

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Diana

FILED
STATE RECORDS
MAY 20 2021

Local Law No. 1

of the year 20 DEPARTMENT OF STATE

A local law to amend Local Law No. 3 of 2002 of the Town of Diana to provide for a zoning for the
(Insert Title)
Town of Diana including the Hamlet of Harrisville, and including regulations of location and
use of buildings and structures and the regulation and restriction of clutter, litter, and debris
and mobile homes and parks.

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Diana as follows:

Local Law No. 3 of the year 2002 for the Town of Diana, known as Town of Diana Zoning Law, and local laws involving use of buildings and structures, regulation and restriction of clutter, litter and debris, and regulation and restriction of mobile homes and parks.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 21 of the ~~(County)(City)(Town)(Village)~~ of Diana was duly passed by the Diana Town Board on May, 11 20 21, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20 ____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20 ____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20 ____ *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 ____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20 ____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20 ____ *(Elective Chief Executive Officer*)* Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 ____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

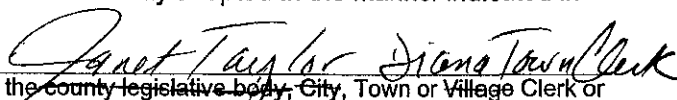
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal)

Date: May 13, 2021

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ARTICLE I. ENACTING CLAUSE; TITLE, PURPOSE

Section 110 Enacting Clause

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Diana hereby adopts and enacts the following law.

Section 120 Title

This law shall be known as "The Town of Diana Zoning Law".

Section 130 Purpose of the Zoning Law

The purpose of the Town of Diana Zoning Law is to promote and guide development in an orderly and efficient manner. This will reduce land use conflicts, promote traffic safety, enhance and protect the historical and recreational attributes of the town, retain and improve land values, encourage quality development, ensure wise use of the resources and promote the general health and welfare of the town residents. This law is designed to protect existing development while providing some control of growth so that future development will not be a detriment to the town and its residents.

This zoning law has been made with reasonable consideration, among other things, as to the character of the town and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the use of land appropriately throughout the Town of Diana.

Low density development, scenic views, clean air and water, extensive forest lands, open space and outdoor recreation opportunities all contribute to the unique rural character of the town. Orderly and responsible development of the town will help preserve these attributes and help assure the unique community vitality of the Town of Diana.

Section 140 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.

ARTICLE II. DEFINITIONS

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

Accessory Structure- a subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such structure shall be considered part of the main structure. This shall include but not be limited to garages, storage sheds, satellite dishes, or similar structures.

Accessory Use- a use incidental and subordinate to the principal use and located on the same lot with such principal use.

Agricultural Use- a use which is directly related to the raising of livestock, or the growing of crops for the sale of agricultural produce, including farm structures, storage of agricultural equipment, horticultural and fruit operations, riding and boarding stables, and the like, or other commonly accepted agricultural operations, and as an accessory use the sale of agricultural or forest products raised on the property.

Antenna- any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

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

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.

Campgrounds - land on which are located five (5) or more cabins, tent sites, campsites, shelters, or other accommodations suitable for seasonal or temporary living purposes, for rent, lease, or for the purpose of financial gain by the owner excluding mobile homes, and travel trailers subject to the Town of Diana mobile home and travel trailer ordinance.

Commercial Use- This shall include but not be limited to the following; all wholesale and retail sales and services, and also 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; agricultural uses; business or institutions providing overnight accommodations institutional residences, care or confinement facilities; tree nurseries, storage and parking facilities, laundromats, restaurants, retail gasoline outlets, animal hospitals, airports,

essential facilities, slaughterhouses, motor vehicle repair/paint shops, campgrounds, and warehouses.

Composting Facility - a solid waste management facility used to provide aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

Construction and Demolition Debris - solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; such as wood (including painted, treated and coated wood and wood products), wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above.

Construction and Demolition Debris Processing Facility - a processing facility that receives and processes construction and demolition debris by any means excluding land filling or incineration.

Drainage - a system of swales, ditches and culverts, catchbasins, and piping to convey storm water 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 - building or part thereof used as living quarters for one family. The terms "dwelling", "one family dwelling", "two family dwelling", or "multiple-family dwelling" shall not include a motel, hotel, boarding house, tourist home or similar activity.

Enforcement Officer - an individual designated by resolution of the Town Board to assume, undertake, and exercise the duties and responsibilities reposed with that office by the provisions of this law.

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

Essential Facilities - the operation or maintenance by municipal agencies or public/private utilities of telephone dial equipment centers; electrical or gas substations; water treatment; water, gas, and electric storage and transmission facilities and lines; pumping stations; power generation facilities; and similar facilities, operated or maintained by municipal agencies or public/private utilities.

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.

Home Occupation - a commercial or industrial use conducted on the property within a dwelling, mobile home, or accessory structure in accordance with the provisions of Section 310 of this law.

Incinerator - an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

Industrial Use, Heavy - any facility or site which manufactures, assembles, fabricates, stores processes or packages products from raw materials or component parts which may result in the generation of hazardous waste or pollutants regulated by State and Federal Laws or Regulations in an amount considered significant by the Town Board.

Industrial Use, Light - a facility or site which manufactures, assembles, fabricates, stores, processes or packages a product for wholesale or retail sale, from raw materials or component parts, which does not result in production of significant hazardous waste or pollutants regulated by New York State or Federal Laws or Regulations.

Junk Vehicles, Junkyards, Junkyard Items - are as defined by County of Lewis Junkyard Law, Local Law No. 5 of 1987, as amended, and are incorporated in this Local Law by this reference.

Land Application Facility - a site where septage, food processing waste, sewage sludge or other similar organic waste material is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients.

Land Clearing Debris - vegetative matter, soil and rock resulting from activities such as land clearing and grubbing, utility line maintenance or seasonal or storm-related cleanup such as trees, stumps, brush and leaves and including wood chips generated from these materials. Land clearing debris does not include yard waste which has been collected at the curbside.

Land Filling - the use of uncontaminated land clearing debris, bricks, concrete, other masonry material, soil and rock for grading and fill to establish level ground surfaces.

Landfill - land or a facility or part of one where solid waste or its residue after treatment is intentionally placed, and at which solid waste will remain after closure, excluding a land application facility, and injection wells.

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

Mobile Home - a residential or commercial structure or vehicle originally designed, built, constructed or manufactured to be conveyed upon highways or streets, whether the same is situated or located upon wheels, jacks, foundations (temporary or permanent), slabs or otherwise, and/or whether or not added to or made a part of another building or structure. A sectional prefabricated modular dwelling shall not be considered a mobile home.

Mobile Home Park - any parcel of land which has been planned or improved for the placement of mobile homes for non-transient use, and consisting of three (3) or more mobile home sites.

Mobile Home Site - a parcel of land in a mobile home park which is equipped with the necessary utilities and improvements for the placement thereon of a single mobile home.

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

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

Power Generation Facility- facilities at which wind energy, fossil fuels, water energy or other energy source is converted to another form of energy, such as thermal, electrical, or mechanical, protected from dissipation and distributed to a user or users. Facilities designed for on-site use shall be considered accessory structures to the principle use, and subject to the same review or approval requirements for the principle use, either exempt, requiring site review or special use permit.

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 municipal, state, or federal highway.

Recyclable - solid waste that exhibits the potential to be used repeatedly.

Recycling Facility - a solid waste processing facility, other than collection and transfer vehicles, at which non-putrescible recyclables are separated from the solid waste stream or at which previously separated non-putrescible recyclables are processed.

Regulated Medical Waste - regulated medical waste defined in 6NYCRR Part 360 Solid Waste Management Facilities Title 6 of The Official Compilation of Codes, Rules and Regulations, effective November 26, 1996, and as amended.

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).

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.

Solid Waste - all putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard, or rejection, including but not limited to garbage, refuse, industrial commercial and medical waste, sludges from air or water control facilities and paper mills, rubbish, ashes, incinerator residue, demolition and construction debris, and offal but not including sewage, septage and other diluted water carried materials or substances and those in gaseous form.

Solid Waste Management Facility - any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to: storage areas or facilities; transfer stations; rail-haul facilities; landfills; disposal facilities; solid waste incinerators; refuse-derived fuel processing facilities; pyrolysis facilities; construction and demolition debris processing facilities; land application facilities; composting facilities; surface impoundments; used oil storage, reprocessing, and re-refining facilities; recyclables handling and recovery facilities; waste tire storage facilities and regulated medical waste processing facilities. The term includes all structures, appurtenances, and improvements on the land used for the management or disposal of solid waste.

Special Use Permit - a permit for a use which must be approved by the Town Board granting permission to issue a zoning permit.

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.

Telecommunication Tower - a structure on which transmitting and/or receiving antennae are located.

Transfer Station - a solid waste management facility other than a recycling facility, used oil collection center, or a construction and demolition debris processing facility, where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for further processing, treating, transfer or disposal.

Travel Trailer - a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, or vacation uses. Its body design shall not exceed eight (8) feet in width or, when attached to its carrier vehicle, the combination shall not exceed fifty-five (55) feet in length.

Travel Trailer Park - a parcel of land which has been planned or improved for the placement of travel trailers, consisting of three (3) or more travel trailer sites.

Travel Trailer Site - a parcel of land within a travel trailer park which has been equipped with the necessary utilities and improvements for the temporary placement thereon of a single travel trailer.

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

Use, Temporary - an activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

Used Oil Collection Center - any site or facility that accepts, aggregates and/or stores used oil collected from commercial, service or retail establishments and do-it-yourself oil changers, who bring used oil to the collection center in shipments of no more than 55 gallons.

Waste Tire - any tire that is no longer being used for its intended purpose. This shall include tire casings separated for retreading and tires with sufficient tread for resale except when stored indoors at a bona fide commercial establishment.

Waste Tire Storage Facility - a site on which 1,000 or more waste tires are stored, placed, piled, or otherwise located except when used as part of an agricultural operation.

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 water bodies and watercourses, or that drains across land.

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

Zoning Permit - a permit issued under this law by the Town Board or enforcement officer, allowing the alteration, or construction of any building or structure which requires site plan review.

ARTICLE III. APPLICABILITY

Section 210 Type of Zone

For the purpose of this law, the Town of Diana is hereby designated as one zone, which shall be designated as Rural Residential.

Section 220 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 there under, including those of New York State's Uniform Fire Prevention and Building Code, and no use prohibited by any other law shall be deemed allowable by virtue of this section.

- a. All uses and activities other than commercial and industrial uses, certain solid waste management facilities other than those described in Subsection g. below, campgrounds, and uses specifically regulated in this law.
- b. Home occupations except as described below in Section 230.
- c. Dairy farming, the raising of crops or livestock, and other agricultural pursuits including maple syrup production with construction value of less than one million dollars.
- d. Ordinary repair or maintenance of existing structures for commercial and industrial uses, and campgrounds.
- e. Exterior alterations or additions to a commercial or industrial structure, 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.
- f. Interior alterations that do not substantially change the nature or use of a commercial or industrial structure.
- g. The following solid waste management facilities and activities:
 1. Disposal areas and/or burning of solid waste located within the property boundaries of a single family residence or farm for solid waste generated from that residence or farm.
 2. Disposal areas for waste pesticides by the farmer who used them if the farmer complies with Title 6 of the New York State codes, rules and regulations.

3. Solid waste from nonhazardous inactive landfills which has been excavated as part of a construction project and is being returned to the same excavation or other excavation containing similar solid waste or otherwise relocated within the landfill's existing footprint.
 4. Disposal areas under the jurisdiction of government agencies for animals that are killed on local roads and State and County highways.
 5. Land application facilities.
 6. Used oil collection centers.
 7. Land filling of uncontaminated materials including land clearing debris; bricks, concrete, other masonry material, soil and rock.
 8. Temporary transfer, storage, treatment, incinerator and processing facilities located on site and used exclusively for the management of solid waste generated at that location or at a location under the same ownership.
- h. Junkyards.
 - i. Mobile home parks and travel trailer parks subject to the Town of Diana Mobile Home and Travel Trailer Ordinance.
 - j. Telecommunication towers and antennas less than 60' in height which are accessory to residential, commercial and industrial uses shall be exempt from this law.

Section 230 Uses Requiring Site Plan Review

All new commercial, industrial uses, and communications towers within the town which have not been substantially constructed by the effective date of this law, and exterior alterations or additions to a commercial or industrial structure, [except as noted in Section 220] shall require site plan review and approval before being undertaken. This shall also include home occupations that:

- a. Generate significant traffic, parking, sewage, water use, or noise in excess of what is normal for a residential dwelling; and/or
- b. Create a hazard to person or property, results in electrical interference, or becomes a nuisance; and/or
- c. Result in the significant outward change in appearance of the residential dwelling or accessory structure that is not typical of a residential use; and/or
- d. Exceed 4 full time equivalent employees in addition to members of the family residing in the household. (Full time equivalent shall mean 40 hrs./week.)

Certain uses shall also require a special use permit as described in Section 240.

Section 240 Uses Requiring Special Use Permit

The following uses, which have not been substantially constructed by the effective date of this law, shall require a special use permit before being undertaken:

1. Transfer stations designed and permitted by NYSDEC to handle less than 400 tons/year of solid waste.
2. Recycling facilities
3. Industrial use (heavy)
4. Telecommunication tower and antennas
5. Commercial, industrial, and agricultural uses with a construction value of one million dollars or more.
6. Any use that would have the potential of generating an A-weighted sound level (dBA) of 90 decibels on a regular basis at the closes property line.
7. All solid waste management facilities not exempt under Section 220 or prohibited under Section 250 of this law, including but not limited to, composting facilities, waste tire storage facilities, construction and demolition debris processing facilities, and petroleum contaminated soil processing facilities.

Section 250 Prohibited Uses

The following uses are hereby prohibited from being newly sited, newly constructed, or transferred to another location within the Town of Diana except as exempted in Section 220:

1. Solid waste landfills.
2. Construction and demolition debris landfills.
3. Incinerators, except when located on the site of, and accessory to, a commercial, industrial, or licensed health care facility.
4. Regulated medical waste landfill.
5. Transfer stations designed and permitted by the N.Y. State DEC to handle more than 400 tons/year of solid waste.

ARTICLE IV. 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, 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:

Section 310 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.

Section 320 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.

Section 330 Landscaping and Screening

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

Section 340 Natural Features

That the proposed use, together with its sanitary and water services, and storm water 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.

Section 350 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 V. PROCEDURES

Section 410 General

Any person, before undertaking any new land use activity at any location within the town for which this law requires site plan review, 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 approval and granting of a zoning permit, all conditions and restrictions imposed upon the site plan approval must be met in connection with the issuance of a certificate of occupancy by the Town Board. The Town Board may waive, subject to appropriate conditions, portions of the requirements herein set forth if they are deemed to be unnecessary by the Town Board in accordance with Section 955 of this law.

Section 420 Application for Site Plan Review

To apply for site plan review and zoning 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 notify the Town Board of the date that such application was received.

Section 430 Site Plan Submission Requirements

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

- 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 commercial/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.

Section 440 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. Existing topography at a contour interval of not more than five (5) feet may be required by the Town Board. 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 smaller/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.

Section 450 Acceptance of Site Plan Review 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.

Section 460 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.

Section 470 SEQR Compliance

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 with regard to site plan approval and issuance of special use permits. The applicant shall demonstrate compliance for any other actions subject to SEQR prior to site plan approval.

Section 480 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 review application. A notice of such hearing shall be advertised in a newspaper in general circulation in the town at least five (5) days prior, and mailed to the applicant ten (10) days prior to the hearing.

A public hearing shall be held in any one of the following circumstances:

- 1) The use requires a special use permit according to Section 240 of this law.
- 2) The use is a Type I SEQR action and the use is determined by the Town Board to have environmental significance;
- 3) The use includes over 20,000 square feet of gross floor area;
- 4) The use is over 60 feet in height;
- 5) The use is determined by the Town Board to be of a publicly controversial nature.
- 6) The applicant has requested a public hearing.

Section 490 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 review and zoning 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 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 to the applicant along with a letter stating the Town Board's reasons for disapproval.

Section 495 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 VI. SPECIAL USE PERMITS

Section 510 Authority

The Town Board shall review and approve, approve with modifications or disapprove special use permits pursuant to Town Law§ 274-b and in accordance with the standards and procedures set forth in this law.

Section 520 Applicability

All uses designated as requiring a special use permit shall have a special use permit and a site plan approved by the Town Board prior to the issuance of a zoning permit by the Town Board or enforcement officer.

Section 530 Considerations

- a. In considering and acting on special use permits, the Town Board shall consider the public health, safety, welfare and comfort and convenience of the public in general, the residents of proposed developments and the residents of the immediate surrounding area.
- b. The Town Board may disapprove the issuance of a special use permit or 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:
 - 1) Compatibility: that the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the Master/Comprehensive plan for the community.
 - 2) Utilities and services: that the utilities and services for the proposed use, including water supply, sewage disposal, drainage facilities and road facilities, and any other utilities and services are adequate for the intended level of use.
 - 3) Other requirements: that the proposed use complies with all requirements for special permitted uses as specified in Article VI of this law and any other special requirements as may be set forth for the use in this law.
 - 4) Natural features: that the proposed use, is 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.

Section 540 Application and Review Procedure

All applications for special use permits shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews as provided in Article IV of this law.

ARTICLE VII. SPECIAL USE PERMIT ADDITIONAL REQUIREMENTS

Section 605 General Requirements

The following uses shall meet the requirements as specified in this Article and all other relevant articles of this law before final consideration by the Town Board. Any pre-established special use permit requirements may be waived by the Town Board, where the requirements are found not to be requisite in the interest of the public health safety, or general welfare or inappropriate to a particular special use.

Section 610 Telecommunication Towers

- a. The applicant shall provide documentation on the proposed intent and capacity of use, as well as justification for the height of any tower or antenna(e) and justification for any land or vegetation clearing required.
- b. The applicant shall provide a complete Visual Environmental Assessment Form (Visual EAF) and a landscaping plan which incorporates the standards of this law with particular attention given to visibility from key view points within and outside of the Town as identified in the (Visual EAF).
- c. **Shared Use** (i) At all times, shared use of existing towers shall be preferred to the construction of new towers. Where shared use is unavailable, location of antenna on pre-existing structures shall be the next alternative considered. An applicant shall be required to present a report inventorying existing towers within the Town and within one (1) mile of the Town regardless of ownership. The applicant shall outline opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. By way of illustration, existing structures, as referred to in these regulations governing the siting of telecommunication towers and antennas, shall include but not be limited to signs, church spires, belfries, cupolas, domes, monuments, water towers, preexisting tower structures, windmills, chimneys, smokestacks, buildings, utility towers, clock towers, silos, barns or other agricultural buildings, steeples, radio or television towers and commercial parking lot light poles.
 - (ii) An application intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use.
 - (iii) In case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towners. Written requests and responses for shared use shall be provided. The applicant shall also document

capacity for co-location (use) by at least three (3) providers who may share use of the proposed tower in the future. The applicant shall provide cost and criteria under which co-location will be permitted. The tower shall be designed to allow free access and use by emergency management agencies and organization designated by the Town.

- d. **Dimension Requirements** - Towers and antennae shall comply with all yard and lot dimension requirements as required by the Town Board. Towers shall not be located closer than 200 feet to the nearest residential property line. In all other cases, towers shall be set back from adjoining properties a distance equal to at least the height of such tower. Additional yard dimensions may be required by the Town Board to substantially contain on-site, all ice- fall, or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Yard dimension requirements shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- e. **Visibility** (i) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment
 - ii) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish, painted gray or painted a natural color above the surrounding tree line unless other standards are required by the FAA. Whenever feasible, tower construction shall be of "monopole" design. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Painting shall be preferable to lighting. If lighting is required, the lighting alternatives and design shall be of the minimum mandated by the FAA.
 - (iii) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- f. **Existing Vegetation** - Existing on-site vegetation shall be preserved to the maximum extent possible, maintained and replaced as needed, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be subject to Town Board approval.
- g. **Screening** - Deciduous or evergreen tree plantings shall be required to screen portions of the tower from nearby residential property, as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees forming a continuous hedge at least three feet in height shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil

conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm. Fencing may be required by the Town Board for screening and/or security purposes.

- h. **Access and Parking** - A road and parking for two vehicles shall be provided to assure adequate emergency and service access. Road construction shall be consistent with standards for private roads. Road construction shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of the travel surface. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.
- i. **Signs** - Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities except signs displaying owner contact information and safety instructions. Such signs shall not exceed five (5) square feet in surface area.
- j. **Utility Connections** - All utility connections to commercial mobile service facilities shall be installed beneath the ground surface.
- k. The operator of any telecommunication tower facility sited within the Town of Diana shall submit certification every five years from the date of operation, signed by a New York State licensed professional engineer verifying that such facility is in compliance with all applicable federal, state, and local radio frequency radiation (rfr) emission standards. Such certification shall be delivered to the Town Clerk during the month of December of the appropriate year. This requirement shall be considered an implied condition to any special permit and/or use variance granted for such facilities.
- l. **Tower Inspections** - Towers shall be inspected every five years from the date of operation, on behalf of the tower owner by a licensed professional engineer, for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk no later than December 31 of the appropriate year. This requirement shall be considered an implied condition to any special permit and/or use variance granted for such facility.
- m. **Maintenance and Repair** - All telecommunication towers and facilities shall be maintained in good order and repair.
- n. **Removal of Unused Towers, Demolition Bond** - An applicant for a Special Permit to construct a communications tower shall agree to remove such tower and related facilities if it becomes obsolete or ceases to be used for its intended purpose for a period of twelve consecutive (12) months. If there are two or more users of a single tower, then this provision shall not become effective until all

users cease using the tower. The Town Board shall require the applicant to provide a demolition bond or other security acceptable to the Town, for the purpose of removing such facilities in case the applicant fails to do so.

