

**ADOPTED**

**TOWN OF LYONSDALE SITE PLAN REVIEW LAW**

**OCTOBER 10, 1994**

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**ARTICLE A. INTRODUCTIONS**

1. Enactment

The Town Board of the Town of LYONSDALE, Lewis County, New York does hereby ordain and enact the Town of Lyonsdale Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of the Town Law.

2. Title

This local law shall be known as the "Town of Lyonsdale Site Plan Review Law".

3. Intent and Purpose

Through site plan review, it is the intent of this local law to promote the health, safety, and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure the optimum overall conservation, protection, preservation, development, and use of the natural and man-made resources of the town, through review and approval of site plans. It is not the intent of this local law to prohibit any land use activity, but to allow all land use activities, which will meet the standards set forth in this local law. Toward this end, these regulations establish standards for preserving water quality, controlling traffic congestion, ensuring site access for emergency services (e.g. fire/police protection and ambulance services), providing adequate water supply and safe and proper means for sewage and solid waste disposal, and guarding neighboring properties against intrusive development impacts.

4. Town Board Authority to Review Site Plan

The Town Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

## **ARTICLE B. DEFINITIONS**

**Access** - entranceway for vehicles to leave or enter a property or lot from a public road or private road.

**Accessory Structure or Use** - a secondary structure or use on the same lot or on a contiguous lot in the same ownership, which is associated with the principal use or structure, and which is incidental and subordinate to the principal use or structure.

**Applicant** - the person(s), which except where otherwise provided herein, shall be the lot owner or his designated representative.

**Area, Building** - the total area of land occupied by a building taken on a horizontal plane at the main grade level of the building.

**Area, Lot** - the total area contained within the property lines of an individual lot, excluding any area within an existing street right-of-way.

**Buffer Area** - an undeveloped part of a lot or an entire lot specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

**Building** - a structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure".

**Building Principal** - the building on a lot that houses the primary use on a parcel of land.

**Commercial Facility** - Retail sales and service including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm machinery, and other large items stored outdoors for retail sales; business or institutions providing overnight accommodations; institutional residences, care or confinement facilities; tree nurseries, storage and parking facilities.

**Drainage** - a system of swales, ditches and culverts, catchbasins, and piping to convey stormwater runoff to retention areas and stabilized discharge points.

**Driveway** - the established or traveled way leading to a particular building from the margin of a public or private road.

**Dwelling** - Any building or portion thereof designed or used exclusively as a residence or sleeping place of one (1) or more persons, including a mobile home and modular homes.

**Erosion Control** - use of reseeded, revegetation, placement of mulch, or artificial matting or rip rap, or other methods to prevent soil erosion.

**Family** - one or more persons living together as a single housekeeping unit and maintaining a common household.

**Frontage** - that part of a lot bounded by either a public or private road.

**Grading** - the leveling of land for site development purposes including construction of roads, building construction, drainage areas, and parking.

**Gross Floor Area** - the total interior floor area of a building, multiplied by the number of floors.

**Industrial Use** - the utilization of a building or of land to manufacture, process, or generate a product or good for commercial use or sale, or to store, treat, or dispose of a by-product of such an activity, including utility facilities and incinerators.

**Lot** - a parcel of land whose boundaries are established by deed or survey, and entirely owned by the same person or persons.

**Mobile Home** - manufactured housing designed with a chassis, and constructed to be towed, driven, or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling or sleeping purposes. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. The term mobile home shall not include modular homes or travel trailers.

**Mobile Home Park** - a lot consisting of five or more mobile homes and buildings or other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes other than recreation, traveling, or vacationing, and who are provided services or facilities necessary for their use of the property.

**Mobile Home Site** - a designated parcel of land in a mobile home park designated for accommodating one mobile home, its accessory buildings or structures, and accessory equipment for the exclusive use of the occupants.

