lot, parcel or site and multiple-family dwelling unit shall require an additional ten feet of shoreline frontage.

(2) Waterfront parcels may be developed for contractual access for five or more residential lots or units only if those lots or units are part of an overall development plan and the parcels obtaining the contractual access are located adjacent to the waterfront parcels.

(3) Each lot used for contractual access shall measure at least the minimum lot area for the zoning district for which the contractual access is proposed, and it shall measure an average depth of 100 feet from the mean high water mark.

(4) No building other than toilet and changing facilities and picnic shelters shall be constructed on the waterfront parcel. The total combined square footage of buildings shall not exceed 1,500 square feet. Buildings must meet the setback requirements of Schedule II.³²

(5) A buffer strip 35 feet deep of natural or planted vegetation shall be maintained, except to allow for necessary access points as determined by the Planning Board. Where beaches are planned, an adequate buffer behind the beach shall be established and shall be of a depth determined by

³²Editor's Note: Schedule II is included at the end of this chapter.

the Planning Board. In addition, vegetative buffers shall be maintained so as to effectively screen parking areas and buildings from the water.

(6) Commercial businesses or activities of any kind which operate for a profit are prohibited.

(7) Each individual or family or lot with legal right-of-way or easement access to this parcel due to previous arrangements shall count as one lot or unit in the figuring of the amount of shoreline needed for shorefront access for a newly proposed development.

(8) Provisions for sanitary facilities shall be considered by the Planning Board and shall comply with the Lake George Consolidated Health District Regulations.³³³⁴

(9) Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 100 feet.

~ 175-25. Minimum setback for on-site sewage facilities

In the case of all lakes, ponds, rivers and streams (permanent or intermittent) or any swamp, marsh or wetland, the minimum setback of any on-site sewage drainage field or seepage pit shall be 100 feet from the mean high water mark irrespective of the zoning district or land use area classification. The body or officer having jurisdiction under this chapter, or the Adirondack Park Agency in its review of a Class A Regional Project, shall have authority to require a greater setback of any on-site sewage drainage field or seepage pit than the minimum hereinabove set forth, if it or he shall determine that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of the water body involved.

~ 175-26. Wharves and moorings

A. Wharves.

³³ Editor's Note: See Ch. A180.

³⁴ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

(1) General prohibitions. No person shall construct or place on the waters of Lake George within the Town of Lake George any wharf without having first obtained a permit from the Town of Lake George.

(2) Specific standards shall be as follows:

(a) No wharf may be constructed in a configuration other than straight T-, L-, U-, F- or E-shaped. [Amended 4-10-1995]

(b) No wharf shall be constructed so as to exceed the following offshore distance criteria:

[1] Other than in streams, no wharf may extend offshore for more than 40 feet of the mean low water line.

[2] In streams, no wharf may extend more than 20% of the width of the stream at the point of intersection.

(c) No wharf shall be constructed so as to interfere with normal navigation or reasonable access to adjacent wharves.

(d) The width of any pier shall not exceed eight feet.

(e) The maximum surface of any T-, L-, U- or F-shaped wharf shall not exceed 700 square feet.

(f) The number of private wharves permitted to be constructed per residentially used lake front lot is limited as follows:

[1] One hundred fifty feet or less of lake frontage: no more than one wharf.

[2] One hundred fifty-one to 250 feet of lake frontage: no more than two wharves.

[3] Two hundred fifty-one to 500 feet of lake frontage: no more than three wharves; plus, one additional wharf allowed for each 150 feet of lake frontage in excess of 500 feet.

(g) No more than three wharves shall be constructed per commercially used lake front lot which conforms to Schedule II of this chapter.³⁵

³⁵Editor's Note: Schedule II is included at the end of this chapter.

(h) No wharf shall be constructed unless designed to withstand forces of flowing water and wave washes.

(i) Every wharf constructed shall have a minimum setback of twenty (20) feet from the adjacent property measured from an imaginary line extending into the lake, drawn perpendicular to a tangent of the shoreline at a place where the property line and shoreline intersect.

(j) Boathouses and covered docks shall not exceed one story or 16 feet in height above the mean high water level. Boathouses and covered docks shall be in compliance with all other applicable provisions of this ordinance.

(k) Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall meet the definition of "boathouse" as defined in this chapter.

(l) No wharf shall be constructed within 50 feet of a wetland which is located adjacent to or along the shoreline.

(m) Treated lumber, when used for the construction of wharves, shall be the sealed, nonleaching type.

B. Moorings.

(1) No more than three moorings shall be allowed per commercially used lot with less than 500 feet of shoreline frontage. No more than one mooring per 100 feet of shoreline frontage shall be allowed per commercially used lot with 500 or more feet of shoreline frontage.

(2) The number of private moorings allowed per residentially used lake front lot is limited as follows:

(a) One hundred fifty feet or less of lake frontage: no more than one mooring.

(b) One hundred fifty one to 250 feet of lake frontage: no more than two moorings.

(c) Two hundred fifty-one to 500 feet or lake frontage: no more than three moorings; plus one additional mooring allowed for each 150 feet of lake frontage in excess of 500 feet.

(3) Moorings shall be placed so that objects moored to them, at full swing of their mooring or anchor line, will be no closer than twenty (20) feet to the projection of the property lines perpendicular to a tangent of the shoreline at a place where the property line and shoreline intersects and no more than 100 feet from the shoreline.

C. Miscellaneous provisions.

(1) Owners of the upland property shall completely remove any pilings, floats and/or any other related wharf or mooring components which are abandoned or fall into disuse.

(2) All persons shall comply with any special conditions attached to any permit issued for the construction of a wharf.

(3) A permit is not required for repairs to an existing wharf, if such repairs do not alter its size or shape.

~ 175-27. Alteration to shoreline

A land use and development permit is required for any filling, grading, lagooning, dredging, ditching and/or excavating within the Shoreland Overlay District. A land use and development permit is also required for the addition or replacement of retaining walls within the Shoreland Overlay District. The following standards shall apply:

A. General standards.

(1) The activity shall not alter the natural contours of the shoreline.

(2) The activity shall not disturb shoreline vegetation except in a minimal way. Where vegetation is destroyed or removed it shall be restored or replaced with indigenous vegetation. Stabilization shall be in accordance with the United States Soil Conservation Service engineering standards and specifications.

(3) The activity shall be carried out in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

(4) All applicable federal, state and other agency permits shall be obtained.

B. Specific standards.

(1) Filling. There shall be no fill placed in the Shoreland Overlay District, except as associated with shoreline protective structures or beach replenishment or other alternatives found to be beneficial to existing shoreline conditions, water quality or clarity. Any fill placed in the Shoreland Overlay District shall be protected against erosion.

(2) Dredging. There shall be no removal or rearrangement of materials in the water, except at those locations where such removal or rearrangement is found to be beneficial to existing shoreline conditions, uses and water quality and clarity. Where dredging is permitted, soil materials shall not be deposited in the Shoreland Overlay District.

(3) Retaining walls. The addition, expansion or replacement of any type of retaining wall shall be discouraged, except in the case where the alternative of shoreline restoration to a natural state is impossible due to excessive slope or severe erosion problems, a condition to be determined by the Zoning Officer. Retaining walls shall not be permitted to be constructed for only aesthetic reasons. When permitted, retaining walls shall not exceed 16 inches in height, as measured from the stationary mean high water mark, and shall be constructed of native stone or wood. When treated lumber is used for the construction of a retaining wall, it shall be the sealed, nonleaching type. New retaining walls shall not exceed 100 square feet in size.

~ 175-28. Height

A. Height exceptions. The height limitations of this chapter, as shown on Schedule II of Article IV hereof,³⁶ shall not apply to the following structures: cliffside, cantilever type and A-frame homes, church spires, belfries, cupolas, domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level, parapet wall or cornice for ornament, extending above such height limit not more than five feet; radio or television receiving antennae or a public utility transmission tower or cable. No such uses shall in their aggregate coverage occupy more than 20% of the roof area on which

³⁶ Editor's Note: Schedule II is included at the end of this chapter.

located. This exception shall not apply in determining whether a structure is a Class A Regional Project by virtue of its height. Regional project jurisdiction shall extend to all structures over 40 feet in height, except residential radio and television antennae and agricultural use structures. For such jurisdiction, building height shall be measured from the highest point of the structure to the natural ground or finished grade, whichever is lower.

~ 175-28.1 Fences and walls

A. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any suitable fence or wall, provided that in any I district, no fence or wall shall exceed four feet in height within 50 feet of the shoreline of Lake George or six feet in height in any rear yard, side yard or front yard measured above the finished grade. The shoreline setback requirements apply to fences, walls and retaining walls.

B. Retaining walls and recreational fences (i.e., for tennis courts, basketball and volleyball) over six feet in height shall be permitted with site plan review. [Added 10-18-1993]

C. Shoreline fencing within 100 feet of the lake shall be site plan reviewable. [Added 11-14-1994]

D. The good (high grade) side of the fence shall face the neighbor. [Added 11-14-1994]

E. Temporary fencing shall remain temporary and shall be of earth-tone colors. [Added 11-14-1994]

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

~ 175-29. Yards

A. Terraces.. A terrace paved with pervious pavers, may be included as a part of the yard in determination of yard size; provided, however, that such

terrace is unroofed and without walls or parapets. Such terrace, however, may have a guard railing not over three feet in height and shall not project into any yard to a point closer than five feet from any lot line.

B. Porches, decks and patios. An enclosed porch, deck, or patio shall be considered a part of the building in determining the size of yard or amount of lot coverage.

C. Projecting architectural features (horizontal). The space in any required yard shall be open and unobstructed, except for the ordinary projection of the windowsills, belt courses, chimneys, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required yard.

D. Yard for corner lots. On a corner lot, each side which abuts a street will be deemed a front yard, and the required yard along each street shall be the required front yard. The owner shall decide (when applying for a land use and development permit) which of the remaining yards shall be the required side yard and the required rear yard.³⁷

E. Yard for double frontage lots. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.

F. Fire escapes. Open fire escapes may extend into any required yard not more than six feet; provided, however, that such fire escape shall not be closer than four feet at any point to any lot line.

G. Shoreline building setback. Notwithstanding the previous provisions of this section, the shoreline setback shall be measured horizontally from the shoreline to the nearest point of a principal building (including any attached deck, patio, porch or steps, etc.) or any accessory structure except docks or boathouses.

H. Landscaping and Buffering Requirements. At the discretion of the Planning Board, yard sizes will be reduced in accordance with the Landscaping and Buffering provisions of the Commercial Design Guidelines. This provision does not apply to minimum lot sizes.

³⁷Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

~ 175-30. Location of detached accessory uses and structures

A. Location of detached accessory buildings in required yard area.

(1) An accessory building may be placed in any required rear yard, except in the case of:

(a) Double frontage lots: an accessory building may be placed in either a front or side yard, provided that it complies with all the provisions of this chapter.

(b) Detached private garages: private garages may be placed in any rear or side yard, provided they comply with all provisions of this chapter.

(2) No accessory structure shall be located closer than five feet to any lot line and shall comply with Article V, ~ 175-23(D), Shoreland Overlay Zone and 175-29, Article V, Yards

~ 175-31. Conversions

A. Occupancy permits for existing units. The Zoning Officer shall compile a list of all seasonal dwelling units and shall issue forthwith a certificate of occupancy for each seasonal dwelling unit stating that the building for which the certificate of occupancy is issued shall be used only on a seasonal basis. No dwelling unit for which a seasonal occupancy permit has been issued shall be used for year-round occupancy, except as otherwise provided herein.

B. Occupancy permits for conversions to year-round occupancy. All persons desiring to convert to year-round occupancy a seasonal dwelling for which a permit shall have been issued for seasonal occupancy shall apply to the Zoning Officer in accordance with Article VIII of this chapter. It shall be the objective of the Zoning Officer to preserve the public health, safety and welfare by preventing unsafe or unsanitary living conditions, overcrowding of families and lack of privacy. The approval of any such application shall include appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter.

C. Conversions of certain existing uses. Those structures lawfully in existence on the first date of adoption of these regulations that are associated with tourist accommodations, resorts and housekeeping cottages shall not be allowed to be converted from that use to individual single-family dwelling units or multiple-family dwelling units except through site plan review. Said conversions, when made, must conform to the provisions of this chapter.

~ 175-32. Signs³⁸

Except as provided in this section, no person shall erect, own, operate or maintain a sign without a permit issued by the Zoning Officer. All signs within the town, whether they are in or outside of the Lake George Park as defined in Article 43 of the Environmental Conservation Law, shall comply with the standards set forth in the regulations adopted by the Lake George Park Commission pursuant to Article 43 of the Environmental Conservation Law at 6 NYCRR 646-7. Applications for sign permits shall be made to the Zoning Officer, who shall review the application pursuant to the criteria set forth in 6 NYCRR 646-7. The exemptions to the permitting requirements contained at 6 NYCRR 646-7.2 shall also apply. For Class A or B Regional Projects, signs shall also be reviewed pursuant to the standards for Regional Projects and Appendix Q of the APA regulations.

~ 175-33. Off-street parking requirements

A. General.

(1) For any permitted use of premises hereinafter established, parking spaces shall be provided and maintained off the street in accordance with the standards as specified in Schedule III of this chapter³⁹ and below, and any use already established shall conform to these standards to the extent that it conforms at the time of adoption of this regulation.

(2) Sufficient parking spaces shall be provided in connection with any use not included in Schedule III⁴⁰ so as to maintain the purpose and intent of this chapter, as set forth in Article I.

³⁸Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

³⁹Editor's Note: Schedule III is included at the end of this chapter.

⁴⁰ Editor's Note: Schedule III is included at the end of this chapter on page lv.

B. Combined parking lots. Each use requiring parking must have a separate total number of parking spaces for that use. Where separate parts of a building or structure are used for purposes requiring different amounts of parking space, the number of spaces shall be determined by adding the number of spaces required for each type of use. Combined parking lots for various uses are permitted, provided that the total number of parking spaces in any such combined parking lot shall be equal to the total mandatory parking spaces for all uses so combined, and provided that all parking is located within the same zoning district with such permitted principal uses or principal buildings, and provided that all other requirements herein contained shall be adhered to. Combined parking lots are permitted in two or more contiguous zoning districts, provided that all the principal uses or principal buildings are permitted in each of these zones.

