
ZONING AND LAND USE CONTROL LAW

TOWN OF HILLSDALE, NEW YORK

Part 1 of 2

Chapter 1 Title and Scope

1.1 Scope

A local law regulating the location, design, construction, alteration, occupancy, and use of structures and the use of land in the Town of Hillsdale, dividing the Town into Zoning Districts.

1.2 Title

This Local Law shall be known and may be cited as "The Zoning and Land Use Control Law of the Town of Hillsdale."

1.3 Enacting Clause and Purposes

This Local Law is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, Section 10, et. seq. of the Consolidated Laws, to protect and promote public health, safety, morals, comfort, convenience, economy, esthetics, general welfare, and natural, agricultural, and cultural resources, and for the following specific purposes:

- 1.3-1 To conserve the natural resources and rural character of the Town by encouraging development in the most appropriate locations and by strictly limiting building in areas where it would conflict with the Town's rural pattern and scale of settlement;
- 1.3-2 To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as higher elevations, scenic view sheds, steep slopes, erodible soils, stream corridors, wetlands, floodplains, and active farmlands;
- 1.3-3 To protect existing wooded areas, scenic views, ridgelines, agricultural land, waterways, ground and surface water supplies, ecological systems, wetlands, wildlife habitat, and natural vegetation, and to maintain large areas of contiguous open space in their current undeveloped state, in order to preserve the predominantly open and rural character of the Town;
- 1.3-4 To preserve and protect lands and buildings that are historically significant;
- 1.3-5 To enhance the aesthetic and architectural quality of the entire community, and to maintain its present natural beauty;
- 1.3-6 To encourage agriculture to continue and prosper because of its importance to the local economy and to the preservation of open space;
- 1.3-7 To encourage other economic activities that require large areas of contiguous open space, such as forestry, recreation, resort use, and tree farming, as well as the support services and industries that add value to these uses, such as wood products, food processing, tourist facilities, and equipment sales and repair;

- 1.3-8 To integrate different types of housing and different kinds of land uses in traditional village and hamlet centers laid out in the manner described in Appendices I and II of this Local Law, in order to encourage social and economic interaction and pedestrian activity, and to reduce unnecessary automobile traffic;
- 1.3-9 To provide a range of housing opportunities for all segments of the local population with due consideration for regional housing needs;
- 1.3-10 To protect residences from nuisances, odors, noise, pollution, and other unsightly, obtrusive, and offensive land uses and activities;
- 1.3-11 To locate commercial and other non-residential uses in a manner that is convenient to residences, minimizes use of automobiles, and provides freedom for landowners to make beneficial economic use of their land, provided that such uses are not harmful to neighboring properties;
- 1.3-12 To improve transportation facilities in areas designated for intensive settlement and maintain a network of smaller country roads in areas designated for the protection of open space, agriculture, steep slopes and rural character;
- 1.3-13 To reduce traffic congestion on major roads by establishing a pattern of settlement and circulation that reduces reliance on automobiles and provides alternative routes between destinations;
- 1.3-14 To encourage the conservation of energy and the appropriate use of solar and other renewable energy resources;
- 1.3-15 To regulate building density in order to concentrate population in appropriate locations while allowing reasonable privacy for residences, ensure access to light and air, conserve open space, facilitate the prevention and fighting of fires, minimize the cost of municipal services, and accomplish the other purposes enumerated in this Chapter;
- 1.3-16 To provide a flexible system of land use regulation that enables the Town to grow, while preserving its most important natural, historic, architectural, and cultural features; and
- 1.3-17 To base such flexible land use regulations on the unique characteristics of the landscape, the needs of the people of the Town, the impact of proposed land uses on the natural and human environment, and the purposes articulated in this Chapter and in the Master Plan, without undue reliance on rigid use and dimensional standards, and to avoid a suburban pattern of development characterized by uniform lots laid out in a geometric pattern across the landscape.

1.4 Interpretation of Provisions

All provisions of this Local Law shall be construed broadly to fulfill the purposes stated in Section 1.3 above. All terms which are defined in Chapter 14, Definitions, in this Local Law shall be interpreted according to the definitions contained in that Chapter.

1.5 Conflict with State Laws

To the extent that any provisions of this Local Law are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, Sections 261 through 268, 274-a and 276 through 281, the Town Board of the Town of Hillsdale hereby declares its intent to supersede those Sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10, et. seq. of the Consolidated Laws of the State of New York.

Chapter 2 Establishment of Districts

2.1 Purposes of Zoning Districts

In order to fulfill the purposes of this Local Law, the Town of Hillsdale hereby establishes the following three types of Zoning Districts:

- 2.1-1 Base Districts, which establish basic use and density regulations
- 2.1-2 Overlay Districts, which add additional regulations to protect specified environmental resources or to encourage or allow certain desirable activities, but which do not otherwise abrogate the base district regulations
- 2.1-3 Floating Districts, which may be added to the Zoning Map on a case-by-case basis by zoning amendment, superseding the underlying Base District regulations, but not the Overlay District regulations. Floating Districts permit activities that are compatible with the purposes of this Local Law and are consistent with the comprehensive plan, but which are not permitted by the regulations established for the Base Districts.

2.2 Base Districts

The Town of Hillsdale establishes and is hereby divided into the following three (3) Base Districts:

- 2.2-1 **RU -- Rural.** The purpose of this District is to preserve the rural character of the Town, to encourage agriculture, and to conserve large tracts of undeveloped open space. The principal uses permitted are low density residential uses and agriculture, forestry, and recreation. Small-scale business uses are allowed by Special Permit.
- 2.2-2 **HM -- Hamlet Mixed-Use.** The purpose of this District is to foster community interaction in traditional centers of settlement that enjoy a sense of place, and that include a mix of small-scale business and residential uses designed and integrated in a manner that is architecturally harmonious.
- 2.2-3 **HB -- Highway Business.** The purpose of this District is to provide a location for those businesses, primarily high-traffic retail uses, that are incompatible with residential uses and that need to be accessible to a major highway, with strict design and layout standards to avoid an extensive commercial strip. The HB District is not intended to contain those businesses which do not require state highway frontage to attract customers or to provide heavy truck access. Municipal uses, other than highway-related or truck facilities, are discouraged from locating in the HB District.

2.3 Overlay Districts

The Town of Hillsdale hereby establishes the following Overlay Districts, which are more fully described in Chapter 5 of this Local Law.

- 2.3-1 **SC -- Stream Corridor.** The purpose of this Overlay District is to protect the water quality and scenic integrity of corridors of streams classified by the New York State Department of Environmental Conservation.
- 2.3-2 **AG -- Agricultural Preservation.** The purpose of this Overlay District is to protect agricultural land and to encourage a development pattern that keeps agricultural land in productive use.
- 2.3-3 **FP -- Floodplain.** The purpose of this Overlay District is to limit development within identified floodplain areas to protect public safety.

- 2.3-4 SH -- Scenic/Ridgeline/Historic. The purpose of this Overlay District is to encourage development in a pattern that is protective of identified scenic areas, ridgelines, and historic structures and land areas.
- 2.3-5 AQ -- *Aquifer*. The purpose of this Overlay District is to protect identified areas containing significant groundwater resources.
- 2.3-6 SM -- *Soil Mining*. The purpose of this Overlay District is to identify specific areas where commercial extraction of sand, stone, and gravel should be permitted because it is desirable and feasible in those locations. Until such time as a Soil Mining Overlay District is mapped, Soil Mining shall be permitted by special permit anywhere in the RU District.

2.4 Floating District

The following Floating District may be established by zoning amendment:

VM --Village Mixed-Use (Industrial/Office/Residential).

The purpose of this Floating District is to permit mixed-use developments of office, light industrial, residential, and limited commercial uses, designed in a manner that is compatible with the natural and built environment of the Town.

2.5 Zoning Map Series

The location and boundaries of the Base and Overlay Zoning Districts, as well as Floating Districts (if and when they are adopted as zoning map amendments), are or shall be shown on maps entitled "Zoning Map Series of the Town of Hillsdale" certified by the Town Clerk as adopted by the Town Board. These maps, together with everything shown thereon and all amendments thereto, are hereby adopted and are declared to be an integral part of this Local Law.

2.6 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map Series, the following rules shall apply:

- 2.6-1 Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, and aqueducts or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way line of such street, highway, public utility, aqueduct, or watercourse is moved a distance of fifty (50) feet or less.
- 2.6-2 Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- 2.6-3 Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property line, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- 2.6-4 Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into a more restricted portion.
- 2.6-5 Where overlay district boundaries are based upon natural features such as steep slopes, contour line elevations, soil types, or ecological communities, such boundaries may be more precisely established through field investigation by a qualified professional.
- 2.6-6 In all other cases, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

2.7 Application of District Regulations

Except as hereinafter provided:

- 2.7-1 No land or structure shall hereafter be used, occupied, erected, moved, or altered unless in conformity with the regulations hereinafter specified for the district in which it is located.
- 2.7-2 No building shall hereafter be erected or altered which exceeds the maximum height, occupies a greater percentage of lot area, accommodates or houses a greater number of families, or has a narrower or smaller front yard, rear yard, side yard, or other open space than is required or permitted for the district in which such building is located, except as explicitly provided in this Local Law.
- 2.7-3 No part of a yard required for any structure shall be included as part of a yard or other open space similarly required for another structure.

2.8 Siting and Design Guidelines

The Town finds that the design and layout of development are as important as the use, density, and dimensional provisions of this Local Law. Accordingly, Rural Siting, Hamlet Siting, and Building Form Guidelines contained in Appendices I, II, and III are hereby made a part of this Local Law. These Guidelines shall apply to lot and road layout in subdivisions and to Major Projects (as defined in Chapter 14) requiring Special Permit or Site Plan approval, but not to individual Single-family homes or other uses allowed by right or by Minor Project Special Permit. The Town encourages all new development, and the alteration or expansion of existing development to comply with the provisions of these Guidelines. The Planning Board and Zoning Board of Appeals shall have the power to waive provisions of this Local Law if they make written findings that such waivers will implement the purposes and requirements of these Guidelines.

