

Town of Lake Pleasant

Part 1 – Zoning Regulations

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Attachments

1. Use Regulation Table
2. Density Control Schedule
3. Zoning Map

Compliance with the following regulations do not preclude an applicant from obtaining all necessary permits and approvals from regional, state or federal agencies.

ZONING REGULATIONS

TOWN OF LAKE PLEASANT HAMILTON COUNTY NEW YORK

AN ORDINANCE REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION, ALTERATION AND USE OF BUILDINGS AND LAND IN THE TOWN OF LAKE PLEASANT, NEW YORK, PURSUANT TO THE ZONING PROVISIONS OF ARTICLE 16 OF THE TOWN LAW OF THE STATE OF NEW YORK.

THE LAKE PLEASANT TOWN BOARD by virtue of the power and authority vested in it by law, does hereby ordain and enact as follows:

ARTICLE I - TITLE

Section 1 - Title

This ordinance shall be known and may be cited as "THE TOWN OF LAKE PLEASANT ZONING ORDINANCE OF 2007".

ARTICLE II - PURPOSES

Section 2 - Purposes

The provisions of this ordinance are the minimum requirements adopted to promote the health, safety, and general welfare of this community. They are deemed necessary for the following purposes:

- A. Promote Orderly Development - To protect the character and maintain the stability of residential, business, and recreation areas within the Town and promote the orderly and beneficial development of such areas.

- B. Regulate Intensity of Use - To regulate the intensity of use of zoning lots, and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air, privacy, and convenience of access to property, and to protect the public health.

- C. Regulate Location of Buildings - To establish building line and the location of buildings designed for residential, commercial, manufacturing, or other uses within such lines.
- D. Establish Standards of Development - To fix reasonable standards to which buildings or structures shall conform.
- E. Prohibit Incompatible Uses - To prohibit uses, buildings, or structures which are incompatible with the character of development of the permitted uses within specified zoning districts.
- F. Regulate Alterations of Existing Buildings - To regulate such additions to and alterations or remodeling of existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
- G. Limit Congestion in Streets - To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for off-street parking of automobiles and for the loading and unloading of commercial vehicles.
- H. Protect Against Hazards - To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort and the general welfare.
- I. Conserve Taxable Value of Land - To conserve the taxable value of land and buildings throughout the municipality.

ARTICLE III - ADMINISTRATION AND ENFORCEMENT

Section 3.1 - Zoning Officer

This Chapter shall be administered by the Zoning Officer together with the Town Board, the Planning Board and the Zoning Board of Appeals depending on the appropriate jurisdiction pursuant to this law. Compliance with this Chapter shall be enforced by the Zoning Officer.

Section 3.2 - General Provisions

No person shall undertake any development or commence any land use activity without first applying for, and obtaining, a building permit unless otherwise exempt pursuant to the Town of Lake Pleasant Land Use Code.

Section 3.3 - Application Procedure

- A- Meeting with Zoning Officer. Any person intending to engage in an activity that may be subject to this Chapter and/or the Town of Lake Pleasant Subdivision Regulations should meet with the Zoning Officer as early as possible to determine which, if any, permits or approvals may be required and what review procedures, if any, apply.

- B- Filing Application for Building Permit. A person desiring a Building Permit shall file an application for a Building Permit with the Code Enforcement Officer or the Zoning Officer, together with the appropriate fee. The application shall be submitted on forms provided for such purpose by the Code Enforcement Officer, Zoning Officer or Town Office, and shall include a plot plan drawn to scale showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this Chapter. The application shall be submitted with a \$15 permit fee, which may be amended pursuant to this Chapter. The Zoning Officer shall notify the applicant of any additional information required for completion of the application. The Zoning Officer shall notify the applicant when the application has been deemed complete. The Code Enforcement Officer shall provide a report or copies of applications received to the Town Board, the Planning Board, the Zoning Board of

Appeals and/or the Town Assessor on a monthly basis, if so directed by the Town Board.

C- Determination. After reviewing the completed application, the Zoning Officer shall inform the applicant of the determination that either:

1. The proposed project or activity complies with the requirements of this Chapter and all other applicable local laws and regulations and requires no other approvals, and accordingly a building permit is issued; or
2. The proposed project or activity is inconsistent with one or more specified requirements of this Chapter or other applicable local law or regulation, and a building permit is denied; or
3. The proposed project requires one or more specified special approvals before a building permit can be granted. The proposed project may, for example, be for a use allowable by Special Use Permit and/or Site Plan approval, requiring approval by the Planning Board.
4. Note that any decision of the Zoning Officer may be appealed to the Zoning Board of Appeals, or a variance may be sought from the Zoning Board of Appeals pursuant to Article IX below.

D- The Zoning Officer and the Code Enforcement Officer will advise the applicant of the requirements for the approvals needed, and shall provide information when requested in the preparation of the required application. When the required approvals have been obtained, and all other legal and regulatory requirements have been satisfied, the building permit will be issued.

E- Issuance and Posting. A building permit shall be issued and posted conspicuously on the property in question whenever construction work is being performed thereon (protected from the weather, if necessary). No person shall perform any construction or otherwise undertake a project requiring a building permit unless a building permit for such project is displayed as set forth above, nor shall any person perform such activities after notification of the revocation of a building permit.

F- Revocation. If the Zoning Officer or Building Code Officer determines that an application or accompanying plans are in any material respect false or misleading, or that work being done upon the premises differs materially from what is allowed by

the permit, the Zoning Officer or Building Code Officer may forthwith revoke the building permit. The permittee shall thereupon cease the use, activity, or construction, and surrender the building permit to the Zoning Officer.

G- Lapse and Renewal. A building permit shall lapse one year following the date it was granted if the project has not been substantially commenced or the use has not been commenced. The Zoning Officer may renew any building permit for a period terminating not later than one year from the date it would have originally lapsed, provided that the facts upon which the building permit was granted have not changed.

H- Compliance With Building Code. Approval by the Zoning Officer not be deemed to indicate compliance with the New York State Uniform Fire Prevention and Building Code. Once the Zoning Officer has deemed the project compliant with applicable regulations, the Code Enforcement Officer will evaluate compliance with the NYS Uniform Fire Prevention and Building Code.

Section 3.4 - Site Inspection

The submission of an application for a building permit, or for any other approval, Special Use Permit or variance, shall constitute consent to the Zoning Officer and to members or designates of the boards with authority to grant the required approvals or variance to conduct such inspections of the site as such persons deem necessary and appropriate for the purposes of this local law.

Section 3.5 - Certificate of Occupancy

No use for which a building permit was granted shall be occupied or maintained except pursuant to a Certificate of Occupancy issued by the Code Enforcement Officer.

Section 3.6 – Violations

Whenever a violation of this Article occurs, the Zoning Officer and Code Enforcement Officer may enforce compliance to remedy the violation or any person may file a complaint requesting enforcement action by the Zoning Officer. All such complaints shall be made to the Zoning Officer and Code Enforcement Officer who shall properly record such complaint and investigate the allegations of such complaint in his discretion. If a violation of this is found, the Zoning Officer shall report his findings on such violation to the Town Board. The

Zoning Officer shall have authority to serve a notice of violation, an order to cease or stop work or order to abate or remove a violation upon any person owning, leasing, controlling or managing any building, structure, or land. The undertaking of a land use or development for which a building permit is required, or the construction of any improvement in a manner that materially deviates from an approved plan and the violation of any condition imposed by a building permit, Certificate of Occupancy, Special Use Permit, Site Plan, variance, or subdivision approval shall constitute a violation of the Town of Lake Pleasant Land Use Code.

Section 3.7 - Penalty

- A. Any person owning, leasing, managing or otherwise controlling any building, structure, or land where a violation of the Town of Lake Pleasant Land Use Code occurs and any person who commits or assists in the commission of any violation of the Code who, after being served with an order to cease or remove such violation, fails to comply after such service, shall be guilty of an offense and subject to a fine as authorized in Section 268 of New York Town Law. Each week such violation continues shall constitute a separate violation. The Zoning Officer has the authority under this Part and the Town Law to prosecute any such violations in the Town of Lake Pleasant Justice Court upon the notice to, and the consent of, the Town Board.

- B. In addition to the penalties in Subsection (A) above, any person who violates any provision of this local law shall, for every such violation, forfeit and pay a civil penalty of not more than \$100.00. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty. The Zoning Officer has the authority under this Part to commence a civil action in order to obtain a civil penalty under this provision in the Town of Lake Pleasant Justice Court upon the notice to, and the consent of, the Town Board. To the extent that this provision is inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, section 268, the Town Board of the Town of Lake Pleasant hereby declares its intent to change or supersede said section of the Town Law, pursuant to its home rule powers under the Municipal Home Rule Law, Article 2, Section 10, et. seq. of the Consolidated Laws of the State of New York.

- C. For the purposes of this Section, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

D. The methods of enforcement as set forth in paragraphs A and B above, as well as section 3.8 below, are not exclusive and may be utilized together, alternatively, repeatedly or in any combination thereof until compliance is obtained and the violation is abated. Abatement of the violation does not preclude the exaction of a penalty, fine or collection of attorney's fees and costs and such other relief a court may order.

Section 3.8 - Injunctive Relief

In case of any violation or threatened violation of any of the provisions of this Section, or conditions imposed in any building permit or Certificate of Occupancy, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation. As part of such action, the Town may request the Court for an order that requires the violator to reimburse the Town for the costs, including the attorney fees, incurred with respect to the action for injunctive relief.

Section 3.9 – Misrepresentation

Any building permit or other approval granted under this Code shall be void if it is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known.

Section 3.10 – Fees

The Town Board, by resolution, shall establish and amend (from time to time) a schedule of fees for the applications and permits required or contemplated by this Section. The current schedule shall be on file at the Town Office. Such fees shall be payable to the Town of Lake Pleasant at the Town Office at the time of application or, as appropriate, at the time of issuance of a permit. In certain instances where the reviewing Board deems the application, or any aspect thereof, requires a consultant to assist the reviewing Board, said Board may require as part of the fee, a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s). The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time-period billed and the Town shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be

required as the review process continues. Any deposit amounts that remain at the end of the process shall be returned to the applicant.

ARTICLE IV - DEFINITIONS

Section 4 - Terms or Words

Certain terms or words used herein shall be interpreted as follows:

- Words used in the present tense shall include the future. The singular number includes the plural, and the plural, the singular.
- The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
- The word "lot" includes the word "plot" or "parcel".
- The word "building" includes the word "structure".
- The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged, or designed to be used or occupied".
- The word "shall" is mandatory.

Section 5 - Definitions

ACCESSORY BUILDING: A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

ACCESSORY USE: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADULT USE – Shall be interpreted to mean only the following:

1. **ADULT BOOKSTORE:** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of sexual activities or anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with sexual activities. Adult bookstores shall not have enclosed viewing booths.

2. **ADULT CABARET:** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of anatomical areas or by specified sexual activities. Adult cabarets shall not have enclosed viewing booths.

3. **ADULT MOTION PICTURE THEATER:** an establishment where, for any form of consideration, films or motion pictures are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of sexual activities or anatomical areas. Adult Motion Picture Theaters shall not have enclosed viewing booths.

The following are definitions of uses prohibited from locating and/or operating in any District within the Town of Lake Pleasant:

1. **ADULT HOTEL/MOTEL–** A hotel or motel or similar business establishment offering public accommodations for any form of consideration that (1) provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of sexual activities or sexual activities or anatomical areas; and/or (2) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

2. **ADULT MASSAGE PARLOR –** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state.

3. **ADULT MODELING STUDIO –** An establishment whose primary business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

4. **ADULT SAUNA –** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing, or reducing

agent, if the service provided by the sauna is distinguished or characterized by an emphasis on sexual activities or anatomical areas.

5. ADULT USE – Sexual Encounter Establishment – An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

AFFORDABLE HOUSING: Housing or rental units where the occupant is paying no more than 30 percent of gross income for housing costs, including taxes and utilities.

ALLEY: A service way, which affords a secondary public means of vehicular access to abutting property.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts, or in the entrance and 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.

AUTOMOBILE JUNK YARD: Shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein whether metal, glass, fabric, or otherwise for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles; provided, however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes.

