



**Town of Stephentown
LOCAL LAW NO. 1 OF THE YEAR 2014**

A Local Law to be known as:

**AMENDED LAND USE REGULATIONS OF
THE TOWN OF STEPHENTOWN**

Be it enacted by the Town Board of the
Town of Stephentown as follows:

TOWN OF STEPHENTOWN
LAND USE REGULATIONS

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ARTICLE I - TITLE, SCOPE AND PURPOSE

A. TITLE

This local law shall be known and may be cited as "The Land Use Regulations of the Town of Stephentown, Rensselaer County, New York."

B. SCOPE

This Local Law regulates and guides the use of land and the location, construction, alteration, and occupancy of structures in the Town of Stephentown and for said purposes, divides the Town into land use districts.

ENACTING CLAUSE

The Town Board of the Town of Stephentown, Rensselaer County, New York, hereby ordains and enacts as follows:

C. PURPOSES

The Regulations and controls described in the text of the Local Law are adopted in accordance with a comprehensive and well-considered plan. This Local Law, together with its associated "Land Use Map", designated as Supplement 1 - Maps and Overlays, are designed to facilitate adequate planning for the following purposes:

1. To wisely manage and develop the community, while insuring that residential, educational, agricultural, commercial, or light industrial growth will be appropriate to the topography, water resource, air and soil capacities of the Town.
2. To insure long-term availability of light, clean air, clean water and privacy.
3. To encourage sound agricultural and forestry practices.
4. To protect the rural, scenic, historic, economic, recreational and environmental qualities of the Town.
5. To protect the value of existing property.
6. To assure compatibility of adjacent land uses.

ARTICLE II - ESTABLISHMENT OF LAND USE DISTRICTS

A. LAND USE DISTRICTS

In Order to fulfill the purposes of this Local Law, the Town of Stephentown is hereby divided into the following Land Use Districts:

R-1	Residential District
C	Commercial District
I	Industrial District
EF	Extraction and Fill
RU	Rural Use District
FP	Flood-Prone District (as designated by the Federal Emergency management Agency [FEMA])

1. Where uncertainty exists with respect to the boundaries of any of the Districts as shown on the Land Use Map, the following rules shall apply.
 - a. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines shall be construed to be such boundaries.
 - b. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
 - c. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by use of a scale on said map.
 - d. Where district boundaries follow a stream, a river or a lake or other body of water, said boundary line shall be determined to be coterminous with the shore line.
 - e. Where the district boundary line is not a natural or man-made feature, the center of the line appearing on the map is the point from which or to which scale measurements are made.
 - f. No subdivision shall result in more than one non-conforming lot size.

2. Any yard or lot existing at the time of passage of this Local Law shall not be reduced in size or area below the minimum requirements in the Local Law.
3. Within each district, the Use Regulations and the Area and Bulk Regulations in this Local Law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure, land or use.

ARTICLE III - USE REGULATIONS

A. SCHEDULE OF USE REGULATIONS

The general use regulations in each land use district are set forth in the following "District Schedule of Use Regulations." This schedule is supplemented, as appropriate, by other provisions of this Local Law.

STRUCTURE/LAND USE

Key:	P	-	use permitted by right
	SP	-	special permit required
	X	-	prohibited use
	*	-	site plan review required

<u>RESIDENTIAL USES</u>	<u>R-1</u>	<u>C</u>	<u>I</u>	<u>EF</u>	<u>RU</u>
One Family Dwelling	P	P	P	X	P
Two Family Dwelling	P	P	P	X	P
Multi-Family Dwelling	SP	P*	P*	X	SP
Residential Cluster	P*	P*	P*	X	P*
Individual Mobile Home	X	X	X	X	X
Individual Manufactured Home	P	X	X	X	P
Home Park	X	X	X	X	SP
<u>GENERAL USES</u>	<u>R-1</u>	<u>C</u>	<u>I</u>	<u>EF</u>	<u>RU</u>
Agricultural Uses and Conservations Uses	P	P	P	X	P
Forestry Uses	SP	P	P	X	P
Institutional & Cultural Facilities	P*	P*	P*	X	SP
Heliport/Airfield	X	SP	SP	X	SP
Golf Course or Country Club	X	SP	SP	X	SP
Camp	X	X	X	X	SP
Day Camp	SP	X	X	X	SP
Day Care	P*	SP	SP	X	P*
Roadside Stand	P	P	P	X	P
Public Utility Structures	SP	P	P	X	SP
Farms	P	P	P	X	P
Religious, Educational & Non Profit Recreational Uses	P*	P*	P*	SP	P*
Municipal Uses	SP	P	P	P	SP

<u>COMMERCIAL USES</u>	<u>R-1</u>	<u>C</u>	<u>I</u>	<u>EF</u>	<u>RU</u>
Retail Business	X	P*	P*	X	SP
Personal Services or Professional Offices	P*	P*	P*	X	SP
Restaurant	P*	P*	P*	X	SP
Bed and Breakfast or Tourist Home	P*	P	P	X	P
Self Service Laundry	X	SP	SP	X	SP
Recreational Vehicle Park	X	X	X	X	SP
Commercial Recreation Park	X	SP	SP	X	SP
Automobile Service Station	X	SP	SP	X	SP
Automobile Repair Facility	X	SP	SP	X	SP
Automobile or Equipment Rental and Sale	X	P*	P*	X	P*
Car Wash	X	P*	P*	X	SP
Lumber Yard or Sawmill	X	P*	P*	X	SP
Hotel or Motel	X	P*	P*	X	SP
Hospital	X	SP	SP	X	SP
Nursing Home	X	P*	P*	X	P*
Commercial Kennel and/or Veterinary Hospital	X	P*	P*	P*	P*
Junk Yards	X	P*	SP	X	SP
Commercial Mining	X	X	X	P*	SP
On-Site Screening of Mined/Extracted Material	X	X	X	SP	X
On-Site Crushing of Mined/Extracted Material	X	X	X	SP	X
On-Site Processing of Mined/Extracted Material	X	X	X	SP	X
Manufacturing	X	SP	P*	X	SP
<u>ACCESSORY USES</u>	<u>R-1</u>	<u>C</u>	<u>I</u>	<u>EF</u>	<u>RU</u>
Home Occupations and Professional Offices Including one sign not To exceed 6' x 6'	P	P	P	X	P

Note: When a DEC-permitted mine located in a parcel in an EF Zone has been legally closed, the Town Board shall designate a new Land-Use Zone for that parcel. It is expected that the new Zone will be the same as surrounding parcels.

ARTICLE IV - AREA AND BULK REGULATIONS

A. DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

The general area and bulk requirements in each land use district are set forth in the "District Schedule of Area and Bulk Regulations." This Schedule is supplemented, as appropriate, by other provisions of this Local Law

B. EXISTING LOTS OF RECORD

Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed area, width and depth, if such existing lot of record was owned individually or separate from any adjoining tract at the time of enactment of this Local Law, provided that all other provisions of the Local Law are met.

