

TOWN OF
LINDLEY

ZONING LAW

Adopted 12/5/05

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ZONING LAW OF THE TOWN OF LINDLEY

Town of Lindley, New York
Local Law No. 1 of the year 2005

A local Zoning Law, Town of Lindley

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

SECTION 1: PURPOSE

The following is a Law duly adopted by the Town Board of the Town of Lindley, Steuben County, New York on December 5, 2005 to wit:

A LAW to promote the health, safety, community character and general welfare of the Town of Lindley; regulating and restricting the height and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures and land for industry, residence or other purposes; creating districts for said purposes, and establishing the boundaries, thereof; establishing a Planning Board, Zoning Officer and Zoning Board of Appeals to determine and vary the application of such regulations and restrictions in harmony with their general purposes and intent, and in accordance with general and specific rules herein contained; and providing for the enforcement of such Law. This Law shall be known and may be cited as the "Zoning Law of the Town of Lindley".

IN PURSUANCE of authority conferred by Article 16 of the Town Law of the State of New York, and in accordance with a Comprehensive Plan designed to maintain a rural environment; to assure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and traffic; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, with reasonable consideration, among other things, of the character of each location and its particular suitability for specific uses and with a view to preserving the value of property, and encouraging the most appropriate use of the land throughout the Town; and also in pursuance of Article 9 of the Town Law, to the extent applicable, the Town Board of the Town of Lindley, in the County of Steuben, State of New York, hereby ordains, enacts and publishes as follows.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 2: ORGANIZATION AND PROCEDURES

2.0 ORGANIZATION:

The Town of Lindley has adopted this local Zoning Law and has created the functions required to interpret, apply, enforce, maintain and grant variances to the Zoning Law. These functions are performed by: Planning Board, Zoning Officer and the Zoning Board of Appeals. These regulations shall not create liability on the part of the Town or any Board, officer or employee thereof, for damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

2.1 ROLES, DUTIES AND POWER:

2.1.1 The **PLANNING BOARD** is the primary controlling body and directing force for the Zoning Law. This Board is concerned with the overall development of, and the impact of development, on Lindley. The Town Law, Zoning Law, local permits and other public devices are used to insure compliance to the Comprehensive Plan.

- A. Duties of the **PLANNING BOARD** are:
 - Advisory Role for Town Board and Zoning Board of Appeals
 - Action on Subdivisions
 - Action on Site Plans
 - Action on Conditional Use Permits
- B. The **PLANNING BOARD** shall have full power and authority to make investigations, maps, reports, recommendations, and decisions relating to the planning and development of the Town.
- C. The Planning Board reports to the Town Board.

2.1.2 The **ZONING OFFICER**, also defined as **CODE ENFORCEMENT OFFICER** and/or **BUILDING INSPECTOR**, is appointed to enforce the codes, ordinances, rules and regulations of the Town and Zoning Law. The Zoning Officer will only issue Building Permits and Certificates of Occupancy or Completion when all provisions of the Law have been complied with.

- A. Common duties of the **ZONING OFFICER** are:
 - Issuance of Building Permits
 - Conducting Building Inspections
 - Advisory Role for Site Plans and Conditional Use Permits
 - Conditional Use Permit Applications
 - Zoning Board of Appeals Applications
 - Issuance of Certificate of Occupancy
 - Issuance of Certificate of Completion
 - Copies of the Zoning Law
- B. The Zoning Officer reports to the Planning Board, Town Board and Zoning Board of Appeals
- C. The **ZONING OFFICER**, as Building Inspector, shall have charge of the enforcement of such codes, ordinances, rules and regulations of the Town and of the Zoning Law of the Town and for such purposes such inspector, and his designees, shall have the right to enter and inspect at any time any building, structure or premises and to perform any other act necessary for the enforcement of the codes, ordinances, rules and/or regulations (reference NY State Town Law §138).

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- 2.1.3 Whenever a violation of this Law occurs, the Zoning Officer, or any person having knowledge thereof, may provide information to a proper magistrate following the procedures set forth in the Code of Criminal Procedure.
- 2.1.4 The **ZONING BOARD OF APPEALS** is a “Layman’s Court.” The Zoning Board of Appeals is an administrative body that acts as a buffer between property owners and the court. This Appeals Board becomes involved after the Zoning Officer issues a decision, for instance denying a permit because it does not conform to this Zoning Law. A property owner cannot simply appear at the Board of Appeals and ask for a variance; the Board can only consider a variance on an appeal from a decision made by the Zoning Officer. To make variance decisions, the Board balances the rigid enforcement of the Zoning Law which has the intention of protecting the health, safety and general welfare of the community with the unique situation of the applicant.
- A. The Zoning Board of Appeals is restricted to only two types of variances:
 - 1. Use Variance: authorization for the use of land which is otherwise not allowed by the applicable zoning regulations.
 - 2. Area Variance: authorization for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations.
 - B. The Zoning Board of Appeals is the Town’s only governing body that may reverse, affirm or modify, wholly or partly, the order, requirement, decision or interpretation of the Zoning Officer.
 - C. The Zoning Board of Appeals shall consult with the Planning Board before making their final decision.
 - D. Reference Appendix A for detailed information on the Zoning Board of Appeals process.
- 2.2 **PROCEDURES - Planning Board Process:**
- 2.2.1 The Planning Board applies the Zoning Law to direct development and control its impact on the Town with the goals of protecting the public’s health, safety and general welfare, and promoting the long range vision of the Town’s Comprehensive Plan. The Planning Board acts on Conditional Use Permit applications, subdivision requests and other matters defined by the Zoning Law during monthly meetings which are open to the public. Meeting dates are regularly scheduled. Time and location are published in area newspapers.
- 2.2.2 The Planning Board decision process includes holding Public Hearings as required in the Zoning Law. The Public Hearings are a way for the Town to make sure that changes to Lindley are in the best interest of the community, give all residents an opportunity to voice concerns and/or support, and provide applicants a chance to accomplish their goals within Lindley’s boundaries and laws. Requests for a Public Hearing are scheduled through the Planning Board. Applications are available from the Zoning Officer.
- A. Applicants are required to know and understand the Zoning Laws that apply to their proposed project.
 - B. Concept Plan and preliminary Site Plan review meetings are strongly encouraged for proposed projects that are complex or unusual. During these

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meetings, the Planning Board and/or Zoning Officer will provide guidance on Town requirements to avoid violation of the local laws.

- 2.2.3 The Planning Board will make the final decision on an applicant's request using the Zoning Law and Comprehensive Plan. All information will be interpreted to make a judgment which is in the best interests of the Town.

2.3 **INTERPRETATION, SEPARABILITY AND CONFLICT:**

The Zoning Law of Lindley is written to abide by local, county, state and federal laws. The Town has the right to be more restrictive than other agencies and to include specific stipulations through the permitting processes. Private agreements cannot permit what these laws prohibit. Whenever there is a disagreement between the laws and/or agreements, the one with the most restrictive or higher standards will govern.

The full definition of Interpretation, Separability and Conflict appears in Appendix C.

2.4 **ADMINISTRATION OF ZONING LAW - BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY or COMPLETION**

The Zoning Officer will issue Building Permits and Certificates of Occupancy or Completion that are in accordance with the Zoning Law, other local laws, NY State building code, fire codes and other applicable codes, ordinances, rules and regulations. The Town is considering the health, safety and welfare of residents by requiring these permits and certificates that further include specific stipulations and inspections.

- 2.4.1 **BUILDING PERMITS:** Contact the Zoning Officer to determine if a project requires a Building Permit. The Zoning Officer shall also be satisfied that the Permit is not in violation of the Town's Subdivision Rules and Regulations. Fines and other penalties apply to persons starting, executing or completing a project prior to obtaining a building permit.
- A. No building or structure, greater than or equal to one hundred ten (110) square feet, shall be erected, added to, structurally altered, demolished or relocated until the Zoning Officer has issued a Building Permit.
 - B. All structures that will have electricity, regardless of size, require a Building Permit.
 - C. Building Permits are required for new construction, additions, outbuildings, structural alterations, demolition, and relocation of any building, structure or any portion of a building or structure.
 - D. Accessory buildings greater than or equal to one hundred ten (110) square feet shall require a Building Permit.
 - E. Significant changes to property such as wells, septic systems, swimming pools and ponds greater than one hundred ten (110) square feet require Building Permits.
 - F. Prefabricated buildings and structures, including canopied shelters, greater than or equal to one hundred ten (110) square feet, require Building Permits.
 - G. The placement, building, erection or posting of signs for business, commercial and industrial uses require Building Permits. Signs which do not require a permit are defined later in this Law.
 - H. No Building Permit shall be issued for any lot that is less than 2 acres, unless it was pre-existing before Lindley's Zoning Law was first enacted and a variance has been granted by the Zoning Board of Appeals.

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- I. A Building Permit is valid for one calendar year. Projects that are not started, or projects with duration longer than one year, will require re-application for a Building Permit.

2.4.2 BUILDING PERMIT PROCESS

- A. The Building Permit Application shall include two (2) copies of a Site Plan as defined in Section 5 of this Law.
- B. After the Zoning Officer has approved the application, plan and specifications the Building Permit will be issued. The Building Permit shall be signed by the Zoning Officer, in a form prescribed by him. The Permit will define limitations, conditions and applicant responsibilities.
- C. All waste disposal and septic system plans must be certified by a licensed or certified professional. Plans and location must be approved by the Town Zoning Officer before a Building Permit may be granted so that installation may begin.
- D. Upon approval, one set of plans and specifications shall be retained in the Town files and one set shall be returned to the applicant to be kept at the building site open to inspection by the Zoning Officer at reasonable times.
- E. If the application, plan, specifications and/or other documents filed describe proposed work that does not conform to all applicable building regulations, the Zoning Officer shall disapprove the same and return all documents to the applicant. Upon request of the applicant, the reason for refusal shall be transmitted in writing.
- F. In the event that a Building Permit is not approved, 50% of the applicant's fee will be refunded, provided no construction has commenced. If construction has started and the application is not approved, the fee(s) shall not be refunded, construction must stop, and the site returned to its original condition. Starting construction before having an approved Permit is in violation of this Law and subject to penalties.
- G. The Zoning Officer shall inspect the site as necessary before, during and at completion to determine compliance with the granted Building Permit and NY State Building Codes.

2.4.3 VIOLATIONS

- A. Violation of this Law is subject to a fine of not more than two hundred and fifty dollars (\$250), or imprisonment for a period of not more than six (6) months, or both such fine and imprisonment. Each week such a violation occurs is considered a separate offense.
- B. Execution in conflict of the Building Permit or extension beyond what the Permit specifies is in violation of the Zoning Law and requires the application for a new, applicable permit.
- C. When applicable, the applicant may request a use or area variance from the Zoning Board of Appeals and, if granted, re-apply for a Building Permit.

2.4.4 CERTIFICATES OF OCCUPANCY OR COMPLETION

- A. No land shall be used or occupied, and no building or structure that has been erected, added to, altered, or relocated shall be used or changed in use until a Certificate of Occupancy or Completion is issued by the Zoning Officer in accordance with this Law.

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- B. The Zoning Officer must be contacted at the end of the permitted process to apply for a Certificate of Occupancy or Completion and arrange for an inspection.
- C. The Zoning Officer will issue a Certificate of Occupancy or Completion if the building, structure and/or premises meet the requirements stipulated in the Building Permit application, site plans and specifications.
- D. The Certificate of Occupancy or Completion will be issued within thirty (30) days after the erection or alteration is approved to be in compliance with the provisions of this Law.

SECTION 3: GENERAL REGULATIONS

3.0 OVERVIEW

Permitted uses are land uses that have been accepted by the Town of Lindley. These uses are determined in part by topographical features such as flood plains, steep slopes, etc. It is the purpose of this Zoning Law to keep the character of the Comprehensive Plan in place and also to protect the public from unnecessary harm or hardship.

3.0.1 Land designations in Lindley are:

Agricultural-Residential (A-R): The entire Town is zoned Agricultural-Residential unless otherwise specifically permitted. The intent is to conserve those areas in the Town suitable for farm and agricultural uses, and to promote and encourage a suitable family environment for family living. This consists of single family dwellings on two acres or more, and farm uses including the keeping of farm animals on two acres or more.

3.0.2 There are additional requirements for uses in the following areas:

Flood Damage Prevention District (Flood Plain): Any development is required to comply with the Flood Damage Prevention District - areas of the 100 year flood plain - regulations. These regulations are shown in Section 11 Detailed Standards.

Steep Slope:

25 percent slope or more - no development

15-25 percent slope is marginally acceptable for standard development.

Development on a 15-25 percent slope requires a Conditional Use Permit.

0-15 percent slope is acceptable for standard development.

3.0.3 Development guidelines as specified in Section 11 Detailed Standards shall be applied where appropriate to ensure the health, safety and general welfare of the community and to maintain the rural nature so desired for the Town.

3.0.4 Recognizing that there are many and varied services required to provide for the needs of a thriving residential community, these guidelines are established to properly provide for not only those usual services common to daily life within a community as in traditional home occupations, and/or small business repair or sales services, but to also provide for an option of some commercial or industrial uses offering an enhancement to the Town's economic base. These more major businesses with the potential for more than the usual residential traffic on the basis of an increased volume of traffic and weight should ideally be located in close proximity to major highways built to sustain such types of traffic.

3.0.5 These guidelines shall govern the consideration of such industrial development so that it shall not be detrimental or hazardous to the surrounding community and its residents, nor shall it create serious problems of compatibility with other land uses. Topographic and soil conditions in the Town may limit the development of certain uses in some areas.

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3.1 ZONING MAPS

The map designated “Zoning Map of the Town of Lindley” shows the entire Town’s common district of A-R (Agricultural-Residential). The Flood Damage Prevention District and Steep Slope sites are shown on the “Town of Lindley Comprehensive Plan - Map 2 Natural Resources.” These maps were adopted by the Town Board as part of this Zoning Law. As updates of these maps are completed, the latest adopted version shall be used in the Permit process.

3.2 PERMITTED USES

In all cases, permitted uses must meet all setback requirements as defined by the Density Control Schedule (Table 1). The following uses are permitted in the Town of Lindley:

- 1) Single family dwellings on two acres or more, except single wide manufactured homes
- 2) Agriculture uses including farm animals on two acres or more
- 3) Barns or sheds
- 4) Site built homes: Minimum home size is 840 square feet. Homes over 1500 square feet require architectural blueprints. Note that this is a N.Y. State requirement.
- 5) Double wide manufactured homes and modular homes greater than 20 feet wide.
- 6) Accessory buildings and uses that are typically associated with any of the permitted uses mentioned above and located on the same lot as principal use.

3.3 ACTIVITIES PROHIBITED IN ALL DISTRICTS

3.3.1 No effluent or matter of any kind shall be discharged into any stream, wetland or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.

3.3.2 No use shall be permitted that is noxious or offensive by reason of producing corrosive, toxic, or noxious fumes, gas emission, glare or excessive light, fire, explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features which is dangerous to the public health, safety or general welfare unless conducted under proper and adequate standards.

3.3.3 Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any manner is prohibited.

3.4 APPLICATION OF REGULATIONS

3.4.1. No building or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified.

3.4.2 No building or structure shall be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein.

3.4.3 No lot shall be occupied by more than one principal use except as permitted with a Conditional Use Permit. Proposed secondary or mixed uses shall be considered using the Conditional Use Permit process. Where a mixed use on a single lot is permitted, the lot must meet the combined lot size for each of the

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permitted uses. The lot must also accommodate all requirements for each of the uses, such as parking, buffering, coverage, etc. The building group, as a unit, must meet all setbacks.

- 3.4.4 No part of a yard or other open space around any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.
- 3.4.5 No Building Permit shall be issued for any lot that is less than 2 acres, unless it was pre-existing before Lindley's Zoning Law was first enacted and a variance has been granted by the Zoning Board of Appeals.
- 3.4.6 The Zoning Officer shall, prior to issuing a Building Permit, be satisfied that the issuance of such permit is not in violation of the Town's Zoning Law, or any other ordinance, laws or regulations of record.

3.5 DENSITY CONTROL

In order to provide adequate open spaces for access of light, circulation of air, prevention and fighting of fires, prevention of undue concentration of population, and to lessen congestion on roadways, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Section.

The attached Density Control Schedule (Table 1) is adopted and declared to be part of this Zoning Law. Wherever a side or rear yard is adjacent to a street, such as on a corner lot, the standards for front yards shall apply.

- 3.5.1. Projections into Yards: The following projections are allowed:
 - A. Open fire escapes - four (4) feet into side or rear yards.
 - B. Awnings or movable canopies and overhangs - six (6) feet into any yard
 - C. Cornices, eaves, insulation walls and roofs, and other similar architectural features - three (3) feet into any yard.
 - D. Apparatus needed for the operation of solar energy systems, including detached solar collectors, reflectors, piping or ductwork, and insulation necessary for efficient utilization of the system.
 - E. Any open or enclosed porch or attached carport or garage shall be considered a part of the building in determining the size of the required yard or lot coverage. Non-roofed paved terraces shall not be considered a part of the building.
- 3.5.2 Accessory Buildings and Uses specifications are defined in Section 11 Detailed Standards.
- 3.5.3 Compliance with Maximum Average Residential Density.
 - A. All lots held in single ownership may be used for residential use according to the minimum lot size and bulk density regulations as set forth in the Density Control Schedule, provided that there shall be no more than one principal building and use on each lot except as permitted otherwise. Proposed secondary uses shall be considered using the Conditional Use Permit process.
 - B. A Building Permit shall not be issued for any residential lot that has been reduced in size so that it is not in compliance with the minimum lot size or density requirement, except as provided in Section 7.3: Housing Subdivisions.

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- 3.5.4 Side Yards for Multi-family Dwelling Units
Side yards for semi-detached, townhouses or multi-family dwelling units, where permitted, shall be required at the ends of the total structure only.
- 3.5.5 Distance between Principal Buildings on Same Lot
No detached accessory building shall be closer to any principal building than twelve (12) feet.
- 3.5.6 Exceptions to Front Yard Requirements
- A. If there are dwellings on abutting lots with both front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting properties. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.
 - B. If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, it is recommended that the front yard for the lot be determined by the average.
- 3.5.7 General Exception to Height Regulations
Projections on residential and agricultural buildings such as chimneys, silos, spires, domes, elevator shaft housings, towers, aerials, flagpoles, solar energy collectors and equipment used for the mounting and operation of such collectors, and other similar objects not used for human occupancy are not subject to the building height limitations of this Law.
- 3.5.8 Exceptions to Side Yard Requirements
The combined total side yard requirements, as specified in the Density Control Schedule (Table 1), shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in the Schedule except as provided in Section 10: Non-Conforming Buildings, Lots And Uses. In any case, the side yard width shall be reduced to no less than fifty (50) percent of the requirement of the Density Control Schedule (Table 1).