C. Joint use of parking areas. The owners of two or more separate premises may establish a joint parking area, provided that all the separate premises and all the associated parking areas are located in the same zoning district. However, joint parking areas may be established in two or more contiguous zoning districts, provided that all the principal buildings or principal uses are permitted in each of these zones. The total number of required parking spaces shall be determined by adding the number of spaces required by each premises.

D. Parking space requirements exceptions. The Planning Board may allow different uses to combine their required parking spaces if it is shown to the satisfaction of the Planning Board that there will not normally be a conflict of times between the combining uses as to need for parking space. All other requirements as to parking space required shall be adhered to and only the combining of the number of parking spaces shall be allowed.

E. Maintenance. Off-street parking areas shall be suitably improved (drained and graded) and maintained so as not to cause any nuisance from excessive stormwater, dust or erosion.

F. Separate from public street. Parking lots shall be separated from any public street by a curb, fence or other barrier at the street line, except at the points of access.

G. Parking in residential districts. Required parking space in residential districts shall be located only in the side or rear yard on the same lot as the principal use.

H. Loading spaces. For all nonresidential uses with a floor area of 2,500 square feet, to and including 25,000 square feet, one loading space shall be

required. For each additional 25,000 square feet or fraction thereof, one additional space shall be required.

I. Landscaping. At the discretion of the Planning Board, landscaping of parking lots shall be provided in accordance with the landscaping and buffering provisions of the Commercial Design Guidelines.

J. Additional parking requirements.

(1) Off-street parking shall be provided on the site so that parking spaces for a minimum of two full-size automobiles is provided entirely upon the project site for each dwelling unit or such additional amount as required to provide off-street parking in sufficient quantity for occupants and/or users of the proposed structure.

(2) Off-street parking for shopping centers shall be provided at the site as set forth in Schedule III, Off-Street Parking and Loading Requirements,⁴¹ or such additional amount as is required to provide off-street parking in sufficient quantity for users of the proposed structure.⁴²

(3) Off-street parking for marinas shall be provided at the site as set forth in Schedule III, Off-Street Parking and Loading Requirements,⁴³ entirely upon the project site or such additional amount as is required to provide off-street parking in sufficient quantity for users of the proposed structures. The required parking spaces shall be increased as set forth in said Schedule III if the marina also provides boat launch services to day users.⁴⁴

(4) Off-street parking for day-use marinas shall be provided at the site as set forth in Schedule III, Off-Street Parking and Loading Requirements,⁴⁵ or such additional amount as is required to provide sufficient quantity for users of the proposed facilities.⁴⁶

(5) All additional amounts of required parking shall be determined by the Planning Board.

(6) Each automobile parking bay area shall be a minimum of 18 feet long by ten feet wide.

⁴¹Editor's Note: Schedule III is included at the end of this chapter.

⁴²Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁴³Editor's Note: Schedule III is included at the end of this chapter

⁴⁴Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁴⁵Editor's Note: Schedule III is included at the end of this chapter.

⁴⁶Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

(7) Aisle widths shall be a minimum of 12 feet wide if one-way lanes are utilized and a minimum of 22 feet wide for two-way lanes.

(8) The parking lot layout shall take into consideration snow removal in its design.

(9) The parking lot layout shall provide separation between pedestrian, vehicular and delivery vehicle circulation.

(10) Any parking lots or parking area that will contain more than 100 cars shall be effectively divided by planted divider strips of curbing fixed in place so as to effectively divide each parking area of 100 cars from another driveway and parking area, for the purposes of ensuring safety of vehicles moving within the entire parking area and to control speed.

(11) All parking shall be lighted as deemed necessary by the Planning Board.

(12) Whenever possible, parking surfaces shall be of permeable material.

~ 175-34. Stream Protection

A. Class AA-Special Streams. All streams and rivers classified as 'Class AA-Special' (AA-S) pursuant to 6NYCRR ~ 701.3 shall be subject to the following regulations:

(1) Setback. All buildings, structures, and accessory structures shall be setback at least 30 feet from the mean high water mark except that if the building setback restriction for the zoning district is greater, such greater setback will be observed.

(2) Site Plan Review. All docks and boathouses within 100 feet of the mean high water mark shall be subject to site plan review. As part of this review, the Planning Board may require that an undisturbed 'natural stream buffer' be preserved or installed.

B. Navigable Streams. All navigable streams and rivers shall be subject to the following regulations contained herein: ~175-21 Erosion, sedimentation and stormwater runoff control, Article V, ~175-23 Shoreland Overlay District, Article VI ~175-37 Applicability. When a stream is classified as both AA-Special and navigable, the provisions of this regulation, ~175-34(B) shall take precedence.

~ 175-35. Performance Standards

A. Noise

(1) Purpose. The purpose of these regulations is to control excessive, unnecessary, unreasonable or unusually loud noise. Further, these regulations seek to preserve, protect, and promote the public health, safety, welfare, peace and repose of the people of the Town of Lake George.

(2) General application.
Any act in violation of any of the provisions of this local law is deemed to be in violation of this local law.

(3) Effect on statutes and other laws.
Nothing in this local law shall restrict any right which any person may have under any statute, including but not limited to Environmental Conservation Law, Vehicle and Traffic Law, Labor Law and the Industrial Code, or common law, to seek enforcement of any noise-control requirement or to seek any other relief.

(4) Evidence of violation.
It shall be prima facie evidence that an activity is in violation of this local law when a sound-level meter determines that the decibel level of a particular activity is in excess of the standards hereinafter set forth. All measurements will be made on the A-2 weighted sound level of a Type 0, 1 or 2 sound-level meter with a slow response. The meter will be calibrated each day that an individual or set of measurements are to be taken.

(5) Prohibited noise.
The following noise shall be prohibited:

(a) Building construction. Operating or permitting the operation of any tool or equipment used in construction, drilling or demolition work, including but not limited to the excavation, alteration, construction or repair of any building between the hours of 10:00 p.m. and 7:00 a.m., except in the case of an emergency or the interests of the public safety.

(b) Refuse compacting. The operation of a refuse-compacting vehicle in the process of compacting or collecting refuse contained in a dumpster or similar receptacle between the hours of 10:00 p.m. and 6:00 a.m. or the operation of a refuse-compacting vehicle in the process of compacting or collecting refuse contained in individual garbage cans between the hours of 10:00 p.m. and 7:00 a.m.

(c) Certain power equipment. Operating or permitting to be operated a lawn mower, chainsaw or log splitter between the hours of 10:00 p.m. and 7:00 a.m. Exceptions are granted for the emergency removal of trees and limbs from streets and highways and for any tree service contracted by the Town of Lake George

(d) Sound reproduction.

[1] The operation, playing or permitting the operation or playing of any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device in a stationary position which produces, reproduces or amplifies sound in a manner which raises the ambient sound level within the nearest sensitive receptor to a level which exceeds:

Fifty dB(A) (measured at the real property boundary line) between the hours of 10:00 p.m. and 8:00 a.m.; or

Fifty-five dB(A) between the hours of 8:00 a.m. and 10:00 p.m.

[2] The operation, playing or permitting the operation or playing of any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device in a stationary position which produces a noise or sound level which is unreasonably loud or unnecessary which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities.

[3] This subsection does not apply to places of public entertainment or amusement. This subsection also does not apply to sounds that have a duration or less than five minutes between the hours of 9:00 a.m. and 10:00 p.m., including but not limited to a calliope, canon or boat whistle or horn.

(6) Recreational vehicles.

No person shall operate or permit to be operated any recreational vehicle off of a public highway at any time, at any speed or under any condition of grade, load, acceleration or deceleration or in any manner whatsoever as to exceed

85 dB(A). The limit shall apply at a distance of 50 feet from such recreational vehicle.

(7) Public entertainment.

(a) No person shall operate or permit to be operated a place of public entertainment or amusement, including but not limited to a restaurant, bar, café, arcade, discotheque or dance hall, from which the sound level is equal to or exceeds 75 dB(A) between the hours of 9:00 a.m. and 11:00 p.m. or from which the sound level is equal to or exceeds 65 dB(A) between the hours of 11:00 p.m. and 9:00 a.m. measured out-of-doors from a distance of at least 50 feet from the noise source or adjacent to the nearest sensitive receptor, whichever is closer.

(b) Unreasonable loud or unnecessary sound, including any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities which is produced by any place of public entertainment or amusement shall be deemed in violation of this local law.

(8) Motor vehicles.

No person may operate an audio device from any parked motor vehicle or motor vehicle which remains stationary at least five minutes at sound levels which may be heard at a distance of 150 feet away from the motor vehicle.

(9) Penalties for offenses.

Any person found guilty of violating any of the provisions of this local law shall be guilty of a violation and, upon conviction, shall be punishable by a fine of \$250 for the first violation and \$500 for each violation thereafter or by imprisonment for not more than one month, or both. Each occurrence in contravention of the provisions of this local law constitutes a separate violation.

B. Particulates and Smoke

No use shall emit particulates and/or smoke that are detrimental to the public health, welfare and safety. No use shall emit particulates or smoke that exceeds an opacity of 2 on the Ringleman Chart.

C. Vibration

No use shall regularly emit vibration that is perceptible at the property line of an adjoining use. This section shall not apply to temporary construction activities.

D. Odor

No use shall regular emit offensive odors perceptible at the property line of an adjoining use. This section shall not apply to the exhaust from restaurants, bakeries, taverns and other uses where food is cooked or prepared.

E. Radiation

No use shall emit radiation that is detectable at the property line of an adjoining use.

ARTICLE VI SITE PLAN REVIEW

~ 175-36. Purpose

The purpose of this Article is to allow the proper integration into the community of the uses listed in these Articles and which may be suitable within a zoning district only on certain conditions and only at appropriate locations. Because of their characteristics or the special character of the area in which they are to be located, their uses require special consideration so that they may be properly located and planned with respect to:

- A. The objectives of this chapter.
- B. Impact on surrounding properties.
- C. Impact on the natural, historic and scenic resources of the Town.
- D. Protection of the health, safety and welfare of the community.
- E. Substantial conformance with the Town of Lake George Comprehensive Plan.

~ 175-37. Applicability

The following land uses and developments shall not be undertaken until the Planning Board has approved or approved with conditions such land use or development in accordance with this Article and the Zoning Officer has issued a permit for it in accordance with the terms of Article XI hereof:

- A. Any land use or development listed in Article IV and Schedule 1 of this chapter as a use permitted by site plan review.
- B. Any land use or development listed in Appendix B⁴⁷ as a Class B Regional Project.
- C. Stripping, excavating and filling.

(1) Any site preparation involving the stripping, excavating, filling or grading of land in the following areas will also require site plan review

⁴⁷ Editor's Note: Appendix B is included at the end of this chapter.

(a) Within 100 feet of a wetland or within a wetland.

(b) Within 25 feet of a 15% slope or greater, when measured in any direction over a distance of 100 feet from the center of the proposed building site.

(c) Within 100 feet of all streams and water bodies as mapped and/or classified by the New York State Department of Environmental Conservation.

(d) Within the one-hundred-year floodplain of any watercourse as delineated on Flood Hazard Boundary Maps or Flood Insurance Rate Maps prepared by the United States Department of Housing and Urban Development, incorporating local law(s) pertaining to floodplain management adopted by the Town Board of the Town of Lake George.⁴⁸

(e) Which involves land clearing of forested or brush land of greater than five thousand (5,000) square feet area in all zoning districts.

(f) Use of a temporary, portable sawmill, for a period greater than four (4) consecutive months.

(2) However, the following activities shall be exempt from provisions of this Subsection C:

(a) Agricultural operations which have an approved soil conservation plan or are less than 25 acres in size and are not within 100 feet of a watercourse.

(b) Municipal activities.

D. Any land use or development within 300 feet of the following designated travel corridors:

(1) New York Route 9 in the RCM-1 Zone.

(2) New York Route 9N in the RCM-S2 Zone.

E. Provisions for contractual access of five or more lots, parcels or sites or multiple-family dwelling units.

⁴⁸Editor's Note: See Ch. 83, Flood Damage Prevention.

F. The conversion of tourist accommodations, resorts and housekeeping cottages to individual single-family or multiple-family dwelling units.

G. All applications for transient business licenses pursuant to Chapter 99 of this Code. Garage sales registered and conducted in accordance with ~ 99-4H of Chapter 99 of this Code and sales of agricultural products registered and conducted in accordance with ~ 99-4F(2) of Chapter 99 of this Code shall not require site plan review. [Added 4-19-1996 by L.L. No. 1-1996]

H. Home Occupations, Type II.

I. Any land use and/or development within the Shoreland Overlay District as defined in Article V.

J. Any residential or commercial use proposed to be constructed within 500 feet of a 'historic site' either owned by or located in the Town of Lake George.

K. All new buildings, structures, and accessory structures within 100 feet of the mean high water mark of a Class AA-Special (AA-S) stream or river, pursuant to 6NYCRR ~ 701.3.

~ 175-38. Authorization for Planning Board to review site plans

In accordance with ~ 274-a of the Town Law, the Planning Board is authorized to review and approve, approve with conditions or disapprove site plans pursuant to and in accordance with the standards and procedures set forth in this chapter.

~ 175-39. Application procedures

A. Preliminary sketch plan review.

(1) Prior to submission of an application for site plan review, an applicant may meet in person with the Planning Board to discuss the proposed project. Such discussion shall consider the primary aspects of the project and application requirements, in order to assist the developer in preparing his formal site plan.

(2) The informal sketch plan shall show the various elements of the development proposal in such a manner as to clearly illustrate the intention of the developer. If necessary, the site may also be visited. The Planning Board may, if appropriate, in the case of small developments with little impact on adjoining lands, accept the informal sketch plan as the formal site plan, provided that all other requirements are met.

B. Application requirements. Applications shall consist of the following, unless specifically waived by the Planning Board. The sketch plan may be deemed to be the final plan at the Planning Board's discretion.