C. HEIGHT EXCEPTIONS

The height restrictions set forth in the "District Schedule of Area and Bulk Regulations" shall not be applicable to the following

1. Flagpoles, radio or television antennae, transmission tower or cables, agriculture silos, and similar features, any of which shall be restricted to a maximum height of one hundred (100) feet above average finished grade at its base.
2. A spire, belfry, chimney, commercial skylight, water or cooling tower, windmill, parapet or railing, elevator, stair bulkhead, solar collector, air-conditioning unit or similar structure, any of which shall be erected only to such height as is necessary to accomplish the purpose for which it is intended.

D. CORNER LOTS

1. Required Front Yards - On a corner lot, the Code Enforcement Officer and Owner will jointly decide which side will be deemed a "front" street line and which side will be deemed a "side" street line.

2. Obstructions at Street Intersections - At all street intersections, no fence, wall, hedge, structure, planting or weeds over three (3) feet in height shall be permitted which would obstruct vision of street traffic.

DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

LAND USE DISTRICT	MINIMUM LOT AREA	MAXIMUM STRUCTURE COVERAGE	MAXIMUM STRUCTURE HEIGHT	MINIMUM LOT WIDTH	MINIMUM SETBACK OR YARD REQUIREMENTS		
					FRONT	SIDE	REAR
R-1 Residential	1.00 acres	25%	35'	150'	50'	25'	25'
C Commercial	2.00 acres	30%	35'	200'	50'	25'	25'
I Industrial	10.00 acres	30%	35'	400'	100'	100'	100'
RU Rural Use	1.00 acres	25%	35'	150'	50'	25'	25'
FP Flood Prone Area	-----By Special Permit Only-----						
EF Extraction and Fill	-----See Article V (G) of this Local Law-----						

IN GENERAL, NO LOT DEPTH SHALL BE GREATER THAN 3X THE LOT WIDTH: IRREGULARLY SHAPED LOTS AND/OR LOTS WITH LESS THAN THE MINIMUM LOT WIDTH MUST BE APPROVED BY THE ZONING BOARD OF APPEALS.

NOTE: 1 acre = 43,560 square feet

ARTICLE V - SUPPLEMENTARY REGULATIONS

The following supplementary regulations are applicable to all land use districts within the Town of Stephentown unless otherwise provided.

A. GENERAL PERFORMANCE STANDARDS

No use shall be permitted which does not conform to the following standards of use, in addition to all existing local, county, state and federal laws.

B. SIGNS

All signs shall comply with County and State Regulations

C. PARKING AND LOADING STANDARDS

All uses shall provide adequate off-street parking for all vehicles parked during the peak load period. Parking shall be designated to eliminate the need to back out onto the public road or highway. The basic standard for determining adequacy of provided parking shall be as follows:

If peak loads generate parking that exceeds capacity of the site more than three times in any one month, and parking for the use is generated off the site, the use shall be in violation of this local law until sufficient additional parking is provided on the site.

D. FENCES AND WALLS

All fences and walls shall be in compliance with applicable State Department of Transportation and County Regulations.

E. LAKES, PONDS, STREAMS AND WETLANDS

Lakes, ponds, streams and wetlands and the uses of land in or adjacent thereto, shall be in compliance with Department of Environmental Conservation regulations and applicable Federal rules and regulations

F. HOME OCCUPATIONS

As defined in Article XIII and as used in Article III, permitted home occupations shall conform to the following instructions.

1. Not more than two (2) persons other than members of the household occupying such dwelling shall be employed in the conduct of the home occupation.

2. No material and equipment used in connection with the home occupation shall be permitted in the front yard of the premises. All such materials and equipment shall be screened from view and stored in such a way that they do not pose a nuisance to adjacent property owners, such storage being not less than twenty-five (25) feet away from any property boundary.

G. EXCAVATING, GRADING AND FILLING

All use shall conform to State regulations and Rensselaer County Soil and Water Conservation District Guidelines.

H. OUTDOOR STORAGE ON RESIDENTIAL LOTS

Not more than two (2) unregistered motor vehicles nor more than one (1) unoccupied travel trailer, unoccupied mobile home, or unoccupied recreational vehicle may be stored outdoors on a lot in R-1 and RU.

I. RESIDENTIAL CLUSTER DEVELOPMENT

The Town Planning Board is authorized, simultaneously with the approval of a plat or plats pursuant to Article 16 of the Town Law of the State of New York, to modify applicable provisions of this Local Law subject to the conditions in Section 281 of the Town Law and the following requirements:

- The average density throughout the subdivision shall not exceed the maximum density permissible in the Land Use District.
- No individual structures shall contain more than four (4) attached residential units.
- Water and sewage disposal facilities shall be provided in accordance with the requirements of the Rensselaer County Department of Health.

J. SEWAGE SYSTEMS AND SANITARY DISPOSAL

Sewage systems, sanitary disposal and water systems shall be in compliance with the Rensselaer County Department of Health.

K. ONE-FAMILY DWELLING/TWO-FAMILY DWELLING

The terms "one-family dwelling" and a "two-family dwelling" as used in Article III of this Local Law shall mean a single structure served by a water system and a sewer system, both of which are wholly on the site on which the structure is located..

ARTICLE VI - SPECIAL PERMIT USES

All special permit uses specified in Article III, Schedule of Use Regulations, shall be subject to review and approval of the Planning Board in accordance with the standards and procedures included in this Article and no Building Permit or Certificate of Occupancy of Use shall be issued by the Building Inspector unless a full conformity with plans approved by the Planning Board.

A. GENERAL STANDARDS FOR SPECIAL PERMIT USES

In authorizing any special permit use, the Planning Board shall take into consideration the public health, safety, and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. The Planning Board shall also consider where appropriate, whether the special permit use will create noise, traffic, danger or congestion, fire hazards, noxious fumes or other adverse conditions which will be seen heard or smelled by other residents of the Town.

B. EFFECT OF SPECIAL USE PERMIT APPROVAL

1. No Building Permit shall be issued for any structure covered by this Article until such special use permit has received approval from the Planning Board and a copy of the resolution to that effect has been presented to the Building Inspector.
2. No Certificate of Occupancy or Use shall be issued for any structure or use of land covered by this Article until the structure is completed and the land developed is in strict accordance with the resolution of special permit approval by the Planning Board or other applicable requirements of this Local Law.
3. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit is granted.
4. The Planning Board will require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the Applicant prior to revocation of the special use permit.

C. EXPIRATION OF SPECIAL PERMIT USE

A special use permit shall be deemed to authorize only one particular permit use, and shall expire and shall become null and void without further action by the Planning Board if the special use is not commenced and diligently pursued within one (1) calendar year of the date of the special use permit issuance or if the use authorized ceases for more than one (1) year for any reason.

D. APPLICATION/FEE/NOTICE

An applicant for a special use permit shall apply by writing to the Planning Board and requesting a permit specified in Article III hereof. The Planning Board shall then meet with the applicant or his or her representative to specify what information shall be supplied by the applicant to the Planning Board and within what period of time. After such information is supplied to the Planning Board, the provisions of Article VIII(c)(2) shall apply with respect to public hearing and notice. The Planning Board shall charge such fees as shall be authorized by the Town Board; the provisions or Article VIII (E) (Reimbursement of Costs) and of Article VIII (H) (Notice to Abutting Landowners) shall apply to review of applications for special use permits.