Chapter 3 Use Regulations

3.1 Allowable Uses

3.1-1 Performance Basis for Use Regulations

The Town finds that rigid and highly specific use classifications are inappropriate to its needs, and therefore wishes to base its zoning regulations on the impact, scale, and design of uses, rather than on strict use categories. Accordingly, the categories used in this Chapter, and the Definitions contained in Chapter 14, are broad and general. It is the purpose of this Local Law to ensure flexibility of land use, within the design and performance requirements contained herein. Therefore, most non-residential uses are allowed only upon the granting of Special Permits, based upon performance criteria contained in Chapters 5, 6, 7, and 8, as well as design criteria in the Appendices. It is the responsibility of the Zoning Board of Appeals or the Planning Board, in discharging their review responsibilities under this Local Law, to attach such conditions as may be necessary to ensure that a use will be compatible with its surroundings, with the purposes of this Local Law contained in Section 1.3, and with the Town's Community Goals as set forth in the Master Plan. Such Boards shall deny any proposed use which they find will not or cannot be operated in a manner that satisfies the performance criteria in this Local Law.

3.1-2 Use Restrictions

No structure or land shall be used except as provided in the *Use Table* in Section 3.2. See Chapter 14 for Definitions of the use categories. In the event that a particular proposed use does not clearly fit into one of the categories shown on the *Use Table*, the Zoning Officer or Zoning Board of Appeals shall categorize such a use in the manner that best effectuates the purposes of this Local Law as set forth in Section 1.3. Where appropriate, such categorization may include a finding that the proposed use is prohibited. The meaning of the symbols is as follows:

- (P)** Designates a use permitted by right.
- (S)** Designates a use permitted only by Special Permit, issued by the Zoning Board of Appeals (or the Planning Board if so specified in this Local Law) pursuant to Chapter 6 of this Local Law.
- (--)** Designates a prohibited use.
- (P/S)** Designates a use permitted by right if located on a parcel of ten (10) acres or more; otherwise the use would require a Special Permit.

NOTE: Numbers shown after a Use Category indicate the Section numbers of additional regulations governing the use.

3.2 Use Table

| <i>Use Category</i> | <i>Base Districts</i> | | |
|---------------------------------|-----------------------|-----------|-----------|
| | RU | HM | HB |
| OPEN SPACE USES | | | |
| Agriculture | P | P/S | S |
| Forestry | P | P | P |
| Camp | P/S | -- | -- |
| Non-commercial Recreation | P | P | P |
| RESIDENTIAL USES | | | |
| Single-Family Dwelling | P | P | S |
| Two-Family Dwelling | P* | P* | s |
| Multi-Family Dwelling | S | S | -- |
| Accessory Apartment | P* | P* | S |
| Boarding House | S | S | -- |
| Mobile Home | S | -- | -- |
| Lodging Facility | S | S | -- |
| BUSINESS USES | | | |
| Agricultural Industry | S | -- | S |
| Home Occupation (8.14) | p** | p** | S |
| Professional Office | P/S | S | S |
| Business Office | P/S | S | S |
| Retail Business | S | S | S |
| Service Business | S | S | S |
| Recreational Business (8.10) | S | S | S |
| Kennel | S | -- | -- |
| Communication Tower | S | -- | -- |
| Automobile Service Station | S | S | S |
| Transportation/Utility Facility | S | S | S |
| Soil Mining | S*** | -- | -- |
| Craft Workshop | P | S | S |
| Warehouse | S | -- | S |
| Junkyard (8.11) | S | -- | -- |
| COMMUNITY USES | | | |
| Cemetery | S | S | S |
| Day School | S | S | S |
| Boarding School | S | S | -- |
| Hospital | S | S | S |
| Membership Club | P/S | S | S |
| Municipal Use | P | P | P |
| Nursing Home | S | S | S |
| Religious Institution | S | S | S |
| Charitable Organization | P/S | S | S |
| Place of Public Assembly | S | S | S |
| ACCESSORY USES | | | |
| Private Stable | P | P/S | S |
| Windmill | P | S | S |

* May require a Special Permit (see Section 4.7)

** May require a Special Permit (see Section 8.14)

*** Optional provision for an Overlay Zone is contained in Section 5.2

3.3 Prohibited Uses

Uses which do not appear on the Use Table are prohibited. In addition, any use, whether or not in the use table, is prohibited if it does not satisfy the performance criteria in Sections 6.4 and 8.1. The following uses are prohibited under all circumstances: racetracks, amusement parks, toxic waste facilities, and dumps or landfills for solid waste, construction waste, or demolition debris.

3.4 Accessory Uses

Uses customarily incidental to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses, whether or not on the same lot, except as otherwise indicated on the Use Table.

3.5 Change of Use

A Special Permit shall apply to the use for which it has been granted, as well as to any subsequent use of the property which complies with all terms and conditions of the Special Permit and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by special permit shall require the granting of a new special permit or a special permit amendment.

Chapter 4 Density and Dimensional Regulations

4.1 Purpose

The Town of Hillsdale wishes to preserve its open space, provide affordable housing, and develop according to the traditional compact pattern found in its hamlets using flexible regulations for density and lot dimensions. These regulations are illustrated in Appendices I and II, showing desirable layouts for rural and hamlet development.

4.2 Conventional Subdivisions

Conventional Subdivisions are subdivisions that comply with the minimum lot size requirements for Conventional Subdivisions as shown in the Dimensional Table in Section 4.3, without setting aside land as permanently protected open space. The Town wishes to discourage this type of subdivision on large parcels because of its damaging impact on the Town's rural landscape.

4.3 Lot Dimension and Setback Requirements

It is the policy of the Town of Hillsdale to encourage development that is compatible with the existing character of the Town and that extends traditional patterns of development to presently undeveloped areas adjoining existing settlements. Accordingly, dimensional and setback requirements contained in this Local Law shall be applied in light of the Siting Guidelines described in Appendices I and II of this Local Law. When dimensional and setback requirements conflict with the Siting Guidelines, the Planning Board may vary such requirements, provided that it issues a written explanation of the reasons for such variation. The following table is hereby adopted and declared to be a part of this Local Law and is hereinafter referred to as the "Dimensional Table."

DIMENSIONAL TABLE

| | <i>Base Districts</i> | | |
|--|--|--|-----------|
| | RU <i>Conv¹ / FLS²</i> | HM <i>Conv¹ / Cluster</i> | HB |
| MINIMUM LOT SIZE (ACRES) | 3 / -- | 1 / -- | 1 |
| MINIMUM FRONT YARD SETBACK³ | | | |
| TOWN/COUNTY ROAD | 50 / 40 | 25 | 40 |
| STATE ROAD | 70 / 60 | 40 | 50 |
| PRIVATE ROAD | 30 / 20 | -- | -- |
| MAXIMUM FRONT YARD SETBACK⁴ | | | |
| TOWN/COUNTY ROAD | -- | 40 | -- |
| STATE ROAD | -- | 80 | -- |
| MINIMUM ROAD FRONTAGE(4) | | | |
| TOWN/COUNTY ROAD | 200 / -- | 100 / 40 | 100 |
| STATE ROAD | 300 / 300 | 200 / 100 | 400 |
| PRIVATE ROAD | 100 / -- | --- | --- |
| MIN. DIMENSION OF SQUARE ON A LOT⁵ | 200 / 40 | 100 / 40 | 400 |

| | | | |
|--|-----------|-----------|-----|
| MINIMUM SIDE YARD SETBACK | 50 / 10 | 30 / 10 | 50 |
| MINIMUM REAR YARD SETBACK | 100 / 20 | 20 / 10 | 100 |
| MAXIMUM IMPERMEABLE SURFACE⁶ | 10% / 60% | 20% / 80% | 85% |
| MAXIMUM BUILDING HEIGHT | 35 / 35 | 35 / 35 | 35 |

ALL DIMENSIONS IN FEET UNLESS OTHERWISE INDICATED

- 1 *Conventional Subdivision*
- 2 *Flexible Lot Subdivision (see Section 4.4)*
- 3 *Measured from the centerline of the road*
- 4 *For Rear Lots, see Subsection 4.9-8 of this Local Law*
- 5 *See definition of Square on a Lot*
- 6 *Includes all structures and paved surfaces, on a per-lot basis*
- 7 *Applies to residential uses only*

4.4 Flexible Lot Subdivision in the RU District

The Town wishes to encourage the use of Flexible Lot Subdivision (FLS) as an alternative to conventional subdivision in the RU District. A Flexible Lot Subdivision allows flexibility in lot sizes and lot arrangement, resulting in preservation of at least eighty percent (80%) of the land as open space. See Appendix I for illustrations of Flexible Lot Subdivisions.

4.4-1 Open Space Land

Preserved open space may be included as a portion of one or more large lots, or may be on a separate open space lot. Such open space may be owned by a homeowners' association, private landowner(s), a non-profit organization, or the Town or another governmental entity, as provided in Section 4.5-5, as long as it is protected from development by a conservation easement (Sec. 4.5-3).

4.4-2 Minimum Tract Size

FLS may occur on any parcel of land containing six acres or more in the RU District, provided that the lot count provisions of Section 4.4-4 are satisfied. When two (2) or more parcels are combined pursuant to Section 4.4-7, an FLS may occur if their combined area is six (6) acres or more.

4.4-3 Lot Size and Dimensions

FLS lots need not conform to any specified minimum lot size, except as may be necessary to satisfy the requirements of the County Health Department, the FLS dimensional requirements contained in this Section 4.4, and any other applicable requirements of this Local Law.

4.4-4 Lot Count

The maximum permissible number of FLS lots shall be determined as follows:

- a. The applicant shall submit a preliminary plat of a conventional subdivision of the property into lots conforming to all dimensional requirements for a Conventional Subdivision served by public roads.

- b. The Planning Board shall review the conventional subdivision plan required in Subsection (a) above and shall determine the number of approvable building lots that could be created, considering the requirements of this Local Law, the Land Subdivision Regulations, the requirements of the Columbia County Departments of Health and Public Works, the New York State Departments of Environmental Conservation and Transportation, and the limitations of soils, topography, wetlands, and other environmental features. The number of building lots or dwelling units permitted in the Flexible Lot Subdivision shall not exceed this number of lots.

4.4-5 Lot Arrangement and Design

Lots shall be arranged in a manner that preserves contiguous open space of conservation value, as shown in Appendix I.