AUTO WRECKING YARD: The dismantling or disassembling of used motor vehicles or the storage, sale, salvaging or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts. As used herein, the term "vehicle" shall mean passenger-type automobile, truck, tractor-truck, trailer, bus, motorcycle, snowmobile, or other vehicle, however propelled, as well as tractors, bulldozers, machinery and similar

equipment.

BASEMENT: A space of fullstory height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, and which is not designed or used primarily for year round living accommodations.

BED AND BREAKFAST (B&B): A transient lodging establishment in a single-family dwelling, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals to guests for compensation.

BOUNDARY LINE ADJUSTMENT: A transfer of land between adjacent separate lots in order to correct property line or setback encroachment, create better lot design, or improve access. A boundary line adjustment cannot create additional building lots.

BOUNDARY LINE ADJUSTMENT, MAJOR: A boundary line adjustment that does not exceed any of the size thresholds of a minor boundary line adjustment and is of a size or configuration that results in a substandard size lot or substandard setback requirements or which may adversely effect one or more properties.

BOUNDARY LINE ADJUSTMENT, MINOR: A boundary line adjustment between adjoining parcels that involves the transfer of land less then $\frac{1}{4}$ acres and less than 25 feet in width.

BUILDING: Any roofed structure intended for the shelter, housing or enclosure of persons, animals, or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

BUILDING AREA: The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, parapets, steps, and terraces.

BUILDING COVERAGE: That area of the lot or plot covered by a building.

BUILDING, DETACHED: A building surrounded by open space on all sides on the same lot.

BUILDING LINE: A line established by law or by agreement, usually parallel with a property line, beyond which a structure may not extend.

BUILDING, FLOOR AREA: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential occupancy and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, HEIGHT OF: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

BUILDING PERMIT: A Permit Issued by the Code Enforcement Officer demonstrating a project's compliance with the NYS Uniform Fire Prevention and Building Code after confirmation by the Zoning Officer of compliance with Parts I, II and other application Parts of the Town of Lake Pleasant Land Use Code.

BUILDING, PRINCIPAL: A building in which the main use of the lot is conducted.

CAR WASH: A structure designed or intended primarily for the washing of automobiles using power washing equipment.

CELLAR: That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CHURCH: A building used for nonprofit purposes by a recognized and legally established sect for the purposes of worship, and which may be used for unrelated public gatherings.

COMMERCIAL LAUNDRY FACILITY: A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND: Any place or premises used for the sale, dispensing, or serving of food, refreshments, or beverages to persons in automobiles, including those establishments where customers may eat or drink the prepared food, refreshments or beverages for consumption elsewhere.

DUMP: A plot of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means or for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING, ONE-FAMILY: A detached building, other than a mobile home, trailer or other mobile unit intended for year round occupancy by one family only.

DWELLING, TWO-FAMILY: A detached building, other than a mobile home, trailer or other mobile unit intended for year round occupancy by two families living independently of each other.

DWELLING UNIT: A building or portion thereof erected on a permanent foundation and providing living, sanitary and sleeping facilities arranged for the use of one or more persons living as a single housekeeping unit.

ESSENTIAL SERVICES: The construction, alteration or maintenance by public utilities or governmental agencies of telephone, gas, electrical, steam or water transmission or distribution systems.

EXCAVATION: Any extraction from the land of more than twenty (20) cubic yards of sand, gravel, clay, shale, rock, topsoil, or other natural mineral deposits.

FAMILY: One or more persons related by blood or marriage, or other recognized family relationship maintaining a common household as distinguished from a group occupying a rooming, boarding or lodging house, camp, club or fraternity.

FEE: Amounts due and payable to the Town of Lake Pleasant upon application for various permits and/or fees due for publication of public notice as indicated in the Town of Lake Pleasant Zoning/Land Use Code book.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other bodies of water.

FLOOD PLAIN: A land area adjoining a river, stream, watercourse or lake, which is likely to be flooded.

FLOODPROOFING: Any combination of structural and nonstructures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude; the area which should not be encroached upon by filling.

FORESTRY USE: Any management, including logging of a forest, woodland or plantation and related research and education activities, including the construction, alteration or maintenance of woodroads, skidway, landings, fences and forest drainage systems.

FOREST USE STRUCTURE: Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

FRONT: That part or side of a structure which most closely parallels the frontage of the lot on which it is located or to which it related. On a corner lot fronting two streets, the front is considered to be on the street of the legal address. Where a lot has a lot line running along the shoreline of a navigable waterbody, the front lot line shall be considered to be that line along the shoreline of the waterbody.

GARAGE, PRIVATE: A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

GARAGE, PUBLIC: A building or part thereof operated for gain and used for the storage, hiring, selling, greasing, washing, servicing or repair of motor-driven vehicles.

GARAGE, STORAGE: A building or part thereof used only for the storage of vehicles for gain, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired, or sold.

GASOLINE STATION: Any structure, including the parcel of land on which it is located, designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning, or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term Gasoline Station shall be deemed to include filling station and service station.

GUEST COTTAGE: A structure that provides living quarters for guests, is attached or detached from the primary associated single-family and:

- > Is used only on an occasional basis;
- > Is used only by guests of the resident(s) of the primary single-family dwelling;
- > Is not for rent or hire separately from the primary single-family dwellings;
- > Contains one-half or less of the enclosed floor space of the associated primary single-family dwelling or 2,000 square feet, whichever is less.

HOME OCCUPATION: A business conducted as an accessory use which is clearly incidental to or secondary to the residential use of the dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling and in which not more than one (1) person not residing in such dwelling unit may be employed on site. Home Occupations are either “off-site” or “on-site.”

1. HOME OCCUPATION, OFF SITE SERVICE – A home occupation in which the owner meets customers off premises or electronically and thus does not generate additional traffic.
2. HOME OCCUPATION, ON SITE SERVICE – A home occupation in which the owner meets customers on premises and thus the business generates additional traffic.

HOSPITAL: A building or structure for diagnosis and medical or surgical care of human sickness or injuries.

HOSPITAL, ANIMAL: A building or structure for the diagnosis and medical or surgical care of sick or injured animals.

HOTEL OR MOTEL: A building or group of buildings where rooms are rented to transient guests, and including accessory services such as provision for food, refreshments and notions.

JUNK YARD: A lot, land or structure or part thereof, used for the collecting, storage, and sale of waste paper, rags, scrap metals, used or salvaged building materials, or other discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of parts thereof.

LOGGING (TIMBER) LANDING: Logging or timber landings are open areas used for processing and stacking logs at or near the timber harvest site before they are loaded onto a vehicle for further transport off of the premises.

LOT: A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this ordinance, and having its principal frontage on a public street or an officially approved place.

LOT, AREA OF: The total area included within lot lines. No part of the area within a public right of way may be included in the computation of lot area.

LOT, CORNER: A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135 degrees.

LOT, DEPTH: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINES: One of the property lines that establishes the metes and bounds of a lot.

LOT, THROUGH: A lot having frontage on two approximately parallel, or converging streets other than a corner lot.

LANDFILL, SANITARY: The depositing of refuse in a natural or man made depression or trench, or dumping it at ground level, compacting to the smallest practical volume, and covering with earth or other material in a systematic and sanitary manner.

LOT WIDTH: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

MAJOR UTILITIES/PUBLIC OR PRIVATE: Utilities that include (but are not limited to) water, sewer, electric, gas, and communications.

MANUFACTURED HOME: A structure (formerly referred to as a mobile home or trailer) transportable in one or more sections, which , in traveling mode, is eight feet or more in

width or 40 feet or more in length or when erected on site is 320 or more square feet, and which is built in compliance with federal regulations, or built prior to June 15, 1976 and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, ventilating and electrical systems contained therein. The term “manufactured home” does not include a modular home

MINERAL EXTRACTION: Any extraction from the land, other than specimens or samples of stone, coal, salt, ore, talc, granite, petroleum products or other materials except for commercial sand, gravel, or topsoil extraction including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

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

MODULAR HOME: A dwelling unit constructed on site in accordance with New York State Building Code and municipal codes and bearing insignia of approval issued by the Secretary of State of New York State which is composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.

NON-CONFORMING BUILDING OR USE: Use of a building or of land that does not conform with the regulations for the district in which it is situated.

NON-CONFORMING LOT: Any zone lot in single ownership, where the owner of said lot does not own any adjoining property, the subdivision of which could create one (1) or more conforming lots, which does not conform with the minimum area and/or dimensions required in the district in which it is situated or for any special use as the case may be.

NURSING HOME: A proprietary facility, licensed or regulated by the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services which are prescribed by or performed under the direction of a person or persons licensed to provide such care of services in accordance with the laws of the State of New York.

NURSERY SCHOOL: Facilities for the daytime care or instruction of two or more children from two to five years inclusive, and operated on a regular basis.

PARKING SPACE: An off street space available for parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageways and driveways thereto.

PLANNED DEVELOPMENT DISTRICT: A tract of land in single ownership, or controlled by an individual, partnership, cooperative, or corporation designed or capable of being designed and used as a unit or group of related units and having certain facilities in common such as yards, open space, recreation areas, garages, or parking areas. A Planned Development District may be residential, commercial, industrial, recreational, or a combination of such uses.

ROOMING HOUSE: A building or portion thereof in which rooms are rented for sleeping purposes. The term "rooming house" shall be deemed to include tourist house, lodging house and boarding house, but not hotel, motel, camp, club, sorority or fraternity house.

SETBACK: The distance between a street line and the front building line of a principal building or structure, projected to the side lines of the lot and including driveways and parking areas, except where otherwise restricted by this ordinance.

SIGN: Any device affixed to, or painted, or represented directly or indirectly upon a building, structure, or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge, or insignia of any government or government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a "sign".

"Sign" shall also be defined as follows: Any inscribed surface, pattern of artificial structure, banner, fluttering apparatus, or other visually communicative or expressive devise that is visible from an out of doors position and is used to advertise or call the public's attention to any business, activity, object for sale or lease, person, or place, or to bear any kind of message. The meaning of "sign" shall also include any sign currently in use but still visible from an out of doors position and any frame or support structure erected specifically to bear or uphold a sign.

The meaning of "sign" shall not include any sign erected by the federal, state, county, town government or any department or agency thereof, any poster placed temporarily to

advertise a civic event or an event sponsored by a house of worship, school, library, museum, social club or society, or any patriotic flag or banner not used for commercial advertising purposes.

The meaning of "sign" shall also not include any non-illuminated sign having a sign area no greater than three (3) square feet that is used simply to mark property boundaries, give directions regarding roads or trails, exclude hunting, fishing or other activities, warn of any hazard or condition, denote the name and address of the occupants of the premises on which the sign is located, or advertise the availability of the premises or some portion thereof for sale or lease. All signs for rent, for hire, for sale or professional signs are exempt from sign requirements.

SIGN, ADVERTISING: A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises, if at all.

SIGN, AREA: The total area of all faces or surfaces of a sign anywhere upon which writing or nay illustrative, emblematic or other artistic or expressive matter appears, or, in cases where writing or illustrative, emblematic or other artistic or expressive matter is not set against any face or surface, the total area within a single continuous, rectangular perimeter enclosing the extreme limits of such writing or illustrative, emblematic or other artistic or expressive matter appears shall be the total area of all such faces or surfaces; but if sign consists of two such faces or surfaces back to back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.

SIGN, BUSINESS: A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed. A "For Sale" or "To Let" sign relating to the lot in which it is displayed shall be deemed to be a business sign.

SIGN, CONSTRUCTION: To build, construct, alter, enlarge, relocate, attach, hang, place, affix or maintain any sign and includes the painting of wall signs.

SIGN, FLASHING: A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance, any revolving illuminated sign shall be considered a "flashing sign".

SIGN, INDIRECTLY ILLUMINATED: Any sign illuminated by a lighting device and reflecting the light thereof, but not emitting any light and therefore not a luminous sign.

SIGN, LUMINOUS: Any incandescent or other sign which gives forth its own light or any transparent or translucent sign through which artificial light is emitted, including, without limitation, any neon sign fluorescent or advertising light display.

SIGN, LEVEL OF NATURAL GROUND: The level of ground prior to any grading or fill done primarily for the purpose of erecting any sign or raising the level of a sign's allowable height.