ARTICLE VII - ADMINISTRATION AND ENFORCEMENT

A. ENFORCEMENT OFFICER

This Local Law shall be administered and enforced by a person designated by the Town Board as the "Enforcement Officer", whose duty shall be:

To enforce the provisions of the Land Use Regulations

In order to carry out the foregoing duties, the Enforcement Officer shall have and is given the power to make inspections of the premises and buildings under construction and after completion, as may be necessary, to carry out his duties. The Enforcement Officer shall submit monthly reports.

1. Issuance of Stop Orders - Whenever the Enforcement Officer has reasonable grounds to believe that work on any building or structure or use of land is occurring either in violation of the provision of this Local Law, not in conformity with any application made, permit granted, or other approval issued, or in an unsafe or dangerous manner, the Enforcement Officer is the appropriate person responsible to suspend work on any such building or structure or use of any such land. Such persons shall suspend such activity until such time that the Stop Order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which work or use may be resumed and may be served upon the person to whom it is directed either by delivering it personally to that person or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by Certified Mail.
2. Taking of Emergency Action - If in the opinion of the Enforcement Officer a violation exists which requires immediate action to avoid a direct hazard and imminent danger to the health, safety or welfare of the occupants of a building or to other persons or environment, the Enforcement Officer may direct such violation be remedied immediately or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation.

The Enforcement Officer shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses, or place a lien against the property, in order to recover the said costs.

B. PENALTIES FOR VIOLATIONS

1. Civil Penalty - Violation of any provision or requirement of this Local Law or violation of any statement, plan, application, permit or certificate approved under the provisions of this Local Law shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00), and/or imprisonment for not more than six (6) months for each offense. Each and every week that any such violation continues after the initial fine is imposed shall constitute a separate offense. Such notice shall be given, in writing, by the Enforcement Officer and shall be served by Certified Mail or in personal service.
2. Court Action - In a Court of competent jurisdiction to prevent unlawful erection, construction, alteration, repair, conversion, maintenance or use, or to restrain by injunction, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.
3. Taxpayer Action - If the Enforcement Officer fails or refuses to act upon or refer a violation of this Local Law to the Town Attorney for a legal action in accordance with the provisions contained herein within a ten (10) calendar day period following written request by any taxpayer to so proceed, then any three (3) or more tax payers of the Town of Stephentown may institute legal action in a Court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

ARTICLE VIII - SITE PLAN REVIEW

Prior to the issuance of a Building Permit in any district, except for one or two-family dwellings and related accessory uses, the Enforcement Officer shall require the presentation of a site plan as indicated on the Use Regulations chart and shall refer the site plan to the Planning Board for its review and recommendation, in accordance with standards and procedures set forth in this Article.

A. SKETCH-PLAN CONFERENCE

A sketch plan conference between the Planning Board and the applicant shall be held to discuss the applicability of the site plan review and approval procedure to the intended development for which the building or special use permit is sought.

The Planning Board shall make its determination based on review of the project's scope and the basic land use and site design concept, as shown by a sketch plan drawn to scale and accompanying statements provided by the applicant and describing in sufficient detail what is proposed.

1. At the Sketch Plan conference, the Planning Board shall take one of three actions:
 - a. Determine that the project is limited in scope, with compatible land use and site design characteristics, thus requiring no further review under this Article; or
 - b. Determine that the project does require full review under this Article, based upon its scope and/or land use and site design characteristics, and advise the applicant of preliminary site plan requirements in accordance with Section B of this Article; or
 - c. Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.
2. In order to assist the Planning Board in its determination, the applicant shall provide the specific date noted below as part of the sketch plan discussion.
 - a. An area map keyed to the real property tax maps showing the parcel under consideration and all existing natural and man-made features, properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries. Such area map shall be oriented to the nearest street or road intersection and contain a north arrow.
 - b. A map of site topography at no more than ten (10) feet contour intervals.

B. APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Planning Board and accompanied by four (4) prints of a site plan which includes information drawn from the following check list of items, as determined necessary by the Planning Board at the time of the sketch plan conference, and certified by a licensed engineer, architect, landscape architect, and/or land surveyor.

1. Site Plan Checklist

- a. Title of drawing, including name and address of such drawing;
- b. North arrow, scale and date;
- c. Boundaries of the property plotted to scale and indication of acreage contained therein;
- d. Existing watercourses;
- e. Grading and integrated drainage plan, including erosion and sediment control measures, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the Sketch Plan Conference;
- f. Location, proposed use and height of all buildings;
- g. Location, design and construction materials of all parking and truck-loading areas, with access and egress drives;
- h. Provision for pedestrian access;
 - 1. Location of outdoor storage equipment and materials, if any;
- J. Location, design and construction materials of all existing or proposed site improvements, including drains, culvert, retaining wall and fences;
- k. Description of the method of sewage disposal and location, design and construction materials of such facilities;
 - 1. Description of the method of securing water supply and location, design and construction materials of such facilities;
- m. Location of fire and other emergency zones, including the location of the nearest water supply for fire emergencies;
- n. Location, design and construction materials of all energy distribution facilities including electrical, gas and solar energy;
- o. Location, size, design and construction materials of all proposed signs;
- p. Location of all proposed development of all buffer areas, including indication of existing vegetative cover;
- q. Location and design of outdoor lighting;
- r. Designation of the amount of building area proposed for retail sales, office use or similar activity;
- s. General landscaping plan and planting schedule; and
- t. Other elements integral to the proposed development, as considered necessary by the Planning Board, including the identification of any federal, state, county or local permits required.

2. Required Fee - An application for site plan review and approval shall be accompanied by the fee as established by the Town Board.

C. THE PLANNING BOARD REVIEW OF SITE PLAN

1. General Considerations
 - a. Adequacy and arrangement of vehicular and pedestrian access and circulation, including intersections, road widths, pavement surfaces and traffic controls.
 - b. Location, arrangement and sufficiency of off-street parking and loading, lighting, signs and general site compatibility of all buildings.
 - c. Adequacy of storm water and drainage facilities, erosion and sediment control measures, water supply and sewage disposal facilities.
 - d. Adequacy of protection and preservation of the vegetation, topography, wildlife, aquatic life, and other natural features of the site.
 - e. Adequacy of type and use of trees, shrubbery and other landscape elements, including the maximum retention of existing vegetation.
 - f. In the case of a multiple-family dwelling, the adequacy of usable open space for play areas and informal recreation.
 - g. Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
 - h. Adequacy of emergency vehicle zones and water supply for fire emergencies.
 - i. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - j. Compatibility of building design with existing characteristic of area.
2. Public Hearing - The Planning Board may conduct a public hearing on the application for site plan approval. If a hearing is considered desirable, by a majority of the Planning Board, such public hearing shall be conducted within thirty (30) days of the receipt of the application and shall be advertised in the newspaper recognized as the official Town paper at least five (5) days before the public hearing.

3. Required Referral - Prior

D. PLANNING BOARD ACTION ON SITE PLAN

Within forty-five (45) days of the receipt of an application for site plan approval, or within thirty (30) days of the conduct of a public hearing, whichever shall first occur, the Planning Board shall act on the site plan application. Failure to act within said period shall constitute approval.