- o. **Additional Submission Requirements** - (i) A report from a licensed professional engineer which describes the tower, including its height and design, demonstrates the tower's compliance with applicable structural standards and describes the tower's capacity, including the number and types of antennas it can accommodate.

- (ii) The site plan shall show distances between the proposed tower structure and structures on adjoining properties within one thousand (1,000) feet, together with the names and addresses of all property owners within one thousand (1,000) feet of the boundary of the property on which the tower is proposed.

- (iii) A drawing of the proposed tower, including any proposed attachments, accessory equipment, cabinets or other items used in connection therewith. The make and model of the planned facility and the manufacturer's design data pertaining to installation shall also be provided.

- (iv) The applicant's maintenance and inspection schedule.

- (v) Identification of the effects such facility will have on other existing communication facilities in the vicinity. A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.

ARTICLE VIII. DESIGN STANDARDS

Section 710 Lot Development Criteria

An application for site plan review shall not be approved unless the proposed use meets the following minimum development standards. Such standards may be waived, modified, and/or additional conditions imposed by the Town Board on a case-by-case basis, where circumstances warrant, to protect the health, safety, and general welfare of the public.

- 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 except when proposed for seasonal uses.
- 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 commercially applied "oil and stone", 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 street line less than seventy (70) feet from the intersection of any two (2) roadways.
- 6) Driveway grade 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 may be required by the Town Board in appropriate circumstances

- 1) On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
- 2) Adequate off-street parking must be provided. Commercial/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 commercial/industrial, or campground 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) Maximum height for a free-standing entrance sign, from base elevation, shall be no greater than thirty-two (32) feet.
- 2) Maximum area of one side or face of a sign shall not exceed forty (40) square feet.
- 3) Maximum area of a one side or face affixed to a building shall be no greater than forty-eight (48) square feet.

g. Drainage

- 1) To the extent practicable, all development shall conform to the natural contours of the land, and pre-existing manmade drainage ways 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 natural wetland on site, or a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water runoff control plan.
- 3) Wherever practicable, the drainage system of a development shall be coordinated with the connections to the drainage systems or drainage ways 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 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 practical 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.
 - c. The activity will occur within 500 feet of a stream, river or lake.

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 measure 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.

ARTICLE IX. GUARANTEE OF SITE IMPROVEMENTS

Section 810 General

Subsequent to the granting of site plan approval or a special use permit, 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. The Town Board shall have sole discretion under what conditions, and whether, a performance guarantee shall be required.

Section 820 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.
- 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.

Section 830 Conditions

- a. Any such bond, certified check, or letter(s) of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and/or surety, and duly notarized.

Section 840 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 him or her 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 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.

Section 850 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 X. ADMINISTRATION/ENFORCEMENT

Section 910 Site Plan Compliance

No zoning permit, special use permit or certificate of occupancy shall be issued by the Town Board, except upon authorization and determination of the Town Board that construction is in conformity with an approved site plan.

Section 915 Enforcement Officer

- a. The Town Board may appoint an Enforcement Officer to carry out the duties assigned by this local law. If appointed, the Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Town Board and other officials and agencies, as appropriate
- b. The Enforcement Officer's authorities shall include:
 - 1) Issue zoning permits and certificates of occupancy.
 - 2) Refer appropriate matters to the Zoning Board of Appeals, or Town Board.
 - 3) Revoke permits and certificates of occupancy where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application.
 - 4) Issue stop work orders and appearance tickets and refer violations.

Section 920 Permit Expiration

A zoning permit issued under this law shall expire five (5) years from the date of issue if construction is not substantially started. Such permits may be renewed on a yearly basis.

Section 925 Existing Uses and Structures

Any use that would otherwise be subject to this law, which has been discontinued for a period of five (5) 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 been substantially constructed prior to the effective date of this law.

Section 930 Temporary Permits

Temporary permits may be issued upon approval by the Town Board (as meeting the intent and purpose of this law) for a period not exceeding one (1) year. Such temporary permits are conditioned upon agreement by the owner or operator to remove any equipment upon expiration of the temporary permit or to bring the use into compliance by a specified time. Such permits may be renewed upon approval of the Town Board.

Section 935 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.

Section 940 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.

Section 945 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.

Section 950 Appeals

- a. Creation, Appointment, and Organization: A Zoning Board of Appeals is hereby created. Said Board shall consist of three (3) members. The Town Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Town Law, and appoint a Chairman. The Board of Appeals shall select the Secretary and Vice-Chairman, and shall prescribe rules for the conduct of its affairs.
- b. Powers and Duties: The Board of Appeals shall have all the power and duties prescribed by Section 267 and 267-b as amended of the Town Law, and in particular the following:
 - 1) Interpretation: Upon appeal, from a decision, by an administrative official or citizen to decide any question involving the interpretation of any provision of this law.
- c. Procedure: The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the town. Every appeal or application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought, or the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be. A hearing shall be held for all variance actions in conformance with the requirements of Town Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying the permit. The reasons for the action shall be set forth in the

minutes of the Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public and records thereof shall be filed with the Town Clerk.

Section 955 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. Under no circumstances may the Town Board waive statutory requirements or procedures including, but not limited to, those related to permits required, public hearings, SEQR, County Planning Board review, etc.

Section 960 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.

ZONING FOR THE
HAMLET OF HARRISVILLE

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ARTICLE I. DEFINITIONS

Except where specifically defined herein, all words used in this local law shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended"; arranged, or designed to be used or "occupied"; "person", included individual, partnership, association, corporation, company or organization. Doubt as to the precise meaning of any word used in this local law shall be clarified by the Board of Appeals Under its power of interpretation.

Accessory Structure:	A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.
Accessory Use:	A use incidental and subordinate to the principal use and located on the same lot with the principal use.
Adjacent:	With reference to the location of a parking facility, land located across an alley, easement, street or highway from the building incidental to which such space for vehicle storage or off-street parking facility is required.
Area (of a Sign):	The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, as included within the definition of a sign, together with the frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On Signs with more than one face, only that face or faces visible from any one direction at one time will be counted.
Building:	Shelter having a roof supported by column or walls and intended for shelter or enclosure of persons, animals, or property.
Campground/Travel Trailer Park:	A parcel of land used or intended to be used, let or rented for occupancy by two (2) or more cabins, travel trailers, tents, shelters, or other accommodation suitable for seasonal or temporary living purposes, excluding mobile homes.
Child Care Center or Day Care Center:	Building or portion thereof, used for purposes of providing day care services for six (6) or more children.

Commercial Use:	Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee.
Coverage:	That percentage of the lot area or plot covered by the structure(s).
Dwelling Unit:	Building or part thereof used as living quarters for one family. The terms "dwelling", "one family dwelling", "two family dwelling", "three family dwelling", or "multiple-family dwelling" shall not include a motel, hotel, boarding house, tourist home, mobile home or similar structure."
Dwelling, One Family:	Detached building designed for or occupied exclusively by one (1) family.
Dwelling, Two Family:	Building designed for, or occupied by two (2) families living independently of each other.
Dwelling, Multiple Family:	A building designed for, or occupied by three (3) or more families living independently of each other.
Essential Services:	Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.
Family:	One (1) or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.
Front Lot Line:	The property line separating a plot or parcel of property from a public street or highway. If a lot adjoins two (2) or more streets or highways, it shall be deemed to have a front lot line respectively on each.
General Plan:	A comprehensive or master plan for the development of the Town.
Gross Floor Area (GFA):	The gross size of the total floor area of the outside dimensions of a building. These dimensions shall include the length, width of the facility.
Gross Leasable Area (GLA):	The gross size of the floor area of a commercial/retail facility which is leased.

Home Occupation:	A nonresidential activity conducted within a dwelling unit or mobile home by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof.
Industrial Use:	Any manufacturing; production or assembly of any goods or materials, including any on-site waste disposal area directly associated with an industrial use. Also includes mineral extraction, private and commercial sand and gravel extraction, and sawmills and other wood processing facilities.
Lot:	A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recording and is occupied or designed to be occupied by one (1) building and the accessory buildings or uses customarily incident to it.
Lot Frontage:	The distance between the boundaries of a lot measured at their points of intersection with the street right of way line.
Lot Line:	Property lines bounding a lot.
Lot of Record:	Any lot which individually or as a part of a subdivision has been recorded in the County Clerk's office and for which proof can be given that the lot was intended for development prior to adoption of this law.
Mobile Home:	Manufactured housing with or without a foundation, designed with a chassis and constructed to be towed, driven, or otherwise transported in whole or in part to a site, and which is designed to permit occupancy for dwelling or sleeping purposes. The term mobile home shall not include modular homes or travel trailers:
Mobile Home, Double Wide:	Manufactured housing built on a chassis bearing a seal issued by the Federal Department of Housing and Urban Development. A double-wide home is manufactured in two or more sections off-site and transported individually to the placement site and assembled there.
Modular Home:	Manufactured housing bearing the insignia of approval issued by the State of New York.
New Use:	Any construction or other activity which changes the Use of the land or a structure or the intensity of use of land or a structure; including but not limited to new structures, expansions to existing structures, new uses, changes in or expansions to existing uses, and excavation for the purpose of extracting soil or mineral deposits.

Nonconforming Use:	A lot, building, structure, or use of land legally and substantially existing at the time of enactment of this law which does not conform to the regulations of the district in which it is situated.
Off-Street Parking Facility:	A space for temporary parking of motor vehicles off the public street right-of-way.
Principal Buildings or Structures:	Any buildings or structures associated with the principal use of the property which are not accessory structures.
Professional Office:	A building consisting of the office of a practitioner of a recognized profession such as medical, dentist, legal, optometrist, real estate agent, photographer, or similar profession, but not including personal services.
Public and Semi-Public:	Any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use: - A Religious Institutions B. Public parks, playgrounds and recreational areas when authorized of operated by a governmental authority. C. Schools D. Public Libraries E. Not-for-profit fire, ambulance and public safety buildings.
Rear Lot Line:	That lot line which is opposite and most distant from front lot line.
Religious Institution:	Includes church, temple, parish house, convent, seminary and retreat house.
School:	Includes parochial, private, public and nursery school, college, university, and accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music and similar establishments.
Side Lot Line:	A lot line not a front lot line or a rear lot line.
Sign:	Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge, or insights of any public, quasi-public, civic, charitable, or religious groups.
Street:	Public way for vehicular traffic which affords the principal means of access to abutting properties.