SHORELINE: The line at which land adjoins the waters of lakes, ponds, rivers and streams navigable by boats, including canoe, at mean high water suffice

SPECIAL USE: A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a certain zoning district as a special use if specific provision for such Special Use is made in this zoning ordinance.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, and having a floor area at least as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STREET: A public or private way which affords the principal means of access to the property.

STRUCTURE: Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground. Structure shall also mean a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

THEATRE, OUTDOOR: An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

TRAVEL TRAILER: A mobile unit designed and built for camping, recreational travel, or vacation use which is equipped to provide portable temporary shelter. The term includes camping trailers, pickup coaches and similar units.

TRAILER CAMP: An area occupied or designed for occupancy by two or more travel trailers, camp trailers, pickup coaches and similar units.

VARIANCE, AREA: Shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE: Shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

YARD, FRONT: A yard extending across the full width of the lot and lying between the front lot line and the nearest line of the building. If the plot abuts a public/private road and does not have frontage on a navigable waterbody, the front yard will be on the side abutting the public road. If the plot has frontage on a navigable waterbody, the front yard will be on the side abutting the waterbody.

YARD, REAR: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building. On both corner and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE: A yard between the side line of the lot and the nearest line of a building and extending from the front yard to the rear yard, or, in the absence of either of such yards, extending from the front lot line to the rear lot line, as the case may be.

ARTICLE V - DISTRICTS AND BOUNDARIES

Section 6 - Designation of Districts

For the purpose of this ordinance, the Town of Lake Pleasant is divided into the following districts:

RDR-8.5 Rural Density Residential-8.5 Acres
BR-8.5 Business Residential-8.5 Acres
LDR-3.2 Low Density Residential-3.2 Acres
HC Hamlet Commercial
LR-3.2 Lakefront Residential-3.2 Acres
CR-1.3 Commercial Residential - 1.3 Acres
MDR-1.3 Medium Density Residential-1.3 Acres
MDMR-1.3 Medium Density Manufactured Residential – 1.3 Acres
LR-1.3 Lakefront Residential-1.3 Acres
LCR-1.3 Lakefront Commercial 1.3 Acres
RM Resource Managment

In addition, any of the following districts may be established by amending the Zoning Map of the Town of Lake Pleasant:

PD Planned Development District:
PR Planned Residential District
PC Planned Commercial District
P - Rec Planned Recreational District
P-RLI Planned Rural Light Industrial District

Section 7 - Zoning Map

The location of boundaries of said districts are hereby established on the Zoning Map of the Town of Lake Pleasant dated [to be added], 2007, which is attached hereto and hereby made a part of this ordinance.

Section 8 - Interpretation of District Boundaries

The district boundary lines are intended generally to follow the center lines of streets; existing lot lines; the center lines of creeks, streams, or rivers; and Town boundary lines. A district boundary line generally following a lakeshore shall be considered to extend into the lake to the low water mark. Where a district boundary line does not follow such a line, its position shall be determined by scaling the Zoning Map.

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

Where district boundaries are so indicated that they are approximately parallel to the center or right of way lines of streets or highways, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Map.

Where a district boundary line divides a lot in single ownership at the time of the passage of this ordinance, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer shall make a determination with respect thereto.

Section 9 - Application of Regulations

Except as hereinafter otherwise provided:

- A. No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as specified among the uses hereinafter listed as permitted in the district in which such building or land is located.

- B. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.
- C. No building shall be erected, no existing building shall be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereinafter designated for the district in which such building or open space is located.
- D. No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
- E. No lot in any District shall be used for more than one principal residential or non-residential structure/use unless the lot area and yard requirements are met for each principal residential or non-residential structure/use, including required street or private road frontages.

ARTICLE VI – ZONING DISTRICTS

Section 10 Zoning District USES

Refer to Attachment 1 Allowable Use Table

Section 11 Zoning District DESCRIPTIONS

RDR-8.5 Rural Density Residential – 8.5 Acres

The primary intent of this district is to provide housing (primarily single-family) in areas where topographic, geological, or location restraints limit the intensity of development. Features such as steep slopes, and shallow soils may cause ecological problems if high-density developments are allowed to occur there. Problems could include erosion due to increased runoff, excessive engineering costs, or the encroachment of significant areas such as wildlife habitats.

Another reason for the establishment of this zone is to protect the valuable land resources currently threatened by development. Valuable resources could include scenic vistas, historic and culturally significant areas, or critical wildlife habitats. Reserving this land for lower density helps to protect this area by spreading units out over a large area due to the lot size. Large lot requirements are also more conducive to cluster type development which puts the focus on small pockets of units surrounded by open space or wooded areas.

BR-8.5 Business Residential – 8.5 Acres

This mixed-use zone seeks to promote rural commercial activities while also accommodating residential uses. Similar to the Rural Density Residential zone, the Business Residential zone will preserve large amounts of land due to the lot size.

LDR-3.2 Low Density Residential – 3.2 Acres

Low Density Residential areas are generally located in close proximity to the central business area of the town, however, due to certain environmental factors; the area cannot support the intensity of development customary of the town core. These factors are similar to the ones that limit development in the Rural Density Residential district but to a slightly lower degree. For example the existing character of the land

would include moderate slopes, slight proximity to significant areas, or moderately deep soils. Clustering is encouraged in this zone, especially in areas close to the town's core, as it will reduce the amount of infrastructure needed to accommodate a multi-unit subdivision, while still protecting open space and significant areas, and allowing development to occur on the most suitable portions of the property.

HC Hamlet Commercial

This district is considered the commercial core of the town. Most of the typical uses within this district are neighborhood businesses coupled with multi-family housing units such as apartment complexes and mixed-use developments. This zone is the densest of all the zones as its primary focus is economic activity and the supporting services that accompany them. A major focus of this zone is also tourism, capitalizing on the town's proximity to the waterfront resulting in many of the lodging and tourist services to be located here. Municipal and public service facilities (as available) will be concentrated within this zone. The intent is to have much of the Town's more intense development to occur in this district in order to keep the cost of infrastructure down and allow protection of environmental resources in the surrounding districts.

CR-1.3 Commercial Residential – 1.3 Acres

The CR-1.3 zone is located in proximity to the HC zone, generally situated around its perimeter. This zone will be focused more on residential uses and their supporting commercial activities, such as neighborhood shops and appropriately sized commercial developments. Its boundaries will allow for some expansion, however, new developments that take advantage of the high-density requirements will be encouraged. Despite the focus on more dense residential areas, there will be neighborhood public spaces such as parks and gathering places to promote a sense of community. Tourism activities will also occur in this zone but not to the same extent as in the HC zone.

MDR-1.3 Medium Density Residential – 1.3 Acres

The MDR-1.3 zone will generally be located in proximity to both the CR-1.3 and HC zones, as it provides easy access for full-time residents to the business center, while still offering ample space for homes. This will be the primary zone for developers to propose subdivisions, as the acreage requirements are lower than the LDR-3.2, RDR-

8.5, and RD-8.5, thus allowing more units and flexibility in configuration of the development. These areas are designed to provide for residential expansion and growth and to accommodate uses related to the HC and CR-1.3 zones.

MDMR-1.3 Medium Density Manufactured Residential – 1.3 Acres

The MDMR-1.3 zone has been identified for the continued placement of manufactured homes, an affordable housing option within the Town.

LR-1.3 Lakefront Residential – 1.3 Acres

The purpose of this zone is to provide an area along a lake suitable for residential units while providing some density regulations. Similar to the MDR-1.3 zone, LR-1.3 would allow for cluster-type developments to occur along the waterfront at a moderate density level. The development requirements would allow the town to monitor the scenic quality of the area by restricting the amount and type of development that occurs. In addition, certain uses and activities within this zone would be required to adhere to the Shoreline regulations set forth in section 20-M of this Part.

LR-3.2 Lakefront Residential – 3.2 Acres

The purpose of this zone is to provide a district for residential units along the lakefront in areas where environmental and physical conditions may be difficult to build on. These areas may also contain scenic vistas or cultural resources. The lower density requirements would facilitate the preservation of land in this district by not allowing significant development. Appropriate cluster developments are encouraged within the zone, also adding to the conservation efforts. In addition, certain uses and activities within this zone would be required to adhere to the Shoreline regulations set forth in Section 16 of this Part.

LCR-1.3 Lakefront Commercial – 1.3 Acres

The Lakefront Commercial district will provide much of the service oriented uses that accompany the residential uses in the LR-1.3 and LR-3.2 zones. This zone will also

house the tourism activities that would take place in proximity to the lake. This would include hotels, restaurants, and other attractions, which would help the town to continue capitalizing on their location.

RM – Resource Management

The Resource Management zone cover lands where the need to protect, manage and enhance forest, recreational and open space resources is of paramount importance because of overriding natural resource considerations.

Section 12 - Shoreline District

Shoreline District regulations are hereby established around Cedar River Flow, Pleasant, Sacandaga, Echo, Indian, Lewey, Oxbow Lakes for a horizontal distance of one hundred (100) feet above the high water shore line, and along the Cedar, Miami and Jessup Rivers at least 100 feet horizontal distance from the nearest bank of the stream. The controls described below are to be superimposed on any other district regulations in the Shoreline District.

PURPOSES: To safeguard the scenic resources of the Town of Lake Pleasant; to promote the use of scenic resources for the pleasure and welfare of the citizens of, and visitors to, the Town; to stabilize and improve property values; to safeguard against damage due to natural causes such as flooding and land, air and water pollution.

In reviewing plans and applications for **any new land use requiring a special use permit**, the Planning Board shall give consideration to:

- A. The scenic value and significance of the location and its relationship to the surrounding area;
- B. The general compatibility of exterior design, arrangement, texture and material proposed to be used; and
- C. Any factor including aesthetic which it deems pertinent, provided that in the event a proposal is refused on aesthetic grounds the denial shall be made by a 3/4 vote of the Planning Board.

Section 13 - Planned Development Districts

PURPOSES: To provide for new residential, light industrial districts, commercial or recreational districts in which the economics of scale and creative and innovative planning and architectural concepts and techniques may be utilized by the developer without departing from the spirit and intent of the zoning ordinance.

To provide for the use of those relatively extensive land areas within the community considered appropriate for the type of development consistent with a Planned Development District but for which no development has been proposed.

To insure that the regulations of this Section are so interpreted and applied that the benefits of this zoning ordinance to the residents or occupants of the Planned Development District and the residents or occupants of adjacent properties will be protected.

PROCEDURES:

A. Planned Development Districts may be established hereafter on the Zoning Map in accordance with the procedures described below:

1. Application for designation of a Planned District: Application for designation of a Planned District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board within ten (10) days of receipt. The applicant shall furnish basic data pertaining to the boundaries of the proposed district, the existing zoning, topography, drainage, soil conditions, and such preliminary plans as may be required for an understanding of the type, uses and design of the proposed development.
2. Planning Board review of Application to establish a Planned District: The Planning Board and the Board's professional planning consultant, if any, shall review each application. The board may require such changes in the application as are found to be necessary to meet the requirements of this Section, to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision the Planning Board shall consider and make findings regarding the following:
 - a. The existing character of the neighborhood.

- b. The height, bulk and location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity.
- c. The auto and pedestrian traffic circulation features within the site, and the amount of, location of, and access to automobile parking areas and loading areas.
- d. The proposed location, type and size of signs, driveways, and landscape features.
- e. The safeguards provided to minimize possible detrimental effects of the proposed use to adjacent properties and the neighborhood in general.
- f. Water supply, sanitary and storm drainage, solid waste disposal and other utilities on and adjacent to the site.

The Planning Board shall report its findings and recommendation to the Town Board within forty-five (45) days as to approval, disapproval, or conditional approval of the application.

- 3. Public Hearing on Application to amend Zoning Map: The Town Board shall hold a public hearing after public notice as required for any amendment to this ordinance and shall consider the report and recommendations of the Planning Board, and all other comments, reviews and statements pertaining thereto in regard to amending the zoning map to establish and define the boundaries of the planned district. Amendment of the zoning map shall not constitute authorization for development in the district until and unless the requirements of paragraph B below are fulfilled.