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TABLE 1

Density Control Schedule

Use	Minimum Yard Requirements							Maximum Lot Coverage	Maximum Building Height	Building Size
	Minimum Lot Size		Principal Building			Accessory Building				
	Area	Width	Front	Rear	Side	Rear	Side			
Residential dwelling units: Site built homes Double wide manufactured homes Modular Homes with foundations	2.0 acres	250'	50'	50'	50'	25''	25'	10%	35'	840 ft ² minimum
Conditional use: SUBJECT TO SITE PLAN APPROVAL Single wide manufactured housing	2.0 acres	250'	50'	50'	50'	25'	25'	10%	35'	840 ft ² minimum
Agricultural buildings - including the keeping of farm animals	2.0 acres	250'	75'	50'	50'	50'	25'	5%	35'	
Dog Kennels	5.0 acres	250'	Kennel buildings must be 150' minimum from all lot lines							
Religious and Quasi-Public uses	2.0 acres *	300'	50'	50'	50'	25'	20'	30%	35'	10,000 ft ² maximum footprint
Industrial and/or Commercial uses	2.0 acres *	As req'd	50'	50'	200'	All buildings principal		30%	35'	10,000 ft ² maximum footprint
*Greater than 2.0 acres may be required to accommodate non-residential or non-agricultural uses as determined by the sum of the setbacks for yards, parking lot requirements, separation of potable water and disposal systems, other site improvements and the maximum lot coverage of 30%.										

SECTION 4: CONDITIONAL USES

4.0 CONDITIONAL USES

INTENT: The Town of Lindley is zoned Agricultural/Residential except where Conditional Use Permits have been granted or grandfathered. The intent of Conditional Use Permits is to allow uses other than agricultural or residential which may be suitable only under certain conditions and at appropriate locations. Conditional uses require special considerations so that their location and impact on that area and on the Town will meet the objectives of this Law and intentions of the Town's Comprehensive Plan. Conditional uses may be denied if it is determined that those standards cannot be met or the use is not in the best interests of the Town.

4.0.1 Conditional Use Permits are authorized by the Planning Board in accordance with the standards and procedures set forth in this Law. The Planning Board may grant or modify a Conditional Use Permit with additional conditions beyond those expressed specifically by the Law. The Planning Board must consider the best interests of the surrounding property, the neighborhood and the Town as a whole. These conditions may include limiting building height; controlling traffic and parking; limiting number, size or location of signs; fencing, landscaping or other conditions to protect neighboring properties.

4.0.2 **Conditional Use Permits may be denied if the request is not in the best interest of the Town.**

4.0.3 In the case of a use existing prior to the effective date of this Law and classified in this Law as a conditional use, any change in use, or in lot area, or alteration of structure shall conform to this Law. Reference Section 10 for regulations regarding pre-existing, non-conforming uses and conditions.

4.0.4 The Planning Board may issue a temporary Conditional Use Permit for special situations. Manufactured housing temporary CUP's are described in Section 6.2. Other temporary conditional uses such as a limited time business venture will be granted temporary one-time CUP's. Otherwise, Conditional Use Permits are permanent and stay with the property, unless they expire as defined in Section 4.1.5.

4.0.5 Below is a listing of conditional uses that require permits. The appearance of a conditional use on the list does not imply that it is pre-approved or that a Conditional Use Permit will necessarily be granted if applied for. Each Conditional Use Permit application must go through the approval process described later in this section.

1. Single wide manufactured home on a single lot
2. Manufactured home park
3. Any development on a slope, greater than 15 percent
4. Multi-family dwellings, including Townhouses and Boarding Houses
5. Two residences on a single lot
6. Two principal structures comprising a mixed use on a single lot
7. All uses, activities and structures within the Flood Damage Prevention District
8. Home occupation business

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9. Accessory structures and uses that are typically associated with any permitted use and not located on the same lot as the principal use
10. General uses, such as:
 - Cemetery or crematory
 - Church or other place of worship
 - Cultural facilities (library, art gallery, museum, etc.)
 - Hospital or sanitarium
 - Institutional or philanthropic use
 - Municipal buildings
 - Non-profit club
11. Business/commercial uses, such as:
 - Adult bookstore or entertainment establishment
 - Airport
 - Automobile repair garage
 - Automobile washing station
 - Bank
 - Bar or night club
 - Bowling alley
 - Business enterprises on farms
 - Camp, vacation resort, cottage, travel trailer park or cabin development
 - Cellular tower or other personal wireless communication facility
 - Convenience store/mini-market
 - Day nursery
 - Department store/general merchandise
 - Dog kennels or other animal boarding facility
 - Drive-in movie
 - Drug store
 - Energy (such as solar, wind or water) collection and/or distribution
 - Equipment rental or sales yard
 - Funeral home
 - Gasoline filling station
 - Golf course or country club
 - Grocery store
 - High impact homeowner activity
 - Laundromat, laundry or dry cleaning plant
 - Motel/hotel
 - Motor vehicle sales and service
 - Newspaper offices and printing shops
 - Nursing or convalescent home
 - Parking lots
 - Personal service establishments
 - Professional Office(s)
 - Restaurant
 - Retail business or service, not otherwise specifically mentioned herein
 - Riding academy
 - Private school conducted for profit
 - Theater or concert hall
 - Veterinarian office, animal hospital or kennels
 - Wholesale business or service, not otherwise specifically mentioned herein

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12. Industrial uses, such as:

- Contractor's equipment storage
- Extractive operations
- Manufacture, fabrication and assembly, and/or other handling of material
- Research laboratories
- Warehouse and distribution facilities
- Administrative, educational and related offices/ facilities in conjunction with an industrial use listed herein

4.1 **STANDARDS GOVERNING CONDITIONAL USES**

- 4.1.1 A conditional use shall comply with the procedures and standards set forth in the Zoning Law. Applicants should reference all applicable sections of this Law, especially Section 11 Detailed Standards.
- 4.1.2 The submission of a Site Plan in accordance with this Law is required before any consideration can be given for a conditional use. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.
- 4.1.3 In order to grant any Conditional Use Permit, the Planning Board shall find that the request is in harmony with the general purpose and intent of this Law. The Board shall take into account the location and size of use, the nature and intensity of the proposed use, the size of the site with respect to its accessibility and the traffic bearing capacity of the surrounding thoroughfares.
- 4.1.4 In order to grant any Conditional Use Permit, the Planning Board shall find that the use will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood, or be detrimental or injurious to the property and improvements in the neighborhood; or to the general welfare of the Town. This shall apply to the establishment, maintenance or operation of the use applied for under the circumstances of the particular case.
- 4.1.5 If construction or use activity does not start within one year after the Conditional Use Permit is approved, it shall be considered expired and become void. The Conditional Use Permit shall also be void if the original use ceases, including the occupancy of a manufactured home, for one year or more for any reason.
- 4.1.6 It is unlawful and punishable hereunder for any person to violate any condition imposed by an approved conditional use. The Zoning Officer shall follow the procedures for violation of the Law.
- 4.1.7 These standards and considerations apply to both temporary and permanent Conditional Use Permits.

4.2 **CONDITIONAL USE PERMIT PROCESS**

- 4.2.1 A property owner(s) or agent(s) shall start the Conditional Use Permit process by filing an application with the Zoning Officer with the appropriate fee. The filing fee is set by the Town Board and is not refundable.

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4.2.2 **APPLICANT MUST SUBMIT AT TIME OF APPLICATION:**

- A. Site Plan as defined in Section 5 Site Plan Process.
- B. Description of proposed use.
- C. Tax map number and relevant area of tax map (Zoning Officer can provide) to show site location, adjacent properties and adjacent properties owners' names.
- D. If applicant is not the property owner, the property owner or appropriate designee must provide approval for the applicant's project.
- E. If applicant is the property owner but that information is not reflected in the Town's tax records, the applicant must show proof of ownership (deed).
- F. Completed Environmental Assessment Form (EAF), as applicable
- G. Required state and/or county permits, as applicable
- H. Professionally prepared waste disposal/septic system plans, as applicable
- I. Conditional Use Permit application and fee

4.2.3 **The submission of a site plan in accordance with this Law is required before any consideration can be given for a conditional use.**

4.2.4 The Conditional Use Permit process follows the Site Plan Process to include a Public Hearing. This Hearing gives residents an opportunity to voice concerns or support, and provides applicants a chance to explain or clarify the purpose of their project and to respond to questions of the Board and public.

- A. A preliminary Site Plan Review with the Planning Board is recommended so that the applicant can verify that all requirements for the Public Hearing have been met.
- B. For complex or unusual applications, a Concept Plan Conference should also be held before a site plan review to understand the Town's requirements and laws.
- C. The Condition Use Permit Process and projected process timing are presented in Table 2.

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TABLE 2

CONDITIONAL USE PERMIT PROCESS

Below is a summary of the Conditional Use Permit process and timing required:

TIMING	PROCESS STEP	FAST TRACK (can be risky*)
3+ months to start date	A person decides to do a project that requires a Conditional Use Permit	1+ month to start date A person decides to do a project that requires a Conditional Use Permit
3 months to start date	CONTACT Zoning Officer to apply for Conditional Use Permit, CONTACT Planning Board to get Concept Plan Conference on Board meeting agenda	1 month to start date CONTACT Zoning Officer to: apply for Permit with complete application package to include a Site Plan
2 months to start date	RESEARCH applicable laws – local, county and state. For Lindley Zoning Law, attend a Planning Board meeting for a Concept Plan Conference	----- SCHEDULE PUBLIC HEARING CONTACT Planning Board
1+ months To start date	PREPARE Site Plan and gather all required documentation (deed, test results, etc.)	<u>at least 15 days before</u> monthly Planning Board meeting
<u>At least 15 days before</u> Planning Board Meeting (3rd Monday of each month)	CONTACT Planning Board to SCHEDULE PUBLIC HEARING and SUBMIT complete application package to include the Site Plan	
1 month to start date	<u>PUBLIC HEARING AND SITE PLAN REVIEW</u> Applicant presents Site Plan and other required information to support project. Public present information, concerns and support for proposed project. Planning Board determines if all requirements of the Zoning Law are met, potential negative impacts are addressed and may apply specific conditions as appropriate *Planning Board may have additional requirements over Zoning Officer. Applicant may be required to return to next month’s meeting to complete process.	
Planned start date	Conditional Use Permit holders may start project by applying for a building permit, if applicable.	If incomplete application packet provided or other requirements not met, follow-up with Planning Board and scheduling of a new Public Hearing will be required. Applicant is responsible for additional fees.

SECTION 5: SITE PLAN AND PUBLIC HEARING PROCESS

5.0 SITE PLAN APPROVAL PROCESS

INTENT: The intent of the Site Plan approval process is to determine a project's compliance with this Law with regard to conditional uses and cluster housing developments that may be permitted in the Town of Lindley. The objective is to evaluate and prevent land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse affects concerning health, safety, and overall welfare of the residents of the community.

5.0.1. The power to approve, approve with modification, or deny site plans for subdivisions or conditional uses as required by this Law is vested in the Planning Board.

5.0.2 The Town requires the Zoning Officer to preview Site Plans to confirm proper locations of building structures in relation to utilities (wells, sewage systems) and required setbacks prior to issuing a Conditional Use Permit application for Planning Board review and consideration.

5.0.3 Prior to issuing a Building Permit for the construction of, expansion, or change in use of any Conditional Use, a Site Plan and supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board may require that the Site Plan be prepared by a licensed architect or engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same. The applicant's architectural or engineering costs and/or costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed Site Plan shall be the responsibility of the applicant.

5.0.4 A survey, certified by a licensed surveyor, engineer or other appropriately trained professional, must accompany the final Site Plan for any subdivision.

5.1 SITE PLAN REQUIREMENTS

The Site Plan must include enough information as appropriate for the proposed project to allow the Planning Board, Zoning Officer or other Town Official to determine if the project is in conformance with local, county and state laws, and other applicable regulations.

5.1.1 The minimum Site Plan requirements are:

1. Drawing of the applicant's entire property and any adjacent parcels owned by the applicant.
2. Drawing that shows all adjacent properties, their ownership and uses, roads, easements, and buildings within five hundred (500) feet of the applicant's property.
3. Detailed drawing(s) to scale of the portion of the applicant's property under consideration,
4. Each of these drawings shall show:
 - a. Title of drawing to include the address of the property and contact information for the applicant.
 - b. North point

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- c. Scale - not more than 100 feet per 1 inch
- d. Date

- 5.1.2 The detailed drawings shall show, as applicable:
1. Existing natural features such as water bodies, watercourses, wetlands, wooded areas, individual large trees, flood hazard areas.
 2. Special improvement districts (water, sewer, light, fire, drainage and the like).
 3. Easements.
 4. All existing man-made features.
 5. All proposed buildings and man-made structures to include proposed uses and dimensions
 6. All proposed land uses and their areas in acres and location
 7. Location of all existing or proposed site improvements including roads, driveways, drains, culverts, retaining walls, fences and easements, whether public or private
 8. Description of sewage disposal and water systems and location of such facilities
 9. Location and proposed development of buffer areas and other landscaping
 10. Location of all parking and truck-loading areas, with access and egress drives thereto.
 11. Location, design and size of all signs and lighting facilities
 12. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space
 13. Existing and proposed contours at intervals of not more than five (5) feet of elevation
 14. Grading, drainage systems, storm water management and erosion control
 15. A map of site topography (available from the USGS)
 16. A soils overlay, if general site grades exceed 15% or portions of the site have susceptibility to erosion, flooding or ponding
- 5.1.3 The Planning Board may at its discretion waive any requirements which are clearly not relevant to the proposed use and site.
- 5.1.4 The Planning Board may require such additional information that appears necessary for a complete assessment of the project.

5.2 **CONCEPT PLAN CONFERENCE**

PURPOSE: Applicants are encouraged to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development. This initial meeting is called a Concept Plan Conference. This step is optional, but should be considered for complicated or unusual requests. It is also beneficial for those who are not familiar with the Zoning Law since the Planning Board will provide specific information on Town requirements for the applicant's project.

- 5.2.1 The applicant should attend a Planning Board meeting for a Concept Plan Conference at least 2 months before the desired start date of a project.

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5.2.2 Concept Site Plan Review

- A. A conceptual site plan shall be prepared and submitted to the Planning Board. It should address as many areas of the final Site Plan as possible at the early stage of project planning. Applicants should reference Section 11 Detailed Standards, as well as all applicable sections of this Law to prepare a conceptual site plan. The developer may need to discuss the general requirements as to design of roads, reservations of open space, drainage, sewage, water supply, fire protection, and other improvements as well as procedural matters with the Planning Board.
- B. Developers of land adjoining state, county or town highways or roads are advised to consult with the District Engineer of the New York State Department of Transportation, County Highway Superintendent, or Town Highway Superintendent in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process.
- C. If requested, the Planning Board shall provide written comments on the conceptual site plan of a proposed development in relation to the applicable requirements, existing or potential development of the adjacent area, and the Town Comprehensive Plan. In the course of its review, the Planning Board may consult with other agencies or parties.

5.3 SITE PLAN REVIEW

PURPOSE: A Site Plan Review by the Planning Board is required to make sure the proposed project as described in the Site Plan and accompanying documents meets all the requirements of the Zoning Law, Comprehensive Plan and other regulations, guidelines and rules.

The Planning Board's review of any Site Plan shall include, but is not limited to the following considerations:

1. Location, arrangement, size and design of buildings and other site improvements
2. Relationship of the various uses to one another and their scale
3. Compatibility of development with natural features of the site and with-surrounding land uses with a goal to maintain the rural nature of the community
4. Adequacy and arrangement of vehicular traffic
5. Location, arrangement, appearance and sufficiency of off-street parking and loading
6. Location of lighting and signs
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands
8. Location and adequacy of water systems and sanitary waste disposal
9. Adequacy of structures, roadways and landscaping in areas susceptible to flooding, ponding and/or erosion
10. Adequacy of storm water, flood-proofing and erosion prevention measures, especially in Flood Damage Prevention Districts
11. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas
12. Adequacy of pedestrian access, circulation, convenience and safety
13. Adherence to SEQR (State Environmental Quality Review Act)

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5.4 PUBLIC HEARING

PURPOSE: The Public Hearing gives residents an opportunity to voice concerns or support, and provides applicants a chance to explain or clarify the purpose of their project and to respond to questions of the Board and public. Information gathered during the Public Hearing will be taken into consideration by the Planning Board when taking action on applications and other requests.

5.4.1 Upon the Planning Board's certification that an application with Site Plan is complete and satisfactory, a Public Hearing shall be scheduled within sixty two (62) days from the time of such submission. For the purpose of this Law, the submission date shall be taken as the date of the first regular Planning Board meeting following submission of a complete application with Site Plan to the Planning Board. The hearing shall be advertised at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Town.

5.4.2 Final Site Plan Requirements.

The approved Site Plan or revised Site Plan with conditions satisfied as recommended by the Planning Board constitutes the Final Site Plan. A survey, certified by a licensed surveyor, engineer or other appropriately trained professional, must accompany the Final Site Plan for any subdivision.

However, if more than six (6) months have elapsed between the time of the Planning Board's report on the Site Plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a new Site Plan Review for further review and possible revisions prior to accepting the proposed Final Site Plan.

5.4.3 Notification of Decision on Final Site Plan.

- A. Within sixty two (62) days of the Public Hearing at which a Site Plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the Site Plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in a Final Site Plan.
- B. Upon approval, the Planning Board shall endorse its approval on a copy of the Final Site Plan and shall forward it to the Zoning Officer who shall then issue a Building Permit if the project conforms to all other applicable requirements.
- C. Upon disapproval, the Planning Board shall so inform the Zoning Officer and he shall deny a Building Permit. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- D. If the presented Site Plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case the Planning Board may recommend further study of the proposal and resubmission of the Site Plan.