4.4-6 Partial FLS

Many landowners do not wish to subdivide their land at the maximum permitted density, yet they still desire to have flexibility in lot layout. Such landowners may follow the FLS dimensional requirements, provided that they execute a conservation easement that commits to preservation of at least 80% of the parcel as open space and that limits future development of the parcel to the lot count permitted by Section 4.4-4. The Planning Board may waive submission of the full lot count plat required by Section 4.4-4 where, in the Planning Board's judgment, the number of FLS lots proposed is substantially less than the number of lots that could be subdivided if the parcel were fully developed.

4.4-7 Planning Board's Option to Require a Flexible Lot Subdivision

- a. If, in the Planning Board's judgment, a proposed conventional subdivision would adversely affect land of conservation value as defined in Subsection 4.5-1, the Planning Board may require an applicant to submit a Flexible Lot Subdivision plan. The Planning Board shall so notify the applicant as early as possible in the application process, and shall indicate which areas of a proposed development site should be maintained as open space in the Flexible Lot Subdivision plan, along with the reasons for protecting such open space.
- b. The Planning Board shall not have the authority to require submission of a Flexible Lot Subdivision plan if a proposed conventional subdivision plan contains no more than one-third of the allowable number of lots determined pursuant to Subsection 4.4-4. In such a case the subdivision plat shall contain a notation limiting the total density accordingly. The Planning Board may require this density restriction to be memorialized in a recorded deed restriction enforceable by the Town.

4.5 Permanent Open Space in the RU District

Open space set aside in any subdivision pursuant to Section 4.4 or as a condition of any Special Permit approval (see Chapter 6) shall be permanently preserved as required by this Section. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to Section 4.5-4 of this Local Law, and provided that the Planning Board approves such configuration of the open space as part of its subdivision or site plan approval. Land set aside as permanent open space shall not include the private yard area within 100 feet of a dwelling. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land.

4.5-1 Conservation Value of Open Space

The open space protected pursuant to this Chapter 4 must have "conservation value," which may include historic, ecological, agricultural, water resource, scenic or other natural

resource value. Land mapped as preservation overlay zones in Chapter 5 shall be deemed to be land with "conservation value." Examples of lands with conservation value include view corridors along scenic roads, agricultural land, large areas of contiguous mature forest, ridgelines and hillsides visible from public areas, wetlands, water bodies, and stream corridors. High quality agricultural land, even if suitable for development, shall be considered land of conservation value.

4.5-2 Notations on Plat or Site Plan

Preserved open space land shall be clearly delineated and labeled on the final subdivision plat or site plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of other lots in the subdivision to such land. The plat or site plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the liber and page of any conservation easements or deed restrictions required to be filed to implement such restrictions.

4.5-3 Permanent Preservation by Conservation Easement

- a. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of subdivision plat approval. The Planning Board may require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's Office. In the case of minor subdivisions and minor projects, a deed restriction enforceable by the Town may be substituted for a conservation easement.
- b. The conservation easement shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use. Access roads, driveways, local utility distribution lines, trails, temporary structures for outdoor recreation, and agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land. The conservation easement may allow dwellings to be constructed on portions of parcels that include preserved open space land, provided that the total number of dwellings permitted by the conservation easement in the entire subdivision is consistent with applicable density limitations of this Local Law.

4.5-4 Ownership of Open Space Land

- a. Open space land may be owned in common by a homeowner's association (HOA), dedicated to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to properly manage the open space land and to protect its conservation value.
- b. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
 1. The HOA must be set up before the final subdivision plat is approved, and must comply with all applicable provisions of the General Business Law.
 2. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes,

insurance, and maintenance of common open space, private roads, and other common facilities.

3. The open space restrictions must be in perpetuity.
4. The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
5. Property owners must pay their pro rata share of the costs in (4) above, and the assessment levied by the HOA must be able to become a lien on the property.
6. The HOA must be able to adjust the assessment to meet changed needs.
7. The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
8. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
9. The attorney for the Planning Board shall find that the HOA documents presented satisfy the conditions in Subsections (1) through (8) above and such other conditions as the Planning Board shall deem necessary.

4.5-5 Maintenance Standards

- a. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.
- b. If the Town Board finds that the provisions of subsection (a) above are being violated such that the condition of the land constitutes a public nuisance, it may, upon thirty (30) days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.

4.6 Traditional Hamlet Development in the HM District

The Town encourages its hamlet areas to develop in a manner consistent with the traditional growth patterns of rural hamlets and villages in New York State and New England. Due to soil limitations and the need to protect water resources, such development is difficult without the water and sewer infrastructure necessary to service higher density populations. This section provides options for clustering development both with and without public sewers, in order to encourage traditional hamlet development in the HM District.

4.6-1 Clustering Without Municipal Sewers

- a. Clustering of units in the HM District is encouraged where proper treatment of septic wastes and adequate water supply can be assured through appropriate technologies and properly designed layouts.

- b. Such cluster developments may have a maximum of two-and-one-half (2.5) dwelling units per acre, provided that at least twenty percent (20%) of the land area to be developed is dedicated as permanent open space in the form of greens, parks, squares, or other open space. Such open space may be dedicated to the Town (if accepted by the Town Board), donated to a qualified non-profit organization with an adequate endowment for maintenance, or owned and managed by a Homeowners' Association that meets the requirements set forth in Section 4.5-4(b). Such open space areas may contain all or a portion of a subsurface septic treatment system for the cluster development.

4.6-2 Clustering With Municipal Sewers

- a. If municipal sewers are available, clustering may occur at a density of five (5) dwelling units per acre, provided that at least twenty-five percent (25%) of the land area to be developed is dedicated as permanent open space in the form of greens, parks, squares, or other publicly accessible open space. Such open space may be dedicated to the Town (if accepted by the Town Board), donated to a qualified non-profit organization with an adequate endowment for maintenance, or owned and managed by a Homeowners' Association that meets the requirements set forth in Section 4.5-4(b).
- b. In addition to the five (5) dwelling units allowed by Subsection (a) above, an applicant may add a maximum of two (2) "affordable" units per acre, not exceeding one thousand (1,000) square feet of interior floor space each. Such units may be accessory apartments located in residences or accessory buildings, or may be units in multi-family structures. The Planning Board shall establish affordability criteria based on County census data and may require the applicant to provide guarantees that the units will remain affordable over time using restrictive covenants or similar techniques. Such "affordable" units may not increase total residential density above seven (7) units per acre.

4.6-3 Special Permit Requirement

Cluster developments shall comply with the provisions of Appendix II, Hamlet Siting Guidelines.

4.6-4 Mixed Uses in Cluster Developments

Cluster developments may have a mix of uses, as permitted by the Use Table in Chapter 3.

4.6-5 Limitations on Cluster and Business Uses in the HM District

- a. No cluster development shall be permitted within the area bounded on the North by New York State Route 23, on the East by New York State Route 22, on the South by the Copake Town Line, and on the West by Anthony Street.
- b. No new Special Permit use listed as a Business Use on the Use Table in Section 3.2, other than a home occupation, shall be permitted within the area described in Subsection (a) above, except for properties with frontage on Routes 23 and 22, unless such use is contiguous to an existing business use.

4.7 Multiple and Accessory Dwellings

4.7-1 Two-Family Dwellings

- a. Two-family dwellings shall be permitted by right in the RU and HM Districts on lots that are at least twice the minimum lot size in the District.

- b. On lots created as part of a Flexible Lot Subdivision or hamlet cluster (see Sections 4.4 and 4.6), and on lots that otherwise do not satisfy the requirements of Subsection (a) above, two-family dwellings may be allowed by Special Permit granted by the Planning Board or Zoning Board of Appeals. The Planning Board shall have jurisdiction over Special Permits for any project that includes new structures and the Zoning Board of Appeals shall have jurisdiction for projects involving only additions to or conversions of existing structures.

4.7-2 Accessory Residential Structures and Accessory Apartments

Accessory structures may be used for residential purposes in any Zoning District provided that the following conditions are met.

- a. Any lot may contain accessory residential structures or accessory apartments by right, if it has at least three acres per unit in the RU District and one acre per unit in the HM District.
- b. The Planning Board or Zoning Board of Appeals may grant a Special Permit allowing accessory dwelling units to be located on a lot which does not comply with Subsection (a) above, provided that the Board finds that such additional dwelling units otherwise comply with County Health Department regulations and with applicable Sections of this Local Law. The Board may require, as a condition of such Special Permit, that such accessory dwelling units may not be later subdivided onto separate lots. Such a restriction on future subdivision shall be implemented by means of a recorded conservation easement or deed restriction enforceable by the Town. The Planning Board shall have jurisdiction over Special Permits for any project that includes new structures and the Zoning Board of Appeals shall have jurisdiction for projects involving only additions to or conversions of existing structures.
- c. At the time of subdivision approval, the Planning Board may permit accessory dwelling units on lots which do not comply with subsection (a) above, provided that the overall density allowed in the subdivision complies with applicable requirements of this Local Law, and that adequate conservation easements and plat notes are recorded to maintain such density limits in the future.
- d. No accessory residential structure shall be subdivided onto a separate lot unless it can satisfy applicable dimensional requirements of this Local Law or the Siting Guidelines in Appendices I and II.

4.7-3 Multi-Family Dwellings

- a. Multi-family dwellings shall require a Special Permit from the Planning Board.
- b. Lots containing multi-family dwellings shall have sufficient acreage to satisfy the density requirements for the type of subdivision involved (conventional, flexible lot, or cluster, as provided in Sections 4.2, 4.4, and 4.6).

4.7-4 Structures built before 1995 may be converted to multi-family use at densities higher than would otherwise be allowed, provided that the Zoning Board of Appeals grants a Special Permit for such conversion.

4.7-5 Multiple Residences on a Lot

A lot may contain more than one principal residential structure, provided that it has sufficient acreage to comply with the density requirements of the District.

4.8 Lot Size and Density in the HB District

- 4.8-1 *Non-residential Uses.* Lot sizes for non-residential uses in the HB District shall be established on a case-by-case basis by the Zoning Board of Appeals or the Planning Board as part of subdivision, Special Permit, and Site Plan review, provided that no non-residential use shall be conducted on a lot of less than one (1) acre.
- 4.8-2 *Residential Uses.* The HB District is primarily non-residential. Since the purpose of the HB District is to accommodate high traffic commercial uses that are generally incompatible with residential use, residential development in this District is discouraged. Residential uses existing as of January 1, 1995 may continue at their current densities and may be expanded by right by a maximum of twenty-five percent (25%) of existing square footage, with no additional residential units permitted. Residential uses which are ancillary to permitted HB uses, such as on-site employee housing, shall be permitted by Special Permit issued by the Zoning Board of Appeals, up to a maximum density of one (1) unit per acre.

4.9 Supplementary Dimensional Regulations

4.9-1 Corner Lots and Through Lots

Wherever a side or rear yard is adjacent to a street, the front yard setback shall apply to such side or rear yard.

4.9-2 Projections into Required Yards

- a. The following projections into required yards may be permitted:
- b. Open fire escapes: four (4) feet into required side or rear yards
- c. Awnings or movable canopies: six (6) feet into any required yard
- d. Cornices, eaves, and other similar architectural features: three (3) feet into any required yard
- e. Porch or Carport. An open or enclosed carport shall be considered a part of the building in the determination of the size of the required yard. An open or screened porch may project ten feet into a required front yard.
- f. Driveways shall be set back at least 20 feet from side lot lines, except that:
- g. Common driveways may occupy any part of a side yard adjoining the lot of another user of the common driveway.
- h. On lots with less than 80 feet of road frontage, individual driveways may be less than 20 feet from side lot lines.

4.9-3 Height Exceptions

- a. District building height regulations shall not apply to any flag pole, radio or television antenna, spire or cupola, chimney, elevator or stair bulkhead, parapet, or railing, water tank, or any similar structure, provided that such structure is firmly attached to the roof or side of a building and covers no more than ten percent (10%) of the roof area of the building.
- b. Notwithstanding the foregoing, barns, silos, solar energy systems, and windmills may exceed the height limitations of this Local Law, provided that they comply with applicable Sections of the Supplementary Regulations, and provided that for every one (1) foot by which such structures exceed the height of thirty-five (35) feet, the minimum yard requirements are increased by one (1) foot, up to a maximum of one hundred (100) feet.
- c. District height exceptions shall not apply to communication towers, as defined in Section 14.2, provided that such towers comply with the provisions of Section 8.17.

4.9-4 Side Yards for Semi-detached and Attached Dwellings

Side yards for semi-detached and attached dwellings shall be required at each end of the entire structure only.

4.9-5 Setbacks for Accessory Structures and Uses

When an accessory structure is attached to the principal building, all the yard requirements of this Local Law applicable to the principal building shall be met. Accessory structures or uses, such as swimming pools and tennis courts, which are not attached to a principal building, may be erected in accordance with the following requirements.

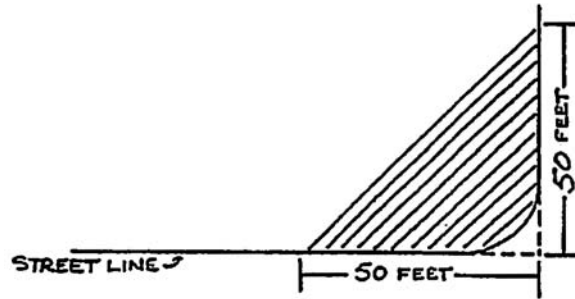
- a. An accessory structure not exceeding thirty (30) feet and/or two (2) stories in height may occupy not more than ten percent (10%) of a required rear yard.
- b. No accessory structure or use shall be located within ten (10) feet of side or rear lot lines.
- c. No accessory structure or use shall be located closer to the street than the front yard setback required for a principal building in the district in which the accessory structure is located. Where a front yard is more than twice the minimum required, any swimming pool, tennis court, or other accessory structure or use with a footprint greater than six hundred (600) square feet shall be set back at least twice the minimum front setback requirement.
- d. For corner lots, the setback from all streets shall be the same for accessory structures as for principal buildings.
- e. No truck over one (1) ton capacity, boat weighing over five hundred (500) pounds, travel trailer, or motor home shall be stored on any residential lot except in the rear yard, in compliance with applicable side and rear yard setbacks for principal buildings.

4.9-6 Fences and Walls

- a. The setback requirements of this Local Law shall not apply to necessary retaining walls, fences, or walls less than six (6) feet high in any side or rear yard, except where corner clearances are required for traffic safety. In any HB or VM District, there shall be no height restriction on side or rear yard fences or walls, except on an HM District boundary line where such fences or walls shall be limited to eight (8) feet in height and except where corner clearances are required.
- b. The setback requirements of this Local Law shall not apply to any front yard fences or walls less than four (4) feet high, except that customary agricultural wire or board fencing which does not obstruct visibility may be higher.
- c. Exceptions to the height limits in Subsections (a) and (b) above may be granted by Special Permit from the Zoning Board of Appeals in the case of a pre-existing non-conforming building which violates the front setback requirements, resulting in excessive noise, dust, or light from the road and the need for protection by a fence or wall higher than otherwise permitted.
- d. In all districts, property owners are encouraged to follow the guidelines set forth in the Appendices with respect to design, location, and materials for fences and walls.

4.9-7 Corner Clearance/Visibility at Intersections

In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded in Sketch A shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the street. If directed by the Planning Board, ground shall be excavated to achieve visibility.



SKETCH A

4.9-8 Rear Lots

It is the policy of the Town of Hillsdale to encourage maximum flexibility for development which is screened from public view. Accordingly, it is desirable to locate residences on rear lots without requiring compliance with otherwise applicable road frontage or maximum front setback requirements. The RU District is hereby declared an "Open Development Area" under Section 280-a(4) of the Town Law. Building permits may be issued for structures on lots that have no public or private road frontage and gain access by right-of-way easement over other lands, under the conditions contained in this Section. Notwithstanding the provisions of Section 4.3, rear lots with or without access ways running to public or platted private roads may be created where they will not endanger public health and safety, and will advance the purposes in Section 1.3 of this Local Law including, in particular, the preservation of natural, historic, and scenic resources. The following requirements apply to rear lots:

- a. In the RU District, each rear lot must have either a minimum frontage of twenty-five (25) feet on an improved public or private road and an access way as defined in this Local Law, or a deeded right-of-way easement over other lands, providing legally adequate and physically practical access to a public or private road. In the HM District, rear lots must have a minimum road frontage of fifteen (15) feet.
- b. Except for Subsection (a) above, rear lots must meet all other requirements for a lot in the applicable Zoning District.
- c. No more than four (4) access ways to rear lots may abut, and abutting access ways must share one (1) private drive over the access ways. If more than four (4) lots are to be served by a proposed private drive, the private road requirements of the Subdivision Regulations shall be satisfied.
- d. The access way or right-of-way must provide safe access for fire, police, and emergency vehicles.

- e. The proposed rear lots must not result in damage to important natural resource and landscape features identified in the Master Plan and Zoning Law, including but not limited to wetlands, agricultural land, scenic views, steep slopes, and ridgelines.
- f. When necessary to satisfy the criteria in Subsection (e) above, the Planning Board may require the applicant to grant a conservation easement that limits the area within which the house and driveway may be constructed on the rear lot.

Chapter 5 Special Districts

5.1 Preservation Overlay Districts

5.1-1 General

a. Purpose.

The Town of Hillsdale declares that the protection of its stream corridors, aquifers, floodplains, historic resources, scenic areas, ridgelines, and farmland is an important public purpose and that, to the extent practicable, future development of the Town should minimize disturbance of these areas.

b. Effect of Regulations

1. In furtherance of the objective in Subsection (a) above, the Town hereby creates Overlay Districts which regulate the use of these areas of public importance. The restrictions applicable in these districts are supplementary to, and do not replace, the underlying use, density, and dimensional regulations in each Base Zoning District.
2. These regulations do not limit or reduce the allowable density of residential development permitted in Chapter 4.
3. In considering any application for Special Permit, Site Plan, subdivision, or zoning amendment, the Zoning Board of Appeals, Planning Board, or Town Board shall attempt, to the extent practicable, to maintain the areas delineated in Preservation Overlay Districts as open space, directing permissible development into those areas not mapped as Overlay Districts.

c. *Mapping of Districts.* The Town Board may adopt and revise, as part of the Zoning Map Series described in Section 2.6, an Overlay District Map or Maps delineating the districts established herein. The provisions of this Section shall take effect only when each Overlay District created herein has been placed on a specific map.

d. *Interpretation of Boundaries.* In the event of uncertainty as to the exact boundaries of any Overlay District, the Zoning Board of Appeals shall interpret this Chapter by designating the exact boundary pursuant to the criteria established below for creating each Overlay District, with information prepared by a professional consultant as provided in Section 2.6-5, if necessary.

e. *Overlapping Districts.* Where two (2) or more Overlay Districts occur on the same parcel, the reviewing Board shall balance the objectives of each District and shall use its discretion, where necessary, in compromising between these objectives.

5.1-2 Stream Corridor Overlay District (SC)

a. *Purpose.* The protection of stream corridors is essential to the maintenance of water quality and the scenic beauty of the Town. It is, therefore, necessary to protect these stream corridors from sedimentation and water pollution.

- b. *Boundaries.* The Stream Corridor Overlay District shall consist of all lands lying within two hundred (200) feet of either side of the center line of all streams classified by the New York State Department of Environmental Conservation, as well as such other streams and tributaries as may be designated and mapped by the Town Board. Where these streams are split into two or more channels by islands, the SC District shall include such islands, and district boundaries shall be measured from the centerlines of the outer channels.
- c. *Regulations.* The Stream Corridor Overlay District regulates activities within the delineated corridors. Within this District, a Special Permit shall be required for any construction, filling, excavation, clear-cutting of more than 10,000 square feet of vegetation over a five-year period, grading or other alteration of the natural landscape, application of fertilizers or pesticides, or dumping or disposal of any materials. This regulation shall not apply to agricultural uses existing as of January 1, 1995.
- d. *Special Permit Requirements.* The Zoning Board of Appeals may issue a Special Permit pursuant to Subsection (c) above only if it finds that the granting of the Special Permit, with appropriate conditions attached, will not result in erosion or stream pollution from surface or subsurface runoff.