**Multiple-Family Dwelling** - a building, portion of a building, or group of buildings on one lot containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

**Parking Space** - an area reserved for the parking of a motor vehicle.

**Person** - means any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

**Private Road** - a deeded, established or proposed route, other than a public road, which affords vehicular access to multiple lots.

**Public Road** - an established route for vehicular traffic which, under applicable law, constitutes a municipal, state, or federal highway.

**Road Right-of-Way** - the extreme margins of potential development of a road, as determined by deed, dedication, or other public record. In the absence of a definitive public record, a road's margins shall be deemed to be 25 feet from its centerline.

**Runoff** - surface water that flows onto, within, and/or off of the site area.

**Screening** - vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses.

**SEQR Review (State Environmental Quality Review)** - review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, Section 8-0113).

**Setback** - a minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted.

**Sign** - a name, identification, description, display, or illustration, or any other visual display, which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, which directs attention to an object, product, place, activity, person, institution, organization, industry, or business.

**Sign, Free Standing** - a sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

**Site Plan** - maps, drawings, supportive data describing the project proposal or development plan on which are shown the existing or proposed conditions of the lot.

**Structure** - anything constructed or built; or building of any kind, which requires location on the ground, or is attached to something having a location on the ground, including but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc. excepting outdoor areas, such as paved areas and walkways.

**Use, Principal** - the specific purpose for which land or a building is designed, arranged, or intended, or for which it is principally utilized.

**Utility Facilities** - Facilities owned by a governmental or private entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures.

**Waterbody** - any natural or manmade body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

**Watercourse** - a channel in which a flow of water occurs either continuously or intermittently.

**Water, Groundwater** - the water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

**Water, Surface** - water contained in streams, rivers, ponds, wet areas, lakes and other waterbodies and watercourses, or that drains across land.

**Wetlands** - any lands or water that are defined as wetlands according to the New York State Freshwater Wetlands Act, Section 24-0107(1), and are mapped pursuant to 6NYCRR 664, and filed with the State, County, or Town Clerk.

## ARTICLE C. OBJECTIVES

All land use activities requiring site plan approval shall be accompanied by a proposed site plan. In considering and acting on site plans, the Town Board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Town Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives in particular:

### 1. Vehicular Access

That proposed access points are not excessive in number, but adequate in width, grade, alignment, and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.

### 2. Circulation and Parking

That adequate off-road parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that it provides adequate separation of pedestrian and vehicular movements.

### 3. Landscaping and Screening

That the proposed development, all parking, storage, loading, and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping and method of construction of the site is in character with the surrounding areas. Consideration of aesthetics in the project design and compatibility of signs with neighboring uses.

### 4. Natural Features

That the proposed use, together with its sanitary and water services, and stormwater and drainage facilities, are adequately designed and compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas, and that existing natural scenic features are preserved to the greatest extent possible.

### 5. Manmade Features

That the proposed use will utilize appropriate and feasible measures to mitigate the adverse effects of smoke, noise, glare, dust, vibration, odors, or noxious and offensive uses.

## ARTICLE D. APPLICABILITY

### 1. Site Plan Approval

All new industrial, mobile home park, and multiple-family dwelling land use activities within the town shall require site plan review and approval before being undertaken.

### 2. Exempted Uses

The following land use activities are exempted from the requirements of this law. However, this law does not supersede, modify, or replace procedural or substantive requirements of other local, state, or federal laws or regulations which may apply to the development, or the necessity that the applicant comply with those laws and regulations and obtain all necessary permits and certificates thereunder, including those of New York State's Uniform Fire Prevention and Building Code and of the Adirondack Park Agency.

- a. All uses and activities other than industrial uses, mobile home parks, and multiple-family dwellings.
- b. Dairy farming, the raising of crops or livestock, and other agricultural pursuits.
- c. Ordinary repair or maintenance of existing structures for industrial uses, mobile home parks, and multiple-family dwellings.
- d. Exterior alterations or additions to an industrial structure or multiple-family dwelling, which will not increase the gross floor area of the existing structure by more than twenty-five percent (25%) within any five (5) year period.
- e. Interior alterations that do not substantially change the nature or use of an industrial structure, or multiple-family dwelling.