Structure:	Any object constructed, installed, or fixed on the ground to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, satellite dishes, tanks, and any fixtures, additions, and alterations thereto. The word fences shall not be included in the definition of structure.
Use, Special:	A use requiring special use review by the Town Board of Trustees prior to the issuance of a special permit.
Use, Permitted:	A use not requiring Town Board review, but requiring a zoning permit issued by the Zoning Officer.
Use, Temporary:	An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work, and seasonal produce stands.
Variance:	A variance is any departure from the strict letter of this law granted by the Zoning Board as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.
Zoning Certificate of Occupancy:	A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this code.
Zoning Officer:	A person appointed by the County to carry out the regulations of this law.
Zoning Permit:	A document issued by the Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this law.

ARTICLE II. ZONING DISTRICTS

Section 2.1 Establishment of Districts

Harrisville is hereby divided into the following zoning districts:

Rural Residential
Mixed Use (MU)
Central

Section 2.2 Zoning Map

The zoning districts are shown, defined and bonded on the map accompanying this law entitled "Hamlet Zoning Map," dated May 11, 2021. The hamlet zoning map is hereby made a part of this law, and shall be on file in the office of the Town Clerk.

Section 2.3 Interpretation of Zone Boundaries on Zoning Map

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the Zoning Map, the following rules shall apply;

- A. Where the designation on the Zoning Map indicates a boundary approximately upon a street line, such line shall be construed to be the boundary.
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
- C. Where a zone boundary line divides a lot of record at the time such line is adopted, the use authorized on, and the zone requirements of the least restricted portion of such lot shall be understood as extending to the entire lot.
- D. In the event that a mete-and-bound description has been filed for a change of zone or variance of use as required by this law, such mete-and-bound descriptions shall be used in lieu of other provisions of this section.
- E. Further questions concerning the exact location of the district boundary lines as shown on the hamlet zoning map shall be resolved by the zoning board of appeals.

Section 2.4 Permitted Uses

The following schedule sets forth the permitted uses, and uses not permitted, within each zoning district:

	<u>Rural Residential Zone</u>	<u>Mixed Use Zone</u>
One or two family dwelling	X	X
Multiple family dwelling	C	C
Modular home	X	X
Mobile home	X	X
Mobile home Double Wide	X	X
Mobile home park	C	C
Commercial Use	-	C
Industrial Use	-	C
Home occupation	X	X
Child care center	C	C
Professional office	C	C
Public or semi-public facilities	C	C
Essential services	C	C

Signs (see Section 4)

"X" indicates that a use shall be permitted.

"C" indicates a special use, which shall only be permitted upon issuance of a special permit by the town board.

"-" A dash indicates that the use is not permitted.

ARTICLE III. REGULATIONS

Section 3.1 Setbacks

All buildings or structures shall comply with the following setback requirements, except that no setback requirements shall apply within the “central area” as shown on the Zoning Map.

	<u>Accessory Structures</u>	<u>Principal Buildings</u>
A. Minimum distance to side and rear lot lines	10 feet	25 feet
B. Minimum distance to center line of a State highway	50 feet	60 feet
C. Minimum distance to center line of all other public streets and roads	40 feet	50 feet

3.11 Porches, Carports, and Other Additions

In determining setbacks, all building additions which are roofed and attached to the principal building, including porches and carports, shall be considered part of the principal building and shall comply with the setbacks for principal buildings.

Section 3.2 Minimum Lot Area and Coverage

All new uses specified below shall comply with the following minimum lot areas and maximum lot coverage:

	<u>Minimum Lot Area</u>	<u>Maximum Lot Coverage</u>
A. One family dwelling, mobile home/modular home, and accessory uses/structure	10,000 Sq. Ft.	
B. Two family dwelling and accessory uses/structures	12,000 Sq. Ft.	
C. Multiple family dwelling and accessory uses/structures	20,000 Sq. Ft.	(40%)
D. Commercial use/nonresidential uses*	15,000 Sq. Ft.	(50%)

* Except that no minimum lot area, lot coverage, or setback requirements shall apply to essential services, or within the “central area” as shown on the zoning map.

Section 3.3 Driveways and Intersections With Public Streets

All driveways and entrances and exits to public streets shall be designed to provide maximum safety and proper drainage. Any culverts, ditches or other drainage facilities shall be approved by the Town Superintendent or his designee.

All new entrances and exits to state highways are subject to permit requirements of the New York State Department of Transportation.

Section 3.4 Water and Sewage

3.41 Sewage Disposal

All individual household on-site sewage disposal systems shall also comply with Town standards and Department of Health requirements. All non-individual systems shall comply with all applicable Department of Health standards.

3.42 Water Supply

AH connections to the Town water system shall be approved by the Town Highway Superintendent pursuant to public water regulations.

Section 3.5 Signs

3.51 General

No Sign shall be permitted which:

- A. obscures visibility so as to impair traffic safety on public streets or roads
- B. exceeds twenty (20) feet in height
- C. exceeds eighty (80) square feet in area

3.52 Residential Districts

In Rural Residential Districts only the following signs shall be permitted:

- A. "For Rent" and "For Sale" signs, not exceeding six square feet.
- B. Signs identifying any non-residential building or use within residential districts, not exceeding twenty (20) square feet, are mounted flush to the building where the advertised activity is being conducted and do not exceed twelve (12) feet in height.
- C. Directional or information sign; not exceeding four square feet.
- D. Signs necessary for public safety or welfare.

Section 3.6 Parking

3.61 General

- A. All uses shall be provided with off-street parking for all vehicles during typical peak use periods. Off-street parking may be located off-site but must be within 300 feet of the site. However the Town Board may waive the location requirement where circumstances Warrant.
- B. A parking space shall not be less than nine (9) feet by twenty (20) feet exclusive of access ways and driveways.
- C. Existing uses need not provide additional off-street parking unless one or more of the following conditions occur:
 - 1. The use changes;
 - 2. The use expands its gross floor area by thirty (30) percent or more or if the dollar value of the rehabilitation of the facility for purposes of expansion exceeds fifty (50) percent of the value of the facility.
- D. To the greatest extent possible all parking areas shall be located behind the facility served and out of streetside view. Where parking areas must be located in front of a facility adjacent to a public highway, appropriate landscaping or visual barriers shall be provided.
- E. To the greatest extent possible the size of all parking areas other than those for dwelling units and dwelling units with a home occupation shall be based on gross leasable area. Where gross leasable area figures are unavailable, gross floor area figures shall be used.

3.62 Minimum Parking Standards

- A. One (1) space per dwelling unit
- B. Dwelling unit with a home occupation: Adequate space to accommodate all vehicles during typical peak use periods.
- C. Professional offices/personal services 1 space/200 square feet GLA
- D. Commercial, Retail 1 space/200 square feet GLA
- E. Facilities with Drive Up-Service windows

Three twenty (20) feet car length waiting spaces for each drive up lane. Where multiple drive up windows exist there shall be one additional waiting space which shall be a common lane.

F. Public and Semi-public Facilities

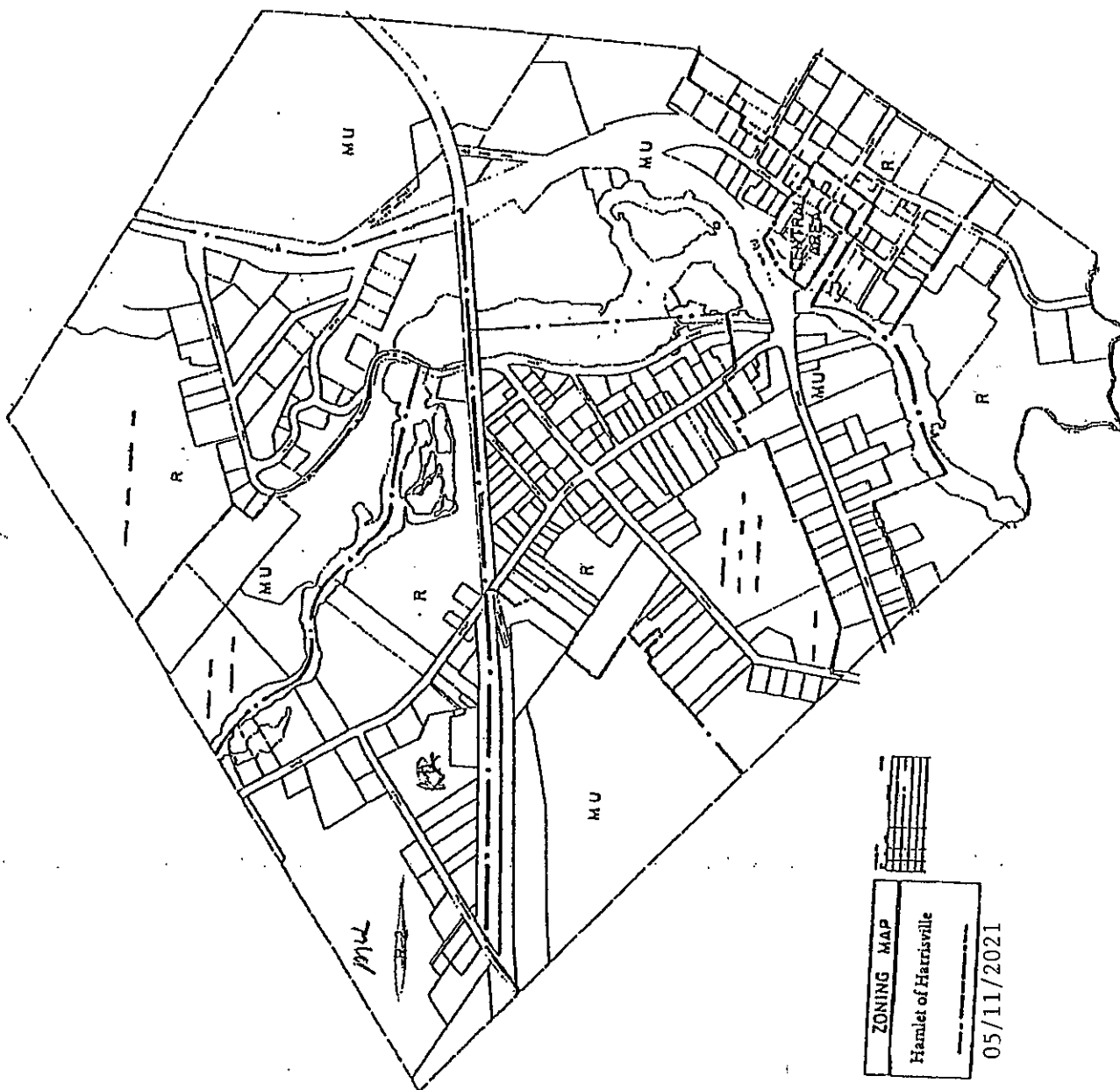
1 space per 4 seats

Note: All fractional portions of parking spaces as calculated by Gross Leasable Area shall be deleted if the fraction is less than .50; otherwise one additional parking space is required.