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5.5 **APPEAL**

The applicant or any interested person may appeal a decision of the Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by the Board in the office of the Town Clerk.

SECTION 6: CONDITIONAL USES - MANUFACTURED HOUSING

6.0 MANUFACTURED HOUSING:

6.0.1 Manufactured housing shall be approved for residential or other permitted uses only and are not allowed for storage purposes.

6.0.2 Double Wide and Modular Manufactured Housing

Double wide manufactured homes, 20 feet wide or greater, and modular homes are considered standard residential structures and are permitted in the Town without a Conditional User Permit; however, they are subject to the Zoning Law, Building Permit Process, minimum lot size, density requirements, setback requirements and other applicable laws and regulations. Siting of all homes shall follow Section 11 Detailed Standards of this Zoning Law.

6.0.3 Single Wide Manufactured Housing

- A. A single wide manufactured home requires a Conditional Use Permit before being brought within the Town limits and located on a lot. The Conditional Use Permit process requires site plan approval and Public Hearing.
- B. These Conditional Use Permits are considered permanent and will remain in effect even if property ownership changes. However, if the Conditional Use Permit is not utilized in a one year time frame or the home is vacant for one year or more, the Conditional Use Permit is considered expired and a new application must be submitted.
- C. Once a Conditional Use Permit is approved, a Building Permit must be obtained before installation. The owner must provide the Manufacturer's Installation Manual or ANSI A225.1 Installation Standards to the Zoning Officer to verify correct installation during the building process and Certificate of Occupancy inspection.

6.1 MANUFACTURED HOUSING STANDARDS

6.1.1 All manufactured homes installed in the Town of Lindley shall meet the following minimum requirements:

- A. Minimum width of 14 feet
- B. Minimum enclosed living space of 840 square feet.
- C. No less than two (2) means of exit.
- D. Water and sewage facilities that meet state and local health standards.
- E. The home must be properly installed per the Manufacturer's Installation Manual. In the event that the Manufacturer's Installation Manual is not provided, the home must be installed according to ANSI A225.1 (1994), Manufactured Home Minimum Installation Standards.
- F. Skirting or a curtain wall, unpierced except for required ventilation and access door. Acceptable materials are brick, masonry, vinyl or similar materials designed and manufactured for permanent outdoor installation.
- G. Permanent landing, at least 48 square feet, at the same level or within one step level of the manufactured home floor, and permanent steps with handrails are required at each exterior doorway. In no case may the landing be less than 36" wide or less than the door width whichever is larger. The

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steps must lead to the ground level. The structure must be constructed in accordance with state and local building codes.

- 6.1.2. The manufactured home stand shall be capable of containing a manufactured home in a fixed position and meet all building codes. The slope of the land for a manufacturing home stand may not exceed 1.5 feet for the length of the stand.
 - 6.1.3 The structure of the manufactured home may not be altered for any purpose. Changes to windows or doorways are considered an alteration and may deteriorate the structure's integrity. Access to adjoining structures must be through existing means of exit and a minimum of two (2) means of exit are required for the unit.
 - 6.1.4 Single wide manufactured housing that is not used as a residence for one year or more is considered abandoned and must be removed within 6 months after the maximum one year vacancy period.
 - 6.1.5 Manufactured housing that is only used for seasonal purposes must follow all guidelines established for standard residential manufacturing housing.
- 6.2 **TEMPORARY CONDITIONAL USE PERMITS FOR MANUFACTURED HOUSING**
- 6.2.1 A Temporary Conditional Use Permit application may be requested for manufactured housing that will be used for construction projects; emergency purposes, or temporary housing for elderly, sick or disabled relatives, or their caregivers. Temporary Conditional Use Permits will have a termination date and be terminated at that date or when the original use is no longer valid.
 - 6.2.2 If the temporary use is not utilized in a one year period, the Temporary Conditional Use Permit expires and a new application must be filed.
 - 6.2.3 **Temporary Business Use**
 - A. Manufactured housing to be used as a temporary business office or construction field or storehouse office may be temporarily located within the Town. Such temporary location, however, shall be subject to the Conditional Use Permit process and site plan review.
 - B. Temporary Conditional Use Permits may be allowed for the Period of the project.
 - C. Manufactured housing that is used as a temporary structure for business use must be removed within thirty (30) days after the temporary use has been discontinued or after the Temporary Conditional Use Permit has expired.
 - 6.2.4 **Temporary Residential Use**
 - A. Manufactured housing to be used where a principal residence is under construction; for temporary emergency purposes; temporary housing for elderly, sick or disabled relatives or their caregivers may be temporarily located within the Town. An emergency purpose is defined as when an existing residence is destroyed or damaged to the extent that it is not habitable.

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- B. Such temporary location, however, shall be subject to the Conditional Use Permit process and site plan review. Temporary Conditional Use Permits may be allowed for a period not to exceed two (2) years. An extension to this time limit will only be considered by the Planning Board if it is a proper continuance of the original temporary purpose.
- C. Manufactured housing that is used as a temporary structure for use as a second principal residence must be removed within six (6) months after the temporary use has been discontinued or after the Temporary Conditional Use Permit has expired.

6.2.5 **Standards for Manufactured Homes as Second Principal-Residential Use**

- A. A manufactured home that is allowed as a second residential use is subject to Site Plan approval and the following regulations:
 - 1. A manufactured home must meet all residential setback requirements and in no event shall it be situated closer than 20 feet from the principal residential building.
 - 2. The applicant shall justify the adequacy of the proposed water and sewer arrangement for the manufactured home to the Planning Board and Zoning Officer.
 - 3. The Planning Board or Zoning Officer may determine upon showing of adequate data such as flow tests and quality reports that a single water supply source is adequate. In all instances, separate distinct sewage disposal systems shall be required.

6.3 **MANUFACTURED HOUSING PARKS**

- 6.3.1 Manufactured Housing Parks with a mix of manufactured and site built homes are encouraged.
- 6.3.2 New Manufactured Housing Parks, improvements to or expansion of existing Parks shall follow the Conditional Use Permit process with site plan review. Annual inspections by the Zoning Officer are also required to verify compliance to the Conditional Use Permit and this Law.
- 6.3.3 All Manufactured Housing Parks and Cluster Housing Parks shall comply with the following:
 - A. Contiguous parcel with 10 acres or greater, with no more than 1 residence per 1 acre of total Park acreage. Each lot must comply with the minimum cluster housing density requirements:
 - B. Minimum lot size is 10,000 square feet.
 - C. Maximum site coverage by all buildings on lot shall not exceed 30%.
 - D. Minimum lot width is 50 feet.
 - E. Minimum front setback is 15 feet. Minimum rear setback is 10 feet. Minimum side yard setback is 10 feet per side.
 - F. There must be at least two hundred (200) feet of buffer space, with a properly maintained natural vegetation barrier or man-made screen, between a Park and existing permanent residential unit.
 - G. All utilities, electrical, sanitary and water services must be supplied to each lot and conform to building codes, sanitary and health regulations, state and local.

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- H. Each lot must have outside storage space, such as a separate shed or foundation storage. The space must be at least 1 square foot for every 100 square feet of enclosed living space, not to exceed 150 square feet if it is an accessory building.
 - I. Streets or roads shall be provided on the site where necessary to furnish principal traffic ways for convenient access to each lot and other important facilities in the Park. Street or road widths shall conform to applicable N.Y. State, County and Town specifications and be at least wide enough to accommodate the delivery and installation of manufactured homes.
 - J. Each dwelling unit must have at least two (2) off street parking spaces. Each space should be at least 200 square feet. Open parking spaces or enclosed parking areas must not encroach on any required front yard dimensions, be on a buildable portion of the dwelling's lot, and be no closer than three (3) feet of any property line.
 - K. Parks shall be landscaped to provide an attractive setting, adequate privacy, and minimize glare, wind and sun exposure. Special plantings should be included to screen objectionable views or unsightly conditions on adjacent properties. Lawns should be sown on all areas that are not building sites or paved.
 - L. Not less than 10% of the gross Park area shall be devoted to open space and/or recreation facilities, generally provided in a location convenient to all residents. A plan to maintain this space must be provided.
 - M. Sidewalks may be required in Parks to provide a safe walking path to school buses and other locations within the Park.
 - N. Manufactured Housing Park's identification signage may be no larger than fifteen (15) square feet. Additional traffic signs, not exceeding four (4) square feet in area, may call attention to entrances and exits but shall not carry any advertisement, insignia or business logo. Signs advertising lots may not be illuminated and must not have a total face area of more than 100 square feet.
- 6.3.4 Individual manufactured homes in Parks must follow the Manufactured Home Standards of this Zoning Law.
- 6.3.5 Manufactured Home Parks must conform to all applicable Cluster Housing regulations.

SECTION 7: HOUSING SUBDIVISIONS - CLUSTER HOUSING DEVELOPMENT

7.0 PURPOSE: The purpose of this section is to set forth the actions which shall be followed by the Developer and Planning Board when land is to be subdivided for the purpose of cluster residential development, whether immediate or future; or transfer of ownership and/or building development which shall include re-subdivision in whole or in part of any parcel, filed or unfiled, which is entirely or partially undeveloped.

7.0.1 Cluster residential development is defined as erecting homes on individual parcels that are less than 2 acres while maintaining an overall density of one residence for every two acres in the designated housing development area. Housing subdivisions use a flexible zoning technique whereby a subdivision may be laid out on smaller lot sizes than required in the Zoning Law, provided that the overall density requirements and water and sewage treatment standards are met for the total parcel.

7.0.2 The Housing Subdivision Process described in this Section refers to any housing subdivision that:

- A. Decreases individual residential lot sizes,
- B. Involves a new street or road,
- C. Involves the extension of municipal facilities or shared facilities, and/or
- D. May adversely affect the development of the remainder of the property or of adjoining parcels (for example, creating landlocked parcels).

7.0.3 Housing subdivisions, also known as Cluster Housing Developments, require a Conditional Use Permit with Site Plan approval and Public Hearing.

7.0.4 A single residence on a single, 2 acre or larger lot with its own water and sewage (septic) system is not considered a housing subdivision. A cluster of such residences is also not considered a housing subdivision unless it involves a new street or road, involves the extension of municipal facilities and/or may adversely affect the development of the remainder of the property or of adjoining parcels (for example, creating landlocked parcels). If land is being divided to form a cluster of 2 acre or larger residential lots, it is considered a Major Land Subdivision and the relevant processes must be followed. The applicable Town, County and State Laws apply to each lot and development of each lot.

7.1 FLOOD PREVENTION REQUIREMENTS

- A. All subdivision proposals shall be consistent with the need to minimize flood damage and shall address storm water run off.
- B. All subdivision proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- D. Base flood elevation data shall be provided by applicant for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

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7.2 HOUSING SUBDIVISION APPLICATION

7.2.1 A property owner(s) or agent(s) shall request a Conditional User Permit for a housing subdivision by filing an application with the Zoning Officer with the appropriate fee. The filing fee is set by the Town Board and is not refundable.

7.2.2 APPLICANT MUST SUBMIT AT TIME OF APPLICATION:

- A. Site Plan as defined in Section 5 Site Plan Process.
- B. Description of proposed use.
- C. Tax map number and relevant area of tax map (Zoning Officer can provide) to show site location, adjacent properties and adjacent properties owners' names.
- D. If applicant is not the property owner, the property owner or appropriate designee must provide approval for the applicant's project.
- E. If applicant is the property owner but that information is not reflected in the Town's tax records, the applicant must show proof of ownership (deed).
- F. Completed Environmental Assessment Form (EAF)
- G. Required state and/or county permits, as applicable
- H. Professionally prepared onsite waste disposal and water supply plans, as applicable
- I. Conditional Use Permit application and fee, when required

7.2.3 All necessary costs and disbursements for the Public Hearing and professional application review shall be paid for by the owner or their agent.

7.2.4 Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the Planning Board. If a year elapses between the time of the Planning Board's approval of the Site Plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a new Site Plan Review prior to accepting the proposed final Site Plan.

7.2.5 A performance bond or other satisfactory guarantee of performance shall be filed with the Town Board to guarantee satisfactory and timely construction and installation of all improvements not constructed or installed at the time of submitting the final site plan. The Town Board shall be satisfied as to the form, amount and manner of execution of such bond or guarantee. The time frame for all construction and improvements shall be made specific by the Planning Board and expressed in the performance bond or guarantee.

7.2.6 For the purposes of regulating the development and use of property after initial construction and occupancy, any changes shall be subject to a site plan approval by the Planning Board. Properties lying in housing subdivisions are unique and shall be so considered by the Planning Board when evaluating these requests.

7.3. HOUSING SUBDIVISION MINIMUM REQUIREMENTS

7.3.1 Housing Subdivision shall meet the following requirements

- A. Residential zoned land which shall be a minimum of ten (10) contiguous acres in size

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- B. Development will not be detrimental to the health, safety or general welfare of persons, property or improvements in close proximity
- C. When such development is proposed adjacent to any existing residence or residential area, a minimum setback of 200' shall be required from the parcel's perimeter to any principal buildings.
- D. Proposed development shall create an attractive residential environment that is in conformity with the objectives of the Town Comprehensive Plan
- E. Gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements
- F. The Planning Board shall consider in each case the appropriate dwelling unit density and placement of such units on the parcel to insure compliance with the Zoning Law. The dwelling placement shall not exceed four (4) dwelling units per acre. Such density shall be calculated using the total buildable parcel acreage.
- G. Dedicated permanent retention of open space areas along with their care and maintenance is guaranteed. Land used in calculating required yard area cannot be included as an open space area. Reference Sections 7.4 and 11.5.8 for additional detailed requirements.

7.3.2 Design Standards: Housing subdivisions shall adhere to the Housing Subdivision Design Standards presented in Section 11 of the Zoning Law.

7.3.3 All improvements shall be installed by the subdivider at his expense to the satisfaction of the Planning Board and the Town Board.

7.3.4 The subdivider shall also bear the expense of engineer(s) or other qualified professional(s) required by the Town to verify that proper and appropriate plans have been created and are adhered to.

7.4 **OWNERSHIP**

7.4.1 The tract of land for a subdivision project may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

7.4.2 When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private roads, drives, service and parking areas and recreational and open space areas.

7.4.3 Maintenance of Common Property

- A. In the event that the organization established to own and maintain common property, or any successor organization shall fail to maintain the common property, in reasonable order and condition in accordance with the plan, the Town of Lindley may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and said notice shall include a demand that such deficiencies of

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maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.

- B. At such a hearing, the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within 30 days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest to the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners.
- C. Before the expiration of said year, the Town shall, upon its initiative or upon the request of the organization responsible for the maintenance of the common property, call a public hearing at which the organization or the residents and owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year.
- D. If the Town shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property at the end of said year. If the Town shall determine such organization is not ready and able to maintain said common property in a reasonable condition, the Town may in its discretion, continue to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.
- E. The cost of such maintenance by the Town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development.

7.4.4 Offer and Acceptance of Roads, Public Facilities or Open Space

- A. The Town is not obligated to accept any new roads, public facilities or open space.
- B. The approval by the Planning Board of a subdivision final site plan shall not be deemed to constitute or imply the acceptance by the Town of any road, park, playground or other open space on said final site plan.
- C. Formal offers of cession to the Town of all roads, parks, proposed public facilities and open space shall be prepared by the subdivider and filed with the Planning Board prior to final site plan approval. All such facilities for which cession will not be offered shall be so marked on the subdivision final site plan.
- D. No new roads, parks, easements, other public facilities or open space shall become town property until possibly accepted by the Town Board.

SECTION 8 – BUSINESS USES

8.0 BUSINESS USES

PURPOSE: The purpose of this Section of the Zoning Law is to provide rules, regulations and standards to guide the orderly proliferation of business uses in the Town of Lindley in order to promote the public health, safety, convenience, and general welfare of the Town. The Town’s Comprehensive Plan offered guidance on size and design to be able to maintain a rural community. This Section shall be administered to insure the orderly growth and development, the conservation, protection and proper parceling of land, the adequate provision of service and the safe movement of vehicles in the Town of Lindley.

8.0.1. All business uses shall meet the intent of the Comprehensive Plan of the Town of Lindley. Business Uses are defined as all non-residential and non-agricultural uses in the Town of Lindley to include general, commercial and industrial uses.

8.0.2. The Town encourages small, home based businesses that benefit Lindley residents. Industrialization, high traffic and large, monolithic buildings are not desired. The maximum principal building footprint is 10,000 square feet.

8.0.3. All business uses require a Conditional Use Permit.
All business uses require a Conditional Use Permit since the Town of Lindley is zoned Agricultural-Residential. State, county and other permits may be required to obtain a Conditional Use Permit from the Town for some business uses. Once the Conditional Use Permit has been issued, other local permits, such as Building Permits, may be obtained.

8.0.4 What is not considered a business?
Short term, low impact homeowner-type events, such as a yard sale or the sale of a vehicle by the property’s residents (less than 5 per year), are not considered business operations and do not require a Conditional Use Permit. A Conditional Use Permit is required for high impact homeowner activity.

8.1 **DETAILED STANDARDS** controlling business uses are defined in Section 11.

8.2 SPECIAL REQUIREMENTS

This section provides detailed unique requirements for businesses common in the Town of Lindley:

- Home Occupation Businesses
- Dog Kennels
- Cemeteries
- Campgrounds
- Gasoline Filling Stations, Service and Repair Garages, Automobile Sales Areas
- Adult Uses and Adult Entertainment
- Industrial Uses including Excavation and Mining, Oil and Gas Wells, Timber Harvesting and Sawmills

The Detailed Standards also apply to the business uses described in the Special Requirements section. If there is a discrepancy between the two sections, the Special Requirements section will prevail.

