

TOWN OF WHITEHALL
LOCAL LAW #7 OF 1990
TITLE: ENACTING SITE PLAN REVIEW

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

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TOWN OF WHITEHALL
LOCAL LAW #7 OF 1990
SITE PLAN REVIEW

ARTICLE 1 ENACTMENT

The Town Board of the Town of Whitehall, Washington County, New York, hereby enacts the Town of Whitehall Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Statutes of Local Government.

ARTICLE 2 SHORT TITLE

This Local Law shall be known as the "Town of Whitehall Site Plan Review Law". The Town of Whitehall is hereinafter referred to as the "Town".

ARTICLE 3 STATEMENT OF PURPOSE

The Whitehall Planning Board is hereby empowered to review and approve, approve with modification, or disapprove all site plans as required by Article 5 of this Local Law.

The Town of Whitehall is one of the most beautiful and historical landscapes in the Washington County Region and has a special quality of life which create the potential for an uncontrolled increase in growth. Demand for vacant land suitable for housing, employment, commercial and industrial use may be expected to increase in response. As unplanned growth begins to overtake the Town, farm fields, scenic views and century old local character are disappearing.

The Town, in response to these rapid changes, is adopting this local law to control this growth and plan for Whitehall's future, to protect its natural resources and to accommodate economic growth; so that future growth patterns are harmonious with the area's special characteristics and resources.

The purpose of these site plan review and approval procedures are to

- 1) ensure adequate adherence and conformance to the various provisions of this local Law;
- 2) ensure that uses of land affected by these provisions meet design, function, and layout criteria established by this local law that will culminate in development that will protect the health, safety, and general welfare of Town residents;
- 3) ensure adherence with the intent of the development plan and its proposals and recommendations;
- 4) ensure the ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of health, safety and welfare of the Town and its citizens;
- 5) ensure protection of open space, natural resources and preserve rural characteristics of the Town;
- 6) ensure overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, historic, ecological and natural resources of the Town; and
- 7) avoid adverse impacts and offset unavoidable impacts through mitigation.

ARTICLE 4 AUTHORIZATION TO APPROVE AND DISAPPROVE USES WITH SITE PLAN REVIEW

The Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth in this Local Law and in Regulations of the Planning Board promulgated under Article 11 of this Local Law, setting forth the arrangement, layout and design of the proposed use of the land shown on such plan.

ARTICLE 5 APPLICABILITY OF SITE PLAN REVIEW PROCEDURES

A land use or development within the Town of Whitehall (outside the Village of Whitehall) shall not be undertaken unless and until

- 1) the Planning Board has approved such use or development in accordance with the provisions of this local law with such conditions as the Planning Board deems appropriate and
- 2) the appropriate governing official has issued a permit for such land use and development, unless it is exempt.

Such reviewable land uses shall include proposals for

- a. commercial use,
- b. industrial use,
- c. commercial sand, gravel, clay, shale, mineral or top soil extraction, and commercial mining operations,
- d. office use,
- e. multiple-family dwellings,
- f. institutional, utility or recreational uses,
- g. resumption of any use which has been discontinued for more than two (2) years (unless said use is exempt,
- h. expansion of an existing use of a floor space increase of twenty six percent (26%) or more,
- i. solid waste management facilities, closure and reclamation,
- j. all other land uses and developments unless noted below.

Site Plan review shall not be required for:

1. Construction or enlargement of single-family or two-family dwellings and accessory use related to or alteration of such single-family or two-family dwellings; including residential subdivisions and additions thereto;
2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Local Law;
3. Ordinary repair, maintenance or interior alterations to existing structures or uses;
4. Single family residential subdivisions, farm development, mobile homes and appropriate timber harvesting (under proper forest management plan) and non-commercial sand, gravel, shale, clay or topsoil extraction;
5. Expansion of existing use or uses if expansion represents twenty-five percent (25%) or less expansion. Expansion shall be defined as a floor space increase of twenty-five percent (25%) or less. Said expansion is cumulative within a period of three (3) years.
6. Land uses or development existing prior to the date this local law takes effect.