3.63 Off Street Loading

All uses other than dwelling units or dwelling units with home occupations must comply with the following off street loading standards:

- A. First 10,000 sq. ft GLA 1 berth
Each additional 10,000 sq. ft. 1 berth
- B. With the exception of funeral homes, each loading berth shall be a minimum of twelve (12) feet wide, fifty (50) feet long and fourteen (14) feet in height.
- C. Loading area berths for funeral homes shall be a minimum of ten (10) feet wide, twenty-five (25) feet long and eight (8) feet in height.



ZONING MAP
Hamlet of Harrisville
05/11/2021

REGULATING AND RESTRICTING THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND THE USE OF LAND IN THE TOWN OF DIANA

SECTION 1 PURPOSE

Unsafe buildings pose a threat to life and property in the Town of Diana. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as a danger for young children or others who may be injured therein, as well as a point of congregation for undesirable elements. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. Debris, rubble or parts of buildings left on the ground and not removed constitute a dangerous, unhealthy and unsightly condition. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Diana by requiring such unsafe buildings to be repaired or demolished or removed.

SECTION 2 DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING - Any building, structure or portion thereof used recreational or other for residential, business, industrial, purposes.

BUILDING INSPECTOR - The Building Inspector of the Town of Diana as appointed by the County of Lewis.

PORION OF BUILDING OR STRUCTURE - Any debris, rubble or parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

UNSAFE BUILDING OR STRUCTURE - Any building or structure or portion thereof which:

- a. Has interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.
- b. Exclusive of the foundation, shows thirty-three percent (33%) or more of damage to or deterioration of the supporting member or members of fifty percent { 50% } damage to or deterioration of the non-supporting enclosing or outside walls or covering.
- c. Has improperly distributed loads upon the floors or roofs or in which the same are overloaded or have insufficient strength to be reasonably safe for the purpose used.

- d. Has been damaged by fire, wind or other causes as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or people of the Town of Diana.
- e. Has become or is so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living that is unfit for human habitation or is likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- f. Has light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- g. Has inadequate facilities for egress in case of fire or panic or has insufficient stairways, elevators, fire escapes or other means of communication.
- h. Has parts thereof which are so attached that they may fall and injure members of the public or property.
- i. Because of its condition, is unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Town of Diana.
- j. Is open at the doorways or windows or walls, making it accessible to and an object of attraction to minors under eighteen (18) years of age, as well as to undesirables and other trespassers.
- k. Is or may become a place of rodent infestation.
- l. Consists of debris, rubble or parts or buildings left on the ground after demolition, reconstruction, fire or other casualty.

SECTION 3- MAINTENANCE REQUIREMENTS

- A. It shall be unlawful for any owner, tenant or occupant of any building or structure or portion of any building or structure in the Town of Diana to maintain such building or structure or portion of such building or structure in any condition or manner which shall be unsafe as defined in Section 3 of this chapter.
- B. Any owner, occupant or person in custody of real property located within in the Town of Diana who allows or permits a building to continue as a dangerous building after due notice as provided in Section 5 shall be guilty of a violation of this chapter and shall be punished as provided in Section 9.

SECTION 4- DUTIES OF BUILDING INSPECTOR

The Building Inspector shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter, and report his findings to the County and the Town.
- B. Notify personally or in writing the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having vested or contingent interest in the property, by certified mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the county Clerk of any building found by him to be an unsafe building within the standards set forth in this law.
- C. Set forth in the notice provided for above, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure an unsafe building and an order requiring the same to be put in such condition as to comply with the terms of this law within such length of time, not exceeding thirty (30) days, as is reasonable. The notice may direct that the unsafe building be demolished. The notice shall also provide that failure to comply with the notice shall be a violation of this law punishable as provided in Section 11 hereof by fines or jail.
- D. Report to the County and the Town any noncompliance the "notice" which was provided for in Subdivision of B and C hereof.
- E. Appear at all hearings conducted by the County or the Town, and testify as to the condition of unsafe buildings.
- F. Place a notice on all unsafe buildings reading as follows: "This building has been found to be an unsafe building by this Building Inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by certified mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees, or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by me to be an unsafe building within the standards set forth in the Town of Diana Unsafe Buildings Law. It is unlawful to remove this notice until such notice is complied with".

SECTION 5 - PROHIBITION OF TRESPASSING PENALTY

In addition to serving the notice as provided in Section 5, the Building Inspector, may, if he determines that the purposes of this chapter will be further effectuated, order that no person other than the owner or his agent shall enter upon the property and shall post on such property signs indicating "no trespassing". When such a determination is made, notice of such fact shall be included in the notice referred to in Section 5.

Anyone found trespassing in violation of this section shall be liable for a fine not to exceed one hundred dollars (\$100.00) for each offense.

SECTION 6 DUTIES OF TOWN BOARD

The Town Board shall:

A. Written notice to owner or lessees.

Upon receipt of a report of non-compliance from the Building Inspector as provided for in Section 5 hereof, give written notice to the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by certified mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by the Building Inspector to be an unsafe building within the standards set forth in this Law, to appear before them on the date specified in the notice to show cause why the building or structure reported to be an unsafe building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein.

B. Hold Hearings.

Hold a hearing and hear such testimony as the Building Inspector or the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk shall offer relative to the unsafe building.

C. Written Findings of Fact.

Make written findings of fact from the testimony offered pursuant to Subdivision B as to whether or not the building in question is an unsafe building within the terms hereof.

D. Issue Order Based On Findings of Fact.

Issue an order based upon findings of fact made pursuant to Subdivision C commanding the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk, to repair, vacate or demolish any building found to be an unsafe building within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said unsafe building; or any person not the owner of said unsafe building but having an interest in said building may demolish said unsafe building at his own risk to prevent the acquiring of a lien against the land upon which the said unsafe building stands by the Town.

SECTION 7 - FAILURE TO COMPLY

A. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Town within the time specified in said order and after the hearing, the Town shall provide that such building or structure be made safe and secure or removed and demolished by Town employees or by independent contractors. Except in emergency cases as herein provided, any contract for repair or demolishing and removal of a building or structure in excess of five thousand dollars (\$5,000.00) shall be awarded through competitive bidding.

B. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Town within the time specified in said order and after the public hearing, such owner or person shall be guilty of a violation under the Penal Law.

SECTION 8 - PENALTIES FOR OFFENSES

Except as provided herein, any person found guilty of violating this chapter shall be liable for a fine not to exceed two hundred fifty dollars (\$250.00) for each violation. Each week such violation shall continue shall constitute a separate violation.

SECTION 9 ASSESSMENT OF EXPENSES

All expenses incurred by the Town and/or County in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building and attorney's fees, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided for the levy and collection of real property taxes. Nothing, however, shall limit the Town or County from pursuing other legal remedies.

SECTION 10 EMERGENCY SITUATIONS

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building or structure is immediately repaired and secured or demolished, the Town and/or County may, by resolution, authorize the

immediate repair or demolition of such unsafe building or structure. The expenses of such repair or demolition be charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

SECTION 11 APPLICATION FOR COURT ORDER

The Town and/or County in its discretion, may elect to apply to the Supreme Court of the State of New York for an order directing that the building be repaired and secured or demolished and removed.

SECTION 12 SPECIAL PROCEEDING FOR COSTS

The Town and/or County may commence a special proceeding pursuant to Section 78-b of the General Municipal Law to collect the costs of demolition, including reasonable and necessary legal expenses.

REGULATING AND RESTRICTING CLUTTER, LITTER AND DEBRIS

SECTION 1. PURPOSE

The purpose of this law shall be Prohibition of Clutter, Litter and Debris in the Town of Diana, New York.

SECTION 2. DEFINITIONS.

The words used in this local law shall be defined as follows:

Clutter, Litter and Debris: Ordinary household or trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use, including junk vehicles, appliances, and mobile homes.

Junk Appliance: Any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled.

Junk Mobile Home: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which is no longer suitable for human habitation.

Junk Vehicle: Any motor vehicle, whether automobile, bus, trailer, truck, tractor, motor home, motorcycle, mini-bicycle, or snowmobile, or any other device originally intended for travel on the public highways, which meets all of the following conditions: 1) it is unregistered; 2) it is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; 3) it is not in any condition for legal use upon the public highway. With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and it not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

Yard: Any open space located on the same lot with a building.

Yard, Front: The space within and extending the full width of the lot from the road line to all portions of a building which face such road line. If a lot adjoins two or more roads, it shall be deemed to have a front yard respectively on each.

Yard, Rear: The space within and extending the full width of the lot from the rear lot line to that part of the building or structure which is nearest to such rear lot line.

Yard, Side: The space within and extending the full distance from the front yard to the rear yard and from the side lot line to all portions of a building which face such side lot line.

SECTION 3. Clutter Litter and Debris Prohibited.

In order to preserve and promote reasonable quality of environment and aesthetics and to prohibit actions and conduct which offends the sensibilities and lends to .debase the community and reduce real estate values, the deposit, accumulation, or maintenance of clutter, litter or debris regardless of quantity in any:

- A. Improved Lot
 - B. Unimproved Lot
- SECTION 4. Variance.
- A. If there is a practical difficulty in storing or maintaining such clutter, litter or debris in an area other than front of side yards, or out of sight of persons lawfully traveling the public highways, the applicant may appeal to the zoning board of appeals for a variance from the provisions of this law.
 - B. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community 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 variance; (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance; (3) whether the requested variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood ; 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 variance.
 - C. The board of appeals shall grant the minimum variance that is shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - D. All fees for appeals shall be established by town board resolution.

SECTION 5. Enforcement Procedure

The County Enforcement Officer of the County shall inspect the property and file a written report of violations with the Town and the County. The Enforcement Officer shall prepare a written notice and shall serve such notice upon the owner personally or by certified mail. The notice shall contain the following:

- a) The name of the owner to whom the notice shall be addressed.
- b) The location of the premises involved in the violation.
- c) A statement of the facts which it is alleged violate this law.

- b) The location of the premises involved in the violation.
- c) A statement of the facts which it is alleged violate this law.
- d) A demand that the clutter, litter and debris be removed or placed so as to be in compliance with this law within ten (10) days of the service or mailing of the notice .
- e) A statement that a failure to comply with the demand may result in prosecution.
- f) A copy of this law.

SECTION 6. Extension.

Upon application of the owner showing reasonable cause, the Town Board may grant an extension of up to thirty (30) days for the owner to comply with the demands.