B. Development in a Planned District

- 1. Application for Building Permits Authorization for development in a planned district shall require that the applicant submit to the Planning Board such plans and specifications, supporting documents and data as are required by the Board. The plans shall show the building types and layout, setbacks, off street parking and loading, ingress and egress, signs, existing and proposed amenities, screening, planting and ornamental features, and the plan or arrangement for development of the area in stages or in its entirety.
- 2. Authorization for Building Permits All conditions imposed by the Town Board in establishing the Planned District and all conditions imposed in the approval of the plans, including any performance of which may be conditions precedent to the issuance of any permit, shall run with the land and shall not lapse or be waived as

a result of any change in tenancy or ownership of any or all of the designated district. No building permit shall be issued until the Planning Board has rendered a final report to the Town Board and the Town Board has authorized issuance of a permit, by resolution.

3. Progress on Construction If construction of the development in accordance with the approved plans and specifications has not begun within one year after the date of issuance of the building permit, all permits shall become null and void, the approval shall be deemed revoked and vacated, and the Town Board shall have the authority to again amend the map to restore the zoning designation for the district to that which it had been prior to the application, or any other district.

C. Standards for Development

1. Permitted uses in "P-R", "P-C" and "P-Recreation Districts", and area and yard dimensions, shall be as shown in Schedule A.
2. Building height shall be as shown in Schedule A.
3. Locations for ingress and egress, off street parking and off street loading in Planned Commercial and Planned Recreational Districts shall be so arranged as not to connect directly with local residential streets, and to cause a minimum of conflict with pedestrian and motor traffic.
4. Any Planned Development District (PD) created by this ordinance is intended to identify a certain area of the community which is relatively extensive and in which existing uses are not the highest and best use of the site. Such areas are regarded as suitable for new development although such new uses and development objectives are unknown at this time.

Therefore, in a Planned Development District (PD) only existing uses and uses accessory thereto are permitted. No additional development or other use may be undertaken until procedures for re-zoning of the area to a specific Planned Development District are fully accomplished and the zoning map has been duly amended to designate such area as "P-R" Planned Residential, "P-C" Planned Commercial, "P-Rec" Planned Recreational or "P-RLI" Planned Rural Light Industrial Districts.

5. The general classification designated as Planned Development District (PD) is intended to hold an extensive area of land for future development in one or more of the following specific categories:

P-R Planned Residential

P-Rec Planned Recreational

P-C Planned Commercial

P-RLI Planned Rural Light Industrial

D. Planned Rural Light Industrial District (P-RLI)

In a Planned Rural Light Industrial District (P-RLI), a building may be erected, altered or used and a lot or premises may be used for any lawful light industrial purpose which may include for any lawful light industrial purpose which may include fabricating, processing, converting, altering, assembling or other handling of products, the operation of which is conducted solely within a building or buildings and which complies with the following performance standards:

- a. Performance Standards

- i. Fire and Explosive Hazards. All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire fighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and local laws and regulations shall also apply
- ii. Vibration. No vibration shall be permitted which is detectable without instruments at or beyond the lot or boundary lines of the Planned Rural Light Industrial District.
- iii. Noise. At or beyond the lot or boundary lines of the Planned Rural Light Industrial District, the maximum sound pressure level radiated in each standard octave band by any use of facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table I after applying the corrections shown in Table II. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards

prescribed by the American Standards Association, Inc. New York, N.Y. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3-1944, American Standard Association, Inc., New York, N.Y. and American Standard Specification for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, 224.10-1953 or latest approved revision thereof. American Standards Association, Inc., New York, N.Y. shall be used).

Table 1

Frequency Ranges Containing Standard Octave Bands in Cycles Per Second	Octave Band Sound Pressure Level in Decibels re 0.0002 dyne-cm
20... 75	65
75... 150	55
150... 300	50
300... 600	45
600... 1,200	40
1,200... 2,400	40
Above... 2,400	35

If the noise is not smooth and continuous and is not radiated between the hours of 10 p.m. and 7 a.m. one or more of the corrections in Table II shall be applied to the octave band levels given in Table I.

Table II

Type of Location of Operation Or Character of Noise	Correction in Decibels
1. Daytime operation only	5
2. Noise Source operates less	
a. 20% of any one hour period	5
b. 5% of any one hour period	10
3. Noise of impulsive character (hammering, etc.)	5
4. Noise of periodic character (hum, screech, etc.)	5

- iv. Smoke. No emission shall be permitted from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No.2 of the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile reduction of a Standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 3 on said chart may be emitted for 4 minutes in any 30 minutes. Wood or coal burning for residential purposes is expected.
- v. Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable at or beyond the lot or boundary lines of the Planned Rural Light Industrial District from which they are emitted without instruments.
- vi. Fly, Ash Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation, or other forms or property or which can cause any excessive soiling, at any point on the property of others, and in no event any emission from any chimney, or otherwise, of any solid or liquid particles in concentrations exceeding .022 parts per million (PPM) or 60 micrograms-cu. meter of the conveying gas. Sulfur dioxide contact shall not exceed .022 PPM or 60 micrograms-cu. meter. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to stack temperature of 500 degrees Fahrenheit and fifty-percent (50.) excess air.
- vii. Radioactivity. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. All applicable Federal Regulations shall be complied with.
- viii. Glare. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise so as to be visible at or beyond the lot or boundary lines of the Planned Rural Light Industrial District. This restriction shall not apply to signs otherwise permitted by provision of this ordinance or the Adirondack Park Agency nor does this provision apply to lighting for parking areas, driveways and sidewalk areas so long as such lighting does not create a hazard for vehicular traffic.

b. Performance Standards Procedures. In addition to the procedures set forth in Section 13, Paragraphs (A and B) the following procedures shall be applicable for a Planned Rural Light Industrial District:

i. Prior to Construction and Operation. In the application for a building permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of subject property; that said use will be operated in accordance with the performance standards set forth herein.

ii. Continued Compliance. Continued compliance with the performance standards is required and enforcement of continued compliance with these performance standards shall be enforced by the Zoning Officer.

iii. Determination of Violation. The Zoning Officer shall investigate any purported violation of performance standards and if the Zoning Officer finds there is a violation of the performance standards, such violation shall be terminated as provided by Section 33 of this ordinance.

c. Additional Regulations in a Planned Rural Light Industrial District.

Minimum Lot Size

Area in Square Feet 5 acres (This minimum lot size requirement does not override the property’s underlying density requirements as set forth in this Part)

Width in Feet 300 feet

Lot Coverage

Maximum Percent 35 percent

Building Height Maximum

In stories 2½ stories

In feet 35 feet

Yard Dimensions

From Rts 8 and 30 100 feet

From P.L.	50 feet
From Lake	250 feet
From Each Side	50 feet
From Rear	50 feet

ARTICLE VII – AREA AND BULK REQUIREMENTS

Section 14 – Density Control Schedule

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Attachment 2 and in the additional regulations of this Article and are supplemented by the regulations of other sections of this ordinance. The Density Control Schedule with all explanatory matter thereon, is hereby made a part of this ordinance.

Section 15 – Additional Area Regulations

A. Lot Width - The minimum width of any lot shall be measured along the minimum building setback line required for the district in which it is located.

B. Reduction of Lot Area - The minimum yards and open spaces, including lot area per family, required by this ordinance shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this ordinance.

C. Number of Dwellings on Lot - Two principal buildings on one lot, other than group housing, shall be prohibited unless the lot area and yard requirements are met for each dwelling, except required street frontage.

D. Corner Lot - The area of a corner lot shall be at least 20% greater than the standard for the district. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a permit. The Planning Board shall determine the yard and building width of a corner lot facing an intersecting street, and of record at the time of the passage of this ordinance, if the yard requirements would result in a residential structure less than twenty-four (24) feet wide.

E. Through Lots - Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the wider street shall be deemed the street upon which the property fronts, and no principal structures and no dwelling shall be erected on the rear of such a lot, except where such lot may be subdivided to create not less than two conforming lots. Where a single lot extends between two streets of equal

width, either of the two streets may be deemed as that upon which the property fronts. The building height shall be measured from the grade of the street on which the building fronts.

F. Visibility at Street Corners - On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than 2½ feet above the finished grade on the street centerline shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 30 feet distant from the point of intersection, measured along said lines.

G. Front Yard Exception - When a vacant lot is situated between two improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard of the vacant lot may be reduced to a depth equal to the greater of the depths of the front yards of the two adjoining improved lots, but not less than ten (10) feet.

H. Transition Yard Requirements - Where a residential district abuts a nonresidential district at a street line, there shall be provided in the nonresidential district for a distance of 50 feet from the district boundary line, a front yard at least equal in depth to that required in the residential district.

Where a district boundary line divides a lot in one ownership at the time of adoption of said district line, the regulations for more restricted portion of such lot shall extend not more than 50 feet into the less restricted portion provided the lot has frontage on a street in the less restricted district.

1. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other forms of enclosure exceeding six (6) feet in height.
2. In determining the percentage of building coverage or the size of yards for the purpose of this ordinance, roofed and enclosed porches shall be considered a part of the building.
3. An open fire escape may extend into any required yard not more than six (6) feet provided that such fire escape shall not be closer than four (4) feet at any point to any lot line.

4. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.

J. Walls, Fences and Hedges - The yard requirements of this ordinance shall not prohibit any retaining wall nor any fence, wall, or hedge, providing that in any residential district such fence, wall or hedge shall be no closer to any front lot line than two feet, and shall comply with visibility at street corners as provided in this Article.

K. Side Yards

1. Width of One Side Yard May Be Reduced - When authorized by the Zoning Board of Appeals, the width of one side yard may be reduced to a width of not less than 5 feet, provided that the sum of the width of the two side yards is not less than the required minimum for both side yards, and further provided that the distance between the proposed structure, and any structure, existing or proposed, on an adjacent lot is not less than the required minimum sum of the width of the two side yards. Such reduction may be authorized only when the Zoning Board of Appeals find it to be warranted by the location of existing buildings or conducive to the desirable development of two or more lots.

ARTICLE VIII SUPPLEMENTARY REGULATIONS

Section 16. – Shoreline Regulation

- A. Purpose. The purpose of these Shoreline Regulations is to promote and protect the public health, welfare and safety, and to protect economic property values, aesthetic and recreational values and other natural resource values associated with lakes, ponds, streams, or wetlands. It is the further purpose of these regulations to:
1. Provide for the protection, preservation, proper maintenance and use of watercourses and wetlands in order to minimize disturbance to them and to prevent damage from erosion, turbidity, or siltation, a loss of fish or other beneficial aquatic organism, a loss of wildlife and vegetation and/or from the destruction of the natural habitat thereof;
 2. Provide for the protection of the potable fresh water supplies from the dangers of drought, overdraft, pollution or mismanagement.

B. Minimum Shoreline Frontages. The following minimum shoreline frontages shall be required for deeded or contractual access to all such lakes, ponds, rivers or streams for 5 or more lots, parcels or sites or multiple family dwelling units not having separate and distinct ownership of shore frontage;

1. Where 5 to 20 lots or multiple family dwelling units are involved, a total of not less than 100 feet.
2. Where more than 20 and not more than 100 lots or multiple dwelling units are involved, a minimum of 3 feet for each additional lot or multiple dwelling unit in excess of 20.
3. Where more than 100 and not more than 150 lots or multiple dwelling units are involved, a minimum of 2 feet for each additional lot or multiple dwelling unit in excess of 100.
4. Where more than 150 lots or multiple dwelling units are involved, a minimum of 1 foot for each additional lot or multiple dwelling unit in excess of 150.

C. The area within any required shoreline setback shall not be included as part of the lot or plot area when calculating the building coverage or lot coverage permitted by this ordinance.