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8.2.1 Home Occupation

A home occupation, as defined in this Law, may be permitted subject to Conditional Use approval by the Planning Board provided such use is not specifically prohibited. Such use shall conform to the following standards which shall be minimum requirements:

- B. No more than 25% of the total floor area or 600 square feet, whichever is less, of a dwelling unit may be used for such use.
- C. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- D. There shall be no external evidence of such use except for one sign not exceeding two (2) square feet in area mounted flush with and on the front facade of the dwelling unit or accessory building.
- E. Stock, merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building unless it resembles acceptable residential or agricultural use.
- F. No external structural alterations which are not customary to a residential or agricultural building shall be allowed.
- G. No more than five employees may be employed per home occupation business.
- H. One parking space for each person or employee engaged in the home occupation business, plus one additional parking space for customers with the intention of keeping vehicles off the street.
- I. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- J. In the instance of a highly successful home occupation business that requires additional space or more than five (5) employees, the business shall lose its Home Occupation status. The business must apply for a Conditional Use Permit to meet the Zoning Law requirements that apply.
- K. Such uses shall also be subject to any other conditions the Planning Board deems necessary to meet the intent of these requirements and Town Comprehensive Plan.

8.2.2 Business Enterprises on Farms

- A. Farms may establish non-agricultural business enterprises provided they do not significantly impair the parcel's current or future agricultural viability and are consistent with the rural environment.
- B. New construction, or expansion and/or improvements to existing buildings may be used for these business enterprises. The total aggregate footprint of the associated buildings, expansions and/or improvements may not exceed an aggregate 600 square feet.
- C. Such non-agricultural business enterprises on farms may include, but are not limited to, professional offices, cottage industries, antique sales, crafts production, computer repair and firewood distribution.
- D. Enterprises which market petroleum or chemical products are prohibited.
- E. Business enterprises on farms require a Conditional Use Permit and Site Plan Review.

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8.2.3 Dog Kennels

- A. Dog kennels shall conform to the following standards which shall be minimum requirements:
1. Minimum lot size is five (5) acres
 2. The kennel facility and all associated runs or fenced areas shall be setback a minimum of 150 feet from all lot lines.
 3. All kennel facilities and associated runs or fenced areas shall be adequately screened by fence, plantings or landscaping from all roads and adjacent properties.
 4. Kennel facility shall have sufficient indoor boarding areas and associated outdoor runs to accommodate the proposed number of animals to be boarded.
 - a. The indoor area shall be a minimum of 16 square feet in size per dog.
 - b. The outdoor runs shall:
 - i. Be a minimum 4 1/2 feet wide and 12 feet long per dog
 - ii. Be appropriately separated from adjacent runs by fencing, concrete, block or other appropriate materials
 - iii. Provide a form of shelter if not directly linked to a separate indoor kennel area
- B. No person shall harbor or have on their premises in any zoning district more than five (5) dogs that are more than six (6) month old unless housed in a kennel meeting town standards.

8.2.4 Cemeteries

A Conditional Use Permit is required for cemeteries in the Town of Lindley. Cemetery operations are regulated by N.Y. State. No existing cemetery may be sold unless the landowner proves to the satisfaction of the Town that all bodies have been removed from each and every part of the cemetery or that the perpetual care of the lots has been provided for.

8.2.5 Campgrounds

The NYS Law regulates the operations of campgrounds; however, no campground shall be located in the Town without the consent of the Planning Board through the Conditional Use Permit process.

8.2.6 Gasoline Filling Stations, Service and Repair Garages, Automobile Sales Areas

A gasoline filling station, service and repair garage and automobile sales areas, as defined in this Law, may be permitted subject to Site Plan and Conditional Use approval by the Planning Board provided such use is not specifically prohibited. Where permitted, a gasoline filling station, service and repair garage and automobile sales areas shall conform to the following standards which shall be regarded as minimum requirements:

- A. Minimum lot size shall be 2 acres. Lot frontage and width shall be at least 150 feet.
- B. Additional lot area and setbacks shall be required as deemed to be adequate by the Planning Board to accommodate tractor trailer servicing.
- C. No gasoline filling station, garage or automobile sales area shall be located within five hundred (500) feet of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such

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distance shall be measured in a straight line from such public entrance to the lot line nearest that entrance.

- D. Fuel pumps and other service device shall be located at least 35 feet from any front lot line and 50 feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- E. All automobile parts, including tires and dismantled vehicles are to be stored within a building or behind a 6 foot high fence, wall or natural screen. Tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans, and/or anti-freeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- G. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed 30 days and must be stored in the rear of the premises, screened from view from public roads.

8.2.7 Adult Uses and Adult Entertainment.

- A. An Adult Use or Adult Entertainment Establishment, as defined in this Law, may be permitted subject to Site Plan and Conditional Use approval by the Planning Board provided such use is not specifically prohibited.
- B. It is the purpose of this section of the Zoning Law to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as herein defined, in order to achieve the following:
 - 1. To preserve the character and the quality of life in the Town of Lindley;
 - 2. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas, such as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods;
 - 3. To restrict minor's access to Adult Uses;
 - 4. To maintain the general welfare and safety for the Town of Lindley's residents and general public.
- C. An Adult Use and Entertainment Establishment shall be permitted only as set forth in The Density Control Schedule (Table 1, Commercial uses) and shall not be allowed:
 - 1. Within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;
 - 2. Within one thousand (1000) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, day care facility, park, Town Hall, Post Office or playground within the Town;
 - 3. On the same parcel as another Adult Use and Entertainment Establishment;
 - 4. Within one thousand (1000) feet of another Adult Use and Entertainment Establishment, regardless whether or not such other establishment is located in the Town of Lindley or not; or
 - 5. Within one thousand (1000) feet of the property line of a parcel of an establishment with a liquor license.

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6. The above distances of separation shall be measured from the exterior wall of the portion of the structure containing the Adult Use and Entertainment Establishment.

D. Display prohibited

1. All adult uses and entertainment establishments shall be conducted in an enclosed building.
2. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction, or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity.”
3. Inside any business where any Adult Use and Entertainment products or services are available for public purchase or rental and inside such business establishment minors are not categorically excluded from entrance, such business shall make the necessary arrangements to prohibit minors from viewing, having access to viewing, or otherwise having access to the Adult Use and Entertainment products and services.

8.2.8 Industrial Uses

- A. Industrial Use, as defined in this Law, may be permitted subject to Site Plan and Conditional Use approval by the Planning Board provided such use is not specifically prohibited.
- B. The following specific standards are hereby adopted and must be complied with for any industrial use before it may be permitted, established, maintained or conducted:
 1. Maximum principal building footprint is 10,000 square feet.
 2. Storage Facilities: Materials, supplies, or semi-finished products shall be stored on the rear one-half of the property and shall be screened from any existing or proposed street.
 3. Loading Docks: No loading docks shall be on any street frontage. Provision for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets. Reference Section 11 Detailed Standards, Loading and Unloading Berths for additional requirements.
 4. Landscaping: All areas of the plot not occupied by buildings, parking, driveways or walkways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain, as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.
 5. Buffer Strip: In addition to the fences, walls and hedges, all principal buildings shall be set back from any lot lines abutting residential use a minimum of 150 feet. Such buffer shall be landscaped as described above.
 6. Fences and Walls: Property that is adjacent to a residential or business use shall be provided along such property lines, with a wall, fence, compact evergreen hedge, or a landscaped strip of trees and shrubs so designed as to form a visual screen and maintained to not less than six (6) feet high. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six (6) foot solid masonry wall, chain link fence covered with an

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evergreen vine, compact evergreen hedge or other appropriate screen. The wall, fence, hedge or screen shall be located so that 250 feet minimum clear vision is available in both directions at the end of the driveway.

7. Utilities: All utilities, including water and sewer facilities, shall be designed and installed according to NYS DOH, DEC and Town standards and fire codes.
8. Access: Special attention shall be given to access to and from public streets and traffic volumes generated by the proposed use. A projection of expected vehicular use of neighborhood streets, including estimates of traffic volumes, shall be submitted with the applicant's Site Plan. No access drive for any industrial use shall be within 300 feet of and on the same side of the street as a school, public library, theater, church, or other public gathering place, park, playground, or fire station unless a street 50 feet or more wide lies between such access drive and such building or use.
9. Off-Street Parking and Signs requirements are defined in Section 11 Detailed Standards.

8.2.9 Excavation and Mining

- A. Excavation for personal property use does not require a conditional use permit, unless 1000 tons or 750 cubic yards or more will be removed over 12 successive months.
 1. No rock crusher, cement plant, or other crushing, grinding, polishing, or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted, without prior approval of the Planning Board.
- B. No Conditional Use Permit for excavation operations or soil mining shall be granted for a period of more than five (5) years, but such permit may be extended for additional five (5) year periods upon approval of the Planning Board and DEC. To receive such an extension, the applicant must provide plans and information showing the sequence and timing of excavation operations.
- C. Excavation for the purpose of commercial use such as gravel pits, quarrying, or any subsoil removal shall be allowed only by Conditional Use Permit.
- D. Minimum requirements for commercial excavation are
 1. Minimum lot area is 20 acres.
 2. All lands to be covered by Conditional Use Permit must be owned, leased, or otherwise under control by applicant for duration of the Conditional Use Permit.
 3. The property on which the excavation is proposed must have road frontage on a State or County highway or private road access onto a State or County highway for purposes of ingress and egress.
 4. Site must have only one entrance and one exit, each of which must be at least 100 feet from intersections, other driveways, and said exit and entrance must be in conformance with AASHTO-Geometric Design of Highways and Streets – Stopping Sight Distance requirements.
 5. The boundaries of the area of the site proposed for excavation must be a minimum linear distance of 1000 feet from the closest property line of residences, businesses, schools, and public gathering places.
 6. The boundaries of the area of the site proposed for excavation and

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mining must be set back a minimum linear distance of 200 feet from property lines (unless adjoining use is "Excavation" in which case the setback shall be 100 feet), roads, rights-of-way, wetlands, and watercourses.

7. In those cases where excavating is already in progress but has not as yet come within 100 feet of the property line, this Law shall be retroactive to prevent excavation within 100 feet of the property line.
 8. All structures, parking areas, loading areas, and truck staging areas must be set back a minimum linear distance of 300 feet from property lines (unless adjoining use is "Excavation," in which case the setback shall be 150 feet), roads, rights-of-way, wetlands, and watercourses.
 9. If the excavation operations propose to include blasting or processing of materials, the areas where such activities will take place must be a minimum linear distance of 2,000 feet from property lines and off-site roads.
 10. The operation shall not endanger stability of adjacent structures, or adversely affect wetlands, watercourses, residential, commercial, or municipal water supply or sewage disposal systems, and existing drainage flow patterns or systems.
 11. The operation shall not adversely affect any environmental, cultural, or historic features of significance to the community.
 12. All operations shall be screened from public view.
 13. No phases of operations shall cause dust or other airborne particles, vibrations, odors, or glare beyond the property lines of the site.
 14. During excavation operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least (6) feet high that will effectively block access to the area, with suitable gates provided with locks.
 15. The site must be able to sustain appropriate roadside landscaping, berms, and/or fencing. These devices may be required if deemed appropriate to assure the public health, safety, or welfare.
 16. Appropriate truck routes and transportation facilities must be available for the volume and type of truck traffic involved.
 17. Noise from any phase of operations shall not interfere with the quiet enjoyment of neighboring properties and shall be in conformance with the noise control regulations of this Chapter.
 18. Use and operations shall not adversely alter the prevailing character of the surrounding neighborhood or area or depress the property values in the surrounding area and shall not create traffic hazards or nuisances.
 19. Location and terrain shall be reasonably suitable for development of allowed uses in zoning districts where property is located once the operations have terminated.
- E. In addition to the Site Plan and Conditional Use Permit application requirements described in Section 5, applicants shall submit:
1. Two copies of a map at a scale of one inch equals not more than 100 feet showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, lot numbers and names of landowners. Setbacks from property lines and watercourses should be detailed.
 2. The map shall show the entrance to and exit from the excavation, as well as the location, construction and maintenance of haul roads on the site.

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3. The location of natural or manmade barriers to restrict access to the site
 4. Detailed plans for erosion control and flood avoidance.
 5. Dust control measures.
 6. Hours of operation.
 7. If DEC permitting is required, two copies of the contour maps and excavation and reclamation plans given to the DEC shall also be provided for the Planning Board.
 8. Excavation operations for which a N.Y.S. Department of Environmental Conservation Soil Mining Permit is required shall obtain such a permit confirming a negative declaration of environmental impact prior to the issuance of a Conditional Use Permit by the Town.
- F. The Planning Board may set the requirements for the excavation site on a site-by-site basis in order to protect the character of the surrounding land uses and neighborhoods, to control traffic impacts, and to protect the natural environment.
- G. Should the State fail in its duty to enforce reclamation requirements in the DEC mining permit as described in Environmental Conservation Law §23-2703 (2) (b) and (c), the Town of Lindley is authorized to enforce these requirements. The landowner is responsible for all associated expenses.

8.2.10 Oil and Gas Wells

NY State Law regulates the location and operation of oil and gas wells. The Town may regulate operations where they cross town property such as roads.

8.2.11 Timber Harvesting

- A. Conditional Use Permits are not required for harvesting timber for an owner's private use as firewood, construction lumber or one time logging. Negative impact on the environment or adjacent properties must be prevented during such permitted uses. The intent of allowing timber harvesting without permit is to allow the landowner the unfettered use of their property's resources for casual, non-commercial uses for their own benefit.
- B. Harvesting for resale by the owner in excess of 3 months in a year, or the granting of rights of a woodlot to others for commercial timber harvesting shall require a Conditional Use Permit. All costs associated with the application, approval, and other conditions, such as bonds, shall be the responsibility of the harvester. The harvester shall be bound to practice good harvesting practices as defined by NYS DEC Cooperative Forest Management Program.

8.2.12 Sawmills

- A. The Zoning Law does not require Conditional Use Permits for temporary sawmills on private property. Temporary sawmills operate for less than 3 months a year. Negative impact on the environment or adjacent properties, with special attention to dust and noise, must be prevented during such permitted uses.
- B. Permanent or commercial operations require Conditional Use Permits and are considered an industrial use.

SECTION 9: ACCESSORY BUILDINGS AND USES

9.0 ACCESSORY BUILDINGS AND USES.

- 9.0.1 Accessory Buildings. Accessory buildings not attached to principal buildings shall comply with the following:
1. All structures 110 sq. ft. or more in size shall require a building permit.
 2. Be located in compliance with all setback requirements as stated in the Density Control Schedule.
 3. Be located no closer to the principal building than twelve (12) feet.
- 9.0.2 Accessory Uses.
- A. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts: shall be erected only on the same lot as the principal structure shall not be located in front yard shall be located at least 25 feet from any lot line shall be located at least 12 feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.
 - B. Barriers, such as fences, are required around swimming pools, hot tubs and spas. This includes both fixed and portable units, including pre-formed or inflatable pools. Hot tubs and spas are exempt if equipped with a safety cover complying with the ASTM F1346 safety standard. The Residential Code and Building Code of NY State regulate the construction parameters of barriers.
- 9.0.3 Special Designs. In cases where a developer has designed a grouping of buildings, the Planning Board may approve the siting of accessory buildings such as garages and carports in the front yard, provided that the buildings are in compliance with all required setbacks.

**SECTION 10: NON-CONFORMING BUILDINGS, LOTS AND USES
VACANT AND DAMAGED BUILDINGS**

10.0 NON-CONFORMING BUILDINGS, LOTS AND USES

10.0.1 Continuation of Non-Conforming Buildings and Lots.

Any lawful building, structure or use of premises existing at the time of enactment of this Zoning Law, or any subsequent amendment thereof applying to such building, structure, or use of premises, may be continued (“grandfathered”) although such building, structure, or use of premises does not conform to the provisions of this Law, provided however:

- A. No non-conforming use may be expanded.
- B. No non-conforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.

10.0.2 Discontinuance.

- A. Any building or land which is used for or occupied by a nonconforming use and which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a non-conforming use.
- B. When a non-conforming use has been discontinued for a period of one year, it shall not thereafter be re-established and the future use shall be in conformity with the provisions of this Law.

10.0.3 Necessary Maintenance and Repairs.

A building or structure of non-conforming use may be repaired or restored to a safe condition. Maintenance and repairs does not include alterations or restorations.

10.0.4 Change to Other Non-Conforming Use.

A non-conforming use of a building, structure, or land may be changed to another non-conforming use that more nearly conforms to the requirements of the district in which it is situated.

10.0.5 Construction Started Prior to this Zoning Law.

Any lawful building or structure, for which construction was begun prior to the effective date of this Law, or any subsequent amendment, may be completed and used in accordance with the plans and specifications for such building and structure under the Law existing at the time the Building Permit was granted.

10.0.6 Existing Undersized Lots.

- A. Existing undersized lots shall be used for no more than one (1) single family dwelling.
- B. Any lot held in single and separate ownership prior to the adoption of this Zoning Law (“grandfathered”), and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Law, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
 - 1. Such lot does not adjoin any other lot(s) held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.

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2. Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes.
3. The following minimum yard setback dimensions are maintained for residences:

Side yards	8 feet
Rear yard	25 feet
Front yard	25 feet

When the street right-of-way width is not known, the front yard setback shall be 50 feet from the centerline of the street.
4. No detached accessory building shall be located closer to a side lot line than five (5) feet and three (3) feet to the rear lot line if no easement is located along such rear lot line.
5. All other density requirements are complied with.

10.0.7 Alterations.

A non-conforming building may not be reconstructed or structurally altered during its life (cumulative) to an extent exceeding fifty (50) percent of the assessed value of the original building unless said building is changed to conform to the requirements of this Law.

10.0.8 Restoration.

No building damaged by fire or other causes to the extent of more than fifty (50) percent of its assessed valuation shall be repaired or rebuilt except in conformity with the regulations of this Law. Nothing in this Law shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Zoning Officer.

10.0.9 Reduction in Lot Area.

A building permit shall not be issued for any lot that is reduced in area so that it creates a non-conforming density or use in violation of any regulations contained in this Law.

10.1 **VACANT AND DAMAGED BUILDINGS**

10.1.1 Vacant Buildings

When a building has been vacant or its use discontinued for a period of one year, it shall require a Certificate of Occupancy for residential use and/or a Conditional Use Permit for non-residential or non-agricultural use. If its prior use was non-conforming to the current Zoning Law, that use shall not thereafter be re-established and the future use shall be in conformity with the provisions of this Law.

10.1.2 Erection, Re-erection, and Razing of Damaged Buildings

- A. Any building which has been damaged by fire or other causes to the extent of more than 50% of its appraised valuation shall be repaired or rebuilt or razed in conformance with the regulations of this Law. Such building shall either be so repaired, rebuilt or razed within twelve (12) months in a fashion which leaves the site clean.
- B. Damaged buildings as defined above that are not repaired, rebuilt or razed within twelve (12) months, shall be razed by the Town at the owner's expense.