5.1-3 Agricultural Preservation Overlay District (AG)

- a. *Purpose.* It is in the interest of the Town to protect the best agricultural lands from development in order to preserve the rural character of the Town and to maintain the availability of agricultural soils for productive use. The Town therefore seeks to channel development away from such farmland. In addition to the protections of the AG District under this Section, agricultural uses are protected from conflicts with surrounding uses under the provisions of Section 8.6.
- b. *Boundaries.* The Agricultural Preservation Overlay District shall consist of those agricultural lands which are in the Columbia County Agricultural Districts #2 and #5 (under Article 25AA of the New York State Agriculture and Markets Law).
- c. *Procedure.*
 - 1. Any land use approval (including Minor Subdivisions) that includes the subdivision or development of mapped agricultural land shall, to the extent practicable, designate the most publicly visible and productive agricultural lands as perpetual open space.
 - 2. In reviewing residential subdivisions, the Planning Board shall require an applicant for subdivision to place home sites, insofar as practicable, on those portions of a tract of land that do not contain soils classified as "prime" or "statewide important" by the United States Department of Agriculture Soil Conservation Service. This shall not reduce the number of lots permitted under the provisions of Chapter 4. Lots may be located on prime or statewide important farmland soils where, because of topography, soil conditions, visual and other environmental impacts, and cost, it is impractical to locate them elsewhere.
 - 3. In reviewing any Site Plan or Special Permit application, the Planning Board or Zoning Board of Appeals shall require that structures (except farm structures) and impermeable surfaces be located, insofar as practicable, on those portions of a tract of land where they will have the least negative impact on agricultural soil potential and agricultural operations.

d. Right-to-Farm

No provision of this Local Law shall be interpreted, administered, or enforced in a manner that unreasonably restricts agricultural structures and normal farming practices occurring on land that lies within a Certified Agricultural District established pursuant to Article 25AA of the New York State Agriculture and Markets Law, unless such restrictions are necessary for the protection of public health and safety.

5.1-4 Scenic/Ridgeline/Historic Overlay District (SH)

a. Purpose. The Town wishes to preserve its visual assets, including historic structures, and other historic features, ridgelines, and scenic road corridors and vistas, by channeling development away from those areas and onto lands that do not have scenic and historic significance. Where development occurs in these visually sensitive areas, the Town wishes to ensure that such development is harmonious with their existing character through Site Plan review.

b. Boundaries. In furtherance of this purpose, the Town may conduct an Historic and Scenic Resources Survey which specifically identifies historic and scenic resources and ridgelines worthy of preservation. At such time as the Town Board approves a map identifying historic and scenic resources based on this Survey, those locations identified on a map shall be protected by the provisions of this Section. The specific areas to be protected may include:

1. All lands within five hundred (500) feet of any identified historic resource which is visible from that resource.
2. Areas within a scenic view shed that are within two hundred (200) feet of a ridgeline as seen from a public road or other public place, or visible within one thousand (1,000) feet of public viewing areas specifically identified on the map.
3. Lands along designated Scenic Road corridors that are visible within five hundred (500) feet of the centerline of such Scenic Roads.

c. Procedure

1. No new structures larger than five hundred (500) square feet in floor space, including single-family homes, and no major exterior modifications or expansions of existing structures, may be constructed within the SH Overlay District without first obtaining Site Plan approval from the Planning Board.
2. In order to grant Site Plan approval for a proposed structure or for an exterior alteration of a structure visible within five hundred (500) feet of a mapped historic resource (including the alteration or demolition of such historic resource itself), the Planning Board must find that such structure or alteration is architecturally compatible with surrounding historic structures, and that the important historic features of the site have been preserved in the Site Plan. The Planning Board may require, as a condition of approval, the execution of a perpetual historic preservation easement to ensure the maintenance of the historic character of the site.
3. Structures to be built on a tract of land that includes land within a mapped scenic view shed or ridgeline protection area shall either be sited to avoid occupying or obstructing public views of lands in the Overlay District, or shall be reviewed for architectural compatibility with the existing landscape

and surrounding architectural styles. In order to grant Site Plan approval, the Planning Board must find that such structures will not detract from the scenic character of the area. The Planning Board may require, as a condition of approval, the establishment of vegetative screening and/or the execution of a perpetual scenic conservation easement to ensure the protection of the view shed.

5.1-5 Aquifer Overlay District (AQ)

- a. *Purpose.* The Town wishes to preserve and maintain the quality and quantity of groundwater found in the Town's aquifers by prohibiting or controlling those uses and activities which may cause short-term or long-term harm to groundwater sources.
- b. Aquifer Overlay District Description
 1. The AQ District consists of areas containing aquifers as shown on a map to be prepared, which shall be entitled "Aquifer Overlay District (AQ)." The Town Board finds that the protection of these aquifer areas from degradation and pollution is in the Town's interest because of present or projected future use of such aquifers as public or private water supplies. This Section 5.1-5 shall not become effective until the Town Board adopts such a map as part of this Local Law. The map will identify the approximate locations of aquifers within the Town, and may be modified by the Town Board by zoning amendment to correct or clarify the location or extent of those aquifers requiring protection under this Local Law.
 2. Any landowner whose land lies within the mapped Aquifer Overlay District may present evidence based upon on-site investigation by qualified experts to show that such land does not contain aquifer conditions. The Town Board may, by resolution, exempt such land from the regulations of the AQ District if it finds, based upon such evidence, that aquifer conditions do not exist. In reviewing any proposal for a subdivision, Special Permit, Site Plan, or Variance, the Planning Board or Zoning Board of Appeals may also exempt land lying within the mapped AQ District from the provisions of this Section if it finds, based upon expert professional evidence gathered from on-site investigation, that aquifer conditions do not exist.
- c. Applicability
 1. An applicant for any development requiring a Building Permit or other land use approval shall be subject to the provisions of this Section. Compliance shall be required as a condition of approval of any such action within the AQ District. The applicant shall show, on any required submissions, the location of any portion of the subject property which lies within the AQ District as identified on the Aquifer Overlay District Map.
 2. Existing development, uses, or activities located within the AQ District are not subject to the requirements of this Local Law and are considered non-conforming uses or activities. Any change in a permitted non-conforming use or activity will be subject to the requirements of the AQ District. Notwithstanding the foregoing, if any non-conforming uses are found to pose a potential or imminent health hazard, they shall be deemed violations of this Local Law.

- d. *Review of Actions.* The Zoning Officer and any Board approving a proposed action pursuant to Subsection (c)(1) above shall be responsible for assuring compliance with the provisions of this Section. In addition to the maps, plans, and information required for such authorizations, or for review under the New York State Environmental Quality Review Act, the reviewing Board or Zoning Officer may require such additional information, analysis, or documentation as may be appropriate to consider adequately the particular action proposed.
- e. *Decision.* Every decision on proposed actions in the AQ District shall include written findings of fact, specifying the reason or reasons for such decision, and shall set forth any limitations, conditions, or safeguards imposed to satisfy the requirements of this Section.
- f. No proposed action within the AQ District shall be approved unless the reviewing board or official finds that, based upon available information, analysis, and evidence, the proposed action will not:
 1. Significantly alter the subsurface flow of groundwater to private water supply wells and existing and potential public water supply wells. This standard shall not apply to a proposed public water supply well.
 2. Degrade the quality of groundwater through the introduction of sewage or other organic wastes, storm water runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances.
 3. Increase the long-term risk of groundwater contamination through the siting, establishment, or expansion of uses which store, transport, or utilize significant quantities of material which is potentially harmful to groundwater quality.
 4. Increase the long-term risk of groundwater contamination through the introduction of relatively small quantities of hazardous or toxic substances which, over a period of time, may accumulate in groundwater.
 5. Increase the risk of groundwater contamination through the removal of soil, sand, stone, or gravel necessary to provide a protective mantle for groundwater.
 6. Reduce to less than five (5) feet the separation between the surface of the ground and the seasonal high water table.

5.1-6 Floodplain Overlay District (FP)

Development of land lying within an "area of special flood hazard" (one hundred (100) year floodplain), as defined in Local Law #1 of the year 1987 or in any succeeding local law regulating floodplains, shall require compliance with such Local Law. Areas of special flood hazard are shown on the Flood Insurance Rate Map (FIRM), available in the Office of the Town Clerk.

5.2 Soil Mining Overlay District (SM)

[NOTE: If desired by the Town, this District would be the only area where soil mining is allowed.]

5.3 Village Mixed-Use (Industrial/Office/Residential) Floating District (VM)

5.3-1 Purpose

The purpose of this Floating District is to enable the Town Board to permit, on a case-by-case basis, mixed-use developments that include significant employment opportunities while providing residential facilities that allow employees to live close to their jobs, as well as limited commercial development to serve such employment and residential facilities. The design and layout of such planned developments shall follow the pattern of settlement found in traditional villages of New York State and New England, as set forth in the Appendices. Commercial uses in the VM District shall avoid duplicating the retail and service businesses located in the hamlet of Hillsdale, with the exception of convenience stores and restaurants for local use. Provision is made for this Floating District for light industrial and office development because the Town Board finds such enterprises appropriate in diversifying the Town's economy and tax base, provided that they do not detract from its rural character or from the economic vitality of the hamlet of Hillsdale. Because industrial and office development tends to increase the demand for housing and increase housing costs, the Town Board may require that a VM District contain housing units to help meet this additional demand. The granting of authority to establish an industrial/office village development shall be subject to the conditions set forth below, the requirements of Chapter 7, Site Plan Approval, and such other reasonable conditions as the Town Board in its discretion deems appropriate.