D. The following uses or activities, in addition to other applicable restrictions, shall not be permitted in the Town within 500 feet of the mean high water mark of all lakes, ponds, and shorelines of any river or stream navigable by boat, including canoe:

1. Fuel storage in excess of 100 gallons not solely intended for onsite heating purposes or not necessary to support a lawfully permitted marina;
2. Junkyards, wrecking yards;
3. Commercial waste, trash, or recycling storage, processing, or transfer;

E. The following information shall be included in the Site Plan Review Application and shall be considered collectively by the Planning Board during its review:

1. Fuel Tanks:

- a. All fuel tanks associated with a commercial marina shall include adequate provisions for ensuring that leaks shall be prevented to the maximum extent feasible and that in the event of a leak response and containment provisions are in place.
2. An erosion and sediment control plan for ground disturbances exceeding 20,000 square feet and if not otherwise required:
 - a. Extent of area of disturbance;
 - b. Extent of existing vegetation and the location of all existing trees on site over 4 inches DBH;
 - c. Existing and final slopes;
 - d. Locations of material, waste, borrow or equipment storage areas;
 - e. A description of soils at the site;
 - f. Provide a description of construction and waste materials expected to be stored on-site, and a description of controls to reduce pollutant from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - g. Provide a timeline and describe any temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out. Methods and standards for such measures shall refer, although not exclusively, to the *New York Standards and Specification for Erosion and Sediment Control* and the *New York State Stormwater Management Design Manual*.
 - h. Provide the location, size, lengths, and materials of each erosion and sediment control practice
 - i. A Vegetative plan shall identify where new trees will be planted, if any.
- F. The following guidelines shall be considered by the applicant and planning board during the design and review of a site plan for purposes of off-site water quality and shoreline aesthetics:
1. Construction activities and site development should incorporate stormwater control practices that reduce or eliminate erosion on the site and sedimentation of nearby waters;
 2. The development of the site should be compatible with the natural character and aesthetic values of the shoreline by incorporating into the design the existing

- vegetation and topography and limiting the amount of grading necessary for construction;
3. Post-development peak stormwater runoff rates from the site should not exceed pre-development peak runoff rates;
 4. Existing trees and vegetations should be preserved and the amount of impervious surfaces should be reduced to limit the amount of runoff generated by new site development;
 5. Parking lots and driveways should be designed to promote sheet-flow of stormwater runoff;
 6. Removal of trees over 4 inches DBH should be limited to trees within and near the footprint of any proposed buildings, roadways and driveways, and any septic drainage fields;
 7. Building exteriors should be of a color that is preferably muted and in harmony with the vegetation and the prevailing character of the neighborhood;
 8. Site lighting trespass onto a open waters should be minimized, if not avoided;
 9. Exterior lighting fixtures should be downcast and shielded;

Section 17 - Additional Height Requirement

- A. General Application - No building or structure shall be greater than 40 feet in height except agricultural use structures, municipal water storage tanks, and residential radio and television antennas, or as noted elsewhere in this ordinance. Structures exceeding the 40 foot height limit will be considered an APA Class A project and require a permit.
- B. Measuring Height - Height will be measured from the highest point of the structure to the lowest point of existing or finished grade; whichever is lower. A “structure” includes attached decks, porches, garages, and chimneys, spires, rooftop structures.

Section 18 – Screening and Fencing Regulations

Any storage yard and used building materials yard which use is in, abuts or is adjacent to a residential property, or fronts on a public right of way, shall be screened from view from such residential property and public rights of way in an effective manner as approved by the Planning Board during Special Use Permit and/or Site Plan Review.

Section 19 – Signs

Signs shall comply with the following regulations and with the provisions of Section 9-0305 of the Environmental Conservation Law of the State of New York:

Purpose. The purpose of these sign regulations is to promote and protect the public health, welfare and safety and it insure optimum overall preservation and enjoyment of the scenic, aesthetic and open space resources of the town and of the Adirondack Park. These regulations are intended to safeguard property values, create a more attractive climate for tourism and other business, protect open country scenery along highways, and generally provide a more aesthetically pleasing community and region. These regulations are further intended to reduce obstructions and distractions that may contribute to traffic accidents an to minimize hazards that may be caused by signs hanging or projecting over public right of way.

A. In all Zoning Districts, non-advertising signs are permitted as follows:

1. One nameplate, identification or professional sign not to exceed two (2) square feet of sign area, showing the name and address of the resident or a permitted home occupation of the resident of the premises. In the case of a corner lot, such sign shall be located on the principal street frontage of the dwelling unit.
2. One non-illuminated sale or rental sign not to exceed six (6) square feet of sign area during and pertaining to the sale, lease, or rental of the land or building. Such sign shall be removed promptly after the premises have been sold or rented.
3. One temporary artisan's sign not to exceed six (6) square feet of sign area during and pertaining to construction, repairs or alterations on the property. Such sign shall be removed promptly upon completion of the work.

4. Signs advertising the sale or development of a tract of land may be erected upon the tract by the developer, builder, contractor or owner. The size of sign shall not exceed fifteen (15) square feet and not more than two (2) signs shall be placed upon the tract.
 5. Signs advertising functions, uses, products or services not pertaining to the premises on which they are located, and mobile advertising or attracting devices shall not be permitted in any Residence District.
 6. Business signs for regular non-conforming uses shall conform with sign requirements of the HC, CR-1.3 LCR-1.3, and the BR-8.5 Commercial Districts.
 7. Political Signs: maximum six square feet, shall not be displayed until 90 days prior to the election, shall be removed within one week after the election, shall not be located nearer than five feet to any lot line, and shall not project more than four feet above grade.
- B. In A-3 Mobile Residence Districts, non-advertising signs are permitted and in addition, one sign not to exceed thirty-two square feet in area identifying the mobile home court or trailer camp.
- C. In HC, CR-1.3 LCR-1.3, and the BR-8.5 Commercial Districts, the applicable signs above are permitted, and in addition, any business sign erected hereafter in these Districts shall not project into a public way. No sign erected hereafter shall be higher than twenty (20) feet above ground level. The gross surface area of a business sign in the Districts shall not exceed three (3) square feet per lineal foot of building frontage for non-illuminated signs or two (2) square feet per lineal foot of building frontage for illuminated signs, but not to exceed forty-eight (48) square feet.
- D. In any Planned Development District, the Planning Board shall review and approve any proposed business signs. No advertising signs shall be permitted in any Planning Development District.
- E. In any RDR-8.5 no advertising signs shall be permitted. Any other sign shall conform with the regulations described above as to the particular type of use.
- F. The provisions of Section 62 of the Conservation Law of the State of New York shall apply throughout the Town of Lake Pleasant except within the limits of the Village of Speculator.

G. No sign authorized by this ordinance shall be erected or maintained anywhere within the town unless or until a permit has been obtained from the zoning officer pursuant to Section 30 of this ordinance. Sign permit fee \$15.00.

H. General Regulations. The following regulations shall apply to all permitted sign and billboard uses:

1. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
2. Signs, other than an official traffic sign, shall not be erected within the right of way lines of any street or highway.
3. Signs shall not project beyond property lines nor over public sidewalk areas.
4. A separate permit shall not be required for the erection, alteration or maintenance of any permitted non-business sign in any Zoning District.
5. A permit shall be required for the erection, alteration, or reconstruction of any business or advertising sign.
6. All temporary signs erected for a special event shall be removed by the property owner within seven (7) days of the event.
7. Public information signs owned and/or erected by the Town, Village or Chamber of Commerce shall be permitted without restriction as to size and location.
8. No sign shall be illuminated by or contain flashing, intermittent, rotation, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only light emitting of constant intensity, except in the case of digital street clocks and temperature indicators.
9. No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause glaring or non-diffuse beams of light to cast upon any public street, highway, sidewalks, or adjacent premises, or otherwise to cause nuisance. No sign shall in its construction employ any mirror or mirror like surface, nor any day glowing or other fluorescent paint or pigment.

10. No sign or part thereof shall contain or consist of any banner, pennant, ribbon, streamer, spinner, or other similar moving, fluttering, or revolving device, or strings, to attract attention, whether or not they are part of any sign. No sign or part thereof may rotate or move back and forth.
11. No sign shall be placed upon or be supported by any tree, rock, or other natural object, other than the ground.
12. No sign shall be erected or maintained upon the roof of any building or structure.
13. No motor vehicles on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
14. Not more than one pole sign may be erected or maintained upon the premises of any gasoline or other automotive service station; and no pole sign shall have a sign area greater than 15 square feet.
15. No sign shall exceed 20 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure roof.
16. No sign shall project more than 3 feet from the wall of any building, nor shall any sign project from the room of any building on/into any public way.
17. No sign shall be erected or maintained having a sign area greater than 40 square feet. No luminous sign shall be erected or maintained having a sign area greater than 15 feet.
18. No sign shall be erected or maintained within the right of way nor within 10 feet of the road bed or any public street or highway; nor shall any sign exceeding 20 square feet in the sign area be erected or maintained within 20 feet of the road bed of any public street or highway. But these minimum setback distances shall not apply to signs erected upon any building entirely housing the business or activity with which the signs are principally associated. For the purposes of this provision, the road bed shall mean the trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends farthest. Where there is no shoulder or guardrail, there shall be deemed to be a shoulder extending 4 feet from the outer edge of the pavement or unpaved traffic lanes.

19. No sign shall be erected or maintained more than 200 feet from the business or activity with which it is principally associated. For the purpose of this provision, the location of a business or activity shall include all of the principal, private access road connecting the actual place of that business or activity with a public street or highway.
20. Not more than two signs may be erected or maintained advertising or otherwise relating to single business or activity, except for directional signs that do not exceed 2 square feet in the sign area and are limited to such text as "Office", "Entrance", "Exit", "Parking", and "No Parking". The total sign area of these 2 signs shall not exceed 60 square feet. For the purpose of this provision, a single business or activity shall include all businesses or activities subordinate to or integrated with that business or activity, located on the same premises as that business or activity.
21. No off premise sign shall have a sign area of more than 10 square feet, nor shall any such sign be luminous. All off premise signs shall conform to all applicable requirements of the State Department of Environmental Conservation for off premise signs within the Adirondack Park.

Section 20 - Off Street Parking

Off street parking space shall be required for all buildings constructed or substantially altered after the effective date hereof. Each off street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of nine feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Required off street parking areas shall be so arranged and regulated as not to interfere with pedestrian or motor traffic on the public street or highway and no parking or maneuvering incidental to off street parking shall be on any public street right of way or walkway. Parking requirements are specified in Schedule B, which is hereby made a part of this Ordinance.

For uses not specified, the Zoning Board of Appeals shall, on appeal and after recommendation of the Planning Board, establish parking requirements in specific cases consistent with those specified in Schedule B.

For any building having more than one use, parking space shall be required for each use.

Floor areas for the purpose of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

Off street parking lots for five or more cars or trucks shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, pedestrian walkways, ingress and egress, and shall be developed as an integral part of an overall site design, and the plan shall be submitted to and approved by the Planning Board.

Note that all applicants will be required to comply with the requirements of the NYS Uniform Fire Prevention and Building Code as they may relate to the construction of off-street parking lots.

SCHEDULE B - OFF STREET PARKING

<u>USE</u>	<u>SPACES REQUIRED (Minimum)</u>
1. Dwelling, camp, cottage	2 spaces for each dwelling unit
2. Home Occupation	Off street parking space for all customers, patients, clients and residents
3. Motel, hotel, rooming house	1 space for each sleeping room
4. Office	1 space for each 300 square foot of floor space
5. Church	1 space for each 8 seating spaces in main assembly room
6. Auto wash	3 spaces for each bay, plus space for all employee cars
7. Theatre or other place of assembly	1 space for each 5 seating spaces
8. Nursing home	1 space for each 3 beds
9. Retail store	1 space for each 300 sq. ft. of retail floor space
10. Club or restaurant	1 space for each 100 sq. ft. of floor space
11. Industrial or manufacturing use	1 space for each 4 employees

Section 21- Off Street Loading

Off street loading facilities shall be provided for each commercial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway and shall be adequately screened if adjacent to a residential use.

Section 22- Adult Uses

A. Adult Uses are permitted in the Low Density Residential District – 3.2 (LDR-3.2) under the following restrictions.

1. No Adult Use shall be located within 1,000 feet of a property line;
2. Any Adult Use shall be set back at least 1,000 feet from any road right-of-way.
3. The Adult Use shall be conducted entirely within an enclosed building.
4. No outside displays or advertising other than an approved sign shall be allowed.
5. The serving of alcoholic beverages shall be prohibited.

Section 23- Erosion and Sediment Control

A. Construction activities and ground disturbances permitted by the Town shall refer to and, if required by the NYSDEC, apply any applicable standards and methods enumerated in the *New York Standards and Specification for Erosion and Sediment Control* and the *New York State Stormwater Management Design Manual*.