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- C. Sites of razed buildings which are not left clean will be cleaned up by the Town at the owner's expense.
- D. Enforcement will be by the Zoning Officer, utilizing the services of a qualified appraiser, at the cost of the property owner, when necessary.

SECTION 11: DETAILED STANDARDS

11.0 DETAILED STANDARDS

PURPOSE: The purpose of this section is to provide detailed development and design requirements, standards and guidelines. They were developed to be in accordance with the Zoning Law and Comprehensive Plan of the Town of Lindley. The goal is to enforce the fundamental concepts of protecting the residents' health, safety and welfare, maintaining the rurality of the community, keeping a viable tax base and controlling the growth of the Town. This section covers:

- 11.1 Drainage Systems
- 11.2 Erosion and Sediment Control
- 11.3 Steep Slope Guidelines
- 11.4 Residential Housing Design Standards:
 - Placement of Homes
 - Natural features and Landscaping
 - Fences, Walls, Hedges and Screen Planting
 - Water Supply
 - Sewage Treatment
 - Utilities
- 11.5 Housing Subdivision Design Standards:
 - Roads
 - Standard Entrance and Exit Requirements
 - Easements
 - Lots
 - Water Supply
 - Sewage Treatment
 - Open Space and Recreation areas
 - Miscellaneous
- 11.6 Parking
- 11.7 Off-Street Loading and Unloading Requirements
- 11.8 Signs

11.1 DRAINAGE SYSTEMS

The following standards are intended to insure that storm water runoff is safely conveyed, to minimize stream bank erosion, and to reduce flooding related to land development.

The standards set for storm water drainage systems are as follows:

- A. The release of storm water runoff from a developed area shall not exceed pre-development conditions. To accomplish this, storm water runoff shall be controlled so that during and after development, no greater peak flow will be discharged from the project site than was discharged prior to the development. The Town of Lindley "Drainage Standard for Land Development" shall apply.
- B. Any new or modified drainage channel or storm water facility shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of the site.
- C. Priority should be given to maintaining natural or existing drainage systems, including perennial and intermittent streams, swales and drainage ditches.
- D. Any existing storm water management system including a swale, ditch, basin, pond, drywell, catch basin, stream or other system component shall be maintained in such a manner as to be functional.

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- E. No building or structure shall be erected, altered or moved within any drainage course, including a swale, ditch or stream.
- F. All structures shall have a minimum setback of fifty (50) feet from any stream bank swale or ditch.
- G. If storm water management facilities are to be maintained by an owner or homeowner's association a maintenance plan containing a maintenance schedule shall be prepared for and approved by the Town.
- H. The Town shall inspect drainage systems and drainage structures before, during and after development to assure that all Town specifications and requirements are met. Any portion of the work which does not comply shall be promptly corrected by the applicant.
- I. Utilizing the drainage guidelines outlined above, the Planning Board may require the developer to submit the following:
 - 1. Drainage conditions, plans, design data, calculations and other information to prove compliance to the Zoning Law.
 - 2. A description of the arrangements that will be made for ensuring long-term maintenance of storm water management facilities. Those responsible for performing maintenance should be identified.
- J. Storm water management facilities maintained by an owner or homeowner's association shall have adequate easements to permit the Town to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the system. The cost of such maintenance by the Town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development.

11.2 **EROSION CONTROL**

The goals for erosion and sediment control are:

- 1. to minimize the opportunity for the soil to be moved by wind, precipitation and runoff,
 - 2. to contain sediment that does move as close as possible to its place of origin and,
 - 3. to prevent sediment from reaching a water body or damaging other lands.
- A. In order to insure that the land will be developed with a minimum amount of soil erosion and to protect the natural character of on-site and off-site water bodies, the Planning Board shall require the developer to prepare and implement an erosion control plan that is consistent with the following standards:
- 1. Existing vegetation on a project site shall be retained and protected as much as possible to minimize soil loss from the project site. This will also minimize erosion control costs.
 - 2. The off-site impacts of erosion and sedimentation from the development site shall not be any greater during and following land disturbance activities than under pre-development conditions.
 - 3. Water in streams on-site and downstream of development areas shall not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from upstream of the development area.
 - 4. Sediment laden runoff shall not be allowed to enter any water body in such quantity that would result in deposition on the bottom of the water body, degrade its natural biological functions, or be harmful to the classified usage of the water.
 - 5. Erosion and sediment control measures shall be constructed prior to beginning any land disturbances. All runoff from disturbed areas shall be directed to the

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sediment control devices. These devices should not be removed until the disturbed land areas are stabilized.

- B. The Town shall inspect erosion and sediment control practices before, during and after development to assure that all Town specifications and requirements are met. Any portion of the work which does not comply shall be promptly corrected by the applicant. All costs associated with inspections and remedial work will be borne by the developer.

11.3 **STEEP SLOPE GUIDELINES**

- 11.3.1 The Town of Lindley is characterized by numerous steep slope (15% or greater) areas. Special design treatment for streets, building sites and other development is needed to preserve the natural terrain, trees, rock formation, scenic views, etc. Development on steep slopes will be permitted subject to the following guidelines:
 - A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).
 - B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- 11.3.2 Design principles shall include, but not be limited to, the following:
 - A. Landscaping of areas around structures making them compatible with the natural terrain.
 - B. Shaping, grouping and placement of man-made structures to complement the natural landscape.
 - C. Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first of all determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.
 - D. Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
 - E. Encourage the development of off-street parking bays.
 - F. Encourage the use of turning circles at mid-block points to avoid the use of private driveways for turning and parking movement.
 - G. Encourage split-level building sites.
 - H. Use one-way streets when consistent with traffic safety, circulation needs, and natural topography. This guideline allows for smaller road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.
 - I. Outstanding natural features such as the highest crest of the hill, range, natural rock outcroppings, particularly desirable vegetation, etc. should be retained.

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11.4 RESIDENTIAL HOUSING DESIGN STANDARDS

In addition to the requirements presented in other Zoning Law sections, the following standards are defined to achieve the Town's Comprehensive Plan.

11.4.1 Placement of Homes:

- A. Homes should be placed on the building site in a way that enhances the natural surroundings and is compatible with similar near-by homes. The primary placement criteria are:
 - 1. safe access (no steep slope or floodplain construction or installation)
 - 2. acceptable water and sewage system locations
 - 3. taking advantage of existing shrub and tree growth for screening, shading and wind breaks. To maintain the rurality of the community, natural resources such as woods or creeks should also be incorporated into the home placement scheme
- B. Manufactured homes, which usually have a high length to width aspect ratio, should be located with the longest side parallel to roadways if possible to appear similar to adjacent homes.

11.4.2 Natural Features and Landscaping:

- A. All natural features such as trees, streams, hilltops, historic spots and exceptional views shall be preserved whenever possible. The Planning Board may require changes in the layout to assure such features are preserved.
- B. Landscaping shall not block driveway, street access or a driver's vision of traffic.
- C. There shall be at least two existing or new trees per lot spaced approximately fifty (50) feet apart.
- D. Roadway trees should be planted on both sides of the road and ten (10) feet outside the right-of-way, at intervals of approximately fifty (50) feet, subject to location of drives, road intersections, or other features.
- E. New trees shall be hardy and suitable to local soil and climate. New trees should measure at least one and one-half (1½) inches in diameter at a point four (4) feet above the finished grade level.
- F. If the building lot has been cleared of trees, landscaping is recommended. For a cleared lot, a planting of a minimum of two (2) shade trees with trunk calipers of 1.5 inches or greater is recommended. Other tree plantings may be of any size. The road-facing side of the structure should have shrub or low ornamental plantings located near the home and spaced along the length.

11.4.3 Fences, Walls, Hedges and Screen Planting

- A. Fences, walls, hedges and screen planting are permitted as follows:
 - 1. Where the driveway meets the road the hedge shall not exceed three (3) feet in height.
 - 2. On a corner lot, no fence, wall, hedge or screen planting over three (3) feet in height shall be constructed at the intersection of the two roads. In any use, the minimum clear vision distance shall be twenty-five (25) feet from the edge of any pavement at the intersection.
- B. Fences, walls, hedges or screen plantings may be required, in multi-family, commercial or industrial districts, by the Planning Board, as is necessary to protect the residential quality of adjacent property. Fences should be designed with the concept of "good side out."

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- C. The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the road pavement, except that road trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.

11.4.4 Water supply

Water supply systems, including individual wells, where proposed, must conform to New York State standards and inspection.

11.4.5 Waste disposal/septic systems

Waste disposal systems, including individual septic systems, where proposed, must conform to New York State standards and inspection. All waste disposal and septic system plans must be certified by a licensed professional. Plans and location must be approved by the Town Zoning Officer before a Building Permit may be granted so that installation may begin.

11.4.6 Utilities

Electrical service, gas mains and other available utilities shall be provided or arranged for with the utility companies by the property owner. All pipes and lines should be buried to keep the countryside unspoiled by overhead wires or other equipment.

11.5 **HOUSING SUBDIVISION DESIGN STANDARDS**

PURPOSE: The purpose of this section is to provide design additional principles and minimum standards which shall be applied to the subdivision of land for the purpose of residential development, such as a Cluster Development or Manufactured Housing Park. In addition to the Residential Housing Design Standards of the previous Section, all developers shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof.

11.5.1 Roads

- A. The term “road” is used to cover any street, avenue, boulevard, road, land, parkway, alley or other way which is an existing state, county or town roadway, or a road or way shown on a plat duly filed and recorded in the Office of the County Clerk.
- B. For the purpose of this Zoning law, roads will be classified as follows:
 - 1. Primary Roads: Those roads used primarily for fast or heavy traffic. In the Town of Lindley, state and county roads are considered primary roads.
 - 2. Secondary Roads: Those roads which carry local traffic to primary roads and which connect primary roads but do not carry heavy volumes of fast traffic. Town roads are secondary roads
 - 3. Local Roads: Privately owned or seasonal roads which are used mainly for access to the abutting properties.
- C. All roads shall be designed and constructed to conform to N.Y.S., County or Town specifications as applicable. The Town Highway Superintendent, and when required a Town Engineer, shall, at the subdivider’s expense, approve all road design and construction.
- D. The layout of new roads in any subdivision shall provide for the appropriate extension of existing roadways and shall take into consideration topography,

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- public convenience, traffic control and safety, access for fire fighting, snow removal and road maintenance equipment; storm water drainage and sewage disposal, and the proposed uses of the land to be served by such roads.
- E. Roads shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.
 - F. Local roads shall be designed to discourage through traffic.
 - G. Any subdivision of four or more lots on a primary road shall, whenever possible, be designed so that no lot shall have direct access to the primary road.
 - H. When a subdivision abuts or contains an existing or proposed arterial road or railroad, the Planning Board may require marginal access roads, reverse frontage with screen planting contained in the non-access reservation along the real property line, or such other treatment as may be necessary for adequate protection of residential properties.
 - I. Reserve strips controlling access to roads or providing for access to land dedicated or to be dedicated to public use shall be prohibited unless control thereof is expressly placed in the Town under conditions approved by the Town Board.
 - J. Roads shall be logically related to the topography, and all roads shall be arranged so as to obtain as many as possible of the building sites at or above the grade of the roads. Grades of roads shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
 - K. No dead end (cul-de-sac) roads shall be permitted without a suitable turn around. Dead end roads extending to tract boundary lines which are intended to connect to future roads in adjoining tracts and dead end roads within a tract which are to be extended shall be provided with a temporary turn around. Approximate arrangements shall be made for those portions of temporary turn-arounds outside of road rights-of-way to revert to abutting property owners at such time as roads shall be extended.
 - L. Where a road does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of this Law. Reserve strips of land shall not be left between the end of a proposed road and an adjacent piece of property. However, the Planning Board may require the reservation of an easement fifteen (15) feet wide for pedestrian traffic or utilities. For greater convenience to traffic and more efficient police and fire protection, roads must be designed in accordance with the Minimum Road Standards defined later in this Section.
 - M. No road names shall be used which will duplicate or be confused with the names of existing roads in the Town. Roads that are extensions of or in alignment with existing named roads shall bear the names of the existing roads. Road names shall be subject to the approval of the Town Board or other controlling agency, such as 911.
 - N. Subdivisions adjoining or including existing roads which do not conform to right-of-way widths as specified by this local law shall dedicate additional width along either or both sides of said road.

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- O. The Planning Board may require sidewalks, as it deems necessary to provide safety for pedestrians. Sidewalks shall be at least four (4) feet wide and of construction approved by the Planning Board.
- P. Where curbs exist on abutting properties, their extension by the subdivider will ordinarily be required throughout the proposed subdivision. Where curbs are not required, adequate swales shall be graded and protected by seeding or appropriate surfacing by the developer.
- Q. Every road shown on the plat that is hereafter filed or recorded in the office of the County Clerk shall be deemed to be a private road until such time as it has been formally offered for cession to the public and formally accepted as a public road by resolution of the Town Board; or alternatively condemned by the municipality for use as a public road.

11.5.2 Standard Entrance and Exit Requirements

No person, firm or corporation shall construct or locate any road or driveway entrance or exit into a roadway of the Town of Lindley without having first met the provisions of this section. The standard entrance and exit crossing requirements shall be as follows:

- A. All work and materials shall be furnished as required to meet the conditions set by the Town Highway Superintendent and County and State Highway Departments.
- B. No alteration or addition shall be made to any road or driveway entrance or exit without first securing permission from the Town Highway Superintendent.
- C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.
- D. The maximum width for a single combined entrance or exit shall be not more than 50 feet for commercial use and not more than 20 feet for residential use.
- E. The slope of the road or driveway shall not be greater than 10%. Slope of the road or driveway shall not exceed 5% within 25 feet of the intersecting public roadway.
- F. The driveway shall intersect the road at a right angle, or as close to a right angle as possible.
- G. The road or driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the Highway Superintendent, proper diversion of runoff water, such as a diversion ditch, shall be constructed at a point near the intersection of the road or driveway and town roadway may be required. This will prevent surface water and debris from being discharged onto the roadway.
- H. A minimum clear vision distance of 250 feet shall be available in each direction.

11.5.3 Minimum Road Design Standards

The State, County or Town Highway Superintendent shall be contacted for design standards for roads as applicable. Local and private roads shall comply with Town standards.

11.5.4 Easements

- A. Adequate easements centered on rear or side lot lines shall be provided for utilities where necessary. A minimum easement of fifteen (15) feet shall be

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required. Greater easement widths may be required by the Planning Board if indicated by topographic conditions.

- B. Where a watercourse or drainage way traverses a subdivision channel or stream, there shall be a storm water easement or drainage right-of-way conforming substantially to the lines of the watercourse or construction or both as will be adequate for the purpose.

11.5.5 Lots

- A. The lot size, width, depth, shape and orientation, and building set-back lines shall be appropriate for the location of the subdivision, topographical conditions, and for the type of development and use proposed, and shall conform to the requirements of the Zoning Law.
- B. Each lot shall abut a public or private road. Access shall not be permitted by an easement.
- C. Side lot lines shall be substantially at right angles or radical to road lines unless a variation from this can be shown to result in a better plan.
- D. Corner lots shall have extra width to permit appropriate building setbacks from, and orientation to, both roads.
- E. Double frontage lots (access to lot from two different roads) should be avoided.
- F. Excessive lot depth shall be avoided. A proportion of two and one-half depth to one width will normally be considered the maximum aspect ratio.
- G. Off-street parking space shall be provided for all uses. At least two hundred square feet (200 ft²) of off-street parking space per dwelling unit shall be provided back of the road right-of-way line, plus access drive and maneuvering space.
- H. When a housing subdivision is proposed adjacent to any existing residence or residential area, a buffer area of at least 200 feet in width shall be maintained within the proposed development along any lot line that abuts an existing residential area.
- I. The size of lots in a housing development may vary from the normal requirements, but no dimensional or area requirement of the district shall be reduced by more than fifty (50) percent.
- J. Gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements. The gross density shall in no instance exceed four (4) dwelling units per acre. Such density shall be calculated using the total buildable parcel acreage.
- K. Total buildable parcel acreage is defined as the total acreage MINUS:
 - 1. Steep slopes 25% or greater
 - 2. Floodways
 - 3. Wetlands, both state and federal
 - 4. Lands covered by water bodies
 - 5. Stream corridors, using 50' setback from each stream bank (at average height)
 - 6. Primary and secondary street rights of way
- L. All the land not contained in the lots or the road right-of-way, if provided, shall be contiguous and of such size and shape as to be usable for recreation or agriculture. No such lands shall be in parcels of less than 2 acres.

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11.5.6 Water supply

Neighborhood water supply systems or individual wells, where proposed, must conform to New York State standards and inspection. Where a water supply system is installed, the subdivider shall provide fire hydrants no more than one thousand (1000) feet apart, or as required by the Planning Board.

11.5.7 Waste disposal/septic systems

Neighborhood waste disposal systems or individual septic systems, where proposed, must conform to New York State standards and inspection. All waste disposal and septic system plans must be certified by a licensed professional. Plans and location must be approved by the Town Zoning Officer before a Building Permit may be granted so that installation may begin.

11.5.8 Open Space and Recreation areas

- A. Recreational and park areas shall be of such size and contain such facilities as approved by the Planning Board. Land used in calculating required yard area cannot be included as an open space area
- B. Dedicated permanent retention of open space areas along with their care and maintenance is guaranteed. Such land shall be held in corporate ownership by the owners of lots within the development, and the developer shall incorporate into the deeds of all property within the development, if appropriate, a clause giving to the owners an interest in such open land which shall be used for recreation, cultural or agricultural purposes only. No structure save those incidental to the recreational, cultural or agricultural use shall be permitted thereon.
- C. The open space lands shall be subject to taxation, and shall be assessed to all owners of record at the same proportion as each unit's assessment value bears to the total assessment of the development. In the case of such tracts, the developer may petition to the Town to take over the land to be used in perpetuity as open space.

11.5.9 Miscellaneous

Road signs, road lighting, lighting standards, and roadway plantings shall be of design and type approved by the Planning Board, Town Highway Superintendent, and NYS DOT and shall be in accord with 911 requirements.

11.6 **PARKING**

11.6.1 The required design, number, dimensions, location and landscaping requirements for parking spaces and lots are defined in this section.