(1) Two copies of a site plan, drawn to scale, to include the following:

(a) A location map showing the boundaries and dimensions of the parcel or tract of land involved, identification of contiguous properties, zoning districts, any easements or public rights-of-ways and all features within 500 feet of the site.

(b) Existing features of the site, including existing land and water areas, existing buildings and any existing accessory structures, existing water supply systems and sewage systems located either on the parcel or on an immediate adjacent parcel and existing surface drainage characteristics. Streams should be labeled as either intermittent or permanent and navigable or non-navigable.

(c) Delineation of the proposed building location and arrangement of buildings or installations on the site, including parking areas and means of ingress and egress.

(d) A sketch of the proposed building or structure, including exterior dimensions and elevations of front, side and rear view.

(e) A map indicating existing and proposed topography at a contour interval of not more than two feet, where the slope is 10% or greater, and not more than five feet where the slope is less than 10%, and of the existing and proposed elevations.

(f) A landscape plan and tree schedule in accordance with the Landscaping and Buffering provisions of the Commercial Design Guidelines.

(g) A lighting plan in accordance with the Lighting provisions of the Commercial Design Guidelines.

(h) A stormwater management plan.

(2) Accompanying data, to include the following:

(a) Application form and fee must be presented to the Planning and Zoning Office 14 days prior to the scheduled meeting no later than 12:00 noon. [Amended 4-19-1996] [Amended 11-18-2002]

(b) The name and address of applicant and any licensed professional consultants.

(c) Authorization of the owner if the applicant is not the owner of the property in question.

(d) A description of materials and methods of installation for any equipment or installation for which the permit is being sought.

(e) The results of any required on-site investigations, including soils test, borings and percolation tests if applicable.

(3) The site plan map shall include a North arrow, scale, date and such additional information as the Planning Board or Zoning Officer may reasonably require to assess the proposed project.

C. Special consulting fees. [Added 3-12-2001 by L.L. No. 1-2001]

(1) The Planning Board, in its review of site plan applications, may employ consultants, legal counsel, professional engineers and/or inspection services to provide assistance and advice in the review of any application, including on-site investigation, evaluation and inspection; verification of the accuracy of information submitted; evaluation of the adequacy of plans and the sufficiency of submitted reports; study of the impact of proposals upon the resources and environment of the town; preparation and/or review of environmental impact statements; review of the design and layout of improvements; inspection of installed improvements; and such other services or technical assistance as the Board of Appeals deems necessary for its review of the application.

(2) All costs incurred for these special consulting services shall be borne by the applicant. As further provided below, a deposit shall be required in advance to cover the estimated cost of these services. This deposit shall be in the amount determined by the Planning Board, or its duly authorized agent, as sufficient to cover all such special consulting costs based on rates of \$65.00 per hour for engineering review, \$125.00 per hour for legal review, and \$70.00 per

hour for special environmental consultant review. Fees for the preparation or review of environmental impact statements shall be as determined by 6 NYCRR Part 617, adopted pursuant to Article 8 of the Environmental Conservation Law.

(3) The deposit due for the special consulting services deemed by the Planning Board to be necessary for its appropriate review of any particular application shall be filed by the applicant with the Town Clerk by certified check endorsed to the Town of Lake George. An application shall not be deemed complete by the Board of Appeals until the requirements of this section have been complied with.

(4) After the Planning Board has rendered its decision on an application, the balance of the deposit, if any, remaining in excess of actual incurred costs shall be returned to the applicant without payment of interest.

(5) Payment of any deficiency in the amount of the deposit to cover incurred costs in full shall be a condition to final approval of any application by the Planning Board. No final approval shall be signed, stamped, sent or otherwise valid until and unless such amount is paid.

~ 175-40. Additional application requirements for certain uses

A. Additional requirements for shopping center applications.

(1) In addition to the requirements described above, the site plan for a shopping center shall include parking areas, circulation patterns, landscaping plans, lighting plans, signage plans, stormwater control plans and pedestrian amenities.

(2) A sketch shall be provided with dimensions of all signs, light fixtures and other amenities.

B. Additional requirements for marinas, boat docks, boat storage and boat access applications.

(1) In addition to the requirements described above, the site plan should indicate all docking areas, boat launch areas, boat storage areas, any accessory commercial uses, pumpout facilities, gasoline facilities, parking areas, safety structures, both boating and vehicular traffic patterns, landscaping plans and waste disposal facilities.

(2) Construction plans shall be provided for all gasoline storage and dispensing facilities.

(3) The lake bottom shall be described in the vicinity of all proposed dock areas, mooring areas and launch areas, including depth, sediment composition, vegetation and fish spawning areas. Any disturbance to the lakeshore or lake bottom shall be described.

C. ⁴⁹ Additional application requirements for site preparations listed in Article VI ~ 175 -37, (Applicability), Article VI ~175-39(B) (Application Procedures) and this section. In addition to the requirements described above, the site plan shall indicate:

(1) Any excavation, filling and grading proposed to be undertaken, including the depth, volume and nature of materials involved in such preparations.

(2) The type, size and location of vegetation to be removed.

(3) The location of areas where topsoil will be removed, where it is to be stockpiled and where it will ultimately be spread and to what depth.

(4) All temporary and permanent drainage, erosion and sediment facilities, including ponds and sediment basins.

(5) All temporary and permanent vegetation to be placed on the site, including plant type, size and extent.

(6) The anticipated pattern of surface drainage during periods of peak runoff upon completion of site preparation and construction activities, including the rate and direction of flow at all major points within the drainage system.

(7) A completion schedule for the project, indicating staging, estimated starting and completion dates and anticipated duration (in days) of exposure of all major areas of site preparation prior to the installation of erosion and sediment control measures.

~ 175-41. Planning Board review and decision

⁴⁹Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

A. Within 62 days of receipt of a completed final site plan application, the Planning Board shall approve the application, approve it with conditions or hold a public hearing on the application.⁵⁰

B. Using its discretion in determining whether or not to hold a public hearing on a given application, the Planning Board shall consider the size and complexity of the proposed activity, the level of public interest in the application and the possibility of a disapproval. In no case shall an application be disapproved without a public hearing's first having been held. Public hearings shall be advertised in accordance with Article VI, ~175-38, Authorization for Planning Board to review site plans, and § 274 – a (8) of Town Law, and that the cost of sending or publishing any public notices related to the project shall be borne by the applicant.

C. If a public hearing is held, the Planning Board shall, within 62 days of the completion of the hearing, approve, approve with conditions or disapprove the application.⁵¹

D. In reviewing site plan applications, the Planning Board shall apply the review considerations and standards set forth in ~ 175-45 (Applicability) of this Article and Appendix D of this chapter⁵². In no case shall an application be approved or approved with conditions unless it reasonably complies with such considerations and standards.

E. Where required by ~ 239-k or ~ 239-m of the General Municipal Law, the Planning Board shall refer site plan review applications to the Warren County Planning Board or County Highway Superintendent prior to decisions in accordance with such laws.

F. Planning Board decisions shall be in writing and may include reasonable conditions to further the ends of this chapter. Reasons for any disapproval shall be clearly stated.

G. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

H. Any approval by the Planning Board shall be posted in a conspicuous location, at the project site within public view prior to undertaking the proposed use, for a period of 30 days beginning with the approval date.

⁵⁰Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁵¹Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁵² Editor's Note: Appendix D is included at the end of this chapter.

I. Unless otherwise specified or extended by the Planning Board, all site plan approvals issued by the Planning Board shall expire two years from the date of approval, if the approved action has not commenced.

~ 175-42. Review standards and considerations

The standards and considerations set forth in Articles IV, V and VI and Appendix D⁵³ shall be used by the Planning Board, where reasonably applicable, for the review of a site plan. General standards shall be as follows:

A. The location, size and intensity of the proposed activity shall be in harmony with the appropriate and orderly development of the district in which it is to be located.

B. The location, nature and height of buildings, walls, sign and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land buildings and/or will not impair the value thereof. Further, the location, nature and height of buildings, walls, signs and fences and the nature and extent of landscaping on the site shall be compatible with the physical characteristics of the area in which it is located.

C. Any noise, odor, vibration, dust, gas or emission of any type that are likely to be coincident to the nature of the operation shall not be hazardous or offensive.

~ 175-43. Site and lot considerations

A. Traffic access and road construction.

(1) All proposed traffic access and roads shall be adequate in width, grade alignment and visibility and not located too near street corners or other places of public assembly; necessary traffic signalization and other safety controls, devices and facilities shall be given proper consideration and be duly provided wherever appropriate or warranted.

⁵³Editor's Note: Appendix D is included at the end of this chapter.

(2) Access shall be restricted to discrete points of entry and exit and shall not be along the entire road frontage of the project.

(3) Snow removal, if applicable, shall be provided on the site so as to avoid obstructing drivers' vision, protect landscape elements and avoid posing problems for adjoining or contiguous properties.

(4) Access causing entry to a state or county highway shall first obtain authorizations of the proper authority having jurisdiction.

(5) Existing public road drainage shall be protected so that surface drainage flow is not impeded. Where required by the Planning Board, a corrugated metal or reinforced concrete conduit of a length and diameter as may be necessary, but at least a minimum of 12 inches in diameter and 20 feet in length, to accommodate surface runoff along such public highway shall be properly installed at the applicant's expense.

(6) All roads shall be planned and installed to logically relate to the existing soils, topography and vegetation. For these purposes, areas with steep slopes, shallow soils, soils with a water table at or near the surface and soils that are highly susceptible to erosion or slippage should generally be avoided.

(7) Clearing and grading of roads in wooded areas shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide for utility installation.

(8) All cleared banks, exposed borrow areas and cut and fill slopes, including ditch banks, shall be successfully vegetated generally to grasses or legumes that are suited to site conditions.

(9) Ditch bottoms shall be constructed and maintained to minimize soil erosion during periods of design flow by means of revegetation, sodding, mulching, netting, stone paving, riprap and other materials or combinations of these, depending on hydraulics and soil properties.

(10) Road and private drive grade shall not exceed a twelve-percent average grade over any one-hundred-fifty-foot length and shall not exceed 15% over any length.

(11) Road maintenance procedures shall minimize the use of salt and other de-icing compounds for keeping surfaces free of ice and snow. Lightly salted sand is a desired alternative. Under no circumstances shall any de-icing compound be used to keep culverts free of ice or snow.

B. Construction activities.

(1) All earthmoving activities shall be planned in such a manner as to minimize the land area disturbed.

(2) Natural features such as topography, waterways and other similar resources shall be preserved and conform substantially to the natural boundaries and alignment of watercourses.

(3) Permanent vegetation shall be successfully established and erosion control structures shall be installed as soon as practical. Wherever feasible, natural vegetation shall be retained and protected.

(4) Where it is not possible to permanently stabilize a disturbed area immediately after the final earth moving has been completed or where the activity ceases for more than 7 days, interim stabilization measures shall be completed within 10 days following the last substantial construction activity, including mulching and planting of vegetation.

(5) Runoff from any slope exposed greater than 15 days shall be controlled through utilization of mulching, check dam, temporary sediment basins and other generally approved engineering methods.

(6) Topsoil shall be removed from all areas to be excavated and stored. Upon completion of the earth movement the topsoil shall be respread to provide a suitable base for seeding and planting.

(7) All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material. Fill material shall be compacted sufficiently to prevent problems of erosion.

C. Shorelines.

(1) All construction involving any shoreline shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground- and surface water into the waterway and to remove only that vegetation which is necessary to the accomplishment of the project.

(2) All provisions for tree cutting, filling, grading, etc., under Article V, ~ 175-23, Shoreland Overlay District, shall be applicable.

(3) No on-site sewage tile field or seepage pit shall be located within 100 feet of any shoreline, and no septic or other holding tank shall be located within 100 feet of any shoreline, as measured from the normal high water mark of the water body.

(4) Any boat pumpout or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate and approved sewage disposal system, whether a public system or an individual on-site system.

(5) Any storage of petroleum products or petroleum products using facilities, whether a marina, boat service facility or other use, within 100 feet, or other reasonable setback as determined to be necessary by the Planning Board, of the shoreline shall include adequate provisions for ensuring that leaks shall be prevented and that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway, including but not limited to:

(a) All underground tanks shall be set on firm foundations and surrounded with at least six inches of noncorrosive inert materials such as clean sand, earth or gravel well-tamped into place.

(b) Tanks shall be covered with a minimum of two feet of earth, or if the underground tanks are or likely to be subjected to vehicular traffic, they shall be protected against damage from vehicles passing over them by at least three feet of earth cover or 18 inches of well-tamped earth, plus six inches asphalt or reinforced concrete. When asphalt or reinforced concrete paving is used as part of the protection, it shall extend at least two feet horizontally beyond the outline of the tank in all directions. Corrosion protection for the tanks and its piping shall be provided.

(c) All tanks shall be strength tested as evidenced by the ASME Code Stamp, API monogram or the label of the Underwriters' Laboratories, Inc. Tanks not so marked shall be strength tested before they are placed in service in accordance with good engineering principles. Corrosion protection for the tank and its piping shall be provided by one or more of the following methods:

- [1] Use of protective coatings or wrappings.
- [2] Cathodic protection.
- [3] Corrosion-resistant materials of construction.

(6) No boat docks or dockage area shall extend closer than twenty (20) feet to any adjoining property line. The property line shall be measured by the extension of an imaginary line drawn perpendicular to a tangent of the shoreline at a place where the property line and the shoreline intersect.

(7) Adequate safety and traffic control devices shall be provided to ensure controlled safe ingress and egress of boats, for a distance of 200 feet or a distance to be determined by the Planning Board.

(8) Adequate separation from both public and private beach areas shall be provided as determined by the Planning Board.

D. Mountainsides.

(1) In highly visible areas, such as mountainsides, existing and introduced native vegetation should be used to blend the structure with the surrounding landscape. Selective cutting of vegetation should be utilized to provide a view from within the structure while minimizing the structural intrusions upon the visual landscape.

(2) Buildings should not be silhouetted against the skyline. Buildings should be sited below the crest or ridgeline or hills to preserve a natural topographic and vegetative profile.

(3) Hillside cuts for roads or other site development areas of high visibility should be stabilized and vegetated with native species to avoid highly contrasting unnatural landforms.

(4) The use of exterior materials, textures and colors, preferably earth tones, shall be consistent with the surrounding mountainside. The use of reflective materials shall be minimized.

(4) The location, height, design, arrangement and intensity of exterior lighting shall minimize glare and shall be directed and shaded to prevent objectionable light from adversely impact the visual landscape. Buildings shall be lit to the minimum extent that is necessary to provide safe ingress and egress to the structure.

E. Fire protection. All proposed structures shall be readily accessible for fire protection. Driveways and access roads shall have sufficient overhead clearance, and shall have sufficient width, and grade to permit fire truck access.

F. Aesthetics.

(1) Existing vegetation, topography and careful siting methods shall be utilized to minimize the visual impact of the proposed development.

(2) Outdoor public areas, walks, parking areas or similar site improvements shall be landscaped.

(3) The size and shape of the structures and other site improvements shall be consistent with the character of neighboring buildings and shall be in harmony with the landscape character.

(4) The use of exterior materials, textures and colors shall be consistent with the character of the neighborhood and shall be in harmony with the landscape character.

G. Development guidelines.

(1) The Planning Board should determine if proposed development will be visible from the travel route(s) and, if so, the distance from proposed development to such route(s).

(2) Development proposed within travel corridors should be constructed in a manner which maintains the open space character of the Adirondack Park, especially within rural use and resource management areas. Buildings should be placed back from roads to harmoniously reflect the rural character of the region.⁵⁴

(3) Existing vegetation should be retained along roads in sparsely developed areas.

(4) The siting of buildings placed within high quality views or in the foreground view of travel corridors should utilize vegetation and topographic screening and landscaping techniques to minimize their intrusion on the character of the area.

(5) Sand, gravel and other borrow pits and stockpiling areas should be located away from the scenic vistas unless they are effectively screened from view from the corridor.

(6) Potential views should be developed and used in plan development.

⁵⁴Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

(7) Scenic vistas created by the presence of open fields, especially in the vicinity of heavily wooded areas, should be protected. Development should be placed within wooded areas adjacent to open fields.

(8) Site development should be planned so that it harmonizes with the existing landscape character type by using existing landforms and vegetation. Development in natural areas should blend into the landscape; development in hamlet areas should reflect their Adirondack character.

(9) For highly visible wooded areas, structures should be sited in wooded areas rather than in open fields. Light colored or highly reflective materials should be avoided. In previously developed or in agricultural areas, natural building materials should be used.

(10) Roads, utility rights-of-way and other linear alterations should follow topographic patterns, diagonally traversing slopes to avoid forms which tend to stand out against the rolling mountainous terrain of the Adirondacks.

(11) The siting of sand and gravel extractions in highly visible locations should be avoided, and, where this is impractical, vegetative screening should be used to minimize visual impacts.

(12) The adequacy, type and arrangement of trees, shrubs and other suitable plantings, landscaping and screening shall create a visual and/or noise buffer between the applicants and adjoining lands, including the maximum retention of existing vegetation and maintenance, and the removal and replacement of dead or deceased plants.

H. Historic Considerations

In approving or disapproving applications that may involve a historic site, the Planning Board shall consider the following principles:

(1) Every reasonable effort shall be made to provide a compatible use for a historic site that requires minimal alteration of the building, structure or site and its environment, or to use the historic site for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure, or site and its environment shall be retained. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that are incompatible shall be discouraged.

(4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized.

(5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials or historic landscape features shall be not undertaken.

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

~ 175-44. Governmental services and impact

The Planning Board shall take into account the ability of the responsible unit of government to provide the services and facilities that will be required by the use or project under consideration and to guide development in a manner that reflects the physical capacity of the service system or facility and the financial capacity of the responsible unit of government to respond to additional requirements generated by such use or project.

ARTICLE VII ADDITIONAL STANDARDS FOR CERTAIN USES

~ 175-45. Applicability

The following uses in addition to conforming to all the regulations of this chapter shall meet the minimum standards set forth in this Article.

~ 175-46. Filling stations

A. The following minimum distance requirements shall be adhered to:

- (1) There shall be 12 feet from a pump island to any lot line.
- (2) There shall be 20 feet from a building to each side lot line.
- (3) There shall be 1,500 feet between filling stations (this distance shall be measured along or across the street frontage, with distance to be measured from the lot lines).
- (4) There shall be 500 feet in any direction from a place of public assembly (including schools, churches, parks, theaters, etc.).
- (5) There shall be 20 feet from any property corner to an access drive. Access drives are not to be wider than 50 feet.
- (6) There shall be 10 feet from an access drive to any lot line.
- (7) There shall be 300 feet from a residential district where the residential district fronts on the same street as the filling station or faces the filling station, and in any other case, such distance shall be not less than 200 feet from the nearest lot line of the filling station.
- (8) No damaged or dismantled vehicles or vehicular parts shall be stored externally.

B. A suitable fence or screen planting six feet in height shall be provided where a filling station abuts a residential street.

C. Driveways and service areas shall be surfaced with a non-dust-producing surface. Lights shall be directed onto the lot of the filling station in such a manner that no direct beams of light or unnecessary glare shines into other property or the highways.

~ 175-47. Multiple-family dwellings

The minimum lot area necessary per each individual dwelling unit shall be the minimum lot area in Schedule II of Article IV hereof⁵⁵ for the zoning district in which the multiple-family dwelling is to be located, provided that in the RH Zoning District the minimum lot area shall be 15,000 square feet per unit. Each side yard shall be 30 feet or the height of the building, whichever is greater. Approval of water and sewage disposal shall be in accordance with the Consolidated Health District of the Town and Village of Lake George.

~ 175-48. Two-family dwellings

The minimum lot requirement for a single two-family dwelling on one lot shall be the same as that which is required for a single-family dwelling in the TC-A, TC-B and RH Zoning Districts. The yard requirements shall be in accordance with Schedule II⁵⁶ for single-family residences. Approval of water supply and sewage disposal shall be in accordance with the Consolidated Health District of the Town and Village of Lake George. In all other zones, where permitted, two-family dwellings will require twice the lot size of a single-family dwelling in said zoning district.

~ 175-49. Light industry standards

A. In addition to any and all other applicable provisions of this chapter, light industrial uses shall:

- (1) Conduct all activities associated with the industry in an enclosed structure.
- (2) Not store materials outside of any structure.
- (3) Not produce, process or alter items in excess of 250 pounds in weight or 40 cubic feet in size.
- (4) Not store or manufacture hazardous materials, as they are defined by the Department of Environmental Conservation.

B. No manufacturing or light industry facility shall be constructed, nor shall any process be undertaken, where said facility or process will become noxious or offensive by the emission of noise, smoke, dust, odors, gas or light.

⁵⁵Editor's Note: Schedule II is included at the end of this chapter.

⁵⁶ Editor's Note: Schedule II is included at the end of this chapter.

~ 175-50. Riding academies and public and private stables

A. The following minimum distance requirements shall be adhered to:

(1) The minimum distance from street line to any nonresidential building shall be 125 feet. The minimum distance from any side or rear lot to any nonresidential building shall be 100 feet.

(2) The minimum distance to any dwelling shall be 200 feet.

(3) No storage of manure, odor or dust-producing substance or any use producing odor or dust shall be permitted within 200 feet of any property line.

(4) No private stable may be placed closer than 200 feet to the shore of any lake, river or stream.

B. Adequate off-street parking, as determined by the Planning Board or Zoning Officer, shall be provided.

C. Exceptions. Private stables, which are accessory to single family residences, are exempt from the minimum distance requirements of this provision.

~ 175-51. Dude ranches and camps

Dude ranches and camps where permitted by this chapter shall conform to the following requirements:

A. The minimum land area shall be 10 acres.

B. No public stable or corral shall be placed closer than 200 feet to any property line or 200 feet from the shore of any lake, river or stream.

C. No building will be located closer than 1,500 feet from the centerline of the main road serving the dude ranch, except an office building of no more than 1,000 square feet.

D. In addition, tourist accommodations associated with dude ranches and camps shall meet the requirements of Article VII, ~ ~175-52, Tourist accommodations.

~ 175-52. Tourist accommodation

[Amended 12-13-1993; 10-19-1998]

Motels, hotels, tourist time-share projects, housekeeping cottages, and other tourist accommodations shall be subject to the following additional requirements:

A. Minimum land area.

(1) The minimum land area necessary per each tourist accommodation unit for rent or hire involving less than 300 square feet of floor space shall be 1/10 the minimum lot area in Schedule II of Article IV hereof⁵⁷ for the zoning district in which the tourist accommodation is located.

(2) The minimum land area for each tourist accommodation unit having over 300 square feet in size shall be the minimum lot area required in the zone in which it is located; provided, however, that in the Residential Commercial High Density (RCH) and Residential Commercial High Density Lakeshore (RCH-LS) Zoning Districts located in the hamlet on the Adirondack Park Agency's Map, tourist accommodation units having:

(a) Five hundred square feet of floor space or less, without kitchen facilities, shall have 2,000 square feet of land associated with it.

(b) Seven hundred fifty square feet of floor space or less, with kitchen facilities, shall have 3,000 square feet of land associated with it.

(3) The minimum land area necessary for a tourist accommodation unit in the Tourist Commercial (TC-A, TC-B) Zoning Districts, located in the hamlet on the Adirondack Park Agency's Map shall be the following:

(a) Five hundred square feet of floor space or less, without kitchen facilities, shall have 1,500 square feet of land associated with it.

(b) Seven hundred fifty square feet of floor space or less, with kitchen facilities, shall have 2,500 square feet.

(4) Kitchen facilities for a tourist accommodation shall consist of a stove, refrigerator and sink.

⁵⁷Editor's Note: Schedule II is included at the end of this chapter.

(5) The minimum land area necessary for a tourist time-share project in the Residential Commercial High Density Lake Shore (RCH-LS) Zoning District is as follows:

(a) Lake-side requirements: 900 square feet of land area for every 100 square feet of floor space.

(b) No-lake-side requirement: 1,250 square feet of land area for every 100 square feet of floor space.

(c) There shall be a minimum of 500 square feet of floor space per unit and a maximum of 1,000 square feet of floor space per unit.

(d) Caretakers/owners residence requires 20,000 square feet of land area.

(e) Restaurants in tourist time-share projects, if open to the public, require one acre of land area.

B. No portion of a motel, hotel or other tourist accommodation shall be closer than 100 feet to the shore of any lake or pond, except that if the building setback restriction for the zoning district is greater, such greater setback will be observed.

C. [Amended 8-10-1998] Where a motel, hotel or other tourist accommodation involves the shoreline of any lake or pond or river or stream navigable by boat, including canoe, the minimum required shoreline frontage shall be the greatest of the following:

(1) One hundred feet.

(2) The minimum shoreline lot width for the zoning district in which the motel, hotel or other tourist accommodation is proposed to be located.

(3) The number of accommodation units multiplied by five feet.

D. Accessory Retail Uses. Retail uses shall be permitted as accessory uses to tourist accommodations in the following districts: Residential Commercial Medium Density, Residential Commercial High Density, Residential Commercial High Density – Lakeshore, and Tourist Commercial. Accessory retail uses shall be limited to 10% of the gross floor area of the principal tourist accommodation use and otherwise subject to site plan review.

E. Floor space.

Floor space for motels, hotels, tourist time-share projects, housekeeping cottages and other tourist accommodations shall be computed in the following manner:

(1) By using the outside dimensions of the building for the first floor.

(2) Adding to the area within any four-foot (4') walls or higher on any upper floors, excluding the upper floor measurement of any stairway leading to any upper floor.

(3) Closets and storage areas count as floor space if located in an area within four foot (4') walls or higher.

(4) Finished basements count as floor space; unfinished basement areas do not. Basement space shall be considered to be finished if it is heated and contains walls and flooring suitable for use as bedroom, living room or playroom area. Basement space shall be considered unfinished if it is unheated and/or its walls and flooring are suitable only for utilities, laundry and/or storage area.

(5) Finished attic space shall count as floor space, but unfinished attic space shall not be counted. Attic space shall be considered unfinished if it is only accessible by a fold-down or temporary stairway and/or it does not include flooring and walls. Attic space shall be considered to be finished if it is accessible by a permanent stairway and includes flooring and walls.

(6) Adding the sum total of all floor area of all unattached or attached garages, porches, decks, etc.

~ 175-53. Mobile home courts, campgrounds and travel trailer parks

A. Applicability. The provisions contained herein shall not apply to:

(1) The business of selling mobile homes.

(2) The storage of travel trailers not being used for living or sleeping purposes within a building or structure or to the storage of one unoccupied such travel trailer on premises occupied as the principal residence by owner; provided, however, that such unoccupied travel trailer shall not be parked between the street line and the front building line of such premises.

(3) A travel trailer or other mobile home on the site of a construction project, survey project or other similar work project and used as a field office or work- or tool house in connection with such project, provided that

such travel trailer or mobile home is removed from the site within 30 days after the completion of the project.

B. Permit requirements.

(1) No person shall establish or expand a mobile home court, campground, or travel trailer park without first obtaining a permit from the Planning Board pursuant to Article VI.

(2) All new and existing mobile home courts, campgrounds, and travel trailer parks shall obtain an annual operating permit. The fee for the annual operating permit shall be as set forth from time to time by resolution of the Town Board. The permit shall become effective on the date of issuance and continue in force through the 31st day of December next succeeding. A permit shall not be transferable or assignable.⁵⁸

(3) Application for renewal of the annual operating permit shall be filed with the Town Clerk on or before the first day of December. The renewal application shall be in writing on the forms provided by the Zoning Officer and need not be accompanied by a plot plan unless substantial changes have been made. Upon review and approval of the Zoning Officer, a renewal permit shall be issued effective upon the expiration of the prior permit. A renewal may not be denied except in the event that a mobile home court, campground, or travel trailer park is not being operated in accordance with the provisions of this chapter or is not being maintained in a clean and sanitary condition.

(4) Mobile home courts, campgrounds, and travel trailer parks will no longer be combined. The owner of a mobile home court, campground, or travel trailer park must register with the town as to what they are, and the owners will be given three years to comply with the existing regulations. Business licenses will not be issued to owners who have not chosen to comply with these regulations. [Added 8-10-1992]

C. Existing mobile homes. Any mobile home lawfully in existence on the first date of adoption of these regulations but not located in a court for which a permit is required hereunder may continue, provided that:

(1) The owner or occupant shall register said mobile home with the Zoning Officer within 30 days of such effective date, free of charge.

(2) When it is desired by the owner or occupant thereof with respect to the same premises to relocate or replace it with a mobile home with

⁵⁸Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

equal or superior construction (or improved facilities such as porches or decks or an addition) such owner shall apply to the Town Planning Board for a permit as provided for in Article VI. Any such relocation or replacement shall meet all applicable requirements of Subsection D. [Amended 4-10-1995]

D. Standards for mobile home courts,

(1) All new mobile home courts or expansion of existing courts shall comply with the following standards:

(a) Each mobile home lot shall be a minimum of 5,000 square feet with a minimum dimension of 50 feet by 100 feet. A lot for a double-wide mobile home shall be a minimum of 10,000 square feet with minimum dimensions of 100 feet by 100 feet. In no event shall the total number of mobile homes within a court exceed the density of lots or dwelling units allowed by the zoning district in which the court is located.

(b) Durable surfaced driveways to each mobile home lot shall be provided to ensure safe and easy access under normal use and weather conditions.

(c) A mobile home or travel trailer shall not be located less than 10 feet from any other such unit in a court nor within 50 feet of any public highway or street line nor within 25 feet of any adjacent property line, nor within five feet of any site line.

(d) An adequate supply of pure water for drinking and domestic purposes shall be provided to all buildings, mobile home lots, and campgrounds used for continuous occupancy.

(e) Each mobile home lot shall be connected to a public sewer or on-site sewer disposal system which complies with the provisions of the Lake George Consolidated Health District Regulations.⁵⁹ Sewer connections on unoccupied lots shall be kept closed or covered.⁶⁰

(f) Garbage cans with tight-fitting covers shall be provided by the permittee of the court in quantities adequate to permit the disposal of all garbage and rubbish. Garbage cans shall be located not further than 200 feet from any mobile home lot nor nearer than 15 feet to adjacent property lines. The cans shall be kept in a sanitary condition at all times.

⁵⁹Editor's Note: See Ch. A180.

⁶⁰Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

Garbage and rubbish shall be collected and disposed of by such permittee as frequently as may be necessary.

(g) Each permittee shall provide weatherproof electrical service connections and outlets for each lot. All such connections and outlets are to be of a type approved by the New York Board of Fire Underwriters.

(h) The permittee shall keep a permanent written record of all persons occupying or using the facilities of such court including:

[1] The names and address of the principal occupant of each mobile home and his/her automobile registration plate number.

[2] The name and address of the owner of each mobile home.

[3] Registration plate numbers, if any, and the make and color of each mobile home.

(i) Any police officer, Zoning Officer, health officer or any authorized representative of the state, county or town shall have the right, at any reasonable time, to enter any mobile home court and shall have the right to inspect all parts of the court (except the individual mobile homes located therein) and to inspect the records required above.

E. All new campgrounds and travel trailer parks or expansions of existing campgrounds and travel trailer parks shall comply with the following minimum standards:

(1) The minimum area of an individual campsite shall be 2,500 square feet.

(2) Individual campsites, service buildings, recreational facilities or accessory structures shall not be located closer than 50 feet to any property line.

(3) The toilet and other sanitary facilities for males and females shall be either in separate buildings or shall be separated, if in the same building, by a soundproof wall.

(4) Toilet facilities for males shall consist of not less than one flush toilet for every 15 travel trailers, one urinal for every 15 travel trailers, one shower

(with individual dressing accommodations) for every 10 travel trailers and one lavatory for every 10 travel trailers.

(5) Toilet facilities for females shall consist of not less than one flush toilet for every 10 travel trailers, one shower with individual dressing accommodations for every 10 travel trailers and one lavatory for every 10 travel trailers.

(6) An adequate supply of hot and cold running water shall be provided for each shower and lavatory.

(7) Service buildings housing the toilet and sanitary facilities shall be permanent structures complying with all applicable ordinances and statutes and shall be located not closer than 20 feet to any travel trailer.

(8) The service buildings shall be well-lighted at all times of the day and night; well-ventilated with screened openings; constructed of such moisture proof material, including painted woodwork, as shall permit repeated cleaning and washing; and maintained at a temperature of at least 68°F. during the period from October 1 to May 1. The floors shall be a water impervious material.

(9) All service buildings and the grounds of the court shall be maintained at all times in a clean, sightly condition.

(10) The provisions of Paragraphs 3, 6, 8 and 9 of Section 7.83(A), Part 7, of the State Sanitary Code and the Lake George Consolidated Health District Regulations shall be complied with.⁶¹⁶²

(11) An adequate supply of pure water for drinking and domestic purposes and at least one cold water tap shall be provided for any two adjoining mobile home lots.

F. Mobile homes not in courts.

(1) No occupied dependent or other mobile home shall be parked or allowed to remain upon any street, alley, highway or other public place (except that emergency stopping or parking occasioned by mechanical failure is permitted upon the shoulder of any street or highway for a period of not longer than 96 hours; subject, however, to any other prohibition, regulation or limitation imposed by law).

⁶¹Editor's Note: See Ch. A180.

⁶² Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

(2) No occupied mobile home shall hereafter be parked or otherwise placed within the Town of Lake George and outside a licensed mobile home park, except as follows: the Town Zoning Officer may grant a license for a period not to exceed one year to the owner of land within the Town of Lake George who intends to construct on such land a dwelling for his own occupancy or his employees' occupancy during the construction of such dwelling. Said mobile home shall be removed from the premises upon the expiration of the permit.

~ 175-54. Marinas

A. General prohibitions. No marina shall be operated within the Town of Lake George without first obtaining site plan approval from the Town of Lake George Planning Board.

B. Class A. Marina means any facility located in whole or in part within the Town of Lake George, which provides service or berthing places for vessels by engaging in any of the following:

- (1) The sale of marine products or services, except for such sale as part of a dry land facility which does not quick launch vessels or regularly service vessels berthed on the waters of Lake George;
- (2) The sale, lease, rental or charter of vessels of any type;
- (3) The operation of a boat launch;
- (4) The offering of rides, instruction or water-based recreation for a fee;
- (5) The operation of a quick launch facility servicing the waters of Lake George regardless of the location where the vessels are stored; or
- (6) The storage, berthing or mooring of two or more motorized vessels and/or non-motorized vessels 18 feet in length or more not registered to the owner of the property, regardless of remuneration or profit, except:
 - a. The use of residential or association docks, wharfs or moorings by the owner of the facility, or the owner's family for boats belonging to the owner, or leasee, of the property in question or the owner's gratuitous guest.

b. Docks, wharfs and moorings used as an accessory use to a hotel, motel, inn, housekeeping cottage, campground or recreational vehicle park, used exclusively by registered guests;

c. Docks, wharfs, and moorings used as an accessory use to a restaurant, used exclusively by patrons while dining at such restaurant; and

d. Docks, wharfs and moorings used exclusively by persons engaged in the sale of fishing products or the sale and service of SCUBA products. The exceptions provided herein shall not apply to facilities which are otherwise engaged in any of the services or activities set forth above in paragraphs (1) – (5) of this subdivision.

C. Class B marina means any dock, wharf or mooring made available for use by any person as a berthing place for one motorized vessel or one nonmotorized vessel 18 feet in length or more not registered to the owner of the property, regardless of remuneration or profit, except:

(1) The use of residential or association docks, wharfs or moorings by the owner of the facility and the owner's immediate family for boats belonging to the owner or leasee of the property in question. or the owner's gratuitous guest.

(2) Docks, wharfs, and moorings used as an accessory use to a hotel, motel, inn, housekeeping cottage, campground or recreational vehicle park, used exclusively by registered guests;

(3) Docks, wharfs, and moorings used as an accessory use to a restaurant, used exclusively by patrons while dining at such restaurant; and

(4) Docks, wharfs and moorings used exclusively by person engaged in the sale of fishing products or the sale and service of SCUBA products.

D. Specific standards. In addition to any and all other applicable provisions of this chapter, all marinas servicing the waters of Lake George shall comply with the following:

(1) No person shall construct, expand, or operate a marina, dock or wharf servicing the waters of Lake George, or alter or expand the number or type of services or recreational activities offered without obtaining Site Plan approval from the Town of Lake George Planning Board, or if site plan approval has been granted for the subject facility, a modification to the approval for that facility which authorizes the new or expanded services or recreational uses.

- (2) No Site Plan approval shall be issued for the construction, operation or expansion of a quick launch facility which was not lawfully in existence and operating prior to the first date of these regulations, or for which no approval was granted prior to the first date of these regulations.
- (3) Site Plan approval issued pursuant to Article VII, ~175-54 B.1, Marinas, of this Ordinance are only valid for the property described on the site plan. Site Plan approval granted to one facility does not imply approval for other facilities owned by the same owners.
- (4) Site Plan approval is required for the construction and/or operation of any new recreational activity. Site Plan approval is not transferable to another location and shall not be leased or transferred to another location, facility or operator.
- (5) All provisions for vessel storage, launching, docking and parking for cars and trailers shall be located on the same one lot.
- (6) The quick launching of vessels shall be limited to 20% of the maximum number of vessels that could be stored.

E. In addition to any and all other applicable provisions of this chapter, all Class A marinas shall provide the following:

- (1) Rest rooms for the use of its customers or clientele.
- (2) Trash disposal receptacles sufficient to accommodate all trash generated by the marina's customers or clientele and maintained in a clean and usable condition.
- (3) Adequate parking spaces for customer's vehicles, as determined by the Planning Board. Where the Class A marina offers rides, instruction or water-based recreation for a fee, adequate parking must be provided for customers of the Class A marina.
- (5) A maintenance program sufficient to keep all wharves, adjacent shoreline, water and the lake bottom clean of debris.
- (6) A plan that minimizes the project's visual impact and avoids any navigational hazards.
- (7) A plan designed to avoid damage to the environment due to leakage or spills of fuels, lubricants, waste products or other pollutants.

- (8) Where applicable, proof of compliance with New York State fire code standards and DEC bulk storage standards for the storage of gasoline and hazardous materials. If applicable, no permit application shall be complete until proof of compliance is submitted to the Zoning Officer.
- (9) For each Class A marina with a petroleum sales facility, a plan relative to the inspection and maintenance of petroleum storage facilities and all associated equipment, and appropriate measures relative to spill prevention and countermeasures. Such plan shall include:
- (a) the inspection of all plumbing and related pumping equipment, not less than daily, to guard against leakage of petroleum products into the waters of the Park;
 - (b) the training of each person pumping motor fuels in procedures to guard against the spillage of such motor fuels into the waters of the park and procedures to respond to a spill; and
 - (c) the maintenance, in close proximity to the pumping facilities, of such equipment as is necessary to respond to any spill of petroleum products into the waters of the Park or on to land or structures where it may flow into the waters of the Park.
- (10) Facilities for the disposal of sanitary wastes from vessels with on-board sanitary equipment including:
- (a) on-site pumpout facilities, or proven access to pumpout facilities, for use by vessels which use the services of the Class A marina; and
 - (b) facilities for the disposal of waste from portable marine toilets, or proven access to such facilities, for use by vessels, which use the services of the Class, A marina.
 - (c) Such facilities as discussed in (a) and (b) above shall be designed, installed, operated and maintained to prevent the discharge of contaminants from marine toilets to the waters of the Park or the ground from which they may flow into the waters of the Park. For the purposes of this paragraph, vessels using the services of the Class A marina shall include vessels, which moor, dock or are quick launched by the marina. Written proof of access to disposal facilities for a period equal to the life of the permit shall be required. Off-site facilities must be located within a reasonable distance from the Class A marina.
- (11) A boat cleaning area that is designed, operated and maintained in such a manner to prevent contamination of the waters of the Park shall be provided, or boat cleaning shall be prohibited.
- (12) All Class A marina owners engaged in the rental of personal watercraft (PWC) shall comply with the following regulations:

- (a) The owner or operator of a PWC shall ensure that prior to operation all users of PWC have read the rules and regulations governing their operation as contained in subparts 645 and 646 of Title 6:NYCRR, and Article 73 of the NYS Navigation Law. All users shall sign a form prepared by the owner or operator that indicates the user has read said rules and regulations. The owner or operator shall maintain written records ensuring compliance with these requirements. The records are subject to inspection by the Planning Board, or any duly appointed representative of the Town Board.
- (b) If the PWC is part of a rental fleet or group of PWCs , a tour guide shall operate a vessel with the fleet or group.
- (c) A fleet or group shall not consist of more than six (6) PWC. The tour guide shall guide the operations and behavior of the fleet or group. The tour guide shall not be in charge of more than one (1) fleet or group at any time.

F. In addition to any and all other applicable provisions of this chapter, Class B marinas located on the waters of Lake George shall comply with the following:

- (1) Restrooms for the use of customers or clientele.
- (2) Trash disposal receptacles sufficient to accommodate all trash generated by the marinas customers and maintained in a clean and usable condition.
- (3) Adequate parking spaces for customer's vehicles, as determined by the Lake George Planning Board.
- (4) Adequate facilities, or proven access to such facilities for the disposal of waste from portable marine toilets, for use by vessels which use the services of the Class B marina. Such facilities shall be designed, installed, operated and maintained to prevent the discharge of contaminants from marine toilets to the waters of the Lake or the ground from which they may flow into the waters of the Lake. For the purposes of this paragraph, vessels using the services of the Class B marina shall include vessels, which moor, dock or are quick launched by the marina. Written proof of access to disposal facilities for a period equal to the life of the permit shall be required. Off-site facilities must be located within a reasonable distance from the Class B marina.

G. All other marinas, docks, wharfs, dockminium facilities, quick launch facilities, and piers shall be subject to Planning Board review and the provisions of §175-54.D, Marinas.

~ 175-55. Commercial boat storage⁶³

Commercial boat storage is a permitted use by site plan review in the RCH-LS Residential Commercial High Density Lakeshore District. When proposed in the RCH zoning district, commercial boat storage shall be considered a marina and, therefore, subject to Article VII, ~ 175-54, Marinas.

~ 175-56. Home Occupations

A. Purpose

It is the purpose of this section to regulate the operation of home occupations to ensure that the home occupation remains secondary or incidental to the residential use. The right of property owners to be free of nuisances caused by certain home occupations is recognized. Only those uses will be allowed which:

- (1.) Ensure compatibility of home occupations with other uses permitted in residential districts.
- (2.) Maintain and preserve the character of residential neighborhoods.
- (3.) Are incidental to the use of the premises as a residence.

B. Classification of Home Occupations

Home occupations are classified as either Type I or Type II. Type I home occupations will have no impact on the surrounding neighborhood and are characterized by the following criteria:

- (1.) The business has no employees, other than those that reside on the premises. The business may have additional employees who do not work on premises.
- (2.) The business has no customer traffic.

⁶³Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

- (3.) There are no deliveries to or from the home occupation other than routine mail and incidental package delivery.
- (4.) No equipment is used other than normally used in household, domestic, or general office use.
- (5.) There is no visible exterior evidence of the occupation. Visible exterior evidence shall include visibility of the contents of a garage by leaving a garage door open for an extended period of time.
- (6.) There are no 'commercial vehicles' associated with the home occupation parked either on the property with the Type I occupation, in a public street or street right-of-way adjacent to the home occupation for more than three consecutive days. Commercial vehicle is defined as that vehicle requiring a commercial driver's license.

Type II home occupations have the potential to have a greater impact on the surrounding neighborhood than the Type I home occupations and are characterized by the following criteria:

- (1.) The business may have up to two employees, in addition to those that live on the premises. The business may have additional employees who do not work on premises.
- (2.) The business may have customer traffic.
- (3.) There may be deliveries to or from the home occupation in addition to routine mail and incidental package delivery.
- (4.) Equipment, other than normally used in household, domestic, or general office use, may be used.
- (5.) There may be visible exterior evidence of the occupation such as signs or materials storage. Visible exterior evidence shall include visibility of the contents of a garage by leaving a garage door open for an extended period of time.
- (6.) There are 'commercial vehicles' associated with the home occupation parked on the property with the home occupation or in a public street or street right-of-way adjacent to the home occupation for more than three consecutive days. Commercial vehicles are defined as those requiring a commercial driver's license.

C. Standards

All home occupations shall meet the following criteria:

- (1.) Floor area. The home occupation shall not occupy more than 25% of the gross floor area of the primary dwelling, nor 25% of a garage and accessory structure when combined. The garage and accessory structures must be located on the same property as the primary dwelling.
- (2.) Number of occupations per dwelling. No more than one home occupation shall be permitted within any single dwelling unit.
- (3.) Limitations on nonresidents. The individual primarily responsible for the home occupation shall reside in the dwelling unit.
- (4.) Employees. No employees, in addition to the immediate family permanently residing on the premises, shall be employed in a Type 1 Home Occupation. A Type 2 Home Occupation may have up to two employees.
- (5.) Hours of Operation. In no case shall a Type 2 Home Occupation be open to the public at times earlier than 8:00 a.m., nor later than 6:00 p.m.
- (6.) Storage. There shall be no storage of equipment, vehicles or supplies associated with the Type 1 Home Occupation outside the dwelling or accessory building.
- (7.) Signage. Type 1 home occupations may not have a sign. A Type 2 Home Occupation may have a sign in compliance with Article V, §175-32 3, Signs, of this Chapter. Under no circumstances, shall signs located outside of the APA Hamlet exceed five (5) square feet.
- (8.) All home occupations shall otherwise meet the definitions of "accessory uses" and "accessory structure".

D. Procedures

- (1.) Business license. In order to operate, all home occupations are required to obtain a business license through the Town Clerk's Office. The granting of that business license shall be contingent upon the applicant's ability to demonstrate that they have a land use and development permit from the Zoning Officer for a Type I home occupation or that they have obtained site plan approval for a Type II home occupation. Each business license is valid for a term of one year from the date it was approved and, provided the home occupation use is to continue, shall be renewed on or before the expiration date of that

license. The fee for such business license shall be in accordance with the Town of Lake George Business License Fee Schedule.

(2.) Site Plan Approval. Every Type II home occupation shall be required to obtain site plan approval in accordance with the procedures outlined in Article VI. The land use and development granted to a home occupation shall not be transferable from person to person or from address to address.

(3.) Nonconforming Home Occupations. Any nonconforming home occupation shall be discontinued or comply with all the applicable provisions of this Chapter within 24 months after the home occupation first became nonconforming. A nonconforming home occupation is one which was lawfully in existence on the first date of adoption of these regulations, but is no longer allowed because of the application of this chapter or any amendment hereto.

E. Enforcement

Voiding of permit or business license. The Zoning Officer may void any land use and development permit or business license for noncompliance with the criteria set forth in this chapter or for providing false statements in the license or special use permit application. Revocation may take place at any time prior to the expiration date of the permit. If the permit or license is revoked or is not renewed, it becomes null and void, and the home occupation use shall be terminated. If a permit or a license has been revoked, the owner of the home occupation business shall not apply for another business license or land use and development permit for a period of one year from the date of the revocation.

F. Inspections

The Zoning Officer shall have the right at any time, upon reasonable request and consent or lack of objection from the property owner, to enter and inspect the premises of the home occupation for safety and compliance purposes.

~175-57. Trailers

The use of 'trailers' throughout the Town of Lake George shall conform to the following provision. 'Travel trailers' shall be subject to Article VII, ~175-53 Mobile Home Courts, Campgrounds and Travel Trailers.

A. Intent. The Town of Lake George recognizes that the use of 'trailers' has the potential to impact the aesthetics of residential and commercial environments. In an effort to preserve the aesthetics of these areas, the Town has enacted the regulations contained within this section.

B. Regulation.

1. All trailers, regardless of the zoning district in which they are used, shall be located away from the front lot line and behind the front yard setback.

2. In the RS-1, the RSH, the RH and the RCH-LS districts, trailers may not be located in the front yard and must be placed at least 25 feet back from the lot line, or be placed behind substantial vegetation or fencing, effectively screening the trailer from the road.

C. Compliance. The owner of the property on which the trailer(s) reside shall have 60 days from the date that these regulations are enacted to comply with this section.

~175-58. Self-Service Storage Facilities

Self-service storage facilities, where permitted by this chapter, shall conform to the following requirements:

A. Intent. The Town of Lake George, in an effort to provide an alternative to the use of 'storage trailers' on commercial or residential properties recognizes the need for self-service storage facilities. However, the Town also recognizes that such a use may have the potential to impact the aesthetics of surrounding land uses and therefore additional regulatory requirements are provided within this subsection.

B. Location of Storage. Storage materials, including boats, vacant trailers, and recreational vehicles, shall be stored internally within the self-service storage facility.

C. Lot Coverage. Lot coverage shall be in accordance with Schedule II, Dimensional Requirements.

D. Setbacks. Side and rear yard setbacks shall be in accordance with Schedule II, Dimensional Requirements. Front yard setbacks shall be at least 50 feet.

E. Landscaping. Landscaping and buffering shall be provided in accordance with ~175-21 of this chapter, except that a "C" type buffer shall be required for self-service storage facilities, as described in the Landscaping and Buffering provisions of the Commercial Design Guidelines.

F. Lighting. Lighting shall be provided in accordance with the Commercial Design Guidelines.

G. Height. A maximum ceiling height of 12 feet shall be permitted. Ceiling height shall be measured from the lowest point finished floor to the ceiling.

H. Circulation and Off-Street Parking. One parking space shall be provided for every fifty storage units. Driveways shall be designed so that there is at least twenty feet between rows of buildings.

I. Prohibited Uses in Self-Service Storage Facilities

- (1.) Auctions, commercial, wholesale, or retail sales, or miscellaneous or garage sales. 'Auctions' shall not include auctions of property of delinquent occupants as provided for in the provisions of ~182 of the Lien of the State of New York.
- (2.) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment. An exception is the aforementioned use by the facility owner.
- (3.) The operation of power tools, spray painting equipment, kilns, or other similar equipment. However, the use of the aforementioned equipment by the facility owner shall be permitted to allow for the normal maintenance operations of the facility.
- (4.) The establishment of a transfer and storage business.
- (5.) Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations
- (6.) Use of the storage unit as living quarters or dwelling
- (7.) Housing of live animals
- (8.) Storage of any explosive or highly flammable material, hazardous to toxic goods. (Amended 8/12/2002)

~175-59. Sand, Gravel and Topsoil Extraction

- A. Purpose. The purpose of this section is to promote the health, safety and general welfare of the residents of the Town of Lake George, to minimize the visibility of unsightly mining operations; and to minimize adverse visual effects from mining operations by requiring careful

siting, visual impact assessment, appropriate buffering, and appropriate hours of operation.

- B. Consistency with the New York State Mined Land Reclamation Act. Any person who mines or proposes to mine from each mine site more than one thousand tons or seven hundred fifty cubic yards, whichever is less, of minerals from the earth within twelve successive calendar months or who mines or proposes to mine over one hundred cubic yards of materials from or adjacent to any body of water not subject to the jurisdiction of NYCCRR 608 or to the public lands law shall not engage in such mining unless a permit for such mining operation has been obtained from the New York State Department of Environmental Conservation, Division of Mineral Resources.
- C. Extraction Threshold. The `extraction threshold' shall be defined as 1,000 tons or 750 cubic yards or 50 cubic yards if the location of extraction is 100 feet from a water body.
- D. Standards.
 - 1. Site Plan Review. Private and commercial sand, gravel and topsoil extraction that falls below the `extraction threshold' shall be subject to site plan review and the considerations specified in Article VI, Site Plan Review. Private and commercial sand, gravel and topsoil extraction, whether or not it falls below or is at or above the `extraction threshold' shall also be subject to the considerations listed below:
 - (a) Excavation.
 - (i) Slopes caused by the excavation shall, upon completion, not exceed 30%.
 - (ii) The depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually, except upon a showing satisfactory to the Planning Board during site plan review that the site plans contain mitigative measures adequate to assure that the proposed use of the land will not cause any undue, adverse impacts either to such groundwater table or to any surface waters into which such lands drain.

- (iii) Stockpiled material shall not exceed 35 feet in height.
- (b) Buffer Zones.
 - (i) An undisturbed buffer zone of 50 yards shall surround the excavation within the limits of the property.
 - (ii) The entry into the excavated area shall be curved so as to prevent a direct view from the public right-of-way.
 - (iii) The provisions of the erosion, sedimentation and stormwater runoff control regulations contained herein shall govern all excavations.
- 2. Limitations on Site Plan Review. Where the amount of material to be extracted over a 12 month period exceeds the 'extraction threshold' site plan review shall be limited to the following considerations:
 - (a) Ingress and egress to public thoroughfares controlled by the Town of Lake George;
 - (b) Routing of mineral transport vehicles on roads controlled by the Town of Lake George;
 - (c) Requirements and conditions as specified in the permit required by the New York State Department of Environmental Conservation under the New York State Mined Land Reclamation Law (Title 27) concerning setback from property boundaries and public thoroughfare right-of-way natural or man-made barriers to restrict access, if required, dust control and hours of operation, when such conditions are required under section 23-2711 of Title 27;
 - (d) Enforcement of reclamation requirements contained in mined land reclamation permits issued by the state.

~175-60. Travel Trailers

The following regulations shall apply to travel trailers.

- (1.) On property on which the principal use is a 'residential use', the following regulations shall apply:
- (2.) The travel trailer(s) must be registered to the owner of the property on which the travel trailer is situated.
- (3.) The travel trailer shall not be occupied by any persons for overnight use.
- (4.) The travel trailer must be located in the rear or side yard and behind the front yard setback.
- (5.) The use of a travel trailer shall be prohibited on a vacant lot.

B. On property on which the principal use is a 'commercial use,' travel trailers shall be prohibited unless that commercial use is a licensed travel trailer park.

~175-61. Kennels.

Kennels shall be located on parcels of at least 10 acres. All dog runs or other areas in which dogs are kept must be located at least 200 feet from any property line.

ARTICLE VIII NONCONFORMING USES AND BUILDINGS

~ 175-62. Continuing existing uses

Except as otherwise provided in this Article, the lawfully existing use of land or buildings existing at the time of the adoption of this chapter may be continued, although such uses do not conform to the standards specified in this chapter for the zone in which such land or building is located. However, no land shall be subdivided so as to create a nonconforming lot, use, building or other structure, nor shall a nonconforming lot, use, building or other structure be made more nonconforming than it was at the first date of adoption of this chapter.

~ 175-62.1 Nonconforming use of land

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

~ 175-63. Nonconforming use of buildings

A. A building or structure, the use of which does not conform to the zoning regulations for the district in which it is situated:

- (1) Shall not be expanded or enlarged.
- (2) Shall not be changed from one nonconforming use to another nonconforming use.
- (3) Shall not increase or expand the nonconformity of the building.

B. In order not to unnecessarily deprive anyone of value, the following will be allowed:

- (1) The maintenance and repair of a nonconforming use.
- (2) The replacement of a nonconforming use on the same building footprint if it is damaged by fire or natural disaster, upon approval of the Board of Appeals.
- (3) The rebuilding or modernization of nonconforming use if not expanding by volume or change use.

~ 175-64. Other nonconformity

No permit shall be issued that will result in the nonconformity or the increase of any existing nonconformity of any dimensional requirement as outlined in Schedule II of Article IV of this chapter.⁶⁴ No use or structure with nonconformity of any dimension shall be expanded in any direction, vertically or horizontally. Nothing in this chapter shall prevent the use of any lot or the erection of a building or other structure on any lot, which does not conform to the minimum area, shape or frontage requirements of this chapter, as of the first date of adoption of this section, provided that all other requirements of this chapter have been met and the owner of such lot does not own sufficient contiguous land within the Town of Lake George to make a nonconforming lot more nearly a conforming lot.