1. Action by Resolution - The Planning Board shall act by resolution to either approve, disapprove, or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's office and mailed to the applicant within ten (10) days of the Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the requirements stated in Section D (2) of this Article.
2. Submission Requirements for Stamping - After receiving the site plan approval, with or without modifications, from the Planning Board, the applicant shall within six (6) months submit six (6) prints and one reproducible Mylar of the site plan to the Planning Board for stamping and signature of the Chairman. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any revisions or other modifications required by the Planning Board, and shall be accompanied by the following additional information:
 - a. Record of application and approval status of all necessary permits from Federal, State and County Officials.
 - b. Detailed sizing and final material specification of all required improvements;
and
 - c. An estimate project construction schedule.
3. Effect of Stamping by Planning Board - Upon signature and stamping by the Chairman, the Planning Board shall forward a copy of the approved site plan to the Building Inspector and the applicant. The Building Inspector may then issue a Building Permit when the project conforms to all applicable requirements. The Enforcement Officer shall also be furnished with a copy.

E. REIMBURSEMENT OF COSTS

Reasonable costs incurred by the Planning Board for private consultant fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in Section B (2) of this Article.

F. PERFORMANCE GUARANTEE

No Certificate of Occupancy or Use shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The amount of the sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Town Attorney, the Building Inspector, other local officials or its designated consultants and the Enforcement Officer.

G. INSPECTION OF IMPROVEMENTS

The Building Inspector shall be responsible for the overall inspection of site improvements including consultation with the Town's private consultants or other local officials and agencies, as may be appropriate, and the Enforcement Officer. Nothing contained herein shall prohibit the Building Inspector and the Enforcement Officer from being the same person.

H. NOTICE TO ABUTTING LANDOWNERS

At each stage of the Site Plan Review Process after the initial Sketch-Plan Conference, the Planning Board shall serve written notice by mail to the owners of all property abutting the land of the applicant advising

1. That an application for site plan approval has been made and inviting written comment within ten (10) days, and
2. Where applicable, that a public hearing has been scheduled in respect of such application at least five (5) calendar days prior to the date of the public hearing.

Similar notice to abutting landowners shall be given in respect of applications for special use permits under Article VI hereof. The failure to give notice hereunder shall not be deemed to invalidate any action taken by the Planning Board. The Planning Board may serve similar notices on other landowners whom in sole discretion it believes may be affected by the application under consideration.

ARTICLE IX - NON-CONFORMING USES AND NON-COMPLYING STRUCTURES AND BULK

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this Local Law, to all uses and buildings that may become non-conforming or non-complying by reason of subsequent amendment to this Local Law and the Land Use District Map, and to all complying uses.

A. NON-CONFORMING USE

Any Lawful non-conforming use of buildings or open land in existence on the effective date of this Local Law, except those specified in Section D of this Article, may be continued indefinitely, but

1. Shall not be moved to another location where such use would be non-conforming;
2. Shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals, and then only to use which, in the opinion of the Zoning Board of Appeals, is of the same or a more restricted nature;
3. Shall not be re-established if such use has been discontinued through vacancy, cessation of use, or for any other reason for a period of two (2) year or more, or has been changed to or replaced by a conforming use; and
4. Upgrading of any property by new construction, renovation or restoration is permitted, provided it meets the criteria of the Area and Bulk Regulations of its Land Use District. (See Article IV)

While a non-conforming use may not be extended, nothing in this law shall prohibit the extension of a lawful use to any portion of a non-complying building or structure which existed prior to the enactment of this Local Law. No non-conforming use shall be extended to displace a conforming use.

B. NON-COMPLYING BUILDINGS

Nothing contained in this Article shall be deemed to prevent normal repair and maintenance of, or structural alteration within a non-complying building, provided such action does not increase the degree of or create any new non-conformity. Further, any non-complying building or structure declared unsafe by the Building Inspector may be restored to a proper condition within the time period for such restoration.

C. RESTORATION AFTER DAMAGE

Nothing in this Article shall be deemed to prevent the restoration of a lawful non-conforming use after damage for any reason or by any cause, provided that the bulk, height, and area shall not be in excess of that which existed prior to the damage, and provided that the restoration is commenced within one (1) year after the damage and completed within three (3) years of such occurrence, or the use of such buildings or land as a legal non-conforming use shall thereafter be terminated.

D. TERMINATION OF CERTAIN USES

Each of the following non-conforming uses is deemed sufficiently objectionable and out of character within the land use district in which it is located as to depreciate the value of other property and uses permitted in the district and/or otherwise inhibit the proper and orderly development of such a district. Therefore, each non-conforming use must be and shall be terminated on or before the expiration of this specified period of time after the effective date of this Local Law.

- 1. Any non-conforming or non-complying sign, including such features as prohibited in Article V(B) of this Local Law, shall be modified by its owner to conform or be removed within ninety (90) days after receipt by the owner of specific written notices from the Building Inspector to so comply.
- 2. Any sign existing on or after the effective date of this Local Law which advertises a business no longer conducted, product no longer available or services no longer provided on the premises shall be removed by the owner of the sign and/or premises upon which the sign is located within ten (10) days after receipt of written notice from the Building Inspector to remove such sign.

E. LEGACY PARCELS:

The following parcels are acknowledged to be pre-existing, non-conforming parcels, and will be known as Legacy Parcels.

- a. Parcel 195.-26.1: Designate as Legacy Commercial
- b. Parcel 163.-5-2: Designate as Legacy Industrial
- c. Parcel 214.-1-37: Designate as Legacy Extraction & Fill
- d. Parcel 184.-1-40: Designate as Legacy Commercial
- e. Parcel 174.-1-24.1: Designate as Legacy Commercial
- f. Parcel 195.-2-88: Designate as Legacy Extraction & Fill
- g. Parcel 195.-2-71: Designate as Legacy Extraction & Fill
- h. Parcel 183.-1-43.11: Designate as Legacy Commercial
- i. Parcel 206.-2-2.1: Designate as Legacy Commercial
- j. Parcel 224.-1-12.11: Designate as Legacy Commercial
- k. Parcel 224.-1-12.13: Designate as Legacy Commercial
- l. Parcel 224.-1-12.1: Designate as Legacy Commercial
- m. Parcel 174.-1-1.1: Designate as Legacy Extraction & Fill
- n. Parcel 196.-2-11: Designate as Legacy Commercial

ARTICLE X - ZONING BOARD OF APPEALS

It is essential that citizens of the Land Use District and others who seek relief from decisions determined by the Enforcement Officer know the appropriate avenues for seeking such relief.

A. CREATION, APPOINTMENT AND ORGANIZATION

A Zoning Board of Appeals is hereby created in accordance with Section 267, Article 16 of the Town Law. Said Board shall consist of five (5) members first appointed, one shall hold office for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years. If a vacancy occurs otherwise than by expiration of term, it shall be filled by appointment by the Town Board for the unexpired term. All members are subject to removal by the Town Board for cause after public hearing. The Town Board shall annually designate the Chairperson of the Zoning Board of Appeals, while the Zoning Board of Appeals shall annually designate its Secretary and may prescribe rules and procedures in addition to those provided herein for the conduct of its affairs. The Town Board shall provide reasonable operating expenses to ensure the proper function of the Zoning Board of Appeals.