- A. It shall be the responsibility of the property owner to provide off-street parking spaces.
- B. NY State Law regarding handicapped parking must be satisfied.
- C. A parking space shall be considered adequate if it is at least 200 sq. ft., not including passageways and driveways, and has direct access to a street or alley.
- D. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.
- E. The lighting of off-street parking lots shall not be directed into adjacent properties.

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- F. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate, written document to establish the joint use.
- 11.6.2 Required Number of Off-Street Parking Spaces: The minimum number of parking spaces is shown in Table 3. In the case of combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.
- 11.6.3 Dimensions for Off-Street Automobile Parking Spaces and Lots: Each parking space shall be at least 10 feet wide and 20 feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as defined in Table 4.
- 11.6.4 Location of Required Parking Spaces.
- A. RESIDENTIAL PARKING:
1. Required parking spaces shall be provided on a buildable portion of the same lot. This space shall be graded for parking use and readily accessible from the street.
 2. No open or enclosed parking area shall encroach on any required front yard. Open parking areas may encroach on a required side or rear yard to within (3) three feet of a property line.
- B. BUSINESS AND INDUSTRIAL:
1. Spaces shall be provided on the same lot, or not more than 400 feet from the business or industrial property
 2. Vehicles and equipment for display or for sale shall not be parked or stored within the front yard requirement.
- C. GASOLINE FILLING STATIONS, SERVICE AND REPAIR GARAGES, AUTOMOBILE SALES PARKING AREAS:
1. No vehicle shall be parked, stored or left standing within 35 feet of the street line.
 2. Parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the Planning Board to accommodate tractor trailer turn around and parking areas.
 3. Where parking areas abut a residential use, they shall be screened by a buffer area no less than ten (10) feet in depth composed of densely-planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs.
 4. All parking, storage and display areas shall be provided with an all-weather, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.

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5. A maximum of two driveways and curb cuts shall be permitted. These shall be no less than 20 and no wider than 30 feet, and located a minimum of 30 feet from any street intersection and a minimum distance of 40 feet shall be maintained between such driveways and curb cuts.
- 11.6.5 Construction of Parking Areas: Parking areas, with the exception of single family residences, shall be finished with a suitable all-weather, dust-free surface. The individual spaces shall be visibly marked with paint or other durable material.
- 11.6.6 Landscaping of Parking Areas and Loading Berths.
- A. All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars shall be screened by a six-foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual and protective screen from the adjoining property.
 - B. Parking areas with 20 or more parking spaces, shall dedicate 10% of the parking area space for interspersed greenery. Buffer screening areas are not to be included in the percent calculation.
- 11.6.7 **All parking areas and landscaping shall be properly maintained.**

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TABLE 3
 REQUIRED NUMBER OF OFF-STREET PARKING SPACES

Residential uses including Housing Subdivisions and Manufactured Home Parks	Two spaces per dwelling unit
Home Occupation	One space for each person or employee engaged in the home occupation business, plus one additional space for customers
Hospitals, Sanitariums, Nursing Homes	One space for each unit (bed, bedroom)
Tourist Home, Rooming House	
Motels, Hotels	One space for each unit plus one space for every 4 employees.
Offices - Service, Retail, Professional	One space for each 200 sq. ft. of gross floor area.
Retail, Commercial Recreation, Private Clubs, Personal Service, Business Service Establishments, including medical clinics	One space for each 100 sq. ft. of gross floor area plus additional space as required to accommodate tractor trailer parking and maneuvering.
Restaurants	One space for each 50 sq. ft. of customer floor area plus additional space as required to accommodate tractor trailer parking and maneuvering
Roadside Stands	One space for every 50 sq. ft. of area devoted to selling or display plus additional space as required to accommodate tractor trailer parking and maneuvering
Day Care, Nursery and Elementary Schools	One space per employee plus two additional spaces per classroom
High Schools and Colleges	Five spaces for each classroom.
Churches, Temples, Auditoriums, Theaters and other places of assembly.	One space for every five seats. For benches or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat.
Industrial Uses	One space for each employee for largest shift, plus additional spaces to accommodate visitor parking, tractor trailer parking and maneuvering, and parking for all company vehicles.

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TABLE 4
DIMENSIONS FOR OFF-STREET AUTOMOBILE PARKING SPACES

Parallel Club Parking	5 feet end-to-end with 12 foot aisle width for one directional flow and 24 foot aisle width for two directional flow
30 Degree Parking	13 foot aisle width for one directional flow and 26 foot aisle width for two directional flow
45 Degree Parking	16 foot aisle width for one directional flow and 26 foot aisle width for two directional flow.
60 Degree Parking	21 foot aisle width for one directional flow and 26 foot aisle width for two directional flow
Perpendicular Parking	26 foot aisle width for one directional and two directional flow

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11.7 **Off-Street Loading and Unloading Requirements**

This section presents the minimum requirements for off-street loading and unloading berths.

11.7.1 **Dimensions of Loading Berths.**

- A. Each loading berth, either open or enclosed, shall be 55 feet long, 12 feet wide and 14 feet high.
- B. Businesses utilizing vehicles not larger than panel trucks may have berths which are not smaller than 20 feet long, 10 feet wide and 8 feet high.

11.7.2 **Location of Berths.**

The Planning Board shall make sure that berths are located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways and around the business.

11.7.3 **Required Number of Berths.**

Retail stores, wholesale establishments, storage facilities, motels, hotels, office buildings, other commercial and industrial uses shall have 1 loading berth. The Planning Board may require additional berths as necessary to adequately accommodate the use.

11.7.4 **Screening.** All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars shall be screened by a six-foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual and protective screen from the adjoining property.

11.8 **SIGNS**

No sign or other outdoor devices for the purpose of advertising of any kind may be erected or established in the Town except in conformance with the standards in this Zoning Law and with a Building Permit. When applicable, signs must all comply with the New York State Department of Transportation (NYS DOT) Sign Program. Sign types and state regulations are summarized in this section.

11.8.1 The General Requirements for all signs are:

- A. All signs require a building permit and shall comply with applicable regulations of the Building Code. Exceptions are defined in 11.8.
- B. The Town of Lindley permits on-premise signs only. To be considered an on-premise sign, the sign must be located on the same property as the activity advertised. These signs are not allowed when:
 1. The advertised activity is not on the property
 2. The activity and sign are separated by a road, highway, driveway or other obstruction
 3. The sign is closer to the highway than the activity to the sign
- C. On-premise signs may be subject to registration as defined in the NYS Highway Law.
- D. No sign can interfere with an official sign, signal or traffic control device, or obscure the driver's view of approaching, merging or intersecting traffic.

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Nor may any sign pose a safety hazard, or an impediment to the smooth flow of traffic.

- E. No sign shall use the words, "Stop", "Look", "Drive-in", "Left", or any other words, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.
- F. Damaged signs must be repaired or replaced or the DOT or Town can remove the sign after thirty (30) days.
- G. Sign placement should take advantage of the natural terrain, have minimal impact on the scenic environment, and avoid visual conflict with other signs, signals or traffic control devices.
- H. No signs are allowed in the Right of Way along state controlled highways without express permission of the DOT.
- I. Off-Premises Signs are not allowed in the Town of Lindley.
- J. Owners are responsible for the costs of permits, all materials, sign cost and erection and maintenance costs.
- K. Signs may not have flashing, intermittent or moving lights except public service information signs, for example, time and temperature signs.
- L. No sign shall be placed or erected above the maximum elevation of the main roofline of a building. Any permitted free-standing sign shall not be more than 26 feet in height above the average surface of the ground of the parcel on which the sign is located.
- M. All signs shall be set back a minimum of 10 feet from any lot line.
- N. The size of a sign shall refer to the overall area occupied by the total sign and includes the face area of each display surface and any spaces between parts thereof.
- O. The provisions of this Zoning Law shall not apply to official signs.
- P. Illumination of signs shall not be intermittent or of varying intensity and may not produce glare beyond the limits of the property lines.

11.8.2 Signs which require a Building Permit

Residential Signs: Signs for residences must conform to the general requirements in Section 11.8.1. Additional requirements are:

An apartment complex may display identification signs which do not have a total face area of more than fifteen (15) square feet.

A dwelling unit or accessory building, in which a home occupation is permitted, may display a sign noting such occupation. Such sign shall be mounted flat against the front wall of the dwelling unit or accessory building and shall be no more than two (2) square feet in area.

Subdivision signs or any person offering lots for sale in an approved subdivision may erect a non-illuminated sign having an aggregate total face area of not more than 100 square feet.

Business, Commercial and Industrial Uses Signs: Signs for business, commercial or industrial uses must conform to the general requirements in Section 11.8.1. Additional requirements are:

- 1. Two (2) primary business identification signs are allowed: one (1) freestanding on the same lot as the business with a maximum of two display faces and one (1) sign mounted on the building. The total display area of both signs shall not exceed 300 square feet. In no instance shall a single face of either sign exceed 150 square feet.
- 2. Accessory signs may be displayed at each establishment provided that such signs conform with the following:

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Signs may be exhibited in any window area provided that the display area does not exceed 30% of the window area.

Additional signs may be located on the building facade or on certain merchandise displays as may be appropriately stored outside during business hours.

The aggregate total display area of all such signs does not exceed 30% of the entire building frontage.

3. Business clusters, such as plazas or malls, may use two (2) free-standing, double-faced signs identifying the group of businesses. Each sign shall have a maximum total face area of 150 square feet with no single face exceeding 100 square feet. In addition, one (1) free-standing directory sign identifying each business located within the cluster is allowed. Such sign shall not exceed 150 square feet and each business name identified on such sign shall be of a uniform size.
4. Each business in the cluster may have one (1) sign which shall not exceed 10% of the front facade on which it is mounted. Corner establishments with more than one front facade visible may have up to two (2) signs and the area of the two (2) signs combined shall not exceed 20% of the total of the two facades on which they are mounted.
5. Adult Use and Adult Entertainment Signs: Adult Uses signs must display only the name of the establishment and type of use in block lettering and muted colors.

11.8.3 Signs which do not require a Building Permit:

- A. Real estate "For Sale" or "For Lease" Signs. These signs cannot be greater than eight (8) square feet for residential uses or a maximum of thirty (30) square feet for business uses.
- B. Name Plates, professional or business, including Home Occupancy. Maximum size is two (2) square feet.
- C. Memorial signs or tablets.
- D. Temporary signs denoting architect, engineer, contractor, etc. when placed upon the premises where the construction is proposed or underway. Such signs shall be removed within thirty (30) days after construction is completed.
- E. Traffic or other municipal signs, legal notice and such temporary or non-advertising signs for government purposes.
- F. Temporary posters or portable signs covering such things as political and sporting events, shows and elections. Such signs shall not be displayed until four (4) weeks prior to the event and must be removed within two (2) weeks following the event.
- G. Non-permanent banners and similar devices may be displayed for the occasion of the special event and shall be displayed for no longer than a three (3) week period.
- H. All signs, certificates and licenses that are mandated to be on display by any local, county, state or federal law or authority. This includes "No Trespassing," "No Hunting," or other similar sign posted by landowners.
- I. Two (2) signs, each not exceeding four (4) square feet in area, indicating or calling attention to traffic entrances and exits, provided that, if illuminated, such illumination shall cease at the close of business hours. Such signs shall not carry any advertisement, insignia or business logo nor shall they be

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nearer than five (5) feet to any lot line and shall not project more than four (4) feet above grade.

11.8.4 **NYS DOT Requirements for Signs:**

The NYS DOT Sign Program requirements apply to signs that will be within a state controlled highway Right of Way. The NYS DOT must be contacted before any sign project is started that will be in a state controlled road or highway right of way.

SECTION 12: FLOOD DAMAGE PREVENTION

12.0 INTENT

The intent of this Article is to control flood plains development such as construction, fill, dumping, storage of materials, structures, buildings and any other works which acting alone or in combination with other existing or future uses may cause damaging flood heights and velocities by obstructing flows and reducing flood storage; and further, to protect human life and health, minimize property damage, minimize surface and groundwater pollution, and provide public awareness of the flooding potential.

12.1 STATUTORY AUTHORIZATION AND PURPOSE

12.1.1 Findings

The Town Board of the Town of Lindley finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Lindley and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

12.1.2 Statement of Purpose

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- 4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- 5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- 6) qualify and maintain for participation in the National Flood Insurance Program.

12.1.3 Objectives

The objectives of this local law are:

- 1) to protect human life and health;
- 2) to minimize expenditure of public money for costly flood control projects;
- 3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) to minimize prolonged business interruptions;
- 5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- 6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

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- 7) to provide that developers are notified that property is in an area of special flood hazard; and,
- 8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

12.2 **DEFINITIONS** are in Appendix B

TABLE 5
ZONE DESIGNATIONS

The Flood Insurance Rate Map (FIRM) for Lindley, which is on file at the Town Hall, shows the flood zone designations for all areas of Lindley	
"Area of shallow flooding"	
AO, AH or VO Zone	One percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
"Area of special flood hazard"	
For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."	
A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30 Zone	One percent or greater chance of flooding in any given year. It is also commonly referred to as the base floodplain or 100-year floodplain.
Other areas	
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading on flood plain maps).
C	Areas of minimal flooding. (No shading on flood plain maps).

12.3. **GENERAL PROVISIONS**

12.3.1 **Lands to Which This Local Law Applies**

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Lindley.

12.3.2 **Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard are identified and defined in the following documents:

- 1) Flood Insurance Rate Map (multiple panels) Index No. 360778 0005 B, 360778 0010 B and 360778 0015 B, whose effective date is August 1980.
- 2) A scientific and engineering report entitled "Flood Insurance Study, Town of Lindley, New York, Steuben County" dated February 1980.
- 3) Flood Boundary and Floodway Map (multiple panels) Index No. 360778 0005 B and 360778 0015 B, whose effective date is August 1, 1980.

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The above documents are hereby adopted and declared to be a part of this Zoning Law. The Flood Insurance Study and/or maps are on file at the Lindley Town Hall.

12.3.3 **Interpretation and Conflict with Other Laws**

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

12.3.4 **Severability**

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

12.3.5 **Penalties for Non-Compliance**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Lindley from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 12.6 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

12.3.6 **Warning and Disclaimer of Liability**

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Lindley, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

12.4 **ADMINISTRATION**

12.4.1 **Designation of the Local Administrator**

The Zoning Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

12.4.2 **The Floodplain Development Permit**

- A. **Purpose.** A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 12.3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. **Fees.** All applications for a floodplain development permit shall be accompanied by an application fee of \$25.00. In addition, the applicant shall be responsible for reimbursing the Town of Lindley for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

12.4.3 **Application for a Permit**

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be flood proofed. Upon completion of the flood proofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 12.5.2-C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the flood proofing criteria in Section 12.5.4, Non-Residential Structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other

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material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 12.3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- F. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

12.4.4 **Duties and Responsibilities of the Local Administrator**

Duties of the Local Administrator shall include, but not be limited to the following.

A. Permit Application Review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- 1) Review all applications for completeness, particularly with the requirements of subsection 12.4.3 Application for A Permit, and for compliance with the provisions and standards of this law.
- 2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 12.5 Construction Standards and, in particular, sub-section 12.5.1-A Subdivision Proposals.
- 3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 12.5 Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- 4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

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B. Considerations.

Applications for uses in the Flood Damage Prevention District shall be considered in light of all relevant factors, including, but not limited to, other sections of this Article, and the following:

1. Effects of the proposed use upon increasing flood heights.
2. Extent of flood plain or floodway encroachment.
3. The danger to life and property due to increased flood heights or velocities caused by encroachments.
4. The danger that material may be swept onto other lands downstream.
5. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owners and the community.
6. The importance of the services provided by the proposed facility in the community.
7. The necessity for the facility to be located in a flood-prone area.
8. The availability of alternative locations not subject to flooding.
9. The relationship of the proposed use to the Comprehensive Plan and flood plain management program of the Town of Lindley and adjoining communities.
10. The safety of access to the property in terms of a flood.
11. The expected height, velocity, duration, rate of rise and sediment transport of flood waters expected at the site.
12. Acceptable social and economic use of the land in relation to the hazards involved. Preservation of flood-prone areas for open space purposes.
13. Diversion of development to flood safe areas in light of the need to prevent flood damages and environmentally incompatible flood plain uses.
14. Relevant flood warning and emergency preparedness plan.
15. Need for evacuation plans and escape routes.
16. Coordination of flood plain management plans with those of adjacent communities.
17. Such other factors which are relevant to the purpose of these regulations.

C. Use of Other Flood Data

1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 12.4.3 G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

D. Alteration of Watercourses

1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation

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of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Construction Stage

1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

F. Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

G. Stop Work Orders

1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 12.3.5 of this local law.

2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 12.3.5 of this local law.

H. Certificate of Compliance

1) In areas of special flood hazard, as determined by documents enumerated in Section 12.3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

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3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 12.4.4-F, Inspections, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

I. Information to Be Retained

The Local Administrator shall retain and make available for inspection, copies of the following:

- 1) Floodplain development permits and certificates of compliance;
- 2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 12.4.4-E 1 and 12.4.4-E 2, and whether or not the structures contain a basement;
- 3) Flood proofing certificates required pursuant to sub-section 12.4.4-E 1, and whether or not the structures contain a basement;
- 4) Variances issued pursuant to Section 12.6 Variance Procedures; and,
- 5) Notices required under sub-section 12.4.4-D, Alteration of Watercourses.

12.5 CONSTRUCTION STANDARDS

12.5.1 General Standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 12.3.2. Additional building elevation is recommended whenever floodplain development is proposed for safety and lower flood insurance premiums. Applicants are encouraged to consult an insurance agent regarding the difference in insurance costs by increasing building elevations.

A. Subdivision Proposals

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- 1) Proposals shall be consistent with the need to minimize flood damage;
- 2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- 3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments

1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

- i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
- ii) the Town of Lindley agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Lindley for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Lindley for all costs related to the final map revision.

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- 2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 12.3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - ii) the Town of Lindley agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Lindley for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Lindley for all costs related to the final map revisions.

C. Flood proofing Measures.

Where not otherwise specified by these regulations, the Planning Board may require flood proofing measures as deemed necessary for the purpose of these regulations. Such measures may include, but are not limited to, the following:

Modification of waste disposal and water supply facilities.