5.3-2 Procedure

- a. Application for the establishment of a VM District shall be made to the Town Board pursuant to the zoning amendment provisions of Chapter 12 of this Local Law. The project application shall state the proposed uses for the property, and shall include a schematic Site Plan showing the approximate size, height, and location of proposed structures, parking areas, roads, open space, and other facilities. The Town Board may, in its sole discretion, reject an application for a VM District at any time prior to final adoption of a zoning amendment.
- b. Within one (1) year of the date the Town Board adopts a zoning amendment creating a VM District, the applicant shall apply to the Planning Board for Site Plan approval pursuant to Chapter 7 of this Local Law. The Planning Board shall grant Site Plan approval if it finds that the Site Plan satisfies the standards and criteria in this Section and in Chapter 7 of this Local Law, and that the Site Plan is substantially similar to the schematic Site Plan approved by the Town Board. If a period of more than one (1) year passes between Town Board approval and submission of a Site Plan application, the VM designation shall lapse, and the property shall revert to its prior zoning classification, unless the VM District designation is extended by the Town Board.
- c. The granting of permission for the establishment of a light industrial and/or office use in the VM District by the Town Board shall be limited to the specific proposal presented for approval within the area designated, according to the plans and specifications submitted.

5.3-3 Criteria

In considering an application for designation of a VM District, the Town Board shall follow the Special Permit criteria set forth in Section 6.4-1, as well as the following criteria:

- a. The project must be designed, located, and operated so as to protect the public health, safety, and welfare of the community.

- b. The project must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- c. The project must not cause undue traffic congestion or create a traffic hazard.
- d. The project must have safe and adequate access onto New York State Routes 22 or 23, and must be appropriately located with respect to water supply, sewage disposal, waste disposal, fire protection, and other necessary services and/or facilities.
- e. The proposed uses must be suitable for the site, must not impose a threat of pollution of the natural resources of the Town, must not pose a threat to valuable ecological or wildlife resources, must not create the likelihood of a substantial increase in local housing costs, and must be designed in accordance with the standards specified in Section 5.3-5 below. If the project will result in the creation of more than fifty (50) permanent jobs, it must include housing opportunities sufficient to accommodate at least twenty-five percent (25%) of the proposed work force.
- f. The project must be laid out in a manner that observes the Guidelines in the Appendices.

5.3-4 Allowable Uses

The following uses, operations, or activities are allowed in a VM District established by the Town Board:

- a. Light industrial/manufacturing;
- b. Food processing;
- c. Offices;
- d. Wholesaling;
- e. Farm equipment sales and repair
- f. Veterinary hospital;
- g. Research facilities;
- h. Warehousing;
- i. Single-family or multi-family housing, excluding mobile home parks;
- j. Restaurants and convenience food stores;
- k. Such other uses as the Town Board may deem appropriate, consistent with the Master Plan and the purposes set forth in Section 1.3.

5.3-5 VM District Design Guidelines

- a. VM Districts shall meet the following requirements.
 - 1. Dimensional requirements
 - (a) Minimum size of district: Twenty (20) acres.
 - (b) Minimum building setbacks from adjoining districts:
 - I. Front: Fifty (50) feet.
 - II. Side: One hundred fifty (150) feet.
 - III. Rear: One hundred fifty (150) feet.
 - (c) Maximum building height: thirty-five (35) feet.

- (d) Maximum total coverage in district: thirty-five percent (35%).
- 2. At least forty percent (40%) of the land on a tract zoned VM shall be set aside as perpetual open space pursuant to the provisions of Section 4.4 of this Local Law.
- 3. In addition to the dimensional requirements set forth above, no office, industrial, or commercial use, structure, or operation within a VM District, including but not limited to accessory uses such as parking and loading areas, shall be permitted within one hundred (100) feet of the RU or HM Districts.
- 4. The minimum setback areas set out in Subsection 5.3-5(a)(1) above shall include buffering. This required buffer area shall be landscaped with trees and shrubs sufficient in size and quantity to effectively screen any industrial or office uses from any public road and from any existing or future uses abutting the VM District. Existing trees within the required buffer area shall be preserved to the maximum extent possible.
- b. All development in a VM District shall satisfy the criteria for Site Plan approval set forth in Section 7.4.

5.3-6 Ridgeline Regulation.

- a. *Findings and Purposes.* Special protection of highly visible ridgeline areas is necessary to preserve the attractive rural quality of the Town. The purpose of this section is to protect the Town’s scenic beauty and rural character by regulating land use within the Ridgeline Overlay District. This section is intended to afford special protection to those sections of ridgeline areas having an elevation greater than 1100 feet above sea level. In particular, it is intended to limit alterations of ridgelines from development, including clear-cutting, to ensure that such development is harmonious with the existing characteristics of these areas through the use of existing review procedures under the Town Zoning Law.
- b. *Ridgeline Overlay District defined.* The ridgeline areas to which these regulations apply shall be all areas of the Town having an elevation of 1100 feet or more above sea level, as shown on the ridgeline overlay map.
- c. Ridgeline regulation effect on land uses.
 - 1. Within the Ridgeline Overlay District, all of the underlying land use district regulations shall remain in effect, except as they are specifically modified by this section. In case of conflict between this section and any other section of the Zoning Law, this section shall control.
 - 2. The site plan approval standard and provisions of this section shall be complied with in the course of any otherwise required site plan or special permit approval, subdivision approval, variance proceeding, or zoning amendment (collectively referred to as a “development application”), and for all applications for building permits for properties located in the Ridgeline Overlay District. Where no other reviews apply, the provision of this subsection shall be implemented by site plan approval conducted pursuant to Chapter 7.
 - 3. Within the Ridgeline Overlay District, no structures, other than those used for single family residential and agricultural uses, and customary accessory structures for such uses, may have a foot print area greater than 3,000 sq. ft.

The intent of this provision shall not be evaded through the placement of multiple large buildings on the same site or otherwise in a pattern that is inconsistent with the scale and character of the Town.

4. In the case of subdivision approvals in the Ridgeline Overlay District, the Planning Board may require applicants to submit flexible lot subdivisions that preserve undeveloped land that is with the Ridgeline Overlay District to the maximum extent practical, as provided in Section 4.4-7
 5. Building permits in the Ridgeline Overlay District shall be issued in two stages:
 - (a) *Stage One permits* shall cover the construction of access roads, sited clearance (including removal of trees and other vegetation), grading, and provisions for drainage and erosion control;
 - (b) *Stage Two permits* shall be for the construction of driveways, buildings and other improvements including final grading and required landscaping.
- d. *Site Plan approval requirement.* Within the Ridgeline Overlay District, site plan approval by the Planning Board, pursuant to Chapter 7, shall be required for the following activities or uses, even if such activities or uses are allowed by right without site plan approval by the use table in section 3.2 (for example, the construction of a dwelling upon an existing lot):
1. Construction of any structure or any addition to a structure greater than 500 sq. ft. in foot print area, including residential and residential accessory structures.
 2. In any location within the Ridgeline Overlay District;
 - (a) Filling or excavation of an area in excess of 5,000 sq. ft.
 - (b) Clear-cutting;
 - (c) Grading or other alteration of more than 5,000 sq. ft. of the natural landscape, including construction of roads and driveways.
- e. *Site plan approval exemptions.* Within the Ridgeline Overlay District, site plan approval requirement shall not apply to:
1. Agricultural uses, except for agricultural structures with a footprint exceeding 15,000 sq. ft.;
 2. Repair and maintenance of existing structures;
 3. Activities carried out pursuant to a site plan or special permit approved subsequent to the enactment of this Section 5.4 of the Zoning Law, (but not a subdivision) approved prior to the enactment of this section;
 4. Clear-cutting, thinning of vegetation, and grading associated with construction of unpaved hiking trails, not exceeding 4 ft. in width.

In addition to the above exemptions, if the Planning Board determines that the proposed development will not be visible from a publicly accessible road, it shall pass a resolution declaring the project exempt from review under this section 5.4-1.

- f. *Additional submission and conservation analysis requirements for Ridgeline Overlay District.* In addition to the otherwise applicable submission requirements for development applications, within the Ridgeline Overlay District the following additional information shall be submitted:
1. Visual Environmental Assessment Form (visual EAF addendum) or other visual assessment analysis in order to assist the reviewing board in assessing the visual impact.
 2. A conservation analysis consisting of inventory maps, description of the land and an analysis of the conservation value of various site features. Applicants are encouraged to consult with appropriate agencies such as the Columbia Land Conservancy and the Columbia County Soil and Water Conservation District when preparing a conservation analysis. The Planning Board may waive some of the requirements below for portions of the property where no development is proposed or the collection of information listed below would be unreasonably burdensome to the property owner. The Planning Board may also waive any requirements that are deemed unnecessary for a complete conservation analysis. The conservation analysis shall normally show the following:
 - (a) Wetlands, water courses, slopes between 15% and 25%, and slopes over 25%;
 - (b) Scenic viewsheds;
 - (c) Buffer areas necessary for screening new development from adjoining parcel;
 - (d) Stonewalls and individual trees that are 18 inch diameter at breast height (dbh) or larger;
 - (e) Mapped areas of significant habitat based upon available mapping for biodiversity habitat values;
 - (f) The location of all existing vegetation by general vegetation type as well as the identification of all vegetation proposed for thinning or clearing in connection with a development application including identification of vegetation to remain after such thinning or clearing.
 3. Conservation analysis shall describe the importance and the current and potential conservation value of all land on the site identified in (2) above. In the course of pre-application conferences and initial review, the reviewing Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.
 4. The outcome of the conservation analysis in the Board's determination shall be incorporated into any subdivision or site plan, showing land permanently preserved by conservation easement (if applicable) as well as recommended conservation uses, ownership, and management guidelines for such land. Such land shall also show preferred locations for intensive development as well as acceptable location(s) for less dense development. The Planning Board may designate specific building envelope(s) within which site clearing and building must occur.