ARTICLE 6 APPLICATION FOR SITE PLAN REVIEW

6.1 Sketch Plan

A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal application for site plan review. The purposes of such a conference are to enable the applicant to inform the Planning Board of his or her proposal prior to the preparation of a formal site plan review application; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to determine generally the information to be included on the site plan review application. In order to accomplish these objectives, the applicant should provide the following:

1. A statement and rough sketch showing the location and dimensions of principal and any accessory structures, parking areas or access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations within the Town, and federal and state designated wetlands;

2. An area map to a scale acceptable to the Planning Board showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of way, easements and other pertinent features within 200 feet of the boundaries of the parcel;

3. A topographic or contour map of adequate scale and detail to show site topography; and

4. Environmental Assessment Form (EAF), short or long form, as appropriate.

Sketch plan and materials submitted under this section do not constitute formal submission of site plan application.

6.2 Application

An application for site plan review shall be made with the Planning Board on forms supplied by the Board. Every application shall include such information as the Board deems necessary to make findings under Article 7 of this Local Law.

At least ten (10) days prior to the Planning Board meeting at which a site plan review application is to be considered, at least three (3) copies of such application shall be submitted to the Planning Board, together with the appropriate fee.

The Planning Board may require different information for different classes or type of projects or uses including any or all of the following:

1. detailed description of the natural features of the proposed development or use and its components, including all proposed roads and accesses, water supply and sewage disposal systems, and their relationship to natural features;

2. an analysis with supporting data on the impact of the project or use on the environment, both during construction and thereafter;

3. an analysis and supporting data of any benefits that might derive from the project or use; and

4. the appropriate Environmental Assessment Form pursuant to the State Environmental Quality Review Act.

6.3 Charge Back Fees for Site Plan Review Applications

In addition to the application fee and other fees listed on the schedule of fees adopted by the Town Board and on file with the Town Clerk, the Planning Board shall require an applicant to reimburse the Planning Board for any expenses it incurs necessary to review thoroughly the applicant's application and any additional submission, such as legal, engineering and technical assistance to the Planning Board. Such expenses shall not exceed two thousand five hundred dollars (\$2,500.00) without notice to the applicant by the Planning Board. Such reimbursement of expenses shall also be in addition to any fees or costs associated with the State Environmental Quality Review Act (SEQRA), which are separate and distinct cost assessed to the applicant.

6.4 Material to be Submitted

Upon receipt of the application for site plan review, as described in Article 6, Section 2, the Planning Board may require the applicant to submit additional information, which the Planning Board may require to be prepared by a licensed engineer, architect, surveyor, landscape architect, or combination thereof:

A. A map of the applicant's entire holding at the scale of one inch equals two hundred feet (1"=200'), unless the Planning Board determines a different scale more appropriate.

B. An area map at the scale of one inch equals thirty feet (1"=30'), showing all properties, subdivisions, streets, water courses and easements which pass through the property or are known to abut the applicant's property unless the Planning Board determines a different scale more appropriate.

C. A topographic map, at the scale of one inch equals thirty feet (1"=30') showing contours at two (2) foot intervals, unless the Planning Board determines a different scale more appropriate.

D. A site plan including the following information:

1. Title of drawing, including name(s) and address(es), of the applicant or owner of record.
2. North point, date, scale.
3. Name and address of person preparing map.
4. Boundaries of the property plotted to scale.
5. The location and use of all existing and proposed buildings and structures within the development or use. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
7. The location, height, intensity, and bulb type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials and design of all proposed signage.
9. The location of all present and proposed utility systems, including:
 - a. sewage or septic system;
 - b. water supply system;
 - c. telephone, cable and electrical systems; and
 - d. storm drainage system including drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

The Planning Board may also request soil logs, percolation tests and storm run-off calculations where appropriate.

10. Plans to prevent pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
11. Existing and proposed topography at a two (2) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year flood plain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
12. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material. Water sources include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
13. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site.

The Planning Board may require a detailed traffic study for large developments or uses or for those in heavy traffic areas, including:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
- b. the projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and

- c. the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. existing and proposed daily and peak hour traffic levels, as well as capacity levels shall also be given.

14. For new construction or alterations to any existing building, a table containing the following information shall be included:

- a. area of building to be used for a particular use, such as retail operation, office, storage, etc.;
- b. maximum number of employees;
- c. maximum seating capacity, where applicable; and
- d. number of existing parking spaces and number required for the intended use.

15. Any other requirements which the Planning Board might deem necessary, including but not limited to license survey.

16. For multiple-family dwellings, mobile home parks, and trailer parks;

The Planning Board may require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes to be reserved on the plat, but in no case more than ten percent (10%) of the gross area of any such site plan. The area shall be shown and marked on the plat "Reserved for Park or Playground Purposes".

If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such plat or is otherwise not practical, the Board may require as a condition to approval of any such plat a payment to the Town in the amount of established pursuant to a fee schedule set by the Town Board and filed in the Town Clerk's office. Such money shall be used by the Town for park and recreational purposes, including the acquisition of property.

When a park, playground or other recreation area shall have been shown on a plat, the approval of such plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such area.

17. Reclamation plan, if applicable.

6.5 Notification

Upon receipt of an application, together with all applicable material required by it, the Planning Board shall notify the applicant in writing, by mail, of the place, date and time of the meeting of the Planning Board at which the application to be considered and request the presence of the applicant to discuss the application.

ARTICLE 7 REVIEW STANDARDS

In considering the approval of the applicant's site plan review application, the Planning Board shall take into consideration the public health, safety and general welfare, and the comfort and convenience of the public in general and residents of the immediate neighborhood in particular, and shall determine whether the proposed development or use meets the requirements of this Local Law.

In order to approve an application for site plan review, the Planning Board shall consider the following:

A. Conformance of the application with the provisions of this Local Law, other laws and ordinances of the Town of Whitehall and applicable County, State and Federal laws, rules and regulations.

B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic controls, and the project's impact on the overall circulation system as it relates to adjacent uses.

C. Adequacy and arrangement of pedestrian traffic access and circulation, including, but not limited to, separation of pedestrian from; vehicular traffic, walkway structures, control of intersections with vehicular traffic and overall pedestrian

convenience.

- D. Location, arrangement, size and design of off-street parking and loading areas.
- E. Location, arrangement, size and design of building lighting and signs.
- F. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring buffer between the project and adjoining properties.
- G. In the case of multi-family dwellings, mobile home parks and trailer parks, the adequacy of usable open space for recreation, parklands or, in the alternative, recreational fee.
- H. Adequacy of provisions for the disposal of storm water, sanitary wastes, water supply for both fire protection and general consumption, solid waste disposal, and snow removal storage areas.
- I. Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding, ponding or erosion.
- J. Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- K. Retention of existing trees for protection and control of soil erosion, drainage and natural beauty.
- L. Effects on air and water quality standards applicable primarily, but not exclusively, to industrial site development plans.
- M. Draft Environmental Impact Statement (DEIS) and Environmental Impact Statement (EIS) will be required if the reviewing agency deems the proposal to be significant pursuant to the State Environmental Quality Review Act (SEQRA).
- N. Visual compatibility with surroundings.
- O. Relationship to adjacent and nearby land uses, both private and public.
- P. Adequacy of plans in avoiding adverse impacts and corresponding mitigation effects.

In its review, the Planning Board may consult with appropriate Town, County, State or Federal agencies or officers.

ARTICLE 8 PLANNING BOARD PROCEDURE, PUBLIC HEARING AND DECISIONS

A. The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. No site plan review application may be disapproved unless a hearing shall have first been held on such application. Such hearing shall be held within forty-five (45) days of the receipt of an application deemed complete by the Planning Board and shall be advertised in the Town's official newspaper at least five (5) days before the public hearing.

B. Within forty-five (45) days of receipt of an application deemed complete by the Planning Board or, if a public hearing is held, within forty-five (45) days of the completed public hearing, the Planning Board shall render its decision. In its decision, the Planning Board may approve, approve with modifications or disapprove the site plan. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

1. Approval. Upon approval of the site plan application, and payment by the applicant of all fees and reimbursable costs due the Town, the Chairman and Secretary (or other duly designated officer) of the Planning Board shall endorse its approval on a copy of the application and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant and to the Washington County Code Department.

2. Approval with Modifications. The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Chairman and Secretary (or other duly designated officer) of the Planning Board shall endorse its approval on a copy of the application and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant and to the Washington County Code Department.

3. Disapproval. Upon disapproval of the site plan application, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant, together with the Planning Board's reasons for disapproval.

C. The Planning Board, in conjunction with its approval of any site plan review application, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the imposition of a performance bond or letter of credit, restrictions of land against further development of principal buildings whether by deed restriction, restrictive covenant or other appropriate means, to insure that guidelines as to intensity or development as provided in this Local Law shall be complied with, and the imposition of reasonable conditions to insure that the project will be completed in accordance with the terms of the application and any permit and including, without limitation, the requirements and conditions authorized under this Article.

D. Unless otherwise indicated or extended by the Planning Board, a decision on any Site Plan Review Application shall expire if the applicant fails to undertake the proposed development use, to obtain any necessary building permits to construct any proposed building permits, to construct any proposed building or change any existing building, or to comply with the conditions of such approval within one (1) year from the filing date of such approval in the Town Clerk's office.

ARTICLE 9 MODIFICATION AND WAIVERS

In addition to the other requirements of this local law, the Planning Board may require such additional provisions and conditions as are necessary to promote further understanding of the applicant's proposal or as are necessary to protect the health, safety and general welfare of the Town's residents.

Also, the Planning Board may, in its discretion, determine that certain requirements of this Article are not applicable for its approval of a site plan application and may, therefore, allow the applicant to submit only those elements which it deems necessary to review and approve such application.

ARTICLE 10 ENFORCEMENT

10.1 Planning Board

The Planning Board, together with duly authorized Town and County officials, shall have the power and duty to administer and enforce the provisions of this Local Law.

10.2 Record Keeping

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

10.3 Court Review

Any action, omission, decision, approval or ruling of the Planning Board under this Local Law may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review be made not later than thirty (30) days after the filing of the decision in the office of the Town Clerk.

Cost shall not be allowed against the Planning Board unless it shall appear to the Court that it acted with gross negligence or bad faith or with malice in making the decision appealed from.

10.4 Petition, Application and Appeal Forms

Unless otherwise stated, all petitions, applications and appeals provided for in this Local Law shall be made on forms prescribed by the Planning Board. Completed forms shall be accompanied by any additional information, plans or specifications as is indicated by such forms.

10.5 Fees

Fees provided for by this Local Law shall be paid upon the submission of an application or appeal, in such amount or amounts as shall be established by the Town Board from time to time and as such schedule of fees is on file with the Town Clerk at the time the application is made or appeal is brought.

10.6 Payment of Fees

- A. All fees shall be paid at the time of application to the Planning Board Secretary.
- B. No fee shall be allowed to be substituted for any other required fee.

10.7 Building Permits

- A. Permit Required.

For all land uses and developments which require site plan review under this Local Law:

No building, structure, or sign shall be erected, added to, or structurally altered until Planning Board approval under Article 8 and appropriate permit has been issued by the Washington County Building and Code Enforcement Office.

No new use of a building or structure shall be undertaken until Planning Board approval under Article 8 and appropriate permit has been issued by the Washington County Building and Code Enforcement Office.

No building permit shall be issued for any building, structure, use, or sign where said construction, addition, alteration or use would be in violation of any of the provisions of this Local Law, or of any other local law for the Town of Whitehall and State and County Law.

B. Submittal requirements. There shall be submitted with all applications for building permits four (4) signed copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the accessory buildings or signs to be erected and such other information as may be necessary to determine and provide for the enforcement of this Local Law.

C. Permit Certification. Upon receipt of all appropriate information and fees, and after all requirements of this Local Law have been met which show that the applicant is in compliance herein, the Washington County Building and Code Enforcement Office shall issue a Building Permit. One copy of the submitted layout or plot plan certified by the Washington County Building and Code Enforcement Office as to compliance with this Local Law, shall be returned to the applicant and to the Planning Board Secretary.

ARTICLE 11 FUTURE REGULATIONS OR AMENDMENTS

11.1 Future Regulation by Planning Board

The Planning Board may, after a public hearing, adopt and amend such rules and regulations appropriate to carrying out the provisions of this Local Law.

11.2 Amendments

- A. residents of the Town may petition or recommend that the Town Board amend this Local Law.
- B. Any proposed amendment originating by petition or recommendation by Town residents to the Town Board shall be

referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such request from the Town Board. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for the approval of the proposed amendment. The Town Board is not required to follow the Planning Board's recommendation.

ARTICLE 12 COMPLIANCE WITH OTHER LAWS AND SEQRA

Whenever the circumstances of proposed development require compliance with this Local Law or with any other local law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, so far as may be practical site plan review as required by this Local Law with the procedural and submission requirements of such other local law, ordinance or requirement.

ARTICLE 13 ENFORCEMENT

Any person who violates any of the provisions of this Local Law, or any of the conditions imposed by a permit issued pursuant hereto, shall be guilty of an offense and subject to a fine of not more than five hundred dollars (\$500.00), to be recovered by the Town in a civil action. Every person shall be deemed guilty of a separate offense for each week, or part thereof, such violation, disobedience, omission, neglect or refusal shall continue.

ARTICLE 14 SEVERABILITY

The provisions of this Local Law are severable. If any article, section, paragraph or provision of this Local Law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this Local Law shall remain valid and effective.

ARTICLE 15 SUPERSEDE

This Local Law is adopted pursuant to the power and authorities vested in the Town pursuant to Municipal Home Rule and the provisions on this Local Law are deemed to supersede conflicting provisions of New York State Town Law, specifically Town Law 274(a). Where any provision of this Local Law conflicts with any provision of New York State Town Law regarding Site Plan Review, the provision shall prevail.

ARTICLE 16 DEFINITIONS

As used in this Local Law, the following terms shall have the following meanings, unless the context otherwise requires:

Planning Board. Pursuant to section 271 of the Town Law, the Town of Whitehall has created a "Planning Board". Said Board consists of five (5) members appointed by the Town Board in such manner and for such term as provided by Town Law. The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this local law. The Planning Board shall have original jurisdiction for all matters pertaining to this Local Law.

Accessory Use. Any use of a structure, lot or portion thereof, that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including the use of a residential structure for professional, commercial or artisan activities carried on by the resident of such a structure.

Accessory Use Structure. Any structure or portion of a main structure customarily incidental and subordinate to a principal land use or development including a guest cottage for rent or hire that is incidental and subordinate to and associated with a single family dwelling or any movable structure in excess of 100 square feet that is located within a required shoreline setback.

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

Agricultural Use. Production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all

kinds, including grapes, nuts, berries and vegetables.

Agriculture Use Structure. Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

Alteration. As applied to a building or structure a change or rearrangement in the structural parts or in the existing 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, of a building or structure.

Animal Husbandry. A branch of agriculture concerned with the production and care of domestic animals, including veterinarian activities.

Applicant. A person who submits an application for site plan review under this local law.

Building. Any structure which is permanently affixed to the land, is covered by a roof supported by columns or by walls, and is intended for shelter, housing or enclosure of persons, animals or chattels.

Building Height. The vertical distance measured from the lowest portion of the natural grade of the building site covered by the building, or finished grade of cut required to accommodate the building, to the highest point of the structure.

Building Line. The point from which all yard requirements are measured and which is determined by a line formed by the intersection of a horizontal plane of the lowest grade level and a vertical plane that extends from the most projected part of the building open to the sky.

Building Permit. Written permission issued by proper municipal authority for the demolition, construction, repair, alteration or addition to a structure.

Clearcutting. The cutting of more than 50% of any trees over six (6) inches in diameter, 4.5 feet above ground level over the entire area of the cutting.

Commercial Sand, Gravel, Clay, Shale or Topsoil Extraction. Any extraction from the land of more than one thousand five hundred (1500) cubic yards in any two-year period of sand, gravel, clay, shale or topsoil, 1) for sale or use by persons other than the owner of the land, or 2) for use by any municipality.

Commercial Use. Any use involving the sale, rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. The term shall include, but not be limited to the following: drive-in restaurant; fast food operation; filling station; public garage; restaurant; retail store; retail stand and tavern.

Common Open Space. A parcel or parcels of land or an area of water, or a combination of land and water, designated and intended for the private or public use or enjoyment of the space, and may include such appurtenant structures as are necessary to allow the enjoyment of the space.

Community Facility. A building or structure owned and operated by a government agency or not-for-profit organization to provide a public or semi-public service, such as a library, museum, governmental building, firehouse, or church.

Dwelling, Multi-Family. An apartment, town house, condominium or similar building, including the conversion of an existing single family dwelling, designed to be occupied in separate dwelling units therein by more than one family; any such building containing two or more separate dwelling units used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has legal right of occupancy at different times.

Dwelling, Single-Family. A detached building (not including a mobile home) of one or more stories in height, above main grade level, which is designed or used exclusively as living quarters for one family or household.

Dwelling, Two-Family. A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling Unit. One (1) or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one (1) family or household for year-round or seasonal/temporary use.

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

Family. One or more persons related by blood, marriage or adoption, or no more than four (4) unrelated persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, lodging houses, club, fraternity or hotel.

Fence. An artificial structure designed to or which, in fact, divides, encloses or screens a parcel of land or a portion thereof.

Food Store. A self-service, retail operation offering a variety of food goods for human consumption for sale to the general public.

Forestry Use. Any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

Forest Use Structure. Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

Government Office or Agency. Any department, commission, independent agency or instrumentality of the United States, of New York State, of Warren County or the Town of Whitehall.

Home Occupation. Any use customarily conducted entirely within a dwelling or in an accessory structure and carried on by the inhabitants thereof and up to one employee not residing at the dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not materially change the character thereof.

Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, boarding house or club, whether or not meals are served.

Industrial Use. A manufacturing, production or assembly of goods or materials, including any on-site water disposal area directly associated with an industrial use. This term includes junkyards, not mineral extractions, sawmills, chipping mills, pallet mills and similar wood using facilities.

Junk Automobile. An unregistered motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, motor vehicle shall mean any vehicle propelled or drawn by power, other than muscular power, originally intended for use on public highways or for use in agricultural or construction activity.

Junkyard. Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials.

Land Use or Development or Use. Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure, but excluding 1) any landscaping or grading which is not intended to be used in connection with another land use and 2) ordinary repairs, maintenance or interior alterations to existing structures or uses.

Landclearing. The excavation, cutting, removal, alteration, destruction or clearing of perennial or annual vegetation, including trees, or the disturbance of soil.

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

Landscape Plan. A plan of sufficient detail to describe proposed changes in topography, structures, vegetation and visual characteristics.

Landscaping. The act of changing or enhancing the natural features, a plot, buffer zone, public open space or other area or portion of a lot (often as a beautifying feature of a building or land use) so as to make said area for attractive, to add visual screening and/or to provide safety features to assist in protecting life and property. This may be accomplished by adding lawns, trees, shrubs, etc., or through the sculpturing of the terrain (i.e. earth beams, ponds, walkways, retaining walls, rock outcrops, etc.) and/or installing lights, light poles, flag poles, fences and traffic malls for the direction of traffic.

Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

Lot Coverage. That portion of a lot that is covered by buildings and structures.

Lot Depth. The minimum contiguous distance measured from the front lot line to the rear lot line.

Lot Width. The minimum contiguous distance between the side lines of a lot.

Mineral Extraction. Any excavation, other than of specimens or samples, from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel clay, shale or topsoil mining, including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps, and mine drainage.

Mineral Extraction Structure. Any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings, garages or other main buildings or structures associated with mining extraction.