~175-65. Discontinuance

If a nonconforming use is discontinued for a period of 24 consecutive months, further use of the property shall conform to this chapter or be subject to review by the Zoning Board of Appeals.

⁶⁴Editor's Note: Schedule II is included at the end of this chapter.

ARTICLE IX TELECOMMUNICATION TOWERS

~175-66. Purpose

A. The purpose of this section is to promote the health, safety and general welfare of the residents of the Town of Lake George, to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

B. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

~175-67. Designated Areas

Placement of telecommunication towers is restricted to certain areas within the Town of Lake George. The restricted areas are as follows:

- (1.) 1,000 feet from the Adirondack Northway (I-87), as measured perpendicular to the right-of-way.
- (2.) In the RCM-1 zoning district on the west side of I-87.
- (3.) In all LC-50 zoning districts.
- (4.) Telecommunication towers are specifically excluded from all other zones within the Town of Lake George.

~175-68. Application of Regulations

A. No telecommunication tower, except those approved prior to the first date of adoption of this section, shall be used unless in conformity with these regulations. No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with these regulations.

B. All applications pursuant to this article shall be subject to site plan review.

C. Exceptions to these regulations are limited to new uses, which are accessory to residential uses, and lawful or approved uses existing prior to the first date of adoption of this section, [INSERT DATE OF ADOPTION, i.e. July xx 2003.]

D. Applications for construction of new telecommunication towers shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated within Federal Aviation Regulations (FAR) Part 77. Additionally, no application for construction of a new telecommunication tower will be approved if the proposed tower violates the criteria for obstructions to air navigation as established by FAR Part 77 Subpart C-Obstruction Standards.

~175-69. Shared Use of Existing Tall Structures

At all times, shared use of existing tall structures (for example, municipal water towers, multi-story buildings, church steeples, farm silos, etc) and existing or co-location (use of existing or approved towers), shall be preferred to the construction of new towers.

~175-70. New Telecommunication Tower

The Planning Board may consider a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.

~175-71. Shared Usage of an Existing Tower Site for Placement of a New Tower

Where shared use of existing tall structures, and existing or approved towers, is found to be impractical, the applicant shall investigate shared usage of an

existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with subsection ~Article IX, ~175-70, New Telecommunication Tower, above.

~175-72. New Tower at a New Location

The Board may consider a new telecommunications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures, and existing or approved towers, is impractical, and submits a report as described in subsection Article IX, ~175-70, New Telecommunications Tower above; and when the Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's investigation in accordance with Article IX, ~175-71, Shared Usage of an Existing Tower Site for Placement of a New Tower.

~175-73. New Towers: Future Shared Use

The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the building inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and his/her successors in interest to:

A. Respond within 90 days to a request for information from a potential shared-sue applicant.

B. Negotiate in good faith concerning future requests for shared use of a new tower by other telecommunications providers.

C. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rate share of the cost of site selection, planning, projection administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

~175-74. New Tower Design

Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

A. Any new tower shall be designed to accommodate future shared use by other telecommunications providers.

B. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.

C. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.

D. The Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower. The cost of this review shall be borne by the applicant.

E. Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.

F. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to; company name, phone numbers, banners, and streamers.

~175-75. Site Development Requirements

A. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground), shall take place prior to the approval of the special permit.

B. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

C. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

D. Parking. Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.

E. Fencing. The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the Board. The Board may waive this requirement if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

~175-76. Site Plan Review Submission Requirements

A. An applicant shall be required to submit a site plan in accordance with Article VI. The site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.

B. Supporting Documentation. The applicant shall submit a complete short EAF, a complete Visual Environmental Assessment Form (visual EAF addendum), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.

C. Lot Size and Setbacks.

(1) All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be setback from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.

(2) Telecommunication towers shall comply with all existing setback requirements of the underlying zoning district, or shall be

located with a minimum setback from any property line equal to one half (1/2) of the height of the tower, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.

D. Visual Impact Assessment. The Board may require the applicant to undertake a visual impact assessment, which may include:

(1) A "Zone of Visibility Map" shall be provided in order to determine locations where the tower may be seen.

(2) Pictorial representations of "Before and After" views from key viewpoints both inside and outside of the town, including but not limited to: state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a pre-submission conference with the applicant.

(3) Assessment of alternative tower designs and color schemes, as described in subsection Article IX, ~175-73, New Towers: Future Shared Use.

(4) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets

E. Shared Use or Co-Location. If the applicant is proposing a shared use of an existing structure or is proposing to co-locate, then the following additional site plan review submission requirements shall apply:

(1) Documentation of intent from the owner of the existing facility to allow share use

(2) The site plan shall indicate any methods used to conceal the modification of the existing facility.

(2) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any will be required in order to certify to the completion.

~175-77. Removal

The applicant shall submit to the Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the building inspector within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed

with the zoning officer prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this chapter and shall be punishable according to Article XI.

~175-78. Intermunicipal Notification for New Towers

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County 911 Services, the Board shall require that

(1) An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders the Town of Lake George, the Warren County Planning Board, and the Director of Warren County Emergency Services. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.

(2) Documentation of this notification shall be submitted to the Board at the time of application.

~175-79. Notification of Nearby Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail. Documentation of this notification shall be submitted to the Board prior to the public hearing.

ARTICLE X REGIONAL PROJECT REVIEW

~ 175-80. Purpose

The purpose of this Article is to further the general purposes, policies and objectives of this chapter and Article 27 of the Executive Law by establishing requirements and administrative procedures for the review of Class B Regional Projects by the Planning Board and by setting forth criteria for review of Class A Regional Projects by the Adirondack Park Agency.

~ 175-81. Applicability

A. Class B Regional Projects. No person shall undertake a permitted principal use, special use or other use for which a variance has been granted pursuant to Article X of this chapter, which is also a Class B Regional Project, unless and until the Planning Board shall have reviewed and approved or approved with conditions such project and the Zoning Officer has issued a land use and development permit and/or certificate of compliance with respect thereto pursuant to the terms of Article XI hereof.⁶⁵

B. Class A Regional Projects. No person shall under take a Class A Regional Project unless and until the Agency shall have reviewed and approved or approved subject to conditions such project and has issued an Agency permit with respect thereto pursuant to the terms of Article 27 of the Executive Law of the State of New York and the pertinent Agency rules and regulations.

~ 175-82. Authorization to approve and disapprove Class B Regional Projects

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

~ 175-83. Multiple-class regional projects

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

~ 175-84. Requirements for Class B Regional Project approval

⁶⁵ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

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

A. The project would comply with all provisions of this chapter including those contained in Articles IV, V, VI and VII hereof.

B. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth in Appendix D hereof.⁶⁶

~ 175-85. Application for Class B Regional Project approval

Application for project approval shall be made to the Zoning Officer who shall review the application for completeness and if, in his/her reasonable judgment, the application is complete, shall refer it to the Planning Board. All applications shall be made on forms prescribed by the Planning Board and furnished by the Zoning Officer; said forms, when completed, shall include such information as may be reasonably necessary to determine whether the requirements for approval set out in Article X, ~ 175-84, Requirements for Class B Regional Project approval, have been satisfied. In determining the content of these application forms, the Planning Board may provide for different informational requirements for different classes or types of projects, but with each certain class or type of project, the same information shall be required of every applicant. Such information required by these various application forms may include any or all of the following:

- A. A detailed description of the natural features of the project site.
- B. A detailed description of the land use plan of the project and its components, including all proposed roads and accesses.
- C. Water supply and sewage disposal systems and their relationship to natural features.
- D. An analysis with supporting data of the impact of the project on the environment both during construction and thereafter.

⁶⁶Editor's Note: Appendix D is included at the end of this chapter.

E. An analysis with supporting data of the ability of the public to provide supporting services and facilities which can reasonably be anticipated to be required following the approval of the project.

F. An analysis with supporting data of any benefits that might derive from the project; any plans the applicant may have for future development related to the project.

G. Information describing the applicant, his or its financial capacity to complete the project as planned and any professional advisers or consultants engaged in respect to the project.

~ 175-86. Procedures for review and decision regarding Class B Regional Projects

A. Referral of application to Agency and Board of Appeals. No later than 10 days following receipt of a complete application for a Class B Regional Project, the Zoning Officer shall notify the Adirondack Park Agency and the Board of Appeals of such receipt, shall furnish to each body a copy of the project application and shall furnish to the Agency such further pertinent information as the Agency may deem necessary and shall afford each body the opportunity to comment thereupon.

B. Planning Board review and decision. Planning Board review of all Class B Regional Projects shall be in accordance with Article VI, ~ 175-41, Planning Board Review and Decision. However, in addition to the requirements of ~ 175-42, the Planning Board shall also mail a copy of the public notice to the Adirondack Park Agency (APA) and the Board of Appeals, and the APA shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this section.

C. Findings of fact, conditions and safeguards. Every Class B Regional Project decision rendered by the Planning Board shall be in writing and shall contain such findings of fact as are required by Article X, ~ 175-84, Requirements for Class B Regional Project approval, hereof. The Planning Board in conjunction with its approval of any Class B Regional Project may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines as to intensity of development as provided in this chapter shall be respected. The Planning Board may also impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project and

to ensure that the project will be completed in accordance with the terms of the application and any permit and including, without limitation, the requirements and conditions authorized under Article VI, ~ 175-36, Purpose, and Article V, ~ 175-42, Review standards and considerations, Article VI, ~175.43, Site and lot considerations, and Article VI, ~175.44, Governmental services and impact of this chapter. In addition, the Planning Board may require that the Zoning Officer incorporate any such requirements and conditions in any permit issued with regard to such Class B Regional Project.

~ 175-87. Criteria for review of Class A Regional Project approval by the Adirondack Park Agency

A. Agency jurisdiction. The Adirondack Park Agency shall have jurisdiction to review and approve, approve subject to conditions and disapprove all Class A Regional projects proposed to be located within the territory of the town, pursuant to and in accordance with ~ 809(9) of the Adirondack Park Agency Act,⁶⁷ the applicable Agency rules and regulations and the criteria hereinafter set forth.

B. Compatibility with town regulations. The Adirondack Park Agency shall not approve a Class A Regional Project unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the project, that the project would comply with all provisions of this chapter, including those contained in Articles IV, V, VI and VII hereof, and of such other ordinances and regulations as shall be components of the town land use program.

C. Development considerations. In making the determination required by ~ 809(9) of the Adirondack Park Agency Act⁶⁸ as to the impact of a proposed Class A Regional Project upon the resources of the Adirondack Park, including the ability of all levels of government to provide supporting facilities and services made necessary by the project, the Agency shall consider those factors pertinent to the project contained in the development considerations set forth in Appendix D hereof.⁶⁹

~ 175-88. Planning Board authority regarding Class A Regional Projects

⁶⁷Editor's Note: See ~ 809, Subdivision 9, of the Executive Law.

⁶⁸ Editor's Note: See ~ 809, Subdivision 9, of the Executive Law.

⁶⁹Editor's Note: Appendix D is included at the end of this chapter.

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

B. Advisory recommendations.

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

(2) No later than 30 days following receipt by the Planning Board from the Agency of notice of application completion with regard to a Class A Regional Project or such shorter period as may be agreed upon by the Planning Board and the Agency, the Planning Board shall, by certified mail, provide to the Agency its advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the town land use program.

ARTICLE XI ADMINISTRATION AND ENFORCEMENT

~ 175-89. Zoning Officer

This chapter shall be enforced by the Zoning Officer who shall be appointed by the Town Board. No land use and development permit or land use certificate of compliance may be issued by him/her except where all the provisions of this chapter have been complied with.

~ 175-90. Land use and development permit

A. No person shall undertake any new land use or development, add to, structurally alter an existing structure or expand an existing use or demolish an existing structure unless such action is in compliance with this Chapter and until the Zoning Officer has issued a permit.

B. There shall be submitted with all applications for land use and development permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building(s) and any accessory building(s) or sign(s) to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.

C. One copy of such layout or plot plan shall be returned when approved by the Zoning Officer together with such permit upon the payment of a nonrefundable fee in an amount as set forth from time to time by resolution of the Town Board.⁷⁰

~ 175-91. Issuance of a land use and development permit

The Zoning Officer shall issue a land use and development permit if he determines that:

A. The land use or development complies with the Lake George Consolidated Health District Regulations.⁷¹⁷²

⁷⁰ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁷¹ Editor's Note: See Ch. A180.

⁷² Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

B. The land use and development meets the area, bulk and height controls set forth in Article IV and the shoreline restrictions set forth in Article V unless an area variance has been granted pursuant to Article XI, ~ 175-95.C(3), Board of Appeals, or clustering has been approved by the Planning Board.⁷³

C. The land use or development has received site plan approval pursuant to Article VI, if applicable, and all conditions of that approval required to be met prior to granting a permit have been met.

D. The land use or development is a Class B Regional Project for which approval was obtained pursuant to Article X and all conditions of that approval required to be met prior to the issuance of a permit have been met.

E. It is not a Class B Regional Project and is either a permissible use, a permissible accessory use or a nonpermissible use for which a variance has been granted and all conditions of that variance required to be met prior to the issuance of a permit have been met.⁷⁴

~ 175-92. Land use certificate of compliance

A. No land shall be hereafter occupied or used and no building or sign hereafter erected, altered or extended shall be used or changed in use until a land use certificate of compliance shall have been issued by the Zoning Officer, stating that the structure or proposed use thereof complies with the provisions of this chapter.

B. All land use certificates of compliance shall be applied for coincident with the application for a land use and development permit. Said certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this chapter.

C. The Zoning Officer shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

~ 175-93. Recording or expiration of permits for Class B Regional Projects

A land use and development permit issued for a Class B Regional Project shall expire within 60 days from the date thereof unless within such sixty-day period such permit shall have been duly recorded by the project sponsor in the

⁷³Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

⁷⁴Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

Adirondack Park Agency Regional Project Permit Book in the office of the clerk of the county wherein the land use and development is proposed to be located.

~ 175-94. Expiration of land use and development permits generally

If a project for which a land use and development permit has been issued is not in existence within two years after the issuance of such permit, said permit shall expire, and the project may not thereafter be undertaken or continued unless a new permit has been applied for and issued in the same manner and subject to all provisions governing the initial application for and issuance of a permit, unless the terms of the project provide for a longer period of time, in which case the permit shall expire at the end of that longer period. In addition, no building or other structure or portion of a structure shall be left on a lot incomplete or with an unfinished exterior for a period of time in excess of two years after commencement of construction of a residence on any lot.

~ 175-95. Board of Appeals

[Amended 8-10-1992]

A. Creation, appointment and organization.

(1) A Board of Appeals is hereby created, consisting of five members appointed by the Town Board. The Chairperson of the Board of Appeals shall be designated by the Town Board. The Board of Appeals shall appoint a Secretary and shall prescribe rules for the conduct of its affairs. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board of Appeals may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(2) The Town Board shall appoint two alternate members of the Zoning Board of Appeals (ZBA) to substitute for any regular member in the event of a conflict of interest or other factor such as illness, vacation or other absences. The alternate member(s) shall be appointed by resolution of the Town Board for a term of five year(s). The chairperson of the ZBA may designate an alternate member to substitute for a regular member when such regular member is unable to participate in an application or matter before the ZBA. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial ZBA meeting at which the substitution is made. All

provisions relating to ZBA member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members. [Added 8-14-2000 by L.L. No. 1-2000]

B. Jurisdiction and procedures.

(1) Jurisdiction. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Zoning Officer. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the town. All area and use variance application forms and fee must be submitted to the Planning and Zoning Office 10 days prior to the scheduled meeting no later than 12:00 noon. [Amended 4-19-1996]

(2) Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Officer by filing with the Zoning Officer and with the Board of Appeals a notice of appeal. The notice of appeal shall specify the grounds of the appeal and the relief sought. Upon receipt of the notice of appeal, the Zoning Officer shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal.

(3) Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board of Appeals, after the notice of appeal has been filed with the Zoning Officer, that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property. If the Zoning Officer so certifies, the proceedings shall not be stayed except by a restraining order which may be granted by the Board of Appeals or by a court of record on application on notice to the Zoning Officer from whom the appeal is taken and on due cause shown.

(4) Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. The Board of Appeals shall give public notice of the hearing by publication in a paper of general circulation in the town of notice of such hearing at least five

days prior to the date thereof and the cost of sending or publishing any public notices related to the project shall be borne by the applicant.

(5) Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of the hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board of Appeals.

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

(7) Notice to Park Commission or planning agency. At least five days before a hearing, the Board of Appeals shall mail notices of the hearing to the parties, the Regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by the appeal and to the county, metropolitan or regional planning agency, as required by ~ 239-m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration, as defined in ~ 239-m, Subdivision 1, of the General Municipal Law.

(8) Notice to Adirondack Park Agency. In the case of any variance application involving land, buildings, structures or uses in any land use area [as defined in the Adirondack Park Agency Act (the "Act")] except hamlet or any variance involving the shoreline restrictions as set forth in the Act, the Board of Appeals shall submit a copy of the application to the Adirondack Park Agency ("Agency"), together with such pertinent information as the Agency reasonably shall deem necessary. The Agency shall be a full party in interest, with standing to participate in any and all proceedings concerning such variance applications. The Board of Appeals shall notify the Agency of its decision concerning any such variance. Any such variance granted or granted with conditions shall not be effective until 30 days after such notice to the Agency or until the Agency notifies the Board of Appeals that it will not reverse the variance, whichever is sooner. If, within such thirty-day period, the Agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis for granting a variance, the Agency may reverse the local determination to grant the variance.

(9) Expiration. Unless otherwise specified or extended by the Board of Appeals, all variance approvals shall expire two years from the date of approval, if the approved action has not commenced.

(10) Site plan review approval. All successful use variance applications must apply for and receive approval from the Planning Board under site plan review.

(11) Rehearing.

(a) Upon motion initiated by any member and adopted by not less than a majority of all the members of the Board of Appeals, the Board of Appeals shall review, at a rehearing held upon notice given as upon an original hearing, any order, requirement, decision, interpretation or determination of the Board of Appeals. Upon such rehearing, the Board of Appeals, upon the vote of not less than a majority of all of the members of the Board of Appeals, may reverse, modify or annul its original order, requirement, decision, interpretation or determination, as long as it does not appear that the rights vested prior to such action in persons acting in good faith and reliance upon the original order, requirement, decision, interpretation or determination will not be prejudiced.

(b) After a rehearing as described in Subsection B(11)(a) above, the Board of Appeals shall not rehear for a second time or accept a new application for an appeal, if the subject of the rehearing or new application is the same as or substantially similar to the original application, until one year has passed from the date of the Board of Appeal's determination on the original application for an appeal or date of determination on the rehearing, whichever is later.

C. Action by Board of Appeals.

(1) Interpretations, requirements, decisions and determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Zoning Officer and to that end shall have all the powers of the Zoning Officer from whose order, requirement or decision the appeal is taken.

(2) Use variances.

(a) The Board of Appeals, on appeal from the decision or determination of the Zoning Officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this chapter.

(b) No use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations

and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that:

[1] Under applicable zoning regulations, the applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence. [Amended 12-13-1993]

[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

[3] The requested use variance, if granted, will not alter the essential character of the neighborhood.

[4] The alleged hardship has not been self-created.

(c) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(3) Area variances.

(a) The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Officer, to grant area variances from the area or dimensional requirements of this chapter.

(b) In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:

[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

[3] Whether the requested area variance is substantial.

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(c) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(4) Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

D. Special consulting fees (Added 3-12-2001 by L.L. No. 1-2001).

(1) The Board of Appeals, in its review of use and area variance applications, may employ consultants, legal counsel, professional engineers and/or inspection services to provide assistance and advice in the review of any application, including on-site investigation, evaluation and inspection; verification of the accuracy of information submitted; evaluation of the adequacy of plans and the sufficiency of submitted reports; study of the impact of proposals upon the resources and environment of the town; preparation and/or review of environmental impact statements; review of the design and layout of improvements; inspection of installed improvements; and such other services or technical assistance as the Board of Appeals deems necessary for its review of the application.

(2) All costs incurred for these special consulting services shall be borne by the applicant. As further provided below, a deposit shall be required in advance to cover the estimated cost of these services. This deposit shall be in the amount determined by the Board of Appeals, or its duly authorized agent, as sufficient to cover all such

special consulting costs based on rates of \$65.00 per hour for engineering review, \$125.00 per hour for legal review, and \$70.00 per hour for special environmental consultant review. Fees for the preparation or review of environmental impact statements shall be as determined by 6 NYCRR Part 617, adopted pursuant to Article 8 of the Environmental Conservation Law.

- (3) The deposit due for the special consulting services deemed by the Board of Appeals to be necessary for its appropriate review of any particular application shall be filed by the applicant with the Town Clerk by certified check endorsed to the Town of Lake George. An application shall not be deemed complete by the Board of Appeals until the requirements of this section have been complied with.
- (4) After the Board of Appeals has rendered its decision on an application, the balance of the deposit, if any, remaining in excess of actual incurred costs shall be returned to the applicant without payment of interest.
- (5) Payment of any deficiency in the amount of the deposit to cover incurred costs in full shall be a condition to final approval of any application by the Board of Appeals. No final approval shall be signed, stamped, sent or otherwise valid until and unless such amount is paid.

~ 175-96. Alternate Planning Board members

[Added 8-14-2000 by L.L. No. 1-2000]

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

~ 175-97. Penalties for offenses; complaint

[Amended 8-10-1992]

A. Penalties and notice.

(1) Any person or other legal entity who fails to comply with or who violates this chapter or who shall refuse a reasonable request to inspect any premises or who shall have aided or abetted the commission of any such violation shall each be guilty of a separate offense and, upon the conviction thereof, shall be liable to a fine of not more than \$350 or to imprisonment for not more than six months, or both. Upon conviction of a second offense, both of which were committed within a period of five years, said person or other legal entity shall be liable for a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both. Upon conviction for a third or subsequent offense, all of which were committed within a period of five years, said person or other legal entity shall be liable for a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation of the offense shall constitute a separate offense.

(2) Notice of the offense may be served personally on the offender and owner; or by mailing a copy thereof to the last known address of the offender and of the owner and by posting a copy thereof at the premises where the violation occurs. Such notice shall state when, not less than 20 days after such service, the condition or thing, which constitutes the violation shall be corrected or removed. Notwithstanding the foregoing, if the violation involves a use requiring approval when such approval has not been obtained, such notice may state that the use shall cease immediately. Proof of any personal service or of such mailing and posting, as described above, shall be sufficient proof of such service. [Amended 11-14-1994]

(3) Violation of Conditions of Approval. In the event that an entity which has previously received conditional approval from the Planning Board or Zoning Board of Appeals to conduct a use or activity, is doing so in violation of one or more of the conditions of approval, then the Zoning Enforcement Officer is expressly authorized to issue an Order requiring immediate compliance and/or termination of the violating use or activity, along with payment of a fine up to Five Hundred Dollars (\$500.00). This order may also specify that, in the event of failure to immediately comply, Town Counsel may be authorized to commence legal action against the violator in which the Town will seek compliance, penalties, and payments of its attorney's fees.

B. Any person may file a complaint of a violation of this chapter in writing with the Zoning Officer, who shall properly record such complaint and

immediately investigate and report thereon to the Town Board. The Zoning Officer may also proceed as set forth in Subsection C below.

C. The Zoning Officer, upon receipt of a complaint as set forth above, or upon the Zoning Officer's own initiative, may commence criminal proceedings in the local criminal court by issuing an appearance ticket to an offender and/or filing any information with the local criminal court pursuant to the New York Criminal Procedure Law.

D. Alternate remedies. In case of any violation or threatened violation of any of the provisions of this chapter or conditions imposed by a land use and development permit, in addition to other remedies herein provided, the town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Further, no application shall be accepted for which there is an outstanding violation until and unless the violator has remedied the violation through removal, termination and/or payment of an appropriate fine as determined by the Town Board or Court. [Amended 11-14-1994].

E. Stop-work Orders

(1) The Town Board for the Town of Lake George herein grants the Zoning Administrator Administrator responsibility of immediately terminating any actions which are in violation of this ordinance by posting a stop-work order on the premises wherein the violation has occurred.

(2) The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the stop-work order must be terminated immediately.

(3) Relief from the stop-work order can be realized as follows:

(a) If all provisions of this chapter, together with other conditions specified by the Zoning Administrator, are met, then the Town Board may authorize the termination of the stop-work order.

(b) Except for cases involving site plan review, if a variance is granted by the Zoning Board of Appeals permitting the violations specified on the stop-work order to continue henceforth as allowable, said administrative decision shall also specify the conditions for the termination of the stop-work order.

F. Misrepresentation.

Any permit or approval granted under this chapter which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant shall be void. This section shall not be construed to affect the remedies available to the town elsewhere in this Article.

G. Complaints

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator, who may require such complaint to be in writing. The Zoning Administrator shall have the complaint properly investigated and report thereon to the governing body.

ARTICLE XII AMENDMENTS

~ 175-98. Procedure

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

B. Every such proposed amendment or change, whether initiated by the Town Board or petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for and to the Adirondack Park Agency for determination of whether the proposed amendment is subject to Agency approval under Section 807 of the Adirondack Park Agency Act.⁷⁵

C. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

(1) By publishing at least 10 days notice of the time and place of such hearing in a paper of general circulation in the town.

(2) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.

(3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any village or town or within 500 feet of any county buildings or land shall be given to the Clerk of such municipality and to the Clerk of the Board of Supervisors at least 10 days prior to the date of such hearing.

D. In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed changes or of that immediately adjacent extending 100 feet there from or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

⁷⁵Editor's Note: See ~ 807 of the Executive Law.

E. Referral to the Lake George - Lake Champlain Regional Planning Commission and Warren County Planning Board shall be in accordance with §§ 239-l and 239-m of the General Municipal Law.

F. Special Consulting fees [Added 3-12-2001 by L.L. No. 1-2001]

(1) The Town Board, in its review of requests for rezoning, may employ consultants, legal counsel, professional engineers and/or inspection services to provide assistance and advice in the review of any application, including on-site investigation, evaluation and inspection; verification of the accuracy of information submitted; evaluation of the adequacy of plans and the sufficiency of submitted reports; study of the impact of proposals upon the resources and environment of the town; preparation and/or review of environmental impact statements; review of the design and layout of improvements; and such other services or technical assistance as the Town Board deems necessary for its review of the application.

(2) All costs incurred for these special consulting services shall be borne by the applicant. As further provided below, a deposit shall be required in advance to cover the estimated cost of these services. His deposit shall be in the amount determined by the Town Board, or its duly authorized agent, as sufficient to cover all such special consulting costs based on rates of \$65 per hour for engineering review, \$125 per hour for legal review and \$70 per hour for special environmental consultant review. Fees for the preparation or review of environmental impact statements shall be as determined by 6 NYCRR Part 617, adopted pursuant to Article 8 of the Environmental Conservation Law.

(3) The deposit due for the special consulting services deemed by the Town Board to be necessary for its appropriate review of any particular application shall be filed by the applicant with the Town Clerk by certified check endorsed to the Town of Lake George. An application shall not be deemed complete by the Town Board until the requirements of this section have been complied with.

(4) After the Town Board has rendered its decision on an application, the balance of the deposit, if any, remaining in excess of actual incurred costs shall be returned to the applicant without payment of interest.

(5) Payment of any deficiency in the amount of the deposit to cover incurred costs in full shall be a condition to final approval of any application by the Town Board. No final approval shall be signed, stamped, sent or otherwise valid until and unless such amount is paid.

ARTICLE XIII SEVERABILITY

~175-99. Severability

Each separate provision of this section is deemed independent of all other provisions herein so that if any provision or provisions of this section were declared invalid, all other provisions shall remain valid and enforceable.