Limitations on periods of use and operation.

Imposition of operational controls, sureties, and deed restrictions.

Requirements for construction of channel modifications, dikes, levees and other protective measures.

Anchorage to resist flotation and lateral movement.

Installation of watertight doors, bulkheads, and shutters or similar methods of construction.

Reinforcement of walls to resist water pressure.

Use of paints, membranes or mortars to reduce seepage of water through walls.

Addition of mass or weight to structures to resist flotation.

Installation of pumps to lower water levels in structures.

Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.

Installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressure.

Construction to resist rupture or collapse caused by water pressure or floating debris.

Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity-draining of basements may be eliminated by mechanical devices.

Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.

Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquid or other toxic materials which could be hazardous to public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation and are adequately flood proofed to

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prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.

12.5.2 **Standards for All Structures**

A. Anchoring

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B. Construction Materials and Methods

- 1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- 2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- 3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities

- 1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- 2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- 4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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12.5.3 **Residential Structures**

Elevation. The following standards, in addition to the standards in sub-sections 12.5.1 A, Subdivision Proposals, and 12.5.1 B, Encroachments, and Section 12.5.2, Standards for All Structures, apply to structures located in areas of special flood hazard as indicated.

- 1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- 2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- 3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 12.3.2 (at least two feet if no depth number is specified).
- 4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

12.5.4 **Non-Residential Structures**

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 12.5.1 A, Subdivision Proposals, and 12.5.1 B, Encroachments, and Section 12.5.2, Standard For All Structures.

- 1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - ii) be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- 2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - ii) together with attendant utility and sanitary facilities, be completely flood proofed to that level to meet the flood proofing standard specified in sub-section 12.5.4-1 ii.
- 3) If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood proofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 12. 5.4-1 ii, including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.
- 4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

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- 5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

12.5.5 **Manufactured Homes And Recreational Vehicles**

The following standards in addition to the standards in Section 12.5.1, General Standards, and Section 12.5.2, Standards for All Structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- 1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - i) be on site fewer than 180 consecutive days,
 - ii) be fully licensed and ready for highway use, or
 - iii) meet the requirements for manufactured homes in paragraphs 12.5.5-2, 3, and 4.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- 2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- 3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- 4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 12.3.2 (at least two feet if no depth number is specified).

12.6 **VARIANCE PROCEDURE**

12.6.1 **Appeals Board**

- 1) The Zoning Board of Appeals as established by the Town of Lindley shall hear and decide appeals and requests for variances from the requirements of this local law.
- 2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- 3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- 4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - i) the danger that materials may be swept onto other lands to the injury of others;
 - ii) the danger to life and property due to flooding or erosion damage;
 - iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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- iv) the importance of the services provided by the proposed facility to the community;
 - v) the necessity to the facility of a waterfront location, where applicable;
 - vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii) the compatibility of the proposed use with existing and anticipated development;
 - viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- 5) Upon consideration of the factors of Section 12.6.1-4 and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- 6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

12.6.2 **Conditions for Variances**

- 1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1 (4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure."
 - ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- 3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- 4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 6) Variances shall only be issued upon receiving written justification of:
 - i) a showing of good and sufficient cause;

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- ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- 7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

SECTION 13: FEES AND PENALTIES

13.0 FEES AND PENALTIES

- 13.1 Fees. A schedule of fees for all building permits and approval applications as required in this Law shall be set by Town Board resolution from time to time.
- 13.2 Penalty. Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this Law; and any person, firms company, or corporation who shall assist in the commission of any violation of this Law or any conditions imposed by the Town Board or the Zoning Board of Appeals; or who shall build, contrary to the plans or specifications submitted to the Zoning Officer and by him certified as complying with this Law shall be guilty of an offense and subject to a fine of not more than two hundred and fifty dollars (\$250), or imprisonment for a period of not more than six (6) months, or both such fine and imprisonment. Every such person, firm, company, or corporation shall be deemed guilty of a separate offense for each week such a violation, omission, neglect, or refusal shall continue.
- 13.3 Alternative Penalty. In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Town Board, Zoning Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct business or use in or about such premises.

APPENDIX A: ZONING BOARD OF APPEALS

A.1 Establishment and Duties.

Pursuant to Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five (5) members, shall designate its chairman, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

A.1.1 Term of Appointment. Of the members of the Zoning Board of Appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years, from and after his appointment. The appointment of a chairman shall be for a term of one year.

Their successor shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the duration of the unexpired term.

A.1.2 Staff. The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.

A.1.3 Rules of Procedure, By-Laws, Forms. The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Zoning Law.

A.2 Rules and Procedures

A.2.1 Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman, or in his presence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to decide in favor of an applicant in any matter upon which they are required to pass under any ordinance or law to effect any variation in the Zoning Law.

A.2.2 Minutes. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Zoning Appeals shall be filed within 5 business days in the office of the Town Clerk and shall be a public record.

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- A.2.3 Referrals to the Town Planning Board. At least 45 days before the date of hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals, said Board shall transmit to the Town Planning Board a copy of said appeal or application submitted to the Board of Zoning Appeals, and shall request that the Town Planning Board submit to the Zoning Board of Appeals its advisory opinion prior to the date of said public hearings.
- A.2.4 Public Notice and Hearing. Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with Town Law as follows:
1. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town of Lindley, not less than five days, prior to the date of such hearing.
 2. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Zoning Board of Appeals, and to the Town Planning Board, not less than five days prior to such hearing.
 3. By giving written notice of hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by Law.
- A.2.5 Appeals. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision, or determination made by the Zoning Officer in terms of area and/or use under this Zoning Law in accordance with the procedure set forth herewith:
1. Notice of Appeal shall be filed with the Zoning Officer and/or the Secretary to the Zoning Board of Appeals in writing, in a form required by such Board, within 30 days from the date of the action appealed from, specifying the grounds thereof.
 2. Upon filing of a Notice of Appeal and payment of a filing fee, as set by Town Board resolution, by the appellant or applicant, the Zoning Officer shall forthwith transmit to the Zoning Board of Appeals all the paper constituting the record upon which the action appealed from was taken.
 3. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or by attorney. The Zoning Board of Appeals shall decide on the appeal within 60 days after the final hearing.
 4. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Officer certifies to the Zoning Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Zoning Officer and on due cause shown.
 5. Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the power of the Zoning Officer.

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If the action by the Zoning Board of Appeals is to reverse the action of the Zoning Officer in whole, the filing fee shall be refundable to the appellant.

A.2.6 Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Law, the Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify through a variance the application of any of the regulations or provisions of the Zoning Law. There are two types of variance which the Zoning Board of Appeals will have to act on: area variances and use variances.

A.2.6.1 Area Variance. An area variance applies to the land and is required for building or maintaining physical improvements which deviate from the Zoning Law. The applicant requests relief in dimensional nature from requirements such as setback lines, lot coverage, and frontage requirements, a peculiar size, shape lot, etc. The owner must still comply with the Zoning Law's limitation on use of the land.

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. whether the requested area variance is substantial;
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

If approved, the Zoning Board of Appeals shall grant the minimum variance necessary and adequate, even if it is less than what was requested, to protect the community. The Zoning Board of Appeals may also impose reasonable conditions with the variance. Such conditions shall be consistent with the spirit and intent of the Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

A.2.6.2 Use Variance. A use variance is requested when the applicant desires to utilize the land for a use not allowed by the Zoning Law in the district. The established rule is that the Appeals Board has the power to grant a use variance only when the applicant has proved that the literal application of the Zoning Law will result in an unnecessary hardship or "practical difficulty." Such proof includes all of the following for each and every permitted use:

1. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

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2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. that the alleged hardship has not been self-created.

The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- A.2.7 Application. All applications for variances shall be filed with the Secretary to the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by payment of a filing fee, and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- A.2.8 Automatic Revocation. Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.
- A.2.9 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 for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

APPENDIX B: DEFINITIONS

DEFINITIONS

Except where specifically defined herein, all words used in this Law shall carry their customary meaning and to give this law its most reasonable application. Words used in the present tense include the future, and the singular includes the plural when used herein. The term “shall” is always mandatory.

ABANDONED OR INOPERATIVE VEHICLE: Any motor vehicle, as defined in the Vehicle and Traffic Law of the State of New York, that is any of the following:

- Unlicensed, old, wrecked, stored, discarded, dismantled or partly dismantled or which is not in any condition to meet NYS inspection standards for legal use upon the public highway.
- Being held or used for the purpose of resale of used parts or for the purpose of reclaiming for use some or all of the materials for the purpose of disposing of same.
- In such condition as to cost more to repair and place in operating condition than its reasonable market value at that time before such repair.

With respect to any motor vehicle not required to be license or not usually used on public highways, the fact that such motor vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is an “abandoned, junked or inoperative motor vehicle.”

Abandoned vehicles are also referred to as “junk.”

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

ADULT ACTIVITIES/SEXUAL ACTIVITIES: Includes any of the following: the fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or breasts; sex acts, actual or simulated; masturbation, actual or simulated; or excretory functions.

ADULT BUSINESS/ADULT USE: - A public or private establishment with the primary business (greater than 33% of sales or floor space, see broader definition under Adult Bookstore/Video Store) which presents any of the following entertainments, exhibitions or services:

- Topless, bottomless or nude dancers, strippers, wait staff, busing or serving
- Topless, bottomless or nude hair care or massages
- Any service or entertainment where the servers or entertainers wear only pasties or G-strings or both
- Adult arcade, bookstore or video stores
- Adult cabarets
- Adult escort agencies
- Adult motels, motion picture theaters, theaters
- Nude model studios
- Sexual encounter centers.

Adult businesses customarily exclude minors by reason of age. Adult Entertainment Establishments are an Adult Use.

ADULT BOOKSTORE/VIDEO STORE: A commercial establishment which, as one of its principal business purposes, offers for sale or rental books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions,

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digital video disks (DVD's), compact discs (CD's) that depict or describe adult activities; or instruments, devices, or paraphernalia, which are primarily intended, labeled, designed, advertised or promoted for use in connection with adult activities.

A commercial establishment may have principal business purposes that do not involve the offering for sale or rental of media and other items for adult activities and still be characterized as an Adult Use if thirty-three percent (33%) or more of any of the following are sold or rented for Adult Use:

1. The number of different titles of kinds of such merchandise;
2. The number of copies or pieces of such merchandise;
3. The amount of floor space devoted to the sale and/or display of such merchandise;
4. The amount of advertising, which is devoted to, such merchandise, either in print or broadcast media.

ADULT VIDEO STORE: See ADULT BOOKSTORE

APPEAL: A request for a review of any decision of the Zoning Officer. The Zoning Board of Appeals can only consider a variance if the applicant is making an appeal from a decision made by the Zoning Officer. To appeal a decision of the Planning Board or Zoning Board of Appeals, the applicant's or any interested person's appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

AGRICULTURAL USE: Land and associated structures used for the production for sale of crops, livestock or livestock products. Crops, livestock and livestock products" shall include but not be limited to the following:

1. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
2. Fruits, including apples, peaches, grapes, cherries and berries.
3. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
4. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
5. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs.
6. Maple sap.
7. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
8. Aquaculture products, including fish, fish products, water plants and shellfish.
9. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

AREA OF SHALLOW FLOODING: Areas of shallow flooding are designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

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AUTOMOBILE SALES AREA: A business, licensed by NYS, to sell automobiles at a rate of greater than 5 vehicles per year. The premises, including open areas, other than roadway, and enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, and or recreational vehicles.

AUTOMOBILE WASH STATION: A business using mechanical means to manually or automatically wash motor vehicles.

BASE FLOOD: Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: A basement is that portion of a building having its floor subgrade (below ground level) on all sides.

BUILDABLE/BUILDABLE ACREAGE: Buildable acreage for a parcel is calculated by taking the total area within the lot boundary lines MINUS the area of:

1. Public street right of ways,
2. Steep slopes 25% or greater,
3. Floodways,
4. Wetlands, both state and federal,
5. Lands covered by water bodes, and/or
6. Stream corridors, using 50' setback from each stream bank.

BUILDING: A walled and roofed structure, including gas or liquid storage tanks, that is principally above ground. BUILDING and STRUCTURE are used interchangeably.

BUILDING, ACCESSORY: See ACCESSORY BUILDING/USE

BUILDING PERMIT: A document that shows the Zoning Officer has approved a construction or other development project. Application for a building permit must be made, and approved, before any construction, demolition or relocation activity is started for buildings, structures, wells, septic systems, swimming pools, ponds, signs or other activity as defined in this Law.

BUSINESS USE: For the purpose of this Law, any business, commercial, industrial, general or other use which is not agricultural or residential whether for profit or not.

CAMP, COTTAGE, OR CABIN DEVELOPMENT: Any parcel of land on which are located one or more cottages, cabins, or other group of buildings, containing living and sleeping accommodations hired out for compensation of a design or character suitable for seasonal or other temporary living purposes, including a summer colony or vacation resort, but not including a manufactured home park, boarding house, hotel or motel. Regulations fall under Housing Subdivisions.

CELLAR: Cellar has the same meaning as Basement.

CERTIFICATE OF COMPLETION/OCCUPANCY: At the completion of a permitted project, the Zoning Officer will issue a Certificate of Completion if all aspects of the project have been found to be in accordance with the Zoning Law, other local laws, NY State building code, fire codes and other applicable codes, ordinances, rules and regulations. No land shall be used or

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occupied, and no building or structure that has been erected, added to, altered, or relocated shall be used or changed in use until a Certificate of Completion or Occupancy has been issued.

CERTIFICATE OF OCCUPANCY: See CERTIFICATE OF COMPLETION.

CLUSTER DEVELOPMENT: See HOUSING SUBDIVISION.

COMMERCIAL USE: Same as BUSINESS USE.

COMMON PROPERTY: Any parcel of land or structure that is held in private ownership by multiple parties. Common property in housing subdivisions, such as, but not limited to private roads, drives, service and parking areas and recreational and open space areas, are generally controlled and maintained by a homeowners' association.

COMPREHENSIVE PLAN: A written document created to translate the needs, goals and vision of the Town and its residents into a strategy and guidelines for decision making.

CONCEPT PLAN CONFERENCE: An informal meeting by an applicant with the Planning Board to present conceptual information on a project and receive feedback on feasibility and Town requirements.

CONDITIONAL USE: A use other than agricultural or residential which may be suitable only under certain conditions and at appropriate locations. A Conditional Use Permit must be applied for and approved by the Planning Board before a conditional use may commence.

CONDITIONAL USE PERMIT: A document that shows the Planning Board has approved a conditional use for a specific location under certain conditions. Application for, and approval of, a conditional use permit must be made before any conditional use may commence.

CONDITIONAL USE PERMIT, TEMPORARY: A Conditional Use Permit that has been granted for a specific period of time.

CONDITIONAL USE PERMIT, PERMANENT: A Conditional Use Permit that has been granted and is attached to a specific location regardless of ownership. A permanent Conditional Use Permit shall expire if the conditional use is not started within one year of the permit being granted or if the conditional use is not used for a one year time period after commencement.

CONSTRUCTION: See DEVELOPMENT.

CRAWL SPACE: A crawl space is an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DATE OF SUBMISSION: The date when the Town Clerk receives the Final Site Plan complete with all supporting data required by the Planning Board.

DEFORESTATION: The harvesting of timber for personal or commercial use. Same as TIMBER HARVESTING.

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DENSITY: The number, size, location of, and amount of space consumed by, structures and other improvements on a parcel of land.

DENSITY CONTROL SCHEDULE: Table of allowable number, size, placement and space consumed by structures and other improvement on a parcel of land.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials, excluding normal maintenance.

DOG KENNEL: See KENNEL.

DOUBLE WIDE MANUFACTURED HOME: See MANUFACTURED HOME, DOUBLE WIDE.

DWELLING: A building designed or used principally as the living quarters for one or more families.

DWELLING UNIT: One room or rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, sanitary and sleeping facilities. This shall include site built, modular and manufactured home units provided they meet the standards of this Law and the building code. It shall not include motel, hotel and lodging establishments.

ENVIRONMENT ASSESSMENT FORM (EAF): A State Environmental Quality Review (SEQR) form that defines the evaluation areas to be reviewed to determine the impact of projects on the local environment. There are long and short EAF to be used depending on the intensity of the proposed project. A "negative declaration" indicates that the project will not have a negative impact on the environment.

EASEMENT: The right for one party to use land(s) that is another party's property. Easement shall also refer to such land(s).

ELEVATED BUILDING: An elevated building is a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

ENFORCEMENT OFFICER: Same ZONING OFFICER.

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EXCAVATION: Extraction of earth material for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal, and/or removal of such materials for sale, other than what may be required for the erection of buildings.

EXTRACTION: The removal of natural resources, such as oil, gas, or minerals for personal, commercial or industrial use.

FARM: An agricultural use which produces \$10,000 or more in annual income.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): the Federal agency that administers the National Flood Insurance Program.

FINAL SITE PLAN: See SITE PLAN, FINAL.

FLOOD or FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from (i) the overflow of inland or tidal waters; (ii) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (i) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): The FBFM is the official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

FLOOD DAMAGE PREVENTION DISTRICT: Land of special flood hazard as identified by the Federal Insurance Administration, generally in the 100 year flood base plain. Development on these lands is restricted.

FLOOD ELEVATION STUDY: This study is an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM): The FHBM is the official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM): The FIRM is the official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: See FLOOD ELEVATION STUDY.

FLOODPLAIN or FLOOD-PRONE AREA: Means any land area susceptible to being inundated by water from any source. Also see FLOODING.

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FLOODPROOFED: Watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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

FLOODWAY: See REGULATORY FLOODWAY.

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

GARAGE, SERVICE/REPAIR: An enclosed building or premises used for the indoor repair of motor vehicles, including painting, body work or welding, and the sale of parts and accessories. A junk yard or auto salvage yard is not to be construed as a garage.

GASOLINE FILLING STATION: An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline, other fuel, oil or other lubricating substances, or motor vehicle accessories, and which may or may not include facilities for lubricating, washing (without mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, major repairs, welding, or painting.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HIGH IMPACT HOMEOWNER ACTIVITY: Activity conducted on a residential lot that continues for 1 month or longer and creates unsafe vehicle or pedestrian traffic or causes a negative impact to the environment or surrounding properties.