SECTION 7. Removal by Town

If after the expiration of ten (10) days from the date of mailing of notice, provided in Section 5, or after the completion of any extension period allowed in Section 6, the owner shall fail to comply with the requirements of Section 3, the Town shall set a date for a factual hearing before the Town Board, to determine whether the condition of such property does constitute clutter, litter and debris within the meaning of this law. The property owner shall be notified of such hearing a minimum of ten (10) days in advance by personal delivery or by certified mail, return receipt requested, to the last known address of the property owner shown on the last completed tax roll. The property owner shall have the right to be present at such hearing to cross examine witnesses, to present witnesses or evidence on their own behalf and to be represented by counsel. If following such hearing the Town shall make a determination that a violation of this law does exist, then the Town may order the property owner to remedy the situation within a reasonable period of time or in the alternative, notify the property owner of its intentions to enter the property for the purpose of doing such clean up at a specified date, at least ten (10) days after the hearing. All expenses incurred in such process shall be chargeable as a special assessment against the property and may be added to the next annual tax levy against the property.

SECTION 8. Penalties

Any violation of this law is an offense punishable by a fine not exceeding \$350.00 for conviction of a first offence; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local 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.

3. 7 Mobile Homes

ARTICLE I INTRODUCTORY PROVISIONS

Section 1010 Enactment and Authorization

The Town Board of the Town of Diana, Lewis County, New York, does hereby ordain and enact the Town of Diana Mobile Home and Travel Trailer Control Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law.

Section 1030 Purpose

It is the purpose of this local law to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment 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 purpose of this law to provide minimum standards for the placement and use of mobile homes and travel trailers in the Town of Diana.

Section 1040 Administration

This Mobile Home and Travel Trailer Control Law shall be administered by the County and its Enforcement Officers.

Section 1050 Separability

The invalidity of any provision of these regulations shall not invalidate any other provision.

ARTICLE II. DEFINITIONS

Accessory Structure means a subordinate structure located on the same lot with a mobile home occupied by or devoted to an accessory use. Where an accessory structure is attached to the mobile home in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the mobile home.

Building means a shelter having a roof supported by column or walls and intended for the shelter or enclosure of persons, animals, or property.

Enforcement Officer means an individual designated by the Town Board to represent them in particular matters pertaining to this local law.

Family means one (1) or more persons living, sleeping, cooking, or eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage, or adoption, no such single housekeeping unit shall contain more than five (5) members.

Gross Floor Area means the gross size of the total floor area of the outside dimensions of a mobile home.

Lot means a parcel of land occupied or designed to be occupied by one (1) mobile home and the accessory structures or uses customarily incident to it.

Factory Manufactured Home means a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities intended or designed for permanent installation, or assembly and permanent installation, on a building site.

Mobile Home means moveable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed and constructed with or without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. "Mobile home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers.

Mobile Home Site means a parcel of land in a mobile home park which is equipped with the necessary utilities and improvements for the placement thereon of a single mobile home.

Mobile Home Park means any parcel of land which has been planned or improved for the placement of mobile homes for non-transient use, and consisting of two (2) or more mobile home sites.

Nonconformity means a mobile home lawfully existing at the time of enactment of this law which does not conform to the regulations of this law.

Street Line means the right of way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be twenty-five (25) feet from the center line of the street pavement.

Setback, Front means the distance measured between the mobile home and the street center line.

Setback, Rear means the distance measured between the rear lot line and the part of the mobile home which is nearest to such lot line.

Setback, Side means the distance measured between the side lot line and the part of the mobile home which is nearest to such lot line.

Structure means anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground, except a wall or fence on a farm.

Travel Trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, or vacation uses. Its body design shall not exceed eight (8) feet in width or, when attached to its carrier vehicle, the combination shall not exceed fifty-five (55) feet in length.

Travel Trailer Park means a parcel of land which has been planned or improved for the placement of travel trailers and/or tents for transient use, consisting of three (3) or more travel trailer sites.

Travel Trailer Site means a parcel of land within a travel trailer park which has been equipped with the necessary utilities and improvements for the temporary placement thereon of a single travel trailer or tent.

ARTICLE III PERMIT REQUIREMENTS

Section 3010 General

1. No person, firm, or corporation being the owner or occupant of any land or premises within the Town of Diana shall use or permit the use of such land for the parking, storage, or location of a mobile home or travel trailer or for the creation, modification, or expansion of a mobile home or travel trailer park without obtaining an appropriate permit.
2. Any development for which a permit has been issued and where substantial completion of a water supply, sewage, heating fuel supply and electrical service has not been accomplished within one (1) year of the issuance of said permit, the permit is deemed revoked and a new application will be required .
3. If it is determined by the Enforcement Officer that site development has made a departure from the site plan as shown on the application, the issued permit may be revoked until such time that the work is corrected to the satisfaction of the Enforcement Officer.
4. Any mobile home park not being maintained in a clean and sanitary condition or not being conducted in accordance with the provisions of this law and the laws of all other jurisdictions, or if the fees provided for herein have not been paid, or if the registration provisions provided for herein have not been carried out, upon the receipt of such information, the Town Board may direct the Enforcement Officer to serve an order, in writing, upon the holder of the permit or the person in charge of such mobile home park, directing the conditions therein specified be remedied within twenty (20) days after date of service of such order. If such condition is not corrected at the expiration of said twenty-day period, the Town Board may cause notice, in writing, to be served upon the holder of said permit to appear before the Town Board at a time to be specified in such notice and show cause why such mobile home park permit should not be revoked. The Town Board may, after hearing at which testimony of witnesses may be taken, and at which hearing the holder of the permit shall be heard, may revoke such permit if said Town Board shall find that said mobile home park is not being maintained in a clean and sanitary condition or if they find that any provisions of this law have been violated or that the fees provided for herein have not been paid or for other sufficient cause. Upon the revocation of such permit, the premises shall cease to be used for the purpose of a mobile home park and all mobile homes shall be removed therefrom within ninety (90) days of revocation of such permit.

6. (a) A nonconforming mobile home may be removed from its site and be replaced by an equally nonconforming mobile home within one (1) year of removal. Such mobile home shall be subject to review and shall require a permit.
- (b) A replacement mobile home which meets part of this law but increases nonconformity shall be subject to review by the Town Board and be considered for variance under practical difficulty criteria.

Section 3040 Mobile Home Parks

After the effective date of this local law, no mobile home park shall be developed or expanded until a permit has been approved by the County. A proposed mobile home park shall not be granted final approval or a permit until the park proposal has been approved by the State Health Department. A copy of the Health Department approval must be delivered to the Town's Enforcement Officer and shall become a part of the application form. Provided the mobile home park application has met the requirements of this local law, the Town Board may issue conditional approval of the proposal prior to the applicant's receiving approval from the Health Department.

Section 3050 Fees

1. A nonrefundable application fee shall be paid to the Town Clerk at the time of application. The fee shall, be paid in cash, certified check, or money order payable to the Town. The fee shall be paid in such amount as the Town Board may establish by resolution.
2. The cost of any site inspections, tests, or professional consulting needed to comply with the regulations of this local law shall be paid by the applicant.

ARTICLE IV. APPLICATION PROCEDURE FOR MOBILE HOME AND TRAVEL TRAILER PARKS

Section 4010 Application for Site Plan Approval

An application for site plan approval shall be filed with the Town Clerk together with the appropriate fee as determined by the fee schedule adopted by Town. The application and plan shall include the following:

- a. Name and address of applicant and owner, if different, and of the person responsible for preparation of such drawings;
- b. Date, northpoint, written and graphic scale;
- c. Boundaries of the area plotted to scale, including distances, bearings, and areas;
- d. Location and ownership of all adjacent lands as shown on the latest tax records;
- e. Location, name, and existing width of adjacent streets;
- f. Location, width, and purpose of all existing and proposed streets, easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- g. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- h. Existing hydrologic features together with grading and drainage plan showing existing and proposed contours at five foot intervals;
- i. Location, proposed use, and height and dimensions of all buildings;
- j. Location, design, construction materials of all parking and truck loading areas with access and egress drives thereto;
- k. Provision for pedestrian access, including public and private sidewalks;
- l. Location of outdoor storage, if any;
- m. Location, design, and construction- materials of all existing or proposed site improvements, including drain culverts, retaining walls, and fences;
- n. Description of the method of sewage disposal and the location, design, and construction materials of such facilities;
- o. Description of the method of securing public water and location, design, and construction materials of such facilities;
- p. Location of fire lanes and other emergency zones including the location of fire hydrants;
- q. Location, design, and construction materials of all energy distribution facilities including electrical, gas, and solar energy;

- r. Location, size, design, and construction materials of all proposed signs;
- s. Location and proposed development of all buffer areas including indication of existing and proposed vegetative cover;
- t. Location and design of outdoor lighting facilities;
- u. Designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office, and other similar commercial activities;
- v. Number and distribution of all proposed mobile homes;
- w. General landscaping plan and planting schedule;
- x. A draft Environmental Impact Statement (E.I.S.), where required;
- y. Description of the method of maintaining, signing and traffic control of all proposed streets.
- z. Other elements integral to the proposed development as considered necessary by the Town Board including identification of any federal, state, or county permits required for the project's execution.

Section 4020 Town Board Review of Site Plan

The Town Board shall consider the proposed site plan and its net effect on the community. Such consideration shall include, as appropriate, but shall not be limited to, compatibility with the General Plan, the economic, social, physical, and environmental aspects of the proposal, and such other matters as may be determined pertinent. The board may consult with local and county officials, its designated consultants, and also with representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the Department of Environmental Conservation, and Department of Health.

Section 4030 Planning Board Review of Site Plan

Within five (5) days of the receipt of a complete application, the Town Clerk may send a copy to the Town Planning Board. Within (30) calendar days, the Planning Board may report to the Town Board on its review of the application and present any recommendations it may have.

Section 4040 Public Hearing

The Town Board shall conduct a public hearing on the application. Such public hearing shall be conducted within sixty (60) days of the receipt of the completed application for site plan approval and shall be advertised at least five (5) days before the hearing in the Town's official newspaper.

Section 5050 Town Board Action on Site Plan Application

Within sixty (60) days of such public hearing, the Town Board shall act on the site plan application. The Town Board's action shall be filed with the Town Clerk and a copy of it forwarded to the applicant by certified mail stating whether or not the application is approved, disapproved, or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the application, of which conformance with said modifications shall be considered a condition of approval. If the application is disapproved, the statement will contain the reasons for such findings. In such a case, the Town Board may recommend further study of the application and resubmission after it has been revised or redesigned

- A. The Town Board shall, where required, be responsible for completion of a final E.I.S. with revisions as they deem necessary together with a statement of findings required under the State Environmental Quality Review (SEQR) Law (Section 8-0109-8 of Environmental Conservation Law). The Town Board shall file and circulate a final notice of completion as required in the provisions of Part 617, Title 6, N.Y.C.R.R. The reasonable costs to the Town Board in completing the final E.I.S. shall be paid for by the applicant.
- B. If more than six (6) months has elapsed since the time of the Town Board's action on the application and if the Town Board finds that conditions may have changed significantly in the interim, the Town Board may require a resubmission of the application for further review and possible revision before reapproval. The decision of the Town Board shall immediately be filed with the Office of the Town Clerk and a copy forwarded by certified mail to the applicant.

The following additional information shall accompany an application for approval:

- 1. Record of application for and approval status of all necessary permits from federal, state, and county officials;
- 2. Detailed sizing and final material specifications of all required improvements;
- 3. Estimate project construction schedule.

Section 5060 Town Board Approval of Site Plan Application

- A. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Town, the Board shall endorse its approval on a copy of the final site plan.
- B. The decision of the Town Board shall immediately be filed in the Office of the Town Clerk and a certified copy mailed to the applicant.

- C. Mobile home parks and travel trailer park permits shall be renewed prior to July first of each year, and it shall be the responsibility of the mobile home or travel trailer park owner to initiate the renewal procedure no later than June first of each year. Renewal application forms may be obtained from the Town Clerk. After investigating the site for health and safety irregularities or design modifications, the Enforcement Officer shall either approve or disapprove the permit renewal application in writing.
- D. The permit renewal fee shall be submitted with the renewal application, and shall be in such amount as the Town Board shall establish by resolution. The permit renewal fee shall not be returned if the renewal application is disapproved. An applicant whose renewal application has been disapproved shall be granted a thirty (30) day grace period in which to correct any deficiencies noted by the Enforcement Officer. No more than two (2) re-inspections may be made under the original permit fee.

Section 5070 Materials to be Submitted by Applicant

The following shall be filed with the Town by the applicant after final approval is given by Town.

1. **Vicinity Map:** This map at a scale of two thousand (2,000) feet to the inch or larger shall show the relationship of the proposal to existing community facilities that may affect or serve it such as streets, shopping areas, schools, employment centers, etc.' It shall show all properties, subdivisions, streets, and easements within three hundred (300) feet of the proposal. Such a sketch may be superimposed on a U. S.G.S. map of the area.
2. **Topographic Map:** This shall be drawn at a scale of one hundred (100) feet to the inch or larger and shall show existing topography at a contour interval of not more than five (5) feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use such as water courses, swamps, wetlands, rock outcrops, wooded area, areas subject to flooding, etc.
3. **Site Development Plan:** This map of the property on which the proposal is to be situated shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger and shall show the location of all automobile parking and all parking for commercial vehicles while loading and unloading, the location and width of all driveways, exits, and entrances, the location of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences; provide a description and show the location of sewage disposal facilities, water facilities, show location and size of all signs, the location of proposed buffer areas, and the design of lighting facilities, and such other facilities as indicated in the site plan checklist.

4. **Elevations and/or Sections:** The site plan shall be accompanied by preliminary elevations and/or sections at the same or larger scale as required for the site plan, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.
5. **Engineering Plans:** Preliminary engineering plans including street improvements, drainage system, and public or private utility systems, and other such supporting data as may be necessary.

ARTICLE VI. PARK SITE PLAN ELEMENTS REVIEWED

The Town's review of the site plan for mobile home parks and travel trailer parks shall include, as appropriate, but shall not be limited to, any of the following items:

1. General Considerations

- a. Status of any federal, state, or county permits required.
- b. Existing or proposed deed restrictions.
- c. Environmental impact on community and adjacent areas.
- d. Age and mobility of design population.
- e. Compatibility with General Plan.

2. Landscaping and Screening

- a. Location and proposed development of buffer area including vegetative cover.
- b. Outdoor lighting and time of use proposed.
- c. General landscaping plan and planting schedule.
- d. Location, size, design, and construction materials on signage.
- e. Any areas subject to flooding, pondage, storm water overflow or erosion.
- f. Location of existing water course, wetland, rock outcrop, forest, gorge, or other unique natural features.
- g. Proposed fencing construction and material.
- h. Clearing, alteration, or removal of any existing natural feature.

3. Access and Circulation

- a. Entrances and exits to public streets.
- b. Deceleration strip.

- c. Traffic control measures.
- d. Speed limits on adjacent streets.
- e. Traffic volume on and adjacent to site.
- f. Special access for emergency vehicles.
- g. Internal circulation including street width, pavement surface, separation of pedestrian and vehicular traffic.
- h. Intersections.
- i. Existing or proposed easements.
- j. Existing or proposed setbacks.

4. Parking, Loading, and Storage

- a. Location, design, and construction materials.
- b. Adequacy to meet standards for occupants, visitors, employees.
- c. Truck loading facilities - separate access.
- d. Outdoor storage.
- e. Snow removal.
- f. Storm water treatment.
- g. Solid waste collection and removal.

5. Architectural Features

- a. Location, size, proposed use, and height.
- b. Space devoted to retail sales, storage, service, wholesale or other commercial facilities.
- c. Number and type of housing units per building and proposed site density.
- d. Floor plans, elevation, and sections of typical structures.
- e. Lot coverage - density.

6. Site Characteristics and Utilities

- a. Suitability of soil for proposed use.
- b. Existing topography.
- c. Proposed grading and drainage plan including calculated storm water runoff.

- d. Measures to control erosion.
- e. Description of sewage disposal system including location, design, construction materials, and estimated cost of facilities.
- f. Description of method to secure public water including location, design, and construction material for proposed facilities.
- g. Location of fire and/or emergency zones including special access, if any.
- h. Location, design, and construction materials of all energy distribution facilities (electric , gas, solar, etc.).

7. Scheduling

- a. General timetable for construction of structures and facilities.
- b. Proposed staging of various sub-units of development.

ARTICLE VII. BOND FOR INSTALLATION OF IMPROVEMENTS

1. General

In order that the Town has the assurance that the construction and installation of such improvements as storm sewer, water supply, sewage disposal, landscaping, street signs, sidewalks, parking, access facilities, and street surfacing will be constructed, the Board may require that the applicant enter into one of the following agreements with the Town:

- a. Furnish a payment and performance bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by Town.
- b. Deposit a certified check in sufficient amount equal to the cost of construction of such improvements as shown on the plans and based on the above estimate.

2. Conditions

Before the final site plan is approved, the applicant shall have executed a contract with the Town, and a payment and performance bond or certified check shall have been deposited covering the estimated cost of the required improvements that have been designated by the Town Board.

The payment and performance bond or certified check shall be to the Town and shall provide that the applicant , his heirs, successors, and assigns, their agent or servants, will comply with all applicable terms, conditions, provisions, and requirements of this law; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

of this law; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

Any such bond shall require the approval of the Town and the Town Attorney as to form, sufficiency, manner of execution and surety.

Wherever a certified check is made, the same shall be made payable to the Town.

3. Extension of Time

The construction or installation of any improvements or facilities, other than streets, for which guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one (1) year from the date of approval of the final site plan. Street improvements shall be completed within two years from the date of approval of the final site plan. The applicant may request an extension of time, provided he 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 same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

4. Schedule of Improvements

When a certified check or a payment and performance bond are made 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 (1) year following the completion, inspection, and acceptance by the Town of all construction and installation covered by the check deposit or payment and performance bond as outlined in the contract.

5. Inspections

Periodic inspections during the installation of improvements shall be made by the Enforcement Officer to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Enforcement Officer when each phase of improvements is ready for inspection. At least five (5) days prior to commencing construction of required improvements, the applicant shall pay to the County the inspection fee required by the County. Upon acceptable completion of installation and improvement, the County shall issue a letter to the applicant or his representative.

ARTICLE VIII. STANDARDS

Section 8010 . General

No mobile home shall be located in the Town whether inside or outside a park, until the following requirements have been met.

A. Restrictions on Occupancy

- (1) No mobile home shall be located in the Town unless it bears a manufacturer's label which certifies that the home is in compliance with all applicable Federal Construction and safety standards at the time of manufacture.
- (2) Every mobile home shall bear a date plate, affixed by the manufacturing facility.
- (3) No mobile home shall be allowed in the Town which does not comply with current federal mobile home construction and safety codes.
- (4) Every mobile home shall bear data relative to the structural zone and wind zone for which the home is designed.
- (5) Every mobile home shall bear data relative to the heating and insulation zone and outdoor design temperature.
- (6) Every mobile home shall have a pitched roof of a minimum ration of 1/4 (about 14°).
- (7) Every mobile home shall contain a minimum gross area of 700 sq. ft. per living unit.

B. Mobile Home Skirting

- (1) Each mobile home shall be provided with a skirt to screen space between the mobile home and the ground.
- (2) Such skirts shall be of permanent material similar to that used in the mobile home and providing a finished exterior appearance.
- (3) The material used shall be fire resistant.

C. Mobile Home Stand

- (1) Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home.
- (2) Such stand shall have a dimension approximating the width and length of the mobile home and any expansions or extensions thereto.
- (3) Well anchored tie-downs shall be provided at least on each corner of the stand.

- (4) Stands shall be either
 - (a) ten (10) inches of compact gravel; or
 - (b) a full concrete slab at least six (6) inches thick; or
 - (c) six (6) inches of compacted gravel with a reinforced concrete runner on each side of the stand to provide support. Such runner shall be a minimum of four (4) feet wide, sixty-five (65) feet long, and six (6) inches thick.
- (5) The stand area shall be graded to ensure adequate drainage but in no event shall the grade variance exceed six (6) inches from one end of the stand to the other.

Section 8020 Mobile Home- Individual

Location of an individual mobile home may be permitted outside an authorized mobile home park upon approval of a permit by the Town Board when the Board determines that the following standards have been met.

1. The mobile home width along any street shall be a minimum of twenty (20) feet. This may include an attached and enclosed accessory structure finished with materials similar to the mobile home so the attached accessory structure has the appearance of being a part of the mobile home.

2. Setbacks:

	<u>Accessory Structure</u>	<u>Mobile Home</u>
a. Minimum distance to side and rear property lines	10 feet	25 feet
b. Front setback to state highway	50 feet	60 feet
c. Front Setback to other streets	40 feet	50 feet

3. Minimum Lot Area: 15,000 sq. ft.

4. The mobile home location shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.

Section 8030 Mobile Home Parks

A. Park Location and Conditions

The site of a proposed mobile home park:

- (1) Shall be located where orderly development of a mobile home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering;
- (2) Shall not contain travel trailers occupied on a permanent basis or occupied temporarily for a period exceeding thirty (30) days in any calendar year except that a permit is issued by the Town Board upon the approval of the Town Board.
- (3) Shall be separated from travel trailer parks by a minimum distance of two hundred fifty (250) feet.
- (4) Shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic volatile substances .

B. Mobile Home Site

Each mobile home park shall be divided (exclusive of internal streets, open space or common areas) and marked-off into mobile home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted.

C. Mobile Home Site Size

Each mobile home site shall satisfy the following requirements:

- (1) Minimum site size shall be ten thousand (10,000) square feet. In special cases where innovative park design for mobile home parks of ten (10) or more mobile homes provides clustering and allows for wide streets or a greater amount of usable recreation area or open space exceptions may be granted. In no case, however, shall the site area be reduced below seven thousand five hundred (7,500) square feet.
- (2) Minimum one hundred (100) foot site width. Where exceptions have been made as provided in (a), minimum seventy-five (75) foot site width; and
- (3) Minimum one hundred (100) foot site depth.

D. Setbacks and Spacing

(1) All mobile homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures in a mobile home park shall satisfy the following setback requirements. A detached structure accessory to and located on the same site with an individual mobile home shall be considered part of the mobile home for the purpose of spacing requirements.

- (a) minimum of one hundred fifty (150) feet from the street line of any public street.
- (b) minimum of thirty (30) feet from the center line of any street- way internal to the mobile home park.
- (c) minimum of forty (40) feet spacing between adjacent mobile homes and any other structures in the mobile home park.
- (d) minimum of twenty (20) feet from rear site lines.

(2) No internal streetway, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within fifty (50) feet of a property in common with adjoining property external to the mobile home park and abutting a public streetway.

E. Park Design Requirements

(1) Access. Each mobile home park shall provide for safe, legal means of access from one or more public streets as follows:

- (a) access streets shall meet the public streets at right angles and at compatible grades; and be consistent with the standards set forth in Policy Standards For Entrances to State Highways as revised, established by the State of New York Department of Transportation.
- (b) entrances shall be located directly opposite or at least two hundred (200) feet from the nearest intersection of public streets, if any, and at least one hundred fifty (150) feet from any other entrances to the mobile home park, if any;
- (c) entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles;
- (d) entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public street;
- (e) at least one (1) common entrance and access street shall be required to serve any mobile home park having three (3) or more mobile homes;
- (f) at least two (2) independent entrances and access street shall be required to serve any mobile home park having twenty (20) or more mobile homes; and

- (g) access streets connecting mobile home park interior streets with the public streets shall meet Town street standards.

(2) Internal Streets

- (a) Internal streets shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.
- (b) All mobile home sites shall face on and be serviced by such internal streets.
- (c) All streets shall be paved and shall be designed, graded and leveled as to permit the safe passage of emergency and other vehicles at a speed of fifteen (15) miles per hour.
- (d) Straight uniform gridiron street patterns should be avoided unless they can be relieved by mobile home clustering, landscaping and an open space system.
- (e) Cul de sacs shall be provided in lieu of closed end streets with a turn around having an outside streetway character of at least ninety (90) feet.
- (f) All internal streets shall have a minimum thirty (30) foot right-of-way, twenty (20) feet of which must be paved.

(3) Parking

- (a) Each mobile home shall be provided with at least two (2) off-street parking spaces adjacent to the mobile home.
- (b) At least one (1) additional off-street parking space for each three (3) mobile homes in the mobile home park shall be provided to accommodate guest parking, service or delivery vehicles, boat or camp trailer storage or other parking or storage demand. Such spaces shall be in centrally located parking areas without interfering with the traffic circulation of internal streets.
- (c) Each parking space shall measure at least nine (9) feet by twenty (20) feet.
- (d) Parking spaces or areas shall have at least eight (8) inches of crushed stone base or two (2) inches of pavement over four (4) inches of crushed stone base.

- (4) Recreational Areas and Open Space. Easily accessible and usable open spaces shall be provided in all mobile home parks. Such open space shall have a total area equal to at least fifteen percent (15%) of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.

- (5) Walkways. A four (4) foot wide hard surfaced pedestrian walkway may be provided along and at least five (5) feet from each access street between the entrance to the public highway and either:
- (a) the first mobile home unit or
 - (b) such location within the mobile home park as may be required by the Town Board to assure pedestrian safety.
- (6) Water Supply. An adequate supply of water shall be provided for all mobile homes and service buildings. Where public water is available, connection shall be used exclusively, unless the Town Board deems otherwise. If a public water system is not available, the development of a private water supply system shall be approved by the health authority or other authorities having jurisdiction thereof.
- (7) Sewage. An approved sewage system shall be provided in all mobile home parks for the conveying, disposing and treatment of sewage from mobile homes, service buildings, and other accessory facilities. Such system must be designed, constructed and maintained in accordance with the New York State Department of Health standards and regulations or the Town of Diana Sanitary Code, as applicable.
- (8) Garbage and Refuse. Each mobile home lot shall be provided with at least two (2) twenty (20)-gallon metal or plastic garbage cans with tight fitting covers. The cans shall be kept in a sanitary condition at all times. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
- (9) Fuel Supply and Storage.
- (a) General Requirements. All fuel oil supply systems, provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.
 - (b) Specific Requirements
 - I. All fuel oil tanks shall be placed at rear of mobile home and not located less than five (5) feet from any exit.
 - II. It is recommended that all fuel oil tanks should be buried.
 - III. It is recommended that a central fuel supply system be provided.
 - IV. Supports or standards for fuel storage tanks are to be of a non-combustible material.

(c) Gas Supply - Natural

- I. Natural gas systems installed in mobile home parks shall be maintained in conformity with accepted engineering practices.
- II. Each mobile home lot provided with piped natural gas shall have an approved shut-off valve and cap to prevent accidental discharge of gas.

(d) Liquefied Gas

- I. Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
- II. Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual mobile home.
- III. All Liquid Propane Gas piping shall be well supported and protected against mechanical injury.
- IV. Storage tanks shall not be less than one hundred (100) pounds and must be located at rear of mobile home and no closer than five (5) feet from any exit.
- V. It is recommended that a central underground gas storage system be furnished.

(10) Electrical Service.

- (a) Every mobile home park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electric power companies' specifications and regulations. All wiring fixtures must have the New York Board of Fire Underwriters' approval or other authority as designated by municipality.
- (b) Each mobile home stand shall be supplied with not less than a one hundred (100) ampere service.
- (c) Adequate lights shall be provided to illuminate streets, driveways, and walkways, for the safe movement of vehicles and pedestrians at night. A minimum lighting level of three-tenths (0.3) foot candles shall be provided.
- (d) All electrical distribution lines shall be placed underground.

(11) Telephone Service. When telephone service is provided to mobile home sites, the distribution system shall be placed underground.

- (12) Park Office and Storage Facilities. Owner or manager of a park shall maintain office and storage facilities in the immediate vicinity of the park.
- (13) Storage facilities. Each mobile home park shall provide one hundred twenty-five (125) cubic feet of secure storage space for each individual mobile home. Such facilities shall be located either on the individual mobile home site or be a permanent structure within the mobile home park which is easily accessible to the park residents at all times.
- (14) Service Buildings
 - (a) Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
 - (b) All service buildings and the grounds of the mobile home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.
- (15) Fire Protection and Control
 - (a) Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number so located within the park as to satisfy applicable regulations of the fire district within which the mobile home park is located.
 - (b) No open fires shall be permitted any place within the mobile home park with the exception of outdoor grills used for the preparation of foods.
- (16) Proper planning and early communication with utility company is recommended to provide necessary easements by utility companies, i.e., gas, electricity and telephone.

E. Responsibilities of Park Operators and Park Occupants

- (1) The person to whom a permit for a mobile home park is issued shall operate the park in compliance with the standards set forth in this local law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.
- (2) The park operator shall place or supervise the placement of each mobile home on its mobile home stand which includes ensuring its stability by securing all tie-downs and installing all utility connections.

- (3) The park operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.
- (4) The park occupant shall be responsible for the maintenance of his mobile home and any appurtenances thereto, and shall keep all yard space on his site in a neat and sanitary condition.
- (5) A list of operator and occupant responsibilities shall be posted in the park office or made available upon request.

Section 8040 Travel Trailer Parks

- a. Each travel trailer park shall have adequate access to a public highway, and each travel trailer site shall be serviced from interior streetways.
- b. All buildings and travel trailer sites shall have a front yard setback of one hundred fifty (150) feet from the line of all streets with the setback area being seeded and adequately landscaped to provide screening from the street.
- c. An overnight travel trailer site shall be a minimum two thousand (2,000) square feet in size and four thousand (4,000) square feet shall be provided for longer term vacation camping sites.
- d. The owner or manager of a travel trailer park shall maintain an office in the immediate vicinity of the park and shall maintain accurate records of the names of park residents; home address; and make, description, year and license or identification number of the trailer. These records shall be available to any law enforcement official or the Enforcement Officer.
- e. A minimum of ten percent (10%) of the total area of the travel trailer park, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the park owner.
- f. Travel trailer sites shall be located on generally level terrain, not to exceed eight percent (8%) slope, that is well drained, free of flood hazard, and clear of dense brush.
- g. The corners of each travel trailer lot shall be clearly and permanently marked, and each lot numbered for identification.
- h. Sewer, water and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, New York State Sanitary Code, which is adopted herein by reference, and subject to any other Town and County Requirements.

- i. All travel trailer parks shall provide a building containing at least one (1) toilet, lavatory and shower for each sex, for each twenty (20) travel trailer lots.
- j. Mobile homes shall not be parked, whether permanently or temporarily, in any travel trailer park except for the owner/operator.
- k. Access to all sites shall be consistent with the standards set forth in "Policy and Standards for Entrances to State Highways", as revised, published by the State of New York Department of Transportation.

IX MISCELLANEOUS PROVISIONS

1. **Enforcement Officer.** The Town Board may appoint an Enforcement Officer to carry out the duties assigned by this local law. If appointed, the Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with other officials and agencies, as appropriate.
2. **Amendments.** The Town Board, after public notice and hearing, may amend this law pursuant to the applicable requirements of the State of New York.
3. **Appeals.** Any person aggrieved by any decision of the County or any officer, department, board, or bureau of the Town, may apply to the Supreme Court for a review by a proceeding under Article 7 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.
4. **Enforcement.**
 - a. Any person, firm, or corporation who an offense against, disobeys, neglects, or refuses to comply with or resist the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation, punishable by a fine or not more than two hundred fifty dollars (\$250.00) or by imprisonment or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this law.
 - b. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law.
5. **Repeal of Inconsistent Legislation.** Local Law No. 1 of the year 1985 for the former Village of Harrisville is specifically repealed as is any inconsistent provisions of any local laws of the former Village of Harrisville.
6. **Severability.** The provisions of this local law are severable. If any article, section, paragraph, or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph, or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.
7. **Variance.** The Town Board may, on written application and after public hearing, grant a variance from a specific provision of this law in a specific case subject to appropriate conditions,

where such variance is in harmony with the general purpose and intent of this law, and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of this provision.

8. **Effective Date.** This local law shall take effect immediately upon filing with the Secretary of State.