Section 24- Business Uses Along NYS Route 8

A. Business uses allowed within the Commercial Residential –1.3 Use District (CR-1.3) may be permitted along New York State Route 8, between Tamarack Road and the Arietta Town line, and no farther than 1000 feet New York State Route 8. Such uses shall only commence per the terms of an officially approved special use permit.

ARTICLE IX - NON-CONFORMING USES

Section 25 - Continuation - (Continued Use)

The lawful use of any land or building existing at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provisions of this Ordinance, and any such building may be reconstructed or structurally altered and the non-conforming use therein changed, subject to the following regulations:

- A. Additions. A non-conforming building or use shall not be added to or enlarged more than fifty (50) percent unless such non-conforming building or use is made to conform to the regulations of the district in which it is located.
- B. Alterations. A building non-conforming as to use may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the fair value of the building, unless the use of such building is changed to a conforming use.
- C. Changes. A non-conforming use may be changed to another non-conforming use of the same or higher classification according to the provisions of this Ordinance and when so changed, such use shall not thereafter be changed to a non-conforming use of a lower classification.
- D. Discontinuance - Whenever a non-conforming use has been discontinued for a period of two years, any future use shall be in conformity to the provisions of this Ordinance. A reasonable interim, however, between tenants or occupants shall not be construed to mean discontinuance.
- E. Restoration - A building non-conforming as to use which has been damaged by fire or other causes to the extent of not more than fifty (50) percent of its fair value may be restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within two (2) years of such occurrence or the use of the building or land as a legal non-conforming use thereafter shall be terminated.
- F. Removal - If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the

subsequent use of any building erected thereon shall conform with the regulations of the district.

- G. Validity of Permit - Any building for which a permit has been lawfully granted, and on which the construction has been started and diligently prosecuted before the effective date of this Ordinance may be completed.

ARTICLE X - ZONING BOARD OF APPEALS

Section 26 - Zoning Board of Appeals

- A. Appeals from Orders, Decisions, Requirements, Interpretations, Determinations of Zoning Officer: The Zoning Board of Appeals is vested with the authority to interpret the provisions of this Chapter on a written appeal from a written decision, determination, order, requirement or interpretation made by the Zoning Officer. As such, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the written decision, determination, order, requirement or interpretation appealed from, and shall make such decision, determination, order, requirement, or interpretation as in its opinion ought to have been made in the matter by the Zoning Officer. Such action by the Zoning Board of Appeals shall be referred to herein as an interpretation. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose written decision, determination, order, requirement, or interpretation the appeal is taken.
- B. Authorization for Zoning Board of Appeals to Grant Variances: In accordance with Section 267-b of the Town Law of the State of New York, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Zoning Officer, and after public notice and hearing, to vary or modify the application of any of the provisions of this Chapter relating to the use, construction, or alteration of structures or the use of land, so that the spirit of this law is observed, public safety and welfare secured, and substantial justice done. The Zoning Board of Appeals shall also have the power to vary or modify the dimensional or area requirements and restrictions of this Chapter upon referral from the Planning Board and without a written decision or determination made by the Zoning Officer in the case of a site plan, special use permit or subdivision application that the Planning Board has before it. The specific standards for the grant of use and area variances are set forth below. The definitions of use and area variances are set forth in Sections 26 and 27 of this Chapter respectively.
- C. Such appeal may be made by any person aggrieved by the written decision, determination, order, requirement or interpretation made by the Zoning Officer. The determination of whether an applicant is aggrieved shall be determined by the Zoning Board of Appeals, after hearing, as part of the appeal process set forth below.

Section 27 - Use Variances

- A. The Zoning Board of Appeals, on appeal from a decision or determination of Zoning Officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed by this Chapter.

- B. No use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the land use area or neighborhood;
 - (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) The alleged hardship has not been self-created.

- C. The Zoning Board of Appeals shall consider any Agricultural Data Statement and whether the variance would have an undue adverse impact on the farm operations identified by the Agricultural Data Statement.

- D. The Zoning Board of Appeals, in granting use variances, shall grant the minimum variance that it deems 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.

- E. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are 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 the variance may have on the neighborhood or community.

Section 28 - Area Variances

- A. The Zoning Board of Appeals shall have the power, upon an appeal from a determination of the Zoning Officer, or upon the referral from the Planning Board with respect to a site plan, Special Use Permit or subdivision application it has before it, that the applicant's proposal can not be approved by reason of its failure to meet the dimensional or area regulations of this Chapter, to grant area variances from the area or dimensional requirements of this Chapter.
- B. In making its determination, the Zoning 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 of such grant. In making this determination the Board shall also consider:
- 1 Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - 2 Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - 3 Whether the requested area variance is substantial;
 - 4 Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or land use area or overlay area; and
 - 5 Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance.
- C. The Zoning Board of Appeals, in granting of area variances, shall grant the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.
- D. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are 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 the variance may have on the neighborhood or community.

Section 29 - Procedure for Appeals

29.1 - Taking An Appeal - Application.

- A. Time of Appeal: An appeal from an order, requirement, decision, interpretation or determination of the Zoning Officer, shall be taken within sixty (60) days after the filing in the Town Clerk's office of such order, requirement, decision, interpretation or determination of the Zoning Officer. In the case of an application for an area variance from a site plan, Special Use Permit or subdivision application before the Planning Board, the appeal shall be taken within 60 days of the date that the Planning Board determined that an area variance is required.

- B. Placement of Agenda. In order for an appeal to be placed on the Zoning Board of Appeal's meeting agenda, the required application materials, fully completed shall be submitted to the Town Clerk at least 14 days prior to the date of the Zoning Board of Appeal's meeting.

- C. Application Requirements. In order for an appeal, whether variance or interpretation, to be commenced, the applicant shall submit at least 1 original and 7 copies of the following together with whatever other information the Zoning Board of Appeals deems appropriate:
 - 1. A Town of Lake Pleasant Zoning Board of Appeals application form.
 - 2. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined below.
 - 3. A narrative describing the existing and/or proposed use and operation together with the justification for the requested variance or interpretation.
 - 4. A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Zoning Board of Appeals may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the appeal).

5. The application fee as established by the Town Board, and an escrow deposit for reimbursement of cost of Town consultants (if required) pursuant to this Chapter.
 6. The Zoning Board of Appeals may waive or add any requirements for an application submission if it deems appropriate in order to accomplish the purposes set forth herein.
- D. Upon submission of an application for a variance or interpretation that appeals a decision, determination or order of the Zoning Officer, the Zoning Officer shall forward to the Zoning Board of Appeals a complete copy of the file on the property that is the subject of the appeal and all the papers constituting the record upon which the action appealed from was taken.

29.2 - Procedures For Hearing and Review.

- A. **Determining Completeness of Application.** At the first meeting at which an application is first presented as an agenda item, the Zoning Board of Appeals shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Zoning Board of Appeals shall notify the applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Zoning Board of Appeals action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Zoning Board of Appeals that the application is complete.
- B. **Planning Board Recommendation.** The Zoning Board of Appeals, in its discretion, may request the Planning Board to make a recommendation on such matter and such recommendation shall become part of the record but shall not be binding upon the Zoning Board of Appeals.
- C. **Stay Upon Appeal:** An appeal shall stop all proceedings relating to the action appealed from, unless the Zoning Officer certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of competent jurisdiction. The application for a stay shall be on notice to the Zoning Officer and with due cause shown.

D. Compliance with State Environmental Quality Review Act: The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act. The following actions of the Zoning Board of Appeals do not require review under the State Environmental Quality Review Act: Granting of individual setback and lot line variances; granting of an area variance(s) for a single-family and a two-family dwelling; and appeals involving only interpretations of the Zoning Law and not variances other than those area variances previously mentioned.

E. Notice and Hearing on Appeal:

1. The Zoning Board of Appeals shall schedule and hold a public hearing on the appeal or other matter referred to it within 62 days of the date that the application for the appeal is considered complete by the Zoning Board of Appeals. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Zoning Board of Appeals.
2. At least five days prior to the date of such hearing, the Zoning Board of Appeals shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to all adjoining property owners and to any other property owners in the affected area that the Zoning Board of Appeals may require to be notified.
3. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Zoning Board of Appeals must give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-nn.
4. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals prior to the hearing of such appeal.
5. Upon the hearing, any party may appear in person, or by agent or attorney. The Zoning Board of Appeals may require testimony to be made under oath.

F. Time of Decision: The Zoning Board of Appeals shall decide the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Zoning

Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.

- G. Filing of Decision: The decision or draft minutes of the Zoning Board of Appeals on the appeal shall be filed in the Office of Town Clerk within ten (10) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. The minutes, as approved by the Zoning Board of Appeals, shall be filed in the Town Clerk's Office within ten (10) business days of the meeting at which the minutes were approved.
- H. Rehearing: A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

Section 30 - General Conduct of Business

- A. The Zoning Board of Appeals may employ such clerical or other staff or consulting assistance as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.
- B. The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this Chapter.
- C. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. Meetings of the Zoning Board of Appeals shall be open to the public as required in Article Seven of the Public Officers Law of the State of New York.

- D. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The concurring vote of a majority of all members shall be necessary to take action on any matter before it.
- E. Filing Requirements: Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the Town or Clerk's Office as the case may be, within ten (10) business days and shall be a public record.

Section 31 Expiration of Appeal Decision

- A. Termination or Lapse of Variance: Any variance that is not exercised within 1 year of the date it is issued shall lapse without further hearing by the Zoning Board of Appeals.
- B. Interpretations Binding. Interpretations made by the Zoning Board of Appeals shall not lapse unless reconsidered by the Zoning Board of Appeals and shall be binding on all Boards and officials of the Town.
- C. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building or other permit or approval within 1 year of the date of such decision.

ARTICLE XI – SPECIAL USE AND SITE PLAN REVIEW

Section 32 - Intent, Objective, and Applicability.

Pursuant to the Town of Lake Pleasant Comprehensive Plan it is the policy of the Town of Lake Pleasant to balance the allowance and encouragement of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the unique rural character, and aesthetic and scenic qualities of the Town. In this regard, the Town utilizes two complementary zoning methods and processes: special use permits and site plan review. Many uses are, therefore, permitted only upon issuance of a Special Use Permit by the Planning Board in order to ensure that these uses are appropriate on a case-by-case basis as to their proposed location in the Town in relation to their specific surroundings. Such uses must thereby satisfy performance criteria before a determination is made on their approvability in the proposed location. Some of these uses also require site plan review and approval once a special use permit is issued. There are certain uses that only require site plan review and approval. This Article addresses the applicability and the procedural requirements for both special use permits and site plan approvals.

33.1 - Objective.

- A. **Special Uses.** Those uses, which by their nature, intensity, size, and/or type of operation are inherently problematic, will need mitigation measures, and, depending on their specific location and surroundings, require a special use permit from the Planning Board in order to allow the proposed use in its proposed location. The function and objective of the special use permit process is to ensure that the proposed use is compatible with surrounding areas and properties. Thus, the proposed use is deemed not to be allowed until the special use permit is issued by the Planning Board.

- B. **Site Plan Uses.** Those uses which have been found to be generally acceptable in a particular area but may have certain issues of concern with respect to the construction and layout of the proposed structure and uses, or operation of the use on the proposed site requires a site plan to be approved by the Planning Board in order to minimize any impacts on nearby areas and properties. Thus, the function and objective of the site plan review process is to evaluate such land uses and the development of particular sites in relation to the conditions of the site and the site's relation with the natural conditions and uses in the nearby area so as to minimize any adverse effects

from the proposed development or use of the site that concern the health, safety, and overall welfare of the residents and property owners of the community.

- C. Combination of procedures. In certain cases, it may be appropriate to conduct both the special use permit process and the site plan review process concurrently. In such cases, the applicant may request the Planning Board to run both processes concurrently.

33.2 - Applicability.

Uses requiring Special Use Permits or Site Plan Approval are listed for each Land Use District in the Allowable Uses Table of this Part. Accessory uses or structures used in connection with a Special Use Permit or Site Plan Approval use shall be subject to the same Special Use Permit or Site Plan approval requirements as the principal structure or use. Any change in use, expansion of the use, or change in the intensity of the use shall require a new Special Use Permit or Site Plan approval or both, whichever may be applicable depending on the requirements of the Zoning Schedule or the existing permit or approval.

Section 34 - Power and Authority of Planning Board.