B. POWERS AND DUTIES

The Zoning Board of Appeals shall have all powers and duties prescribed by law and by this Local Law, which are more particularly specified as follows:

1. Interpretation - On appeals from an order, decision or of the Enforcement Officer or by the Building Inspector in accordance with the provisions of this Local Law or on request by an administrative official, board or agency of the Town, to decide any of the following questions:
 - a. Determination of the meaning of any portion of the text of this Local Law or of any conditions or requirements specified or made under the provisions of this Local Law;
 - b. Determination of the exact location of any district boundary shown on the Land Use District Map.
2. Variances - To authorize, upon appeal in specific cases, such variances from the terms of this Local Law as will not be contrary to the public interest where due to exceptional and extraordinary circumstances there are unnecessary hardships or practical difficulties in the way of carrying out the strict letter of this Local Law, subject to terms and conditions to be fixed by the Zoning Board of Appeals, provided, however, that no such variance be granted unless the Board finds:

- a. That there are physical conditions, fully described in the findings of said Board, applying to the land or buildings for which the variance is sought, which conditions are peculiar to such land or building, and have not resulted from any act of the applicant or any predecessor in title;
- b. That, for reasons fully set forth in the findings of the Zoning Board of Appeals, the aforesaid circumstances are such that the strict application of the provisions of this Local Law would deprive the applicant of the reasonable use of such land or building, and that the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and
- c. That the granting of the variance under such conditions as the Zoning Board of Appeals may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this Local Law, will not represent a radical departure from it, will not be injurious to the neighborhood or change its character and will not be otherwise detrimental to the public welfare or the environment.

C. PROCEDURE

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by Section 267 of the Town Law and this Local Law.

1. Meetings - Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals shall determine. A quorum shall consist of three (3) members, but in order to reverse a decision of the Building Inspector, issue an interpretation or special permit or to authorize a variance, an affirmative vote of at least three (3) members shall be required. A favorable vote of a majority plus one shall be required of the action taken is contrary to an advisory recommendation received from the Rensselaer County Board of Health or the Rensselaer County Bureau of Budget, Research and Planning under the provisions of Section 239 (1) and (m) of the General Municipal Law. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and shall keep records of its examinations and other official actions. All meetings of the Board of Appeals shall be open to the public.

2. Application and Fee - All appeals and applications made to the Zoning Board of Appeals shall be in Writing, on forms prescribed by the Board, within thirty (30) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule established by the Town Board. Every appeal and application shall refer to the specific provision of this Local Law that is involved and shall precisely set forth either the interpretation that is claimed or the details of the action that is applied for and the grounds on which it is claimed that such action should be granted.

3. Public Notice and Hearing - The Zoning Board of Appeals shall fix a reasonable time and place for a public hearing on any such appeal, of which hearing date the appellant shall be given notice and at which hearing appellant shall appear in person or by agent. The Board shall additionally provide notice as follows:
 - a. By publishing at least five (5) days prior to the date of the public hearing a legal notice in one of the official newspapers of the Town.

 - b. By requiring the Secretary of the Zoning Board of Appeals to provide notice at least five (5) calendar days prior to the date of the public hearing the substance of every appeal or application together with a notice of the hearing thereon by mailing such to the owners of all property abutting that held by the appellant. Compliance with this notification procedure shall be certified by the Secretary.
 1. The names of owners notified shall be taken as such appear on the last completed tax roll of the Town.

 2. Provided that there has been substantial compliance through good faith efforts with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in connection with granting or denying of an appeal or application.

 - c. By requiring the Secretary of the Zoning Board of Appeals to transmit to the Secretary of the Planning Board a copy of any appeal or application together with a copy of the notice of such hearing at least twenty (20) calendar days prior to the date thereof. The Zoning Board of Appeals shall request that the Planning Board submit to the Zoning Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Board to submit such report, said Board shall be deemed to have recommended approval of the application or appeal.

- d. In the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Zoning Board of Appeals shall also submit, at least five (5) calendar days prior to the public hearing, to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal together with a copy of the official notice of such public hearing.
4. Required Referral - A full statement of any appeal that meets the referral requirements of Sections 239 (1) and (m) of the General Municipal Law shall also be referred prior to the public hearing to the Rensselaer County Bureau of Budget, Research and Planning for its review. Such actions shall include those which include property located within five hundred (500) feet of the following:
 - a. Municipal boundary;
 - b. Boundary of any existing or proposed County or State Park or recreation area;
 - c. Right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway;
 - d. Existing or proposed right-of-way of any stream or drainage channel owned by the County, or for which the County has established channel lines; or
 - e. Existing or proposed boundary of any County or State owned land on which a public building or institution is situated.

No action shall be taken by the Zoning Board of Appeals on such an appeal or application until an advisory recommendation has been received from said County Bureau or thirty (30) calendar days have elapsed since said County Bureau received such full statement.

5. Decisions - Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of said Board, with each such decision being filed in the Office of the Town Clerk within ten (10) calendar days thereof. The Board shall also notify the Building Inspector, the Secretary of the Planning Board, and any affected municipality given notice of herein of its decision in each case. If applicable, a report of action taken shall also be filed within seven (7) calendar days of said action with the Rensselaer County Bureau of Budget, Research and Planning.

6. Attachment of Conditions - In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Local Law, it shall be the duty of said Board to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this Local Law.
7. Expiration of Approval - Unless construction is commenced and diligently pursued within one (1) calendar year from the date of granting a variance or special permit, such variance or special permit shall become null and void without further hearing by the Zoning Board of Appeals.
8. Strict Construction - All provisions of this Local Law relating to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals as a body of limited jurisdiction, shall act in full conformity with all provisions of law and this Local Law and in strict compliance with all limitations contained therein, provided, however, that if the procedural requirements set forth in this Local Law have been substantially observed through good faith efforts, no applicant or appellant shall be deprived of the right of application or appeal.

D. RELIEF FROM DECISIONS

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Laws of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the Board's decision in the Office of the Town Clerk.

ARTICLE XI - AMENDMENTS

This Local Law or any part thereof, including the Land Use District Map, may be amended, supplemented or repealed by the Town Board as provided by Sections 264 and 265 of the Town Law.

A. INITIATION

An amendment to this Local Law may be amended in one of three ways.

1. By the Town Board upon its own motion;
2. By resolution of the Planning Board, filed with the Town Clerk, wherein certain changes to, or repeal of specific provisions of, this Local Law are recommended, in which case the Town Board shall act on the proposed amendment within ninety (90) days of the time such resolution is filed; or
3. By petition duly signed and acknowledged from the owners of fifty percent (50%) or more of the road: frontage in any district or part thereof requesting an amendment, supplement or change in the regulations prescribed for such district or part thereof, in which case the Town Board shall act upon such petition within ninety (90) days of the time such petition is filed by the Petitioners with the Town Clerk.

B. REPORT OF THE PLANNING BOARD

All proposed amendments, supplements or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendations. The Town 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 a recommendation of approval of the proposed amendment.