Mobile Home. Any self-contained dwelling unit, (not travel trailers) that is designed to be transported to its site on its own wheels or those of another vehicle, which may contain the same water supply, kitchen facilities and plumbing, sewage disposal and electric systems as immobile housing and is designed to be used exclusively for residential purposes; the structure must be certified by U.S. Department Housing Urban Development (HUD) and conform to the HUD Code. (A modular home which conforms to the New York State Building Code is not considered a mobile home.)

Modular Home. Any building comprised of two (2) or more sections with or without their own chassis, capable of being transported to their building site and permanently joined into one integral unit which is indistinguishable in appearance from a conventionally built home, including, but not limited to, a sloped roof, permanent foundation and conforms with the New York State Building Code.

Motel. A commercial facility providing transient lodging containing six or more rental units with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and where customary uses such as but not limited to playgrounds, game rooms, recreation facilities, snack bars, and restaurants may be provided for use by the lodger and the general public.

Office Building. A building, more than 50% of the gross floor area of which is used for office space.

Open Space. Land not covered by buildings, pavement, open storage, mining operations, or any other use that visually obscures the natural or improved landscape, except for recreation facilities.

Open Space Recreation Use. Any recreation use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile, bike, jeep, all-terrain vehicle trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, playground, picnic area, public park, public beach or similar use.

Parcel of Property. Any real property shown on the latest adopted County tax roll as a unit, or as contiguous units under common ownership. Parcels separated by public highway and owned by the same owner shall be deemed to be separate parcels of real property.

Parking Area, Public. An open area, other than a road or other public right-of-way, used for the parking of automobiles

and available to the public.

Parking Space. An area of two hundred (200) square feet of such shape and vertical clearance so as to accommodate one automobile having an overall length, not greater than twenty (20) feet.

Parking Space, Handicapped. An oversized parking space designed to accommodate the handicapped, constituting an area of two hundred forty (240) square feet with a minimum width of twelve (12) feet and having an overall length, not greater than twenty (20) feet.

Person. Any individual, firm, corporation, partnership or association, or any combination of the foregoing, or successor in interest to any such parties.

Private Sand, Gravel, Shale, Clay or Topsoil Extraction. Any extraction from the land of sand, gravel, shale, clay or topsoil for use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than one thousand five hundred (1500) cubic yards in any two-year period.

Public Utility Use. Any public utility use, equipment or structure, but excluding any such use which is subject to the jurisdiction of the Public Service Commission pursuant to Article Seven or Eight of the Public Service Law.

Recreation Center or Lodge. Any recreation-oriented facility particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices or rides. Such recreational uses may include a snowmobile trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, public park, and public beach, for activities such as soccer, baseball, football, tennis and water-related activities.

Recreational Facilities, Commercial. Recreation facilities open to the general public for private gain.

Recreational Facilities, Private. Recreational facilities supplemental to a principal use, for the use of proprietors and guests, but excluding any such use which is open to the general public for a charge.

Right-of Way, Public. A parcel of land open to the public for vehicular or pedestrian traffic.

Solid Waste Management Facility. Any facility employed beyond the initial solid waste collection process and managing solid waste including, but not limited to: storage areas of facilities; transfer stations; rail-haul or barge-haul facilities; landfills, disposal facilities; solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste oil storage, reprocessing, refining facilities, recyclables handling and recovery facilities, and waste tire storage facilities.

State Environmental Quality Review Act. A process that introduces the consideration of environmental factors into the early planning stages of actions in order to avoid adverse impacts on the environment.

Subdivision of Land or Subdivision. Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation use.

Timber Harvesting. The cutting of trees over six inches in diameter measured at 4-1/2 feet above the ground.

Waste Disposal Area. Any area for the disposal of garbage, refuse and other waste, including sanitary landfills and dumps, but excluding an on-site disposal area directly associated with an industrial use.

Any term in this Local Law which is not defined in this or another section of this Local Law shall carry its customary meaning.

ARTICLE 17 EFFECTIVE DATE

This local law shall take effect upon its proper filing with the New York State Secretary of State.