A. Power and Authority

1. Special Use Permits. The power and authority to issue, with or without conditions, or deny the issuance of special use permits as required by this chapter is vested in the Planning Board pursuant to § 274-b of the Town Law and this Part. Prior to issuance of a building permit and/or certificate of occupancy for the construction, operation, expansion, or change of any use specified in this Part (and the Zoning Schedule), an application for a special use permit together with supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board, in its review of any such application, shall be guided by the criteria set forth in this Part.
2. Site Plan Review. The power to approve, approve with modifications and/or conditions, or deny site plans as required by this Chapter is vested in the Planning Board pursuant to § 274-a of the Town Law and this Part. Prior to issuance of a building permit and/or certificate of occupancy for the construction, operation, expansion, or change of any use specified in this Part (and the Zoning Schedule), a site plan, together with supporting documentation, shall be submitted to the

Planning Board for its review and approval. The Planning Board, in its review of any site plan, shall be guided by the criteria and the standards and guidelines set forth in this Part. The Planning Board may require that the site plans be prepared by a licensed architect, landscape architect, land surveyor or engineer. Such requirement shall depend upon the complexity of the site features and of the proposed structure(s) or land use as related to the same

- B. Application for an Area Variance. Notwithstanding any provision of law to the contrary, where a proposed site plan or an application for a special use permit contains one or more features which do not comply with the minimum area or dimensional requirements set forth in these zoning regulations, the Planning Board shall direct the applicant to the Zoning Planning Board for an area variance pursuant to § 267-b of the Town Law, without the necessity of a decision or determination of the Zoning Officer.
- C. Conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed use requiring a special use permit and/or to a site plan. Upon the Planning Board's issuance of a special use permit and/or approval of a site plan, any such conditions must be met in connection with the issuance of permits and certificate of occupancy by the Zoning Officer.
- D. Waiver of Requirements. The Planning Board is authorized to waive any application requirements for site plan or special use permit approval as established in this Section. The applicant shall submit to the Planning Board a signed written request enumerating the waivers requested and the reason for each waiver. The Planning Board shall not grant any waiver for an application requirement that is requisite for the protection of public health, safety, or general welfare or that is in contravention of the purposes of this Chapter or the Lake Pleasant Comprehensive Plan. The Planning Board may consider alleged excessive and undue hardships borne by the applicant resulting from factors such as existing site conditions, site topography, or site configurations. Such hardships shall not have been self-created by the applicant. The Planning Board may request of the applicant additional information as necessary to aid the review of a waiver request.
- E. Concept Plan Submittal and Pre-Application Conference (OPTIONAL). Submittal of a concept plan or attendance at a pre-application meeting is optional. However, it is recommended that before filing an application for either a special use permit or site plan approval, the applicant should attend a Pre-Application Conference to discuss

the nature of the proposal and to determine the information that will need to be submitted and the issues that may be involved. The purpose of this meeting is to encourage the applicant to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development.

1. Submittal. If prepared, three (3) copies of the concept plan shall be submitted to the Planning Board or other designee as prescribed in the procedures of the Planning Board. Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or the County Highway Superintendent at the concept stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process.
2. Submittal Requirements. The concept plan shall include one or more of the following as may be applicable:
 - a. An area map, such as the real property tax parcel map, showing that portion of the applicant's property under consideration for development and any contiguous parcels owned by the applicant with acreage and dimensions noted.
 - b. A copy of the Town of Lake Pleasant Zoning Map locating the property.
 - c. A copy of a map of site topography (United States Geological Survey topographic map).
 - d. A copy of the Hamilton County Soils Map locating the property if general grades exceed fifteen (15%) percent or portions of the site have susceptibility to erosion, flooding, or ponding.
 - e. A site development map, generally to scale, showing all proposed structures and improvements.
 - f. Additional Data:
 - i. Name/Address of applicant and/or site owner, if different.

- ii. If proposing a Commercial or Business Use, provide a concise description of the nature of the applicant's proposed Commercial or Business Use.

3. Action on the Concept Plan. The Planning Board or the appropriate designee shall provide written advisory comments to the applicant on the proposal and concept plan in relation to the applicable requirements of this Section and to existing and/or potential development of the adjacent area, the Town of Lake Pleasant Comprehensive Plan, and other applicable sections of this zoning ordinance. In the course of its review, the Planning Board or the appropriate designee may consult with other appropriate public agencies.

F. Application for a special use permit and/or site plan approval shall be filed with the Zoning Officer in a form prescribed by the procedures of the Planning Board, with no fewer than five (5) copies nor fifteen (15) days prior to a scheduled Planning Board meeting. The Zoning Officer shall refer all special use permit and site plan applications to the Planning Board for its review and approval. For the purposes of this Section, the submission date shall be taken as the date of the first regular Planning Board meeting following the submission to the Zoning Officer.

G. Application Requirements.

1. Special Use Application Requirement. Because the impact of Special Use Permit uses varies greatly, the information required to be submitted for a Special Use Permit may vary depending upon the scale, intensity, nature of the proposed use, and its proposed location. An applicant for a Special Use Permit shall submit at least the following together with whatever other information the Planning Board deems appropriate.

- a. For proposed projects subject to the jurisdiction of the APA, the applicant may provide to the Town afive (5) copies of all the application materials submitted to the APA along with 5 (5) copies of the following information :

1. All correspondences with the APA, including additional information requests.

2. Notice of Complete Application from the APA.

3. A list of the names and addresses of all property owners abutting the subject property within five hundred (500) feet or as otherwise deemed appropriate by the Planning Board.
 4. The application fee as established by the Town Board, and an escrow deposit (if required).
- b. For proposed projects that do not require a Permit from the APA, five (5) sets of the following information shall be submitted to the Town as part of the application package:
1. Town of Lake Pleasant Special Use Permit application form. One original and three copies are required.
 2. A plot plan drawn to scale with accurate dimensions. The plan shall be prepared and stamped by a New York State Licensed architect, landscape architect, land surveyor or engineer. The plan shall, at a minimum, conform to the requirements for a site plan as set forth in this Section. The Planning Board may require additional information to be included on the plan if the Board deems such information as necessary in order to make an informed decision.
 3. A narrative describing the proposed use and operation. The operation details shall include the nature of the operation, hours of operation, occupancy levels, emitted noise levels, anticipated pedestrian and vehicular traffic rates, water consumption, sewage usage, and other information necessary to determine if the proposed special use meets the requirements of this Chapter.
 4. A copy of the deed to the property, and if the applicant is not the owner of the property, a letter of authorization from the owner for the applicant to make application to the Planning Board on his/her behalf.
 5. A list of the names and addresses of all property owners abutting the subject property within five hundred (500) feet or as otherwise deemed appropriate by the Planning Board.
 6. A SEQRA Environmental Assessment Form with Part 1 (Short Form) Completed

7. Copy of the Non-Jurisdictional Letter from the APA.
 8. The application fee as established by the Town Board, and an escrow deposit (if required).
2. Site Plan Application Requirements for proposed projects SUBJECT to the jurisdiction of the APA shall include five (5) copies of the following
- a. All correspondences with the APA, including additional information requests.
 - b. Notice of Complete Application from the APA.
 - c. A list of the names and addresses of all property owners abutting the subject property within five hundred (500) feet or as otherwise deemed appropriate by the Planning Board.
 - d. The application fee as established by the Town Board, and an escrow deposit (if required).
 - e. In addition to the requirements of the APA application, the Site Plan shall include the following information
 - i. Existing and proposed contours at intervals of not more than five (5) feet of elevation.
 - ii. If applicable, the approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space
3. Site Plan Application Requirements for proposed projects NOT SUBJECT to the jurisdiction of the APA shall include five (5) copies of the following
- f. Letter of Non-Jurisdiction from the APA.
 - g. A SEQRA Environmental Assessment Form with Part 1 Completed
 - h. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all properties, their ownership, uses thereon, subdivisions, streets, zoning

districts, including state-designated Agricultural Districts, easements, and adjacent buildings within five hundred (500) feet of the applicant's property.

A site plan shall include the following information as applicable

- i. Title of the drawing, including the name and address of the applicant.
- ii. North point, scale, and date.
- iii. Existing natural features such as watercourses, water bodies, wetlands, 100-year flood hazard areas, wooded areas, individual or stands of trees 8 inches DBH or greater.
- iv. Location and area (in acres) of proposed land uses.
- v. Location, proposed use, and height of all buildings.
- vi. Location, design, and use of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences, and easements, whether public or private.
- vii. Description and engineering plans of sewage disposal and water systems and the location of such facilities.
- viii. Location and proposed development of buffer areas and other landscaping.
- ix. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description, and composition of dwelling unit type and a calculation of the residential density in dwelling units per square footage for each such area.
- x. Location of all parking and truck-loading areas, with access and egress drives thereto.
- xi. Location, design, and size of all lighting facilities.
- xii. Location, design, size, and construction material of all outdoor signs.

- xiii. If applicable, the approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space resources.
- xiv. Building orientation and site design for energy efficiency.
- xv. Location, design, and construction material of all energy distribution facilities, including electrical, gas, and solar energy.
- xvi. A grading and erosion control plan consistent with applicable permits for stormwater discharges; . Methods and standards in the plan shall refer, although not exclusively, to the *New York Standards and Specification for Erosion and Sediment Control* and the *New York State Stormwater Management Design Manual*.
- xvii. Description of any hazardous materials to be used or stored on-site and the location of such storage facilities.
- xviii. Description of methods and locations for disposal of construction demolition debris.
- xix. Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.
- xx. The lines, dimensions, and purpose indicated for all public use dedications within and adjoining the property.
- xxi. All proposed property that is to be reserved by deed covenant for the common use of the property owners of the development.
- xxii. All proposed property that is to be reserved by deed covenant for the common use of the property owners of the development.
- xxiii. The Planning Board may require additional information deemed necessary for promoting the public interest.

4. Pursuant to Subsection B(3) of this Section, the Special Use Permit and Site Plan review procedures could be run concurrently. For applicants seeking both Special

Use Permit and Site Plan approval, the application material required for Special Use Permits as set forth above in Subsection J(1)(a) or (b) as applicable, of this Section shall be sufficient for a Site Plan application submission.

5. The Planning Board may, in its review of the Special Use Permit application or Site Plan, confer with appropriate local, regional, state and federal agencies.
6. Pursuant to Subsection G of this Section, the Planning Board may waive or add any requirements for an application submission that it deems appropriate in order to accomplish the purposes set forth herein.

H. Planning Board Review – Procedures.

1. **First Meeting.** At the first meeting at which an application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the Applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process.

The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete. Pursuant to Subsection E of this Section, where an application requires an area variance, the application will not be deemed complete until after said variance is obtained unless both the Planning Board and the applicant agree that the variance application and site plan or special use permit application may run concurrently or the variance obtained as a condition of the special use permit and/or site plan approval.

2. **SEQR.** Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review (SEQR) process by either circulating the application and Environmental Assessment Form (EAF) to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within thirty (30) days of its acceptance of a completed application, EAF, and other supporting materials. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until

either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

3. SEQRA.

- a. Pursuant to §617.5(c)(36) of SEQRA, all proposed projects subject to the Class A or Class B Regional Project jurisdiction of the Adirondack Park Agency pursuant to Section 809 of the Executive Law shall be considered Type II Actions and are therefore not subject to the review requirements under SEQRA.
- b. For APA jurisdictional projects and other projects considered Type II Actions pursuant to SEQRA, the Planning Board need only note in the Board's minutes that the proposed project had been considered under SEQRA and had met the requirements for a Type II action.

4. Notice and Hearing.

- a. A public hearing is required for all proposed projects requiring a Special Use Permit.
- b. A Public Hearing is not necessary for proposed projects requiring only a Site Plan Review. The Planning Board does reserve the right to hold a hearing during Site Plan Review if the proposed project might result in a significant adverse impact pursuant to the requirements of SEQRA.
- c. Pursuant to the requirements for public hearings set forth paragraphs (a) and (b) above, the Planning Board shall hold a public hearing on all complete Special Use Permit and Site Plan applications within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Planning Board.
- d. Ten days before said hearing, the Planning Board shall mail notice to the applicant, as required by § 239-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision One of §239-m of the general municipal law. The hearing shall be advertised at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Town.
- e. A public hearing may be consolidated for both a special use permit and site plan for the same proposal upon request by the applicant to the Planning Board and

agreement by the Planning Board that such consolidated hearing is appropriate under the circumstances.