C. TOWN BOARD PROCEDURE

1. Public Notice and Hearing - The Town Board by resolution shall fix the time and place of a public hearing on the proposed amendment and provide notice thereof as follows:
 - a. By publishing a notice at least ten (10) days prior to the time of such hearing in the official newspaper of the Town, specifying:
 - i. The nature of the proposed amendment;
 - ii. The land or district affected; and
 - iii. The date, time and place where the public hearing will take place.

- b. By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of any other municipality to the clerk of such municipality at least ten (10) calendar days prior to the date of such public hearing.
2. Required Referral - The Town Board shall transmit a full statement of any proposed amendment, either map or text, that meets the referral requirements of Sections 239 (1) and (m) of the General Municipal Law to the Rensselaer County Bureau of Budget, Research and Planning for its review and recommendations. No action shall be taken by the Town Board on such a proposed amendment until a recommendation has been received from said Bureau or thirty (30) calendar days have elapsed since said Bureau received such full statement.
3. Compliance with the New York State Environmental Quality Act - Proposed amendments are actions subject to the provisions of the New York State Environmental Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental status of the proposal in accordance with part 617 of Article 8 of the Environmental Conservation Law.
4. Town Board Action - The Town Board may approve any such proposed amendment by a majority vote, except that a favorable vote of a majority plus one shall be required if:
 - a. The action being taken is contrary to the advisory recommendation received from the Rensselaer county Board of Health or the Rensselaer County Bureau of Budget, Research and Planning under the provisions of Sections 239 (1) and (m) of the General Municipal Law; or
 - b. In accordance with the provisions of Section 265 of the Town Law, a protest against such an amendment has been signed and acknowledged by the owners of at least twenty percent (20%) of the land area included in such proposed amendment or of that immediately adjacent extending one hundred (100) feet therefrom or that directly opposite.

D. REVIEW BY THE PLANNING BOARD

On or before the second anniversary date after the date these regulations shall become effective, the Planning Board shall issue a written report to the Town Board reviewing the administration, operation and effect of these regulations. The Planning Board shall include in such report any recommendations it may have for amending these regulations. The Planning Board shall also consider the advisability and feasibility of substituting a professional Planner to take over the functions of the Planning Board. The Town Board may, at its election, hold a public hearing to review and discuss the contents of the Planning Board Report.

ARTICLE XII - INTERPRETATION AND APPLICATION

A. INTERPRETATION AND CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of the Local Law shall be held to be minimum requirements, adopted for the promotion of public health, safety and general welfare and protection of the environment. Whenever the requirements of this Local Law are at variance with the requirements of any lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

B. SEPARABILITY

Should any section or provision of this Local Law be decided by the Courts to be unconstitutional, or otherwise invalid, such decisions shall not affect the validity of this Local Law as a whole or any part thereof other than the part decided to be unconstitutional or invalid.

C. PERIODIC REVIEW REQUIRED

At intervals of not more than five (5) years, the Planning Board shall conduct a review of the provisions of the Local Law, including the location of district and overlay boundaries, and shall submit a report of the review to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of environmental protection, public safety, health, convenience, necessity or welfare.

D. EFFECTIVE DATE

This Local Law shall become effectively immediately upon the receipt of filing in the Office of the Secretary of the State of New York in accordance with the applicable provisions of the Municipal Home Rule Law.

ARTICLE XIII - DEFINITIONS

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense include the future; the singular number includes the plural; and the plural number includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building". The term "occupied" or "used" as applied to any building or land shall be construed to include "arranged", "designed", "construed", "altered", "converted", "rented", "leased", or "intended to be used or occupied." The word "shall" is mandatory and not optional.

ACCESSORY STRUCTURE - A structure, the use of which is customarily incidental and subordinate to that of the principal building and which is attached to it or is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include tennis courts, garages, garden or tool sheds, barns, playhouses, dish antennae, windmills and solar collectors. Mobile homes shall not be utilized as accessory structures.

ACCESSORY USE - A use, occupancy, or tenancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises.

ADDITION - Extension or increase in the floor area or height of a structure.

AGRICULTURE - The growing of field or garden crops, or the raising or keeping of fowl or livestock, including the sale of products grown or raised on such land, and any structures associated with such activities.

ALTERATION - Any change, rearrangement, or addition to a building other than repairs; any modification in construction, or in building equipment, or the moving of a building or structure from one location to another.

APARTMENT - A dwelling unit contained within a two-family or multi-family building.

AREA AND BULK REGULATIONS - The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

ATTIC - That space within a building between the top of the uppermost floor construction and the underside of the roof.

AUTOMOBILE REPAIR FACILITY - Any area of land, including structures thereon, where any painting, rebuilding, reconditioning, or collision services involving frame and fender straightening or repair, or any dismantling or disassembly of mechanical, frame and exterior parts of automobiles or other vehicles occur.

AUTOMOBILE SERVICE STATION - A building or place of business where gasoline, oil and

grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, and where minor repair service is rendered.

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

BED AND BREAKFAST ESTABLISHMENT - A private dwelling in which at least 5 rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such occupant, and in which no public restaurant is maintained.

BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Stephentown as provided for in Article X of this Local Law.

BOARD-FOOT - A measure of lumber twelve. (12) inches by twelve (12) inches by one (1) inch.

BUILDJNG - A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. (See definition of "Structure")

BUILDING, PRINCIPAL - A building in which is conducted the main or principal use of the lot on which said building is located.

BUILDJNG COVERAGE - The amount of land covered or permitted to be covered by the combined area of all buildings on a lot, excluding uncovered porches, terraces and steps.

BUILDJNG INSPECTOR - The Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing this Local Law, as well as the New York State Uniform Fire Prevention and Building Code and related regulations.

BUILDJNG LINE - The line, established by law, ordinance, or regulation, beyond which no part of a building, other than parts expressly permitted in Article IV (A) of this Local Law, shall extend.

CAMP - Any parcel of land on which are located two or more cabins, tents, shelters, or other accommodations suitable for seasonable or other temporary living purposes, including summer colony and resort, but not including a trailer park, boarding house, hotel or motel.

CAR WASH - Premises regularly used for washing, cleaning, or polishing motor vehicles for compensation.

CELLAR - That space within a building that is partly or entirely below grand, 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.

CENTRAL WATER - For the purposes of this Local Law, a water supply system serving five or more dwelling units and approved by the Town of Stephentown and the New York State Health Department for either private or public operation.

CERTIFICATE OF OCCUPANCY - Official certification issued by the Building Inspector that a premises conforms to the provisions of this Local Law, the New York State Uniform Fire Prevention and Building Code, and other applicable regulations, as may be legally used or occupied. May also be referred to as "CERTIFICATE OF USE."

CESSATION OF USE - As used herein, a use shall be determined by the Building Inspector to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon such use or not.

CLEAR CUTTING - Any cutting of eighty percent (80%) or more of all trees over six (6) inches in diameter at breast height over any ten year cutting cycle.