HISTORIC STRUCTURE: Any structure that is:

- 1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i) by an approved state program as determined by the Secretary of the Interior or
 - ii) directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION (BUSINESS): An accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the residential character. Home occupation business must be carried on wholly within the enclosed walls of a dwelling unit or accessory building by one or more occupants of such dwelling unit and have no more than 5 employees.

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HOUSING UNIT: See DWELLING UNIT.

HOUSING SUBDIVISION: Cluster residential development is defined as erecting homes on individual parcels that are less than 2 acres while maintaining an overall density of one residence for every two acres in the designated housing development area. Any housing subdivision that (i) decreases individual residential lot sizes, (ii) involves a new street or road, (iii) involves the extension of municipal facilities or shared facilities, and/or (iv) may adversely affect the development of the remainder of the property or of adjoining parcels (for example, creating landlocked parcels). A single residence on a single, 2 acre or larger lot with its own water and sewage (septic) system is not considered a housing subdivision. Examples of Housing Subdivisions are cluster residential developments and manufactured housing parks under one owner.

INDUSTRIAL USE: A business use with operations that may use heavy equipment, such as excavation, forestry, manufacturing, material handling, or facilities related to industrial uses. See also BUSINESS USE.

INOPERATIVE VEHICLE: See ABANDONED OR INOPERATIVE VEHICLE

JUNK: All waste materials customarily handled and collected by refuse collectors and junk dealers, and all items regardless of size, discarded or abandoned by reason of obsolescence, age or state of repair, or intended to be discarded, abandoned or junked, including but not limited to discarded household furnishing and appliances, crates, boxes, cartons, building materials, machines, inoperable farm equipment, and/or parts of machines and equipment.

JUNK YARD: An area of land with or without buildings used for or occupied by the storage, keeping, abandonment or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. A lot on which two or more wrecked or broken down vehicles or major parts thereof are stored for 3 months or more shall be considered to meet this definition of a junk yard. Junk yards are not permitted in the Town.

KENNEL: Any place at which there are kept four or more dogs more than six months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LAND SUBDIVISION: The division of any parcel of land into two or more lots, plots, sites or other division of land, or changing of lot lines, for the purpose, whether immediate or future, of transfer of ownership or building development.

LAND SUBDIVISION, MAJOR: Any subdivision of land not classified by the Planning Board as a Minor Subdivision.

LAND SUBDIVISION, MINOR: Any subdivision of any original parcel of land into not more than three lots inclusive of the landowner's principal and existing property, fronting on an existing road, not involving any new street or road or the extension of any municipal facilities and not adversely affecting the development of the remainder of the property or of adjoining parcels.

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LOCAL ADMINISTRATOR: The person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. See Zoning Officer.

LOT: Any parcel or tract of land separated from other parcels or tracts by description as on a subdivision or record of survey map, or by metes and bounds for the purpose of sale, lease or separate use.

LOWEST FLOOR: Lowest level of the lowest enclosed area, including basement, cellar, crawlspace, or garage of lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

MANUFACTURED HOME/HOUSE: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes, but it is not limited to, the definition of "manufactured home" as set forth in regulations governing the Manufactured Home Safety and Construction Standards Program (24 CFR 3228.7(a)). The term does not include Department of Motor Vehicle registered recreation vehicles, travel trailers or modular homes.

MANUFACTURED HOME, DOUBLE WIDE: A single family residential manufactured home which meets or exceeds the following standards:

1. minimum width of 20 feet (multi-section)
2. minimum 900 square feet of enclosed living area
3. roof pitch has a minimal 3/12 pitch and has a type of shingle commonly use in standard residential construction
4. exterior siding consists of materials commonly used in the exterior of standard residential construction
5. All towing devices, wheels, axles and hitches must be removed.

Doublewide manufactured homes are treated as standard residential housing when installed on a permanent foundation.

MANUFACTURED HOME or MOBILE HOME: A single-family residential manufactured home that was built prior to the enactment of HUD standards of June 15, 1976. The Town of Lindley Zoning Law requires a Conditional Use Permit to install such a home as a permanent residence. This Law prohibits installation or use of a manufactured home for storage purposes.

MANUFACTURED HOME, SINGLE WIDE: A single family residential manufactured home which is less than 20 feet wide and less than 900 square feet of enclosed living area, built in accordance with the Federal Manufactured Home Construction and Safety Standards (MHCSS) which is administered by HUD. Single wide manufactured homes require Conditional Use Permits per the Zoning Law of the Town of Lindley.

MANUFACTURED HOME, TRAILER: See Trailer.

MANUFACTURED HOME/HOUSING PARK: A parcel or contiguous parcel of land divided into two or more manufactured home lots for rent or lease. When lots are for sale, the park qualifies as a Housing Subdivision.

MASTER PLAN: See COMPREHENSIVE PLAN

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MEAN SEA LEVEL: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MIXED USE: More than one permitted use on a single lot.

MOBILE HOME: See MANUFACTURED HOME, MOBILE HOME.

MODULAR HOME: A single family residential building which is constructed according to local or state building code standards, and may consist of two or more sections transported to the site in a manner similar to other manufactured homes or on a truck and erected or joined together for permanent installation on the site. Modular homes may or may not have an integrated chassis. They must meet or exceed the same standards as a doublewide manufactured home and are treated as standard residential housing when installed on a permanent foundation.

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NUDE: Unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and, even if completely and opaquely covered, male genitals in a discernibly turgid state.

OFFICIAL SIGN: See SIGN, OFFICIAL.

OFF-PREMISES SIGNS: See SIGN, OFF-PREMISES.

ONE HUNDRED YEAR FLOOD or 100-YEAR FLOOD: Has the same meaning as BASE FLOOD.

ON-PREMISES SIGNS: See SIGN, ON-PREMISES.

OPEN SPACE: Dedicated area that is restricted from development or allowed to be developed in a natural appearing manner to retain a rural environment.

OPEN STORAGE: Storage other than a completely enclosed structure constructed of wood, masonry, or metal, such as a garage.

PARKING LOT: An area with one or more parking spaces that is used by patrons or residents. It may be on the same site as the use or on a separate site.

PARKING SPACE: An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PERCOLATION (PERK) TEST: A measurement of the length of time for water to soak into soil to evaluate the soil's infiltration capacity. This test is required to design an acceptable subsurface sewage disposal system (septic system).

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PERFORMANCE GUARANTEE: A bond or any security acceptable to the Town to assure that all improvements required to be made, as specified in these rules and regulations, shall be in force and on the record before the Planning Board approves the Final Site Plan.

PERMITTED USES: Land uses that have been accepted by the Town of Lindley. Agricultural and residential uses are permitted on lots of 2 acres or more, with special conditions required for areas such as flood plains and steep slopes. Permission to conduct uses other than those permitted will be considered through the Conditional Use Permit process.

PERSON: Includes any individual or group of individuals, firm, proprietorship, partnership, corporation, association, company, organization or other organized group of persons, including local governments and agencies.

PLANNING BOARD: This Board is appointed by, and accountable to the Town Board. This Board is the primary controlling body of the overall development of Lindley and its impact on the Town and its residents.

PLANNED RESIDENTIAL DISTRICT: See HOUSING SUBDIVISION.

PLAT: A site plan that shows multiple lots as plots of a subdivision.

PRINCIPAL BUILDING/USE: A building or use that is the primary building or use on a single lot. For example, on a residential lot, the principal building is the dwelling and principal use is residential. All other buildings or uses are accessory or secondary.

PRINCIPALLY ABOVE GROUND: At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

PUBLIC HEARING: A meeting, publicized to the general public, held to openly discuss a proposed project. Participants are given an opportunity to voice concerns and/or support which are documented for public record; however, decisions regarding the project are determined by the Planning Board.

RECREATIONAL VEHICLE: A vehicle which is:

- 1) built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projections;
- 3) designed to be self-propelled or permanently towable by a light duty truck; and
- 4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 12.4.4-D of this Law.

RESIDENCE: See DWELLING/DWELLING UNIT.

RESIDENTIAL USE: Land and associated structures used for a single family residence.

RIDING ACADEMY: Any establishment where horses are kept for riding, driving or stabling for compensation.

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RIGHT-OF-WAY: The property under ownership or easement normally used for movement of vehicles, including, but not restricted to, the pavement area.

ROAD: Any street, avenue, boulevard, road, land, parkway, alley or other way which is an existing state, county or town roadway, or a roadway shown on a plat duly filed and recorded in the Office of the County Clerk. Roads shall include the land between road lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other area within the road lines. For the purpose of this local law, roads shall be classified as follows:

Primary Roads: Those roads used primarily for fast or heavy traffic.

Secondary Roads: Those roads which carry traffic from local roads to primary roads and which connect primary roads but do not carry heavy volumes of fast traffic.

Local Roads: Those roads which are used primarily for access to the abutting properties.

SANITARY WASTE DISPOSAL OR TREATMENT, SEWAGE DISPOSAL OR TREATMENT, and SEPTIC SYSTEM are used interchangeably in this Law.

SAWMILL, COMMERCIAL: A timber processing operation that sells goods and/or services.

SAWMILL, PERMANENT: A timber processing operation that is in operation for 3 months or more a year.

SAWMILL, TEMPORARY: A timber processing operation that is in operation for less than 3 months a year.

SECONDARY USE: See ACCESSORY USE.

SIGN: Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement. A "sign" includes a billboard, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement, or event which is temporary in nature.

SIGN AREA: The area inside the perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. Each separate face of a sign shall be counted as part of the sign area, except that any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot.

SIGN, OFFICIAL: An official sign is a sign erected and maintained by state, county or local government agencies. They include: public service signs, historic markers, public utility signs, service club or religious notice signs.

SIGN, OFF-PREMISES: Advertising signs, such as billboards, that are meant to be viewed from an interstate or other primary highway and not located on the same property as the activity advertised.

SIGN, ON-PREMISES: Signs located on the same property as the activity advertised.

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SINGLE WIDE MANUFACTURED HOME: See MANUFACTURED HOME, SINGLE WIDE.

SITE PLAN: A detailed map that shows development layouts for a single parcel.

SITE PLAN APPROVAL: Official action of the Planning Board taken on a Site Plan and stipulating that all requirements, conditions, surveys, engineering plans, public hearing etc., shall be or have been completed, that the required improvements have been installed, or that a performance guarantee to cover all costs for their completion has been properly posted.

SITE PLAN, FINAL: The final map of all or a portion of the lot(s) presented for final approval by Planning Board and prepared in compliance with this Law and showing any and all conditions, improvement and other requirements specific to the project.

SPECIAL HAZARD AREA: An area having special flood, mudslide and/or other flood related erosion hazards and shown on the FIRM as Zone A, AH, AO or AI-99.

STABLE, PRIVATE: An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC: A building in which any horses or other livestock are kept for remuneration, hire or sale.

START OF CONSTRUCTION: The first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. "Start of construction" also means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance.

For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or subdivisions, "start of construction" is the date on which the construction of the facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets or walkways; nor excavation for a basement, footings, piers or foundations, nor the erection of temporary forms, nor the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building.

STEEP SLOPE: Areas of land with slopes greater than 25 percent. These areas may not be developed or used in buildable land calculations. Areas of land with 15-25 percent of slope are marginally acceptable for standard development and require a Conditional Use Permit.

STREET: See ROAD.

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STRUCTURE and **BUILDING** are used interchangeably in this Law.

SUBDIVIDER: Any person, firm, corporation, partnership, association or their agent, who shall lay out for the purpose of sale or development, either immediate or future, any subdivision of land or part thereof.

SUBDIVISION: For the purpose of this Law, a subdivision is classified as either a **LAND SUBDIVISION** or **HOUSING SUBDIVISION**.

SUBDIVISION, HOUSING: See **HOUSING SUBDIVISION**.

SUBDIVISION, LAND: See **LAND SUBDIVISION**.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any repair, rehabilitation, reconstruction, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure."

TIMBER HARVESTING: The harvesting of timber for personal or commercial use. Same as **DEFORESTATION**.

TOWN: Includes all areas within the Town of Lindley both publicly and privately owned.

TRAILER: Also called Travel Trailer. A structure that is customarily standing on wheels or rigid supports and is 1) intended to be transported over the streets and highways either as a motor vehicle or attached to or hauled by a motor vehicle and/or 2) is designed for seasonal or temporary use as sleeping quarters, but does not satisfy one or more of the manufactured or mobile home definitions in this law.

USE: This term is employed in referring to the purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied; and/or any occupation, business activity, or operation conducted in a building or other structure, or on land.

USE, ACCESSORY: See **ACCESSORY BUILDING/USE**.

USE, AGRICULTURAL: See **AGRICULTURAL USE**.

USE, ADULT BUSINESS: See **ADULT BUSINESS/ADULT USE**.

USE, BUSINESS: See **BUSINESS USE**.

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USE, COMMERCIAL: Same as BUSINESS USE.

USE, CONDITIONAL: See CONDITIONAL USE.

USE, INDUSTRIAL: Same as BUSINESS USE.

USE, MIXED: See MIXED USE.

USE, PERMITTED: See PERMITTED USES.

USE, RESIDENTIAL: See RESIDENTIAL USE.

VACATION RESORT: See CAMP, COTTAGE, OR CABIN DEVELOPMENT.

VARIANCE: A grant of relief from the requirements of this Law which permits construction or use in a manner that would otherwise be prohibited by this Law.

VARIANCE, AREA: Authorization for the use of land not allowed by the dimensional or physical requirements of the Zoning Law

VARIANCE, USE: Authorization for the use of land that is otherwise not allowed by the Zoning Law

WATER SURFACE ELEVATION: The projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the flood plain.

ZONING BOARD OF APPEALS: This Board is appointed by the Town Board to be a “Layman’s Court” and they are the only Town governing body that may reverse, affirm or modify, wholly or partly, the order, requirement, decision or interpretation of the Zoning Officer.

ZONING OFFICER: The Enforcement Officer responsible for enforcing the Zoning Law and related state, county and local laws. The Zoning Officer can be called the Code Enforcement Officer and/or Building Inspector.

APPENDIX C

C.1 GENERAL EXCEPTIONS

- C.1.1 Public Properties. Nothing in this Law shall restrict construction or use in the exercise of a governmental function of public buildings, lands or property supported in whole or in part by taxes imposed on property in the Town of Lindley.
- C.1.2 Public Utilities. Nothing in this Law shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the Laws of the State of New York.
 - A. Other facilities, such as cellular towers, wind farms, pipelines, etc., may be constructed subject to a conditional use permit.

C.2 INTERPRETATION, SEPARABILITY AND CONFLICT

- C.2.1 The following rules of construction of language shall apply to the text of this Law.
 - Words used in the present tense include the future tense.
 - Words used in the singular include the plural, and words used in the plural include the singular.
 - Words used in the masculine form shall also include the feminine.
 - The word "lot" includes the word "plot" or "parcel".
 - The word "person" includes an individual, firm or corporation.
 - The word "shall" is always mandatory; the word "may" is always permissive.
 - The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".
 - A "building" or "structure" includes any part thereof.
 - The phrases, "to erect", "to construct", and "to build" a building, each has the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.
- C.2.2 If any section, paragraph, subdivision, or provision of this Law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this Law shall remain valid and effective.
- C.2.3 This Law shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.
- C.2.4 This Law is not intended to abrogate or annul any easement, covenant, or any other private agreement. Such private agreements shall not allow what the Law prohibits.
- C.2.5 Whenever the requirements of this Law are at variance with the requirements of other lawfully adopted rules, regulations, laws, or ordinances, the law with the most restrictive provisions or those imposing the higher standards shall govern.

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C.3 AMENDMENTS

C.3.1 Procedure.

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Town Planning Board, amend the regulations and districts established under this Zoning Law after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Board.

The procedural requirements set forth herein shall be in addition to the laws relating to review by county or regional agencies and provisions of the SEQR act.

C.3.2 Advisory Report by Town Planning Board.

Every proposed amendment, unless initiated by the Town Planning Board, shall be referred to the Town Planning Board. The Town Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations prior to the public hearing. If the Town Planning Board fails to report within a period of 30 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Town Planning Board disapproves the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

C.3.3 Public Notice and Hearing.

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- a. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than ten (10) days prior to the date of public hearing.
- b. By giving written notice of hearing to any required Municipal, County, Regional, State or Federal agency in a manner prescribed by law.
- c. Service of written notice. At least ten days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including any amendments thereto, affecting property within five hundred feet of the following shall be served personally or by mail by the town upon each person or persons listed below:

The property of the housing authority erecting or owning a housing project authorized under the public housing law;

The boundary of a city, village or town;

The boundary of a county;

The boundary of a state park or parkway.

C.3.4 Protest by Owners.

If a written protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged:
by the owners of twenty (20) percent or more of the area of land included in such proposed amendment,

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by the owners of twenty (20) percent or more of the area of land immediately adjacent extending 100 feet therefrom, or
by the owners of twenty (20) percent or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Board. The provisions of the previous section relative to public hearings and official notice shall apply equally to all proposed amendments.

C.3.5 Decision by Town Board.

The Town Board shall set the public hearing as required and shall render its decision within 60 days of the receipt of the Planning Board's report. If the Town Board deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

Every zoning ordinance and every amendment to a zoning ordinance (excluding any map incorporated therein) adopted shall be entered in the minutes of the Town Board; such minutes shall describe and refer to any map adopted in connection with such zoning ordinance or amendment and a copy, summary or abstract thereof (exclusive of any map incorporated therein) shall be published once in a newspaper of general circulation in the Town. Affidavits of the publication thereof shall be filed with the town clerk.

Such ordinance shall take effect ten days after such publication, but such ordinance or amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the town clerk under the corporate seal of the town; and showing the date of its passage and entry in the minutes. Every town clerk shall maintain a separate file or filing cabinet for each and every map adopted in connection with a zoning ordinance or amendment and shall file therein every such map hereafter adopted; said file or filing cabinet to be available at any time during regular business hours for public inspection.

C.3.6 Notification of Decision.

The Town Board shall notify the applicant for an amendment of its decision in writing within five (5) days after the decision has been rendered.

C.3.7 Filing with the Secretary of State.

Every amendment to this local law shall be filed with the Secretary of State of New York State and become effective five (5) days thereafter.

C.4 **EFFECTIVE DATE**

This local law shall be filed with the Secretary of State and shall become effective five (5) days thereafter.

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