### 3. Existing Uses and Structures

This law does not apply to uses and structures that are lawfully in existence as of the date this law becomes effective. Any use that would otherwise be subject to this law, which has been discontinued for a period of two (2) years or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has started construction prior to the effective date of this law.



## **ARTICLE X. PROCEDURES**

### **1. General**

Any person, before undertaking any new land use activity at any location within the town for which this law requires site plan approval, shall submit a site plan together with appropriate supporting data to the Town Board for review and approval in accordance with the standards and procedures set forth in this law. Upon the Town Board's granting of a building permit, all conditions and restrictions imposed upon the site plan approval must be met in connection with the issuance of a building permit by the Town Board.

### **2. Application for Site Plan Approval**

To apply for site plan approval and building permit, an applicant shall complete a site plan application form and file it with the Town Clerk together with the application fee, as determined by resolution of the Town Board. The Town Clerk shall within five (5) days notify the Town Board of the date that such application was received.

### **3. Site Plan Submission Requirements**

The site plan submitted for approval and supporting documentation shall include the following information, as well as other information that may be requested by the Town Board:

- a. Title of site plan, including name and address of applicant and person responsible for preparing such drawing.
- b. North arrow, scale and date.
- c. Boundaries of property plotted to scale.
- d. Location, size and existing use of buildings on premises.
- e. Location and ownership identification of all adjacent lands as shown on the latest tax records.
- f. Location, name, and width of existing adjacent roads.
- g. Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, internal roads, reservations, and areas dedicated to public use on or adjoining the property.
- h. Grading and drainage plan, showing existing and proposed contours and water courses.
- i. Location, type of construction and exterior dimensions of all buildings and mobile home sites.
- j. Identification of the amount of gross floor area proposed for industrial facilities.
- k. Location, type of construction, and area of all parking and truck loading areas, showing access and egress.
- l. Provision for pedestrian access, including public and private sidewalks, if applicable.
- m. Location of outdoor storage, if any.

- n. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- o. Description of the method of sewage disposal and the location of such facilities.
- p. Description of the method of securing water, location of such facilities, and approximate quantity of water required.
- q. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
- r. Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas, and solar energy.
- s. Location, size, design and type of construction of all proposed permanent signs.
- t. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
- u. Location and design of existing and proposed outdoor lighting facilities.
- v. General landscaping and planting schedule.
- w. Record of applications and approval status of all necessary permits from federal, state, county and local offices.
- x. Estimated project construction schedule.
- y. Other elements integral to the proposed development as may be specified by the Town Board.

4. Specifications of Materials to be Submitted

- a. Site Plan Map: The site plan map shall be drawn at a scale of one hundred (100) feet to one inch or larger and shall show existing topography at a contour interval of not more than five (5) feet. This map shall show the site area and any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, etc.
- b. Site Plan: The site plan for the proposed development, shall be drawn to a scale of one hundred (100) feet to one inch or larger.
- c. Elevations and/or Sections: Elevations and/or sections, illustrating front, rear, and side profiles drawn to the same or larger scale as the site plan, may be required by the Town Board. The elevation and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal, including the dimensions and height of any proposed signs.
- d. Engineering Plans: The Town Board may require, as appropriate, engineering plans to illustrate and describe

such development aspects as: road improvements, drainage system, grading plan, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary.

5. Acceptance of Site Plan Application

The Town Board shall determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies.