- g. *General standards.* Within the Ridgeline Overlay District, special permit, site plan, variance, and/or subdivision approval may only be granted if, with appropriate conditions attached, the proposed activity or development:
 1. Will not result in a degradation of scenic character and will be aesthetically compatible with its surroundings, based on a Visual Environmental Assessment Form (Visual EAF Addendum) or other visual impact analysis sufficient to make this determination.
 2. Will minimize the removal of native vegetation including the opening up of scenic views and panoramas for the benefit of a private property owner.
 3. Will locate and cluster buildings and other structures in a manner that minimizes their visibility from a public road.
 4. Will be at least 40 feet below the Crest Line of any ridge and will not disturb the continuity of the treeline when viewed from any publicly accessible road. As used herein, "Crest Line" means the tops of trees as seen from any publicly accessible road or, if there are not trees the natural ground elevation of the land. The only portions of a structure that may project higher than 40 feet below the crest line shall be a chimney, satellite dish, antenna, or cupola, which shall not be higher than 30 feet below the crest line.
 5. Will not result in clearing a building site area greater than 20,000 sq. ft., including accessory structures (see Section 4.7-2) and parking areas, but excluding the area required for driveway and utility access. This building site area shall be designated on the approved plan by a "building envelope(s)", and all buildings and parking areas shall be located within the building envelope(s), except where additional clearing is required by the County Health Department for siting a subsurface sewage disposal system. Clearing for such disposal system shall occur, to the maximum extent practical, where it will not detract from the visual protection purposes of this section.
- h. *Agricultural District Farm Operations.* Nothing contained in this Ridgeline Regulations is intended to unreasonably restrict or regulate farm operations within agricultural districts in contravention of Article 25-AA of the New York State Agriculture & Markets Law, unless it can be shown that public health or safety is threatened.

5.3-7 Clear-cutting Regulations.

- a. Clear-cutting or thinning of trees or other vegetation shall be prohibited in any location where such clear-cutting will disturb the continuity of the tree line of a Ridgeline Overlay District.
- b. Clear-cutting or thinning of trees or other vegetation in the Ridgeline Overlay District which does not disturb a tree line but is visible from a public road, shall be allowed only upon site plan approval of the Planning Board, provided that:
 1. Such activities minimize clear-cutting and comply with the most recent versions of *Timber Harvesting Guidelines for New York* and *Best Management Practices*, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Building Department; and /or

2. Such cutting is part of a forest management or wildlife habitat improvement plan prepared by a DEC certified forester and approved by DEC or other professional or organization deemed acceptable by the Planning Board, and/or for which a separate logging permit has been issued by the Town of Hillsdale; and/or
3. Such cutting is part of a bona fide agricultural activity including, but not limited to, Christmas tree farm operations; and/or
4. Such cutting is necessary to prevent an imminent threat to life, public safety, or property; and/or
5. Such cutting is necessary to minimize or repair damage arising from severe natural occurrences, such as ice, fire, and wind damage.

5.3-8 Balloon Testing.

In connection with its review of an application within the Ridgeline Overlay District, the Planning Board may require the applicant to conduct a balloon test. The purpose of such test is to determine whether or not a proposed structure, clear cut, or other activity which will project above or interrupt the continuity of a crest line or tree line is described above, or otherwise adversely affect scenic quality.

5.3-9 Remediation of Illegal Clear-Cutting.

Where clear-cutting of vegetation in excess of what is permitted under Section 5.4 without approval has occurred for a site proposed for development prior to the submission of a development application, such clear-cutting shall be deemed a violation of Section 5.4-2, and the property owner shall be subject to all applicable penalties under Section 10.4. In addition, the landowner may be required by the Zoning Officer or Town Board to restore the landscape to its prior condition to the maximum extent feasible by planting appropriate vegetation on the site. Such action may be taken pursuant to authority of Section 10.4-4. No building permit shall be granted for construction of any structure on such property for a minimum of five (5) years after the violation is discovered to have occurred, unless the landscape has been restored to the satisfaction of the Planning Board. A violation of Section 5.4-2 occurring during stage one of a building permit for construction in the Ridgeline Overlay District will result in the denial of a stage two building permit for the project. A violation of Section 5.4-2 occurring during stage two of a building permit for construction in the Ridgeline Overlay District will result in a suspension of such building permit and/or the denial of a Certificate of Occupancy for the construction project.

Chapter 6 Special Permits

6.1 Purpose and Applicability

It is the policy of the Town of Hillsdale to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the rural character of the Town. Many of the uses listed in the Use Table (Section 3.2) are therefore permitted only upon issuance of a Special Permit by the Zoning Board of Appeals, in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria in each particular case. In addition, certain uses in the Stream Corridor (SC) Overlay District are permitted only by Special Permit issued by the Zoning Board of Appeals (see Section 5.1-2). Special Permits for new multi-family and accessory dwellings pursuant to Section 4.7 shall be granted by the Planning Board. All references to the Zoning Board of Appeals appearing in this Chapter shall apply to the Planning Board in connection with such Special Permits.

6.2 Required Plans

Because the impact of specially permitted uses varies greatly, the information required to be submitted for a Special Permit will vary depending upon the scale of the proposed use and whether it is a Major or Minor Project as defined in Chapter 14 of this Local Law.

6.2-1 Major Projects

An applicant for a Major Project shall submit:

- a. A Major Project application form.
- b. A Site Plan, as described in Section 7.2 of this Local Law, and an agricultural data statement as defined in Chapter 14, if required by Section 8.6-3.
- c. A narrative report describing how the proposed use will satisfy the criteria set forth in Section 6.4, as well as any other applicable requirements relating to the specific use proposed.
- d. A long-form Environmental Assessment Form or Draft Environmental Impact Statement.
- e. The Major Project application fee, as established by the Town Board, and any required escrow deposit for review costs, as required by the Zoning Board of Appeals.

6.2-2 Minor Projects

An applicant for a Minor Project Special Permit shall submit:

- a. A Minor Project application form.
- b. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined in Chapter 14, if required by Section 8.6-3.
- c. A brief narrative describing the proposed use.
- d. A short form Environmental Assessment Form (EAF) (unless the Zoning Board of Appeals determines that the proposed Special Permit is a Type I action, in which case a long-form EAF shall be required).
- e. The Minor Project application fee as established by the Town Board, and an escrow deposit (if required).

6.3 Procedure

6.3-1 Application

- a. Application for a Special Permit may be made either to the Zoning Administrator or directly to the Zoning Board of Appeals, on forms prescribed by the Zoning Board of Appeals.
- b. If an application is for a parcel or parcels on which more than one use requiring a Special Permit is proposed, the applicant may submit a single application for all such uses. The Zoning Board of Appeals may grant the application with respect to some proposed uses and not others. For purposes of determining whether the application is a Major or Minor Project (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.

6.3-2 Informal Meeting

Before filing an application, an informal meeting with the Zoning Board of Appeals is recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

6.3-3 Mediation

At any point in a project review process the Zoning Board of Appeals may, if it deems appropriate and the parties consent, appoint a mediator to work informally with the applicant, neighboring property owners, and other concerned citizens to address concerns raised about the proposed special use. Such mediation may be conducted by any qualified and impartial person. The mediator shall have no power to impose a settlement or bind the parties or the Zoning Board of Appeals, and any settlement reached shall require Board approval to assure compliance with all provisions of this Local Law. The cost, if any, of such mediation may be charged to the applicant as part of the cost of project review, with the applicant's consent.

6.3-4 SEQRA Compliance

Upon receipt of application materials it deems complete, the Zoning Board of Appeals shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within twenty (20) days. Where doubt exists concerning whether or not the proposed action may have a significant effect on the environment, the Zoning Board of Appeals shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Local Law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYCRR Section 617.8(b)(1) or the issuance of a negative declaration.

6.3-5 Referral to County Planning Board

- a. Upon receipt of application materials it deems to be complete, the Zoning Board of Appeals shall refer to the Columbia County Planning Board any application for a Special Permit affecting real property within five hundred (500) feet of the boundary of the Town of Hillsdale, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State owned land on

which a public building or institution is situated, pursuant to General Municipal Law, Article 12-B, Sections 239_l and 239_m, as amended.

- b. No action shall be taken on applications referred to the County Planning Board until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the thirty (30) day requirement for the County Planning Board's review.
- c. *County Disapproval.* A majority plus one (1) vote of the Zoning Board of Appeals shall be required to grant any Special Permit which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

6.3-6 Referrals to the Planning Board

The Zoning Board of Appeals may, in its sole discretion, refer a Special Permit application to the Town Planning Board for an advisory opinion. Such application must be transmitted to the Planning Board at least forty-five (45) days prior to the public hearing. The Planning Board shall submit its opinion to the Zoning Board of Appeals before the public hearing. Failure to submit the opinion in a timely fashion shall be interpreted as a favorable opinion on the application. This Section shall in no way obligate the Zoning Board of Appeals to obtain the opinion of the Planning Board on any application. It shall only offer the option of obtaining such an opinion.

6.3-7 Notice and Hearing

Within sixty-two (62) days after the Zoning Board of Appeals finds an application for a Special Permit to be complete, the Zoning Board of Appeals shall hold a public hearing on the Special Permit. The applicant shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper at least five (5) days prior to the date thereof and, in the case of a Major Project, by mailing a copy of such notice of public hearing to all abutting landowners by certified mail at least ten (10) days prior to such hearing.

6.3-8 Action

The Zoning Board of Appeals shall grant, deny, or grant subject to conditions, the application for a Special Permit within sixty-two (62) days after the hearing for a Major Project and within thirty (30) days for a Minor Project. Any decision on a Major Project shall contain written findings explaining the rationale for the decision in light of the standards contained in Section 6.4 of this Local Law.

6.3-9 Expiration, Revocation, and Enforcement

- a. A Special Permit shall be deemed to authorize only the particular special use or uses permitted, and shall expire if the special use or uses shall cease for more than twenty-four (24) consecutive months for any reason, or if the applicant fails to obtain the necessary Building Permit or fails to comply with the conditions of the Special Permit within eighteen (18) months of its issuance.
- b. A Special Permit may be revoked by the Zoning Board of Appeals if the permittee violates the conditions of the Special Permit.
- c. Any violation of the conditions of a Special Permit or violation of the performance criteria in Section 6.4 shall be deemed a violation of this Local Law, and shall be subject to enforcement action as provided herein.

6.3-10 Amendments

The terms and conditions of any Special Permit may be amended in the same manner as required for the issuance of a Special Permit, following the criteria and procedures in this Chapter.

6.3-11 Site Plan Approval

If the proposed use is a Major Project, the applicant must also obtain Site Plan approval from the Planning Board as provided in Chapter 7. Zoning Board of Appeals review of a Major Project shall be limited to the general acceptability of the use in relation to the surrounding neighborhood, including any general conditions on layout, design, construction, or operation necessary to ensure compliance with the criteria in Section 6.4-1. Detailed review of the Site Plan itself shall be conducted by the Planning Board pursuant to Chapter 7 of this Local Law.