CLUSTER DEVELOPMENT - A development pattern in which uses are grouped or "clustered" through a density transfer within a particular development rather than spread evenly throughout a parcel as in conventional lot-by-lot development. (See Section 281 of the Town Law)

COMMERCIAL EXCAVATION - Excavation or extraction of stone, sand, gravel or topsoil for sale, or as an industrial operation. The Term "Commercial Excavation" shall include mine, quarry, sand pit, gravel pit, turf farm, topsoil stripping, and any similarly-described place or activity.

COMMERCIAL USE - Any use involving the sale, rental, or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreational facilities or activities for a fee.

CONSERVATION - The protection or management of open land in a natural state, including such management practices as supplementary clearing and replanting, stream channel maintenance, and erosion control.

CONVERSION - A change in use or occupancy of a building generally by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

DAY CAMP - Non-overnight camp providing recreation, arts and crafts, and other activities for pre-school and school-age children, limited to summer and other school vacation periods.

DAY CARE - A facility which charges for the care of two or more persons for the day.

DENSITY - The ratio of a lot area per family or dwelling unit on a lot.

DEVELOPMENT - Any activity other than normal agricultural, conservation, or forest management

activity which materially affects the existing condition of land or improvements, including but not limited to:

- a. Removal of trees or other natural cover;
- b. Substantial excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water;
- c. Construction, reconstruction, alteration, or demolition of any improvement;
- d. Dumping, storing, or parking of any object or material whether mobile, liquid or solid;
- e. Commencement of any use of the land or improvements and any change in its type or intensity; and
- f. Commencement of any noise, light, smoke or other emission and any change in its type or intensity.

DISTRICT OF LAND DISTRICT - An area, section or zone of the Town described on the Land Use District Map contained within this Local Law, and within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DWELLING - A building or part of a building, designed or used principally as the living quarters for one or more families.

DWELLING, ONE FAMILY - A detached building containing one dwelling unit only.

DWELLING, TWO FAMILY - A detached or semidetached building containing two dwelling units only.

DWELLING, MULTIPLE - A detached, semi-detached, or attached building or portion of a building containing three or more dwelling units. The term multiple dwelling shall be deemed to include apartment house.

DWELLING, ROW OR ATTACHED - One family dwelling with party walls separating it from adjacent units on both sides, with each having separate entrances from the outside.

DWELLING UNIT - A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit". A boarding house, dormitory, hotel, motel, inn, nursing home, or similar building shall not be deemed to constitute a dwelling unit.

FAMILY - One or more persons occupying a dwelling unit as a single housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption, shall not be considered to constitute a "family".

FARM-Any parcel of land used principally in the commercial raising or production of agricultural products, and the necessary or usual dwelling, farm structures, storage and equipment. Agricultural products shall include, but are not limited to, field crops, vegetable crops, fruit, livestock and livestock products and fowl. It excludes kennels and stables used by the public.

FLOOD, 100 YEARS OR BASE - The highest level of flood that, on the average is likely to occur once every 100 years (i.e. that has a 1% chance of occurring each year)

FLOOD HAZARD BOUNDARY MAP (FHBM) - The official map of the Town of Stephentown on which the federal Insurance Administration has delineated the boundaries of the special flood hazard area. The FHBM is replaced by the FIRM when the latter becomes effective.

FLOOD INSURANCE RATE MAP (FIRM) - The official map of the Town of Stephentown on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones.

FLOOD PROOFING - Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduces or eliminates flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

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

FULL CORD - A cup pile of wood measuring four feet by four feet by eight feet.

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

GARAGE, PUBLIC - Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GARAGE, STORAGE - A building or part of a building 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, leased or sold.

GARAGE SALE - The temporary sale of used household items on a residential premises. Also referred to as "Yard Sale", "Barn Sale" or "Tag Sale."

GRADE, FINISHED - The elevation at which the finished surface of the surrounding lot, either natural or upon completion of any change in contour, intersects the walls and supports of a structure.

HABITABLE SPACE - Space occupied by one or more persons for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage or utility spaces and similar areas are not classified as habitable space.

HEIGHT, BUILDING - The vertical distance measured from the average elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, tanks and similar projections, consistent with the provisions of Article IV (C) of this Local Law.

HEAVY MOTOR EQUIPMENT - Automobiles, trucks, farm machinery, construction equipment, i.e. any heavy equipment dependent on motors for its operation, whether self-contained or not. This definition does not include light-weight recreation vehicles, household gardening equipment, etc..

HOME OCCUPATION - Any personal service, professional service, or business use conducted entirely within a dwelling or customary accessory structure and as carried on by its residents, which use is clearly incidental and secondary to the use of the property for residential purposes and does not change its residential character. For purposes of this Local law, a home occupation is further defined as being fully consistent with the provisions of Article V.

HOTEL - A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more dining rooms.

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

INSTITUTIONAL USES - Facilities and uses operated, owned or undertaken by government, school districts, churches, fraternal organizations and membership clubs.

INTERNATIONAL 1/4" LOG RULE - A professionally recognized and accepted methodology for grading and measuring logs.

JUNK YARD/PRIVATE DISPOSAL AREA - An area of land with or without buildings used for or occupied by a deposit, collection, or storage, outside a completely enclosed building, of used or discarded materials such as waste paper, rags, scrap material, used building materials, house furnishings, machinery or parts thereof, with or without dismantling, processing, salvage, sale or other use or disposition of the same. A deposit, collection: or storage on a lot of two (2) or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for one (1) month or more in a residential district or for three (3) months or more in any non-residential district, shall constitute a motor vehicle junk yard.

KENNEL - A structure used for the harboring of three or more dogs which are over six months old and are offered for sale or are boarded as a business.

LAND USE DISTRICT MAP - The Map delineating the boundaries of the land use districts which, along with the text, comprises this Local Law.

LANDFILL - A lot or land area used primarily for the disposal or abandonment, burial, burning or any other means and for whatever purpose, or garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

LIVESTOCK - Any four legged domestic type farm animal, including but not limited to horses, cows, beef cattle, sheep or goats.

LOT - A parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including customary accessory structures, uses, open spaces and yards.

LOT, CORNER - A lot abutting two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty five degrees. The point of intersection of the street right-of-way lines is the "corner".

LOT AREA - The total area of a lot within lot lines.

LOT DEPTH - The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT LINE - Line dividing one premises from another, or from a street or other public space.

LOT WIDTH - The minimum horizontal distance between the side lot lines measured at the right angles to the lot depth at a point midway between the front and rear lot lines, or the width of a lot measured along the rear line of the required front yard.

LOT OF RECORD - A legally-existing lot at the time of adoption of this Local Law duly filed and recorded in the Rensselaer County Clerk's Office as either an individual parcel of land or part of an approved subdivision.

LUMBERYARD - A facility that buys boards from a sawmill and sells them to individuals or firms.

MANUFACTURING - The fabrication, alteration, processing, finishing, handling or assembly of raw materials and packaging, warehousing, and storage of articles in quantity.

MOBILE HOME - Any self-contained dwelling built prior to 1978, but not including travel trailers, that is designed to be transported to its site on its own wheels or those of another vehicle, and which is designed to be used exclusively for residential purposes.

MANUFACTURED HOME PARK - Any lot, parcel or tract of land or portion thereof, together with the open space and facilities required by this Local Law, held out for hire or lease to accommodate mobile homes as defined herein.