6. Referral to Other Agencies and Boards

- a. **Coordinated Review.** The Town Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the State or County Department of Health.
- b. **County Planning Board Review.** The Town Board shall provide notice of all site plan review matters that fall within those areas specified under General Municipal Law, Article 12-B, Section 239-m to the County Planning Board as required by law. Any site plan that falls within 500 feet of the boundary of the Town; a State/County park or recreation area; a State/County highway; a State/County owned drainage channel; and State/County land where a public building or institution is located; or requires an agricultural data statement shall be referred to the Lewis County Planning Board for their recommendations thereon. The notice shall be accompanied by a full statement of the matter under consideration.
- c. **Agricultural Data Statement; Requirements.** An application for a site plan review permit that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Town Board shall consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district.
- d. **Agricultural Data Statement; Content.** An agricultural data statement shall include the following information:

the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

- e. **Agricultural Data Statement; Notice Provision.** Upon the receipt of such application by the Town Board, written notice of such application shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing said notice shall be borne by the applicant.
- f. **Environmental Review.** The Town Board shall be responsible for compliance with the State Environmental Quality Review (SEQR) Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6NYCRR, 617.

7. SEQR Compliance

The applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval.

8. Public Hearing on Site Plan

The Town Board may conduct a public hearing on the site plan. If the Town Board decides to hold a public hearing, such hearing shall be held within sixty-two (62) days of submission of the complete site plan application. A notice of such hearing shall be advertised in the town's official newspaper at least five (5) days prior, and mailed to the applicant ten (10) days prior to the hearing.

9. Town Board Action on Site Plan

Following conclusion of the SEQR review process, and within sixty-two (62) days of its receipt and acceptance of the complete application for site plan approval, or, if a public hearing is held, within sixty-two (62) days after the close of the hearing, the Town Board shall render its decision to either approve, approve with modifications, or disapprove the site plan.

- a. **Approval.** Upon approval with or without modifications of the site plan, and payment by the applicant of all fees and reimbursable costs due to the town, the Town Board

shall endorse its approval with or without modifications, on a copy of the site plan and building permit. The decision of the Town Board shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered. A copy of such decision shall be mailed by certified mail to the applicant, along with a written statement of approval with or without modifications.

- b. Disapproval. Upon disapproval of the site plan, the decision of the Town Board shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered. A copy of such decision shall be mailed by certified mail to the applicant along with a letter stating the Town Board's reasons for disapproval.

10. Extension of Time to Render Decision

The time period in which the Town Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Town Board.

## **ARTICLE F. DESIGN STANDARDS**

### **1. Lot Development Criteria**

An application for site plan approval shall not be approved unless the proposed use meets the following minimum lot development standards.

#### **a. Sewer, Water, and Public Facilities**

Sewer, water, and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, NYS Sanitary Code, and subject to any other Town requirements.

#### **b. Access/Traffic Standards**

Site plan approval shall be conditional upon the applicant obtaining any necessary approvals from the jurisdictional permitting authority, e.g. county, or town highway departments. In addition, the following access requirements shall apply:

- 1) Private roads and driveways shall be constructed and maintained so as to provide for year-round access.
- 2) Private roads and driveways shall be finished with a surface that will assure that it will be maintained free of dust and debris. Surface materials may include oil and chip, compact gravel, or blacktop.
- 3) There shall be a minimum distance of thirty-five (35) feet between proposed and existing driveways on public roads.
- 4) Driveways shall be combined wherever possible to minimize the number of access points onto public roadways.
- 5) No driveway centerline shall intersect a streetline less than seventy (70) feet from the intersection of any two (2) roadways.
- 6) Driveway grade (not more than 10%) and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.
- 7) The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing vehicles to pass one another safely.

- 8) The additional traffic generated, together with existing traffic, shall not exceed the capacity of the highway(s) that serve the development.
- 9) In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the Town Board may require the applicant to provide traffic improvements as a condition of site plan approval, or to reduce the size or density of the proposed development.

c. Parking/Loading Standards

The following off-street loading standards shall be met by the applicant unless otherwise exempted by the Town Board:

- 1) On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
- 2) Adequate off-street parking must be provided. There shall be at least two (2) parking spaces for each mobile home site within a park, and for each dwelling unit. Industrial uses shall have one (1) parking space per 1,000 square feet of gross floor area, or one (1) space per three (3) employees, whichever will require a larger number of spaces.
- 3) Minimum dimensions of parking spaces shall be eight (8) feet by eighteen (18) feet. Car loading spaces shall be at least fifteen (15) feet in width and at least twenty-five (25) feet in length, exclusive of access and turning areas. Truck loading spaces shall be at least fifteen (15) feet in width and at least sixty (60) feet in length, exclusive of access and turning areas.
- 4) Curbing may be required along frontage to delineate access points.
- 5) Where possible, parking/loading areas should be located to the sides or rear of the industry.
- 6) Any loading dock facing a road front shall be sufficiently far back from the road to enable the largest permitted tractor trailer to maneuver into said loading dock without obstructing traffic.

d. Landscaping and Screening

Landscaping and screening shall be provided as follows:

- 1) Existing vegetation shall be used to the greatest

extent possible.

- 2) Along a property line facing a residential property, a twenty (20) feet wide buffer strip of evergreen planting shall be provided to effectively screen the industrial or mobile home park use from view.
- 3) Along road frontage, a twenty (20) feet wide buffer of landscaping shall be provided where appropriate, and designed so as not to obstruct sight distance at points of access.
- 4) Where appropriate, a wall, fence, or earthen berm of location, height, and design approved by the Town Board, may be substituted for the required planting.
- 5) Where the existing topography and/or landscaping provides adequate screening, the Town Board may modify the planting and/or buffer area requirements.

e. Lighting

Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties.

- 1) The style of light and light standard should be consistent with the architectural style of the principal building.
- 2) The maximum height of free standing lights should be the same as the principal building but not exceeding twenty-five (25) feet.
- 3) Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.
- 4) Spotlight-type fixtures attached to buildings should be avoided.
- 5) Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.

f. Signs

One sign per entrance that identifies the development is



permitted and should be compatible with the general environment of the project site. Signs should conform to the following standards:

- 1) No moving parts, flashing lights or exposed neon tubing shall be allowed.
- 2) Maximum height for a free-standing entrance sign, from base elevation, shall be no greater than eight (8) feet.
- 3) Maximum area of one side or face of a sign shall not exceed thirty-two (32) square feet. Each side of a two (2) sided sign shall not exceed sixteen (16) square feet.
- 4) Maximum area of a one side or face affixed to a building shall be no greater than thirty-two (32) square feet.

g. Drainage

- 1) To the extent practicable, all development shall conform to the natural contours of the land, and pre-existing manmade drainageways shall remain undisturbed.
- 2) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
  - a. The retention results from a technique, practice, or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan.
- 3) Wherever practicable, the drainage system of a development shall be coordinated with the connections to the drainage systems or drainageways on surrounding properties or roads.
- 4) Construction specifications for drainage swales, and storm drainage shall be designed to town requirements as follows:
  - a. The natural state of watercourses, swales, or rights-of-way shall be maintained as nearly as possible. All drainage facilities shall be designed for a 20-year storm, minimum. The Town Board may require facilities sized for more intensive storms should development

conditions in the vicinity of the site warrant a greater degree of protection.

- b. Surface water runoff shall be minimized and detained on-site as long as possible and practicable to facilitate groundwater recharge.
- 5) All developments shall be constructed and maintained so that adjacent properties are not impacted by surface waters as a result of such developments. No development shall be constructed or maintained so that such development impedes the natural flow of water thereby causing damage to any adjacent properties, or unreasonably collects and channels surface water onto adjacent properties at such locations or at such volume as to cause substantial damage to such lower adjacent properties.

h. Erosion Control

- 1) An Erosion Control Plan must be submitted and approved when an activity involves one of the following:
- a. Disturbs five (5) acres or more of land.
  - b. Is to be conducted on a site which has a slope anywhere on the site that averages fifteen (15) percent or more over a horizontal distance of at least one hundred (100) feet.

For purposes of this section, disturbed land shall mean any use of the land by any person, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, wind, or ice from the site of its origin. This section shall not be construed to include the normal disturbance of the soil and its natural cover occurring in the ordinary course of agricultural use.

- 2) All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water runoff, and retain sedimentation within the development site as early as possible following disturbances.

2. Mobile Home Park Occupancy Restrictions

- a. The mobile home shall be in compliance with standards equal to or more strict than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976), and as amended. The owner or applicant is responsible for providing proof that these standards have been complied with. Acceptable proof shall exclusively include the presence of a permanent certification label affixed to the mobile home by the manufacturer indicating such compliance; or certification by a licensed architect or engineer that the construction of the mobile home is in compliance with such standards.
- b. The mobile home shall bear data relative to the structural zone and wind zone for which the home is designed; and
- c. The mobile home shall bear data relative to the heating and insulation zone and outdoor design temperature.
- d. Any mobile home which does not meet the above referenced standards shall not be permitted in a mobile home park.
- e. Mobile home skirting
  - 1) The mobile home shall be provided with a skirt immediately upon placement at its site within the park in order to screen space between the mobile home and the ground; and
  - 2) Such skirts shall be of permanent material providing a finished exterior appearance.

## ARTICLE G. GUARANTEE OF SITE IMPROVEMENTS

### 1. General

Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed.

### 2. Performance Guarantee Options

In order that the town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with these standards and/or any site plan approval modifications, the Town Board may require that the applicant enter into one of the following agreements with the town.

- a. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be 1) based on an estimate furnished by the applicant, 2) confirmed by the Building Inspector or Town Engineer, and 3) approved by the Town Board.
- b. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
- c. Provide the town with a letter of credit that is of sufficient amount to cover up to one hundred ten percent (110%) of the total cost of improvements as shown on the site plan.

### 3. Conditions

- a. The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law; and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
- b. Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.
- c. Certified checks shall be made payable to the "Town of Lyonsdale" and will be placed in an escrow account established by the town for this purpose.

- d. Letters of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.

4. Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Town Board grant he or she an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or check deposit to construct the improvements as necessary. The Town Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.

5. Schedule of Improvements

When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the check deposit or performance bond.

## **ARTICLE II. ADMINISTRATION/ENFORCEMENT**

### **1. Site Plan Compliance**

No permit or certificate of occupancy shall be issued by the Town Board, except upon authorization by and in conformity with an approved site plan.

### **2. Building Inspector**

The Town Board may appoint a Building Inspector to carry out the duties assigned by this local law. If appointed, the Building Inspector shall be responsible for the overall inspection of site improvements including coordination with the Town Board and other officials and agencies, as appropriate.

### **3. Amendments**

The Town Board may amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing pursuant to applicable requirements of the State of New York.

### **4. Further Rules and Regulations**

The Town Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

### **5. Violations and Penalties**

- a. Whenever a violation of this law occurs, the Town Board or any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Town Board who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Town Board shall issue a Violation Notice and/or Stop Work Order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time the Town shall take action to compel compliance.
- b. Pursuant to Section 150.20 (3) of the Criminal Procedure Law, the Town Board is hereby authorized to issue an appearance ticket to any person, firm, or corporation causing a violation of this law, and shall cause such person, firm, or corporation to appear before the Town Justice.
- c. Pursuant to Town Law Section 268, and as amended, any person, firm, or corporation who commits an offense

against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation.

A violation of this law shall be punishable by a fine not exceeding three hundred-fifty dollars, or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred-fifty dollars, nor more than seven hundred dollars, or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars, nor more than one thousand dollars, or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- d. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

## 6. Appeals

Any person aggrieved by any decision of the Town Board, Building Inspector, or any other officer, department, or board of the town involved with the administration and enforcement of this local law, may apply to the Supreme Court for a 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 in the office of the Town Clerk.

## 7. Waivers

The Town Board may waive, subject to appropriate conditions, the provisions of any or all standards and/or requirements herein set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards and/or requirements would cause unnecessary hardship for the applicant without achieving public benefit objectives. The Town Board must state its reasons for granting any waivers in writing and file the same

along with the site plan application and supporting documents.

8. Severability

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

9. Conflict With Other Laws

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

10. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.