6.4 Criteria and Findings

- 6.4-1 In granting or denying Special Permits, the Zoning Board of Appeals shall take into consideration the rural tradition of freedom of land use where such use does not harm others, as well as any proposed conservation easements, architectural restrictions, or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic and historic character of the Town. In order to grant a Special Permit, the Zoning Board of Appeals shall consider the following performance criteria:
- a. The general land use performance standards in Section 8.1.
 - b. Compatibility of the proposed use with adjoining properties, with the natural and built environment in the area, with the purposes of this Local Law as set forth in Section 1.3, and with the purposes and requirements of the Base Zoning District and any applicable Overlay Districts.
 - c. Adequacy of parking for the proposed use, and its accessibility to fire, police, and emergency vehicles.
 - d. Suitability of the property for the proposed use considering its size, topography, vegetation, soils, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads. The Zoning Board of Appeals may impose setbacks larger than those contained in Section 4.3 if it deems appropriate.
 - e. Whether the proposed use will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
 - f. Any restrictions or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with surrounding uses or to protect the natural and scenic resources of the Town.
 - g. Quality of the proposed Site Plan and its compliance with the requirements of Chapter 7, Site Plan Review and, if a Major Project, with the Appendices.
 - h. Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the commercial viability of the hamlet of Hillsdale.

6.4-2 Required Findings

- a. The Zoning Board of Appeals shall not issue a Special Permit unless it makes a written finding that the proposed use, if conducted pursuant to the conditions attached to the Special Permit, will satisfy the criteria in Section 6.4-1 above.
- b. If the Zoning Board of Appeals does not make such a finding, it shall deny the Special Permit.

Chapter 7 Site Plan Approval

7.1 Purpose and Applicability

- 7.1-1 The Planning Board shall review Site Plans for those uses which, because of their scale, intensity, or potentially disruptive nature, require careful layout, design, and placement on a site. The Site Plan approval process does not consider the appropriateness of a particular use for the site (which is determined through the Special Permit process), but only with the suitability of a particular Site Plan. The principal purpose of Site Plan review is to ensure compliance of a particular development site with the purposes and performance criteria contained in this Local Law.
- 7.1-2 Site Plan approval shall be required for all Special Permits for Major Projects, and for certain Minor Projects including sign bonuses and advertising signs pursuant to Section 8.13, and for uses in the Scenic/Ridgeline/Historic Overlay (SH) District, as described in Section 5.1-4. Site Plan approval shall not be required for other types of Minor Projects. Site Plan approval does not apply to subdivisions containing only single-family or two-family dwellings, unless they are located in the SH or VM Districts.
- 7.1-3 Site Plan approval shall also be required for the resumption of any use described in Section 7.1-2 above which has been discontinued for more than one (1) year, for the expansion of any such existing use, or for the resumption or expansion of any use for which an approved Site Plan exists.

7.2 Required Plans

An application for Site Plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the applicant.

7.2-1 Minor Projects

An applicant for Minor Project Site Plan approval shall prepare a plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Planning Board to make an informed decision, including any items listed in Section 7.2-2 which the Planning Board deems necessary, a short-form Environmental Assessment Form (unless the Planning Board determines that the proposed Site Plan is a Type I action, in which case a long-form Environmental Assessment Form will be required), an agricultural data statement as defined in Chapter 14, if required by Section 8.6-3, and the required Minor Project fee, as established by the Town Board.

7.2-2 Major Projects

Major Project Site Plans shall be prepared by a registered professional engineer, architect, or landscape architect, and shall include the following:

- a. Name of the project, boundaries, date, north arrow, and scale of the plan.
- b. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.
- c. Vicinity map drawn at the scale of two thousand (2,000) feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within five hundred (500) feet of the property. Such a sketch may be superimposed on a United States Geological Survey map of the area.

- d. Site Plan drawn at a scale of forty feet to the inch (1" = 40') or such other scale as the Planning Board may deem appropriate, on standard 24" x 36" sheets, with continuation on 8½" x 11" sheets as necessary for written information.
- e. The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.
- f. The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
- g. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- h. The location, height, size, materials, and design of all proposed signage.
- i. The location of all present and proposed utility systems including:
 - 1. Sewage or septic system;
 - 2. Water supply system;
 - 3. Telephone, cable, and electrical systems; and
 - 4. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- j. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- k. Existing and proposed topography at five (5) foot contour intervals, or such other contour interval as the Planning Board shall specify. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within fifty (50) feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.
- l. A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight (8) or more inches in diameter, forest cover, and water sources, and all proposed changes to these features including size and type of plant material. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas.
- m. Zoning District boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan, as well as any Overlay or Floating Districts that apply to the site.
- n. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, as well as curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas, which shall include:

1. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 2. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 3. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
- o. For new construction or alterations to any structure, a table containing the following information must be included:
1. Estimated area of structure to be used for particular uses such as retail operation, office, storage, etc;
 2. Estimated maximum number of employees;
 3. Maximum seating capacity, where applicable; and
 4. Number of parking spaces existing and required for the intended use.
- p. Elevations at a scale of one-quarter inch equals one foot (1/4" = 1') for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.
- q. For large or environmentally intrusive developments, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.
- r. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
- s. Long-form Environmental Assessment Form or Draft Environmental Impact Statement.
- t. An agricultural data statement as defined in Chapter 14, if required by Section 8.6-3.

7.2-3 Waivers

In the case of Major Projects that are likely to have a minimal impact on the surrounding area, the Planning Board may waive information requirements in Subsection 7.2-2, as it deems appropriate.

7.3 Procedures

7.3-1 Application

- a. Application for Site Plan approval shall be made to the Planning Board. An applicant for Site Plan approval under this Section shall file six (6) copies each of the Site Plan application and required plans, along with the required application fee for a Major or Minor Project application, as established by the Town Board.
- b. Prior to filing an application for a Major Project, and applicant may informally submit a preliminary Site Plan satisfying the plan requirements for a Minor Project, and may meet with the Planning Board to obtain guidance on the preparation of the Major Project Site Plan.

7.3-2 Meeting with Applicant

Upon receipt of the application, the Planning Board shall notify the applicant in writing of the place, date, and time of the meeting of the Planning Board at which the application is to be considered, and request the applicant's presence to discuss the application.

7.3-3 Referral to County Planning Board

- a. The Planning Board shall refer to the Columbia County Planning Board any complete application for Site Plan approval affecting real property within five hundred (500) feet of the boundary of the Town of Hillsdale, or the boundary of any existing or proposed County or State park or other recreational area, or the boundary of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County- or State owned land on which a public building or institution is situated, pursuant to General Municipal Law, Article 12-B, Sections 239_l and 239_m, as amended.
- b. No action shall be taken on Site Plans referred to the County Planning Board until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the Site Plan applications, unless the County and Town agree to an extension beyond the thirty (30) day requirement for the County Planning Board's review.
- c. County Disapproval. A majority plus one (1) vote shall be required to approve any Site Plan which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

7.3-4 Disposition of Application by Town Planning Board

- a. The Planning Board may hold a hearing on a proposed Site Plan if the Planning Board finds that such a hearing would assist it in achieving the purposes of this Local Law and of this Chapter. If the Planning Board decides to hold a hearing, it shall fix a time within forty-five (45) days of the date a complete application for Site Plan approval is received, and shall require the applicant to give public notice thereof by the publication in the official newspaper of such hearing at least five (5) days prior to the date thereof. The Planning Board shall render its decision approving, approving with modifications or conditions, or disapproving the Site Plan within sixty-two (62) days of such hearing; provided, however, the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- b. If no hearing is held, the Planning Board shall approve, approve with modifications or conditions, or disapprove the Site Plan within sixty-two (62) days of the receipt of the complete application and after the applicant has had the opportunity to meet with the Planning Board.
- c. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk, and a copy thereof mailed to the applicant.
- d. A conditional approval shall expire within one hundred eighty (180) days if the conditions have not been satisfied; however, the Planning Board may consent to an extension of up to another one hundred eighty (180) days.
- e. An approved Site Plan may be amended by the same procedures and standards used in granting the original Site Plan approval.

- f. Site improvements required in connection with a Site Plan approval shall be installed, or a suitable performance guarantee shall be provided pursuant to Section 10.2-4, prior to the issuance of a Building Permit.

7.4 Criteria

The Planning Board, in reviewing Site Plan applications, shall consider the criteria set forth below.

7.4-1 Layout and Design

- a. The Design Guidelines in the Appendices shall be carefully observed for all Major Projects.
- b. All structures in the plan shall be integrated with each other and with adjacent structures, and shall have convenient pedestrian and vehicular access to and from adjacent properties.
- c. Individual structures shall be related to each other and to traditional structures in the surrounding area in architecture, design, massing, materials, and placement, to harmonize visually and physically with traditional elements in the architectural fabric of the area.
- d. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
- e. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.

7.4-2 Landscaping

- a. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
- b. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town's environment.
- c. Where appropriate, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
- d. If deemed appropriate for the site by the Planning Board, shade trees at least six (6) feet tall shall be planted and maintained at twenty-five to fifty (25 to 50) foot intervals along roads, at a setback distance acceptable to the Highway Superintendent.

7.4-3 Parking, Circulation, and Loading

- a. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
- b. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Planning Board, where appropriate.
- c. Off-street parking and loading requirements of Section 8.12 of this Local Law shall be fulfilled.

- d. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
- e. All buildings shall be accessible to emergency vehicles.

7.4-4 Miscellaneous Standards

- a. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
- b. The light level at the lot line shall not exceed two-tenths (0.2) footcandle, measured at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, light standards shall be restricted to a maximum of twenty (20) feet in height.
- c. Drainage of the site shall recharge ground water to the extent practical, and surface waters flowing off-site shall not adversely affect drainage on adjacent properties or public roads.
- d. Additional Site Plan requirements and standards for review set forth in other Sections of this Local Law shall be fulfilled.
- e. Requirements for proper disposal of construction and demolition waste shall be fulfilled, and any necessary permits or agreements for off-site disposal shall be provided to the Planning Board.