MODULAR OR MANUFACTURED HOME - A factory-built dwelling transported to the site and permanently attached to same.

NON-COMPLYING BUILDING OR USE - An existing building or use which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; or lot coverage after the enactment or amendment of this Local Law.

NON-CONFORMING USE - An existing use which does not conform to the applicable use regulations for the district in which such use is located after the enactment or amendment of this Local Law.

NUISANCE - A condition that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

OCCUPANCY - Use of a building, structure or premises.

OCCUPANCY LOAD - The maximum number of persons permitted to occupy a building or portion thereof based upon standards contained in the New York State Uniform Fire Prevention and Building Code.

OPEN AREA DISTRICT (OA) - A Land Use District which allows flexibility of use based on water and soil conditions and access to a public road.

OPEN AREA REQUIRED - That area of a lot which shall be a properly maintained combination of natural, not artificial lawn, trees, shrubs, and other plant material. Also known as "Minimum Open Space."

PARKING AREA - An area of land used or intended for off-street parking facilities for motor vehicles.

PARKING SPACE, OFF STREET - A space, not less than one hundred eighty (180) square feet excluding driveways or access drives, which is out of the public right-of-way and is available and adequate for the parking of one motor vehicle.

PERMITTED USE - A specific use noted in Article III of this Local Law for which land, lots, buildings or structures may be used, occupied or maintained.

PLANNING BOARD - The Planning Board of the Town of Stephentown.

PLAT - A drawing or drawings showing the features of the proposed use of a parcel of land.

PREMISES - A lot, plot or parcel of land, together with all structures and uses thereon.

PROHIBITED USE - Any use which is not listed as a special, permitted or accessory use in the Schedule of Use Regulations shall be considered a prohibited use under this Local Law.

PUBLIC UTILITY FACILITY - Any limited public utility use, equipment or structure, including a municipal garage. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law.

RECREATIONAL VEHICLE OR TRAVEL TRAILER - A vehicle or portable structure, whether or not self-propelled, which is designed to be transported on its own wheels, and designed or intended to be used for temporary living quarters for travel, recreational or any vacation purposes, provided however, that any recreational vehicle/travel trailer used for residential purposes for more than one hundred twenty days aggregate in any calendar year shall be considered a mobile home. In no instance shall a mobile home be a recreational vehicle/travel trailer.

RECREATIONAL VEHICLE PARK - Premises which provide spaces for compensation in which recreational vehicles may park overnight for camping purposes.

RESIDENCE - Any building which is designed or used exclusively for residential purposes, except hotels and motels.

RIGHT-OF-WAY - The property within an easement permanently established for the passage of persons or vehicles.

ROAD FRONTAGE - That part of the property considered to be on a public road.

ROADSIDE STAND - A structure where products grown on the premises or elsewhere by the operator of the roadside stand may be sold and purchased.

SAWMILL - A facility that buys round wood and converts it into a semi-finished or finished product.

SCHEDULE OF USE REGULATIONS - The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this Local Law.

SEQR - State Environmental Quality Review - Those requirements and review procedures set forth by the NYS Environmental Review regulations as the same may be amended from time to time.

SETBACK - The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways.

SIGN - Any material, structure or device or part thereof, composed of lettered or pictorial matter which is located out of doors, or affixed to or painted on the exterior of any building, including illuminated window signs over two square feet in area and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name. However, a "sign" shall not include any display of official Court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, school or religious group.

SIGN, ACCESSORY - A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located.

SIGN, DIRECTIONAL - An off-premises sign directing the way to a place of business, public service or residence.

SIGN, SURFACE AREA OF - The entire area within a single, continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be counted in computing its area.

SITE PLAN - That map or drawing and all related information submitted for review by the Planning Board in accordance with the requirements and procedure specified in Article VII of this Local Law.

SPECIAL PERMIT USE - A use which is deemed potentially desirable for the public welfare within a given district, but which is potentially incompatible with other uses provided therein. The use shall therefore be subject to the requirements and procedure specified in Article VI of this Local Law.

STABLE - A stable maintained and operated for the boarding, buying, selling and renting of horses.

STORY - That part of any building excluding cellars but including of basements, which is between one-floor level and the next higher floor level or the roof.

STREET - A public or private right-of-way line which provides vehicular access to abutting properties.

STREET LINE - That right-of-way line of a street, whether indicating by use, dedication of a deed of record.

STREET WIDTH - The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRIPPING - Any activity including clear cutting which removes or significantly

disturbs trees, brush, grass, or any other kind of vegetation.

STRUCTURE - A combination of materials assembled, constructed or erected at fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, solar collectors, dish antennae, swimming pools, gasoline pumps, billboards, signs and mobile dwellings. (See definition of "Accessory Structure")

SUBDIVISION - The division of any parcel of land into two or more lots or sites, or other division of land for the purpose, whether immediate or future, of transfer of ownership of building development. Such division shall include re-subdivision of parcels of land for which an approved plat has already been filed in the Office of the Rensselaer County Clerk and which is entirely or partially undeveloped.

SUBDIVIDER - Any person, firm, corporation, partnership, or association who shall lay out any subdivision of land for himself or others.

TIMBER HARVESTING - Activity that removes trees whose volume in any year is greater than twenty full cords of wood or sixteen hundred cubic feet of wood or ten thousand board feet of timber as measured by the International 1/4" Log Rule. The clearing of lands for utility line rights of way which shall remove trees greater than such volumes shall specifically be included within this definition.

TOURIST HOME - A building where, for compensation, lodging, meals or both are provided or offered for transient guests.

TOWN BOARD - The Town Board of the Town of Stephentown, County of Rensselaer and State of New York.

TRAILER, HOUSE - See definition of "Mobile Home".

TRAILER, CAMPING - A folding structure, mounted on wheels and designed for limited travel recreation and vacation use only.

TRAILER, TRAVEL - A vehicular, portable structure build on a chassis, designed as temporary one-family dwelling for travel, recreation and vacation, having a body length not exceeding twenty-six feet and a body width not exceeding eight feet.

TRANSIENT - A person passing through or visiting for a brief stay, generally less than one week.

USE - The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

USE REGULATIONS - The controls which enumerate the permitted principle, permitted accessory

and special uses within each of the districts established by this Local Law.

VARIANCE - A modification of the use and/or bulk regulations of this Local Law in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or extreme practical difficulty that would deprive the owner of reasonable use of the land or structures. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconvenience or a desire or opportunity to make more money.

VARIANCE, AREA - A variance from the area and bulk requirements or supplementary regulations or a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the land use district.

WAREHOUSE - A structure for use as a storage place for goods, material or merchandise.

WETLANDS - Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh; and area of aquatic or semi-aquatic vegetation which has been mapped as such by the New York State Department of Environmental Conservation under the Freshwater Wetlands Act.

YARD - An open space on the same lot with a building, unoccupied by any portion of a structure except as otherwise provided in this Local Law.

YARD, FRONT - An open, unoccupied space on the same lot with a building between the front line of a building and street or highway line, and extending the full width of the lot.

YARD, REAR - An open, unoccupied space on the same lot with a building between the rear line of the building and rear lot line and extending the full width of the lot.

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