5. Action.

- a. The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the date that the hearing is closed. The Planning Board shall approve, approve with modifications and/or conditions, or deny a Site Plan within 62 days after the date that the hearing is closed. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the standards contained in § 16(L) below.
- b. In granting a Special Use Permit or in approving a Site Plan, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in the Town of Lake Pleasant Comprehensive Plan. These conditions may include increasing dimensional or area requirements, specifying location, character, and number of vehicle access points, requiring landscaping, planting, and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.
- c. Design Standards. *This subsection shall be reserved should the Town adopt design standards at a later date.*

6. Findings Required. In granting or denying Special Use Permits, the Planning Board shall take into consideration the type, scale, and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law, and the policies and goals of the Town of Lake Pleasant Comprehensive Plan, and all amendments thereto. The Planning Board shall set forth its findings in writing as part of its decision-making process.

7. Notification of decision on site plan.

- a. Decision format: The Planning Board's action shall be in the form of a written statement to the applicant and shall state whether the site plan is approved,

approved with conditions, or disapproved. The Planning Board's statement will contain the reasons for such findings. A copy of the appropriate Planning Board minutes shall be a sufficient statement.

- b. Filing the decision: The decision of the Planning Board shall be filed in the Town offices within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. If the Site Plan is disapproved, the Planning Board shall so inform the Zoning Officer, who shall deny a building permit.

I. Planning Board Review – General Criteria.

- 1. General Criteria for all Special Uses. In considering and acting on Special Uses, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Planning Board shall not grant a Special Use Permit unless the Planning Board determines and finds, except where the criteria is not applicable:

- a. Compatibility. That the proposed use is of a character, type, scale, and intensity that, when mitigated, is not incompatible with the surrounding neighborhood, land uses, and general area of where the use is proposed to be located, that the use incorporates a site design which is consistent with the character of and is harmonious with the Town, promotes the purposes, goals, and intent of the Town of Lake Pleasant Comprehensive Plan and all amendments thereto, and safeguards the health, safety, and welfare of the Town and its residents.
- b. Neighboring Properties. That the proposed use, operation, and/or structures do not significantly and adversely affect neighboring properties with respect to such things as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters.
- c. Vehicular Access. That the proposed design of vehicular access points are consistent with applicable New York State and Town Highway design and standards; that proposed access points are adequate in width, grade,

alignment, and visibility; are not excessive in number; are located at appropriate distances from intersections or places of public assembly; that the proposed use will not generate more volume or type of traffic than existing road infrastructure can adequately and safely accommodate; and that they satisfy other similar safety and traffic flow considerations, including conditions for school buses, cyclists, and pedestrians.

- d. Circulation and Parking. That adequate off-road parking and loading spaces are provided to minimize, or, where required, to eliminate the need for parking of vehicles on public highways by any persons connected with or visiting the site of the use; that the interior circulation system is adequate to provide safe accessibility to all required parking spaces; and that adequate separation of pedestrian and vehicular movements is provided.
 - e. Landscaping and Screening. That all parking, storage, loading, and service areas can be and are reasonably screened at all seasons of the year from the view of nearby residential areas and public spaces and that the general landscaping of the site is in character with the surrounding areas. Such screening shall be maintained as a condition of the Special Use Permit and/or site plan approval and shall be guided by the minimum standards set forth in this Article.
 - f. Natural Features. That the proposed use, together with its sanitary and water service facilities, parking facilities, and other facilities necessary for the operation of the use, are compatible with geologic, hydrologic, topographic, and soil conditions of the site and of adjacent areas; that the proposed use, operation, and structures do not significantly impact existing natural and scenic features; and that such features are preserved to the maximum extent possible.
 - g. That the proposed use will not be inconsistent with the recommended Future Land Use Concepts for the area in which the use is proposed as described in the Town of Lake Pleasant Comprehensive Plan.
2. General Criteria for all Site Plans. The Planning Board's review of the site plan shall include but is not limited to the following considerations:
- a. Adequacy and arrangement of vehicular traffic access and circulation.

- b. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
- c. Location, arrangement, size, and design of buildings, lighting, and signs.
- d. Relationship of the various uses to one another and their scale. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise-detering buffer between adjacent uses and adjoining lands.
- e. Adequacy of landscaping and maintenance of natural vegetation for water quality protection.
- f. Adequacy of storm water management, erosion control, and sanitary waste disposal designed to protect surface water and groundwater resources.
- g. Adequacy of structures, roadways, and landscaping in areas susceptible to flooding and ponding and/or erosion.
- h. Compatibility of development with natural features of the site and with surrounding land uses.
- i. Adequacy of methods and locations for disposal of construction demolition debris designed to protect groundwater resources.
- j. Adequacy of hazardous material storage facilities designed to protect groundwater resources.
- k. Special attention shall be paid to the potential impact on the aquifer. Because residents of the community depend on ground water for their water supply, both public and private ground water resources must be protected. Potential adverse impacts shall be mitigated or avoided.
- l. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community, including the protection of adequate sunlight for use by solar energy systems.
- m. Adequacy of open space for play areas, informal recreation, and the retention of natural areas such as wildlife habitats, wetlands, and wooded areas. Where

a site is located in an area identified by the Town of Lake Pleasant Comprehensive Plan and all amendments thereto and any future Comprehensive Recreation, Parks or Trails Plan as potentially important to be part of a network of recreational areas or trails, provision shall be made that the site plan include provision for connecting to such network in some manner so as to promote and provide a continuous network of such recreational facilities. In this regard, any provision made by the property owner to provide land, easements, or rights-of-way for connecting to such network for recreational purposes shall be considered as part or all of the otherwise recreational area or fee that may otherwise be required.

n. Adequacy of pedestrian access, circulation, convenience, and safety.

J. Amendments. The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Section. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a Special Use Permit amendment.

K. Expiration, Change of Use, Revocation, and Enforcement.

1. A Special Use Permit and/or Site Plan approval shall expire within one year from the date of issuance or approval if the Special Use Permit and/or Site Plan is not exercised within said one-year period, if the use or uses cease for more than 12 consecutive months for any reason, or if the applicant fails to obtain any other governmental permits that may be necessary for the use or its continuing operation or fails to comply with the conditions of the Special Use Permit or Site Plan approval within 12 months of its issuance, or if its time limit expires without renewal.
2. A Special Use Permit and/or Site Plan shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit and/or Site Plan approval (as determined by the Zoning Officer in issuing a Certificate of Occupancy) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Use Permit or Site Plan shall require the granting of a new Special Use Permit or Site Plan approval or an amendment to same.
3. A Special Use Permit and/or Site Plan approval may be revoked by the Planning Board if the property owner or operator violates the conditions of the Special Use

Permit and/or Site Plan approval or engages in any construction or alteration not authorized by the Special Use Permit and/or Site Plan approval.

4. Any violation of the conditions of a Special Use Permit and/or Site Plan approval shall be deemed a violation of this Part, and shall be subject to enforcement action as provided herein.

Section 35 - Special Uses to be considered by the Planning Board include the following:

A. Public Utility Station or Structure. Such uses shall include electric or telephone substations, transformers and auxiliary apparatus serving a distribution area, and water pumping stations in any Residential District and shall be subject to the following regulations:

1. Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of commercial traffic to and through such streets.
2. The location, design, and operation of such facility shall not adversely affect the character of the surrounding residential area.
3. Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen planted in accordance with the provisions of Section 24.

B. Drive-in Restaurant or Refreshment Stand. In addition to meeting the minimum yard and lot coverage requirements, such businesses where persons are served in automobiles or out-of-doors shall be subject to the following regulations:

1. Such use shall be not closer than two hundred (200) feet to a Residence District, the use referring to the principal building.
2. Shall have frontage on a public street.
3. Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to review and approval of the Planning Board.

4. Such use shall be adequately fenced and screened from any adjacent residential property and lighting shall be directed away from adjacent property.

C. Auto Wash. In addition to meeting the minimum yard and lot coverage requirements, any auto wash establishment shall be subject to the following regulations:

1. Such establishment shall not be closer than two hundred (200) feet to a Residence District.
2. The wash waster shall not pollute any stream or lake, nor create a hazard because of surface drainage.
3. The number and location of driveways shall be subject to review and approval of the Planning Board.
4. Such establishment, in addition to meeting the off street parking requirements of Schedule B, shall provide three (3) parking spaces per bay on the lot to prevent the waiting of automobiles in the public street.

D. Commercial Excavation. Except in a Commercial Excavation District, and except when incidental to the construction of a building on the same lot, the excavation, processing or sale of topsoil, earth, sand, gravel, rock, peat, minerals or other natural resources is subject to the following conditions:

An application shall be made to the Planning Board for a Special Use for commercial excavation.

In its consideration of said application, the Planning Board shall find that such excavation will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic or other condition. The Planning Board shall specify any reasonable requirements to safeguard the public health, safety, and welfare in granting such permit, including the following:

1. The slope of material in such topsoil, earth, sand, gravel, peat or other material shall not exceed the normal angle of repose of such material.
2. The top and the base of such slope shall not be nearer than 50 feet to any property line nor nearer than 50 feet to the right of way line of any street or highway.

3. A plan for restoration and rehabilitation of a commercial excavation area or barrow pit shall accompany the application for a Special Use and shall assure conformance with the public health, safety and welfare. The Planning Board, upon approval of such plan, may require a performance bond to assure rehabilitation of commercial excavation sites in conformance therewith.
4. In rock excavation, a plan for safeguarding the public health, safety and welfare in commercial rock or mineral excavation areas shall accompany the application for a permit and shall be approved by the Planning Board and the Town Board.

ARTICLE XI - AMENDMENTS

Section 36 - Amendments, How Initiated

The Town Board may from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this ordinance pursuant to law.

Whenever the owners of fifty (50) percent or more of the frontage in any district or part thereof included in such change shall present a petition duly signed and acknowledged to the Town Board requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within ninety (90) days after the filing of the same by the petitioners with the Town Clerk.

The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions of the regulations. Within thirty (30) days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Board to vote on such proposed amendment.

Section 37 - Referral of Proposed Amendment to the Town Planning Board

All proposed amendments, supplements or charges originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be disapproval of the proposed amendment.

Section 38 - Hearing on Proposed Amendment

Before any amendment, supplement, or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing shall be held by the Town Board. In addition to the 15-day public notice of a hearing, notice shall be given in writing either personally or by mail, to all property owners of the land included in such a proposed change, and the land immediately adjacent extending one hundred (100) feet therefrom, and the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the Town.

Where more than 12 properties are included in such change and the Town Board, by resolution, determines that notice in writing to each property owner is not feasible, the notice of hearing shall be published in the official paper once a week for three (3) successive weeks and shall be posted in public places in the Town in which six (6) shall be in the area affected.

Section 39 - Adoption of Amendment

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the zoning ordinance, except as described in the section of Protest Petition.

Section 40 - Protest Petition

If a protest against a proposed amendment, supplement, or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (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 (4) members of the Town Board.

Section 41 - Periodic Review of Zoning Ordinance

From time to time at intervals of not more than three (3) years, the Planning Board shall re-examine the provisions of this ordinance and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

ARTICLE XII - MISCELLANEOUS

Section 42 - Validity

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

Section 43 - Violations and Penalties

Any person, partnership, association or corporation who violated any provision of this ordinance shall be guilty of an offense against this ordinance and subject to a fine of not less than fifty dollars (\$50.00) nor more than two-hundred dollars (\$200.00) or imprisonment for a period of not more than 6 months or both. When a violation of any of the provisions of this ordinance is continuous each week or portion thereof, shall constitute a separate and distinct violation.

Section 44 - Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard shall govern.

Section 45 - Availability of Copies of Ordinance

This ordinance and all subsequent amendments thereto when adopted shall be published, and printed copies shall be available from the Town Clerk at a charge to be determined by the Town Board.

Section 46 - Effective Date

The Town of Lake Pleasant Zoning Ordinance shall take effect at the time and in the manner provided by law.

Attachment 1 – Use Regulation Table

Attachment 2 – Density Control Schedule

Attachment 3 –Zoning Map