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# ZONING AND LAND USE CONTROL LAW

## TOWN OF HILLSDALE, NEW YORK

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### Part 2 of 2

#### Chapter 8      **Supplementary Regulations**

##### **8.1      General Land Use Performance Standards**

In any district, the following performance standards for all land uses shall apply, subject to the limitations on the regulation of agricultural uses contained in Section 5.1-3(d):

- 8.1-1    No offensive or objectionable vibration, glare, or odor shall be noticeable at or beyond the property line, and no building materials, junk, leaves or other waste materials shall be deposited within ten (10) feet of a property line.
- 8.1-2    No activity shall create a safety or health hazard by reason of fire, explosion, radiation, or other such cause, to persons or property.
- 8.1-3    There shall be no discharge of liquid or solid waste, or of any other materials, in a manner that may contaminate surface water or ground water.
- 8.1-4    There shall be no storage of any material either indoors or outdoors that endangers public health and safety or the natural environment.
- 8.1-5    Emission into the ambient air of smoke, dust, gases, or other material which can cause damage to the health of persons, animals, plants, or damage to property is prohibited.

##### **8.2      Sanitary Disposal and Water Supply**

- 8.2-1    No person shall construct any new structure in the Town without first meeting applicable requirements of the Town, the Columbia County and New York State Departments of Health, the New York State Department of Environmental Conservation, and other governmental authorities for water supply and sewage disposal systems. Issuance of a Certificate of Occupancy shall be subject to sanitary system inspection and certification by the Columbia County Department of Health, and compliance with all conditions imposed by any other governmental authority.
- 8.2-2    In areas where problems with water quantity or quality are known to exist, or which lie in the Aquifer Overlay District (AQ), the Planning Board or Zoning Board of Appeals may require an applicant to provide evidence of water availability, and may require test wells and professional hydrological studies sufficient to establish that a proposed development will have adequate supplies of potable water and will not adversely affect water supply or quality in the surrounding area.

##### **8.3      Excavation and Grading**

- 8.3-1    Excavation and grading necessary for the construction of a structure for which a Building Permit has been issued shall be permitted, provided that it does not adversely affect natural

drainage or structural safety of buildings or lands, cause erosion or sedimentation, create noxious conditions, or create a hazard to public health or safety.

- 8.3-2 In the event that construction of a structure is stopped prior to completion and the Building Permit expires, the premises shall be promptly cleared of any rubbish or building materials, and any open excavation with a depth greater than two (2) feet below existing grade shall either be promptly filled in and the topsoil replaced, or shall be entirely surrounded by a fence at least six (6) feet high that will effectively block access to the area of the excavation.
- 8.3-3 The Planning Board may, in connection with a Major Project Site Plan or Major Subdivision approval, require an applicant to post a bond or other form of security to guarantee reclamation of areas to be excavated or graded. Such bond or other security shall be for an amount reasonably related to the potential cost of such reclamation, and shall be in a form deemed acceptable by the Town Attorney.
- 8.3-4 For regulation of Soil Mining, see Section 8.15 of this Local Law.

#### **8.4 Wetland and Watercourse Protection**

The Town finds that protection of its wetlands and watercourses helps to maintain water quality and the health of natural ecosystems, reduces flooding, erosion, and sedimentation, and protects important wildlife habitat areas. The Town also recognizes that both the State and Federal governments regulate wetlands, and desires to avoid duplicating regulatory programs while cooperating with State and Federal agencies. To ensure that development minimizes damage to wetlands and watercourses, the Town establishes the following requirements:

- 8.4-1 All applicants for any Town permit or approval that might result in disturbance to a wetland or watercourse shall, as early as possible in the application process, apply to the New York State Department of Environmental Conservation (DEC) and/or the U.S. Army Corps of Engineers (ACOE), if appropriate, for any applicable permits.
- 8.4-2 Any Site Plan, plot plan, subdivision plan, or other submission to a Town regulatory Board or official shall show the location and stream classification of all watercourses (including any applicable Stream Corridor Overlay Districts) and the location of any DEC-regulated wetlands and wetland buffers on the parcel, as determined by a DEC field delineation, if available, or from current DEC wetland maps. If the proposal involves disturbance to one (1) acre or more of wetlands regulated by ACOE, a delineation of all ACOE-regulated wetlands on the areas of the parcel to be altered by development must also be included on such submission, along with copies of any application to or correspondence with ACOE concerning required permits for the project.
- 8.4-3 The reviewing Board or official shall ensure that applicants comply with the requirements of DEC and ACOE, and shall also minimize damage to wetlands and watercourses by imposing appropriate conditions on any approval, including the modification in size and scope of a proposed project, as well as changes in the location of structures or other improvements on the parcel.

#### **8.5 Steep Slope Regulations**

The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding fifteen percent (15%).

- 8.5-1 No approval of a subdivision, Special Permit, Site Plan, Building Permit, or Variance that involves the disturbance of slopes greater than fifteen percent (15%) shall be granted unless conditions are attached to ensure that:

- a. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction. Erosion control and storm water management measures shall comply with all applicable standards and guidelines of federal and state agencies.
  - b. Cutting of trees, shrubs, and other natural, non-nuisance vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation. Clearing for any building site, including accessory structures and parking areas, but excluding the area required for driveway and utility access, shall not exceed 20,000 square feet of area with a 15% or greater slope.
  - c. Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.
  - d. Proper engineering review of plans and construction activities will be conducted by the Town to ensure compliance with this Section, paid for by escrow deposits paid by the applicant.
  - e. If the land lies within the Ridgeline Overlay District, the proposal will comply with all requirements of Section 5.4.
  - f. No Certificate of Occupancy will be granted until all erosion control and drainage measures required pursuant to this Section have been satisfactorily completed.
- 8.5-2 No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of twenty-five percent (25%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
- 8.5-3 Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as a reviewing Board or official shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, an engineer retained by the Town, at the applicant's expense, shall determine the location of regulated slopes. For purposes of determining the location of steep slope areas, only contiguous slopes containing at least 5,000 square feet of steep slopes, as defined above, shall be considered. Within the HM District, contiguous slopes containing at least 1,500 square feet shall be considered.

## **8.6 Protection of Agriculture from Potentially Incompatible Uses**

### **8.6-1 Agricultural Buffers**

- a. Wherever agricultural uses and other uses unrelated to the agricultural operations abut, buffers shall be provided to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.
- b. Within existing and new agricultural uses, unenclosed storage of manure shall not be permitted within two hundred (200) feet of a property line. New structures housing fowl or other animals shall not be located in the required front yard nor within two hundred (200) feet of a side or rear property line. These setbacks may be reduced by Special Permit for small-scale operations found by the Zoning Board of Appeals not to pose a threat of nuisance to neighboring properties.

8.6-2 Required Disclosure

In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration." This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, or letter of notification. This Section may also be applied to any commercial development within the jurisdiction of the Zoning Board of Appeals which abuts agricultural land, at the discretion of the Zoning Board of Appeals.

8.6-3 Agricultural Data Statement

Any application for a Special Permit, Site Plan approval, Use Variance, or Subdivision approval requiring municipal review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Chapter 14. The Planning Board or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

**8.7 Business Uses in the HM District**

In the HM District, no new use listed as a Business use on the Use Table in Section 3.2, other than a home occupation, shall be permitted within the residential area described in Section 4.6-5, unless such use is contiguous to an existing business use or has frontage on a state highway.

**8.8 Boarding Houses and Lodging Facilities (Hotels and Motels, Inns, and Bed and Breakfasts)**

- 8.8-1 Bed and breakfasts shall be owner-occupied (and their Certificate of Occupancy shall so stipulate), and shall not contain more than six (6) lodging units in addition to a dwelling unit.
- 8.8-2 The number of rooms permitted in hotels, motels, inns, and boarding houses shall not exceed the density requirements for the type of lot (conventional, flexible lot, or cluster, as provided in Sections 4.2, 4.4, and 4.6) on which such facility is located. Every three (3) bedrooms shall be deemed equivalent to one (1) allowable residential unit.
- 8.8-3 Off-street parking accessory to the uses regulated by this Section shall not be located in a front yard and shall be screened from roads and adjacent properties.

**8.9 Mobile Home and Temporary Trailer Regulations**

The Town finds that mobile homes offer an opportunity to provide affordable housing. The Town further finds that such homes, if properly designed, constructed, installed, and maintained, do not detract from the Town's historic and scenic character. The Town desires to balance the need for affordable housing with the need to maintain the Town's attractive appearance by allowing mobile homes only when certain conditions are satisfied. Mobile homes shall be permitted according to the provisions of the Use Table (Section 3.2), provided that they comply with the following:

8.9-1 Individual Mobile Homes

Each mobile home shall be considered to be one (1) dwelling unit for purposes of the density regulations in Chapter 4. However, a maximum of three (3) mobile homes which are located on farms that are in the AG overlay district shall be permitted as accessory farm uses. Such mobile homes shall be used solely to house family members or farm employees and shall not be counted as dwelling units in determining allowable density.

8.9-2 Mobile Home Parks Prohibited

The placement of two (2) or more mobile homes on a parcel, other than for farm purposes, shall be prohibited. This prohibition on mobile home parks may not be evaded by subdividing a parcel into separate lots for the purpose of, or with the result of, establishing a development consisting primarily of mobile homes.

8.9-3 Mobile homes shall comply with the following design criteria:

- a. All mobile homes, and any deck or other addition, shall be mounted on a permanent concrete slab base or footing at least four inches thick, with skirting provided.
- b. Mobile homes shall be finished with a natural wood exterior or other natural or artificial materials that, because of their color and texture, have the appearance of clapboards, wood shingles or other traditional house siding and blend in with the landscape to enhance or maintain the attractive visual character of the Town.
- c. Mobile homes shall have shingled, peaked roofs with a minimum pitch of 4:12.
- d. Mobile homes shall comply with currently applicable federal and state building standards.
- e. Mobile homes shall have a minimum size of seven hundred twenty (720) square feet and a minimum width of fourteen (14) feet.
- f. No evidence of a mobile home's trailer hitch or wheels shall be visible once it has been installed.

8.9-4 Temporary mobile homes may be placed on any lot for a period not to exceed one (1) year, only in the event of major damage to or destruction of a residence located on such lot. To the extent practicable, such temporary mobile homes shall comply with the provisions of this Section, except that such homes may be installed without permanent footings.

8.9-5 Construction trailers may be placed temporarily on construction sites for a period not to exceed the construction period, if allowed pursuant to a Special Permit, Site Plan, Variance, or subdivision approval, with appropriate conditions attached to satisfy the requirements of Sections 8.9-1 and 8.93. Such trailers may be used for office, storage, or workshop space, and shall not be used for residential purposes. Where such trailers are not visible in winter from public roads or adjoining properties, one or more of the requirements of Section 8.9-3 may be waived by the reviewing Board.

## **8.10 Travel Trailer Camps, Tenting Camps, and Cottage Camps**

8.10-1 Such camps shall have a minimum size of twenty (20) acres, and shall contain at least ten thousand (10,000) square feet of land area for each travel trailer, tent, or cottage.

8.10-2 No travel trailer, tent, cottage, or recreational area shall be located within two hundred (200) feet of the property line of any other abutting landowner.

8.10-3 A camp store selling articles and food for use primarily by guests shall be permitted.

8.10-4 Such camps shall have a landscaped area at least fifty (50) feet wide along exterior lot lines and road frontages suitably planted and maintained to provide visual screening from adjacent properties and the public road.

8.10-5 Such camps shall be closed for a minimum of 90 consecutive days annually.

### **8.11 Junkyards and Outdoor Storage**

Junkyards shall be set back at least three hundred (300) feet from any property line. No junkyard, outdoor storage area for construction or other heavy equipment or vehicles, or display, storage, or collection of junk or junk cars, and no more than one unregistered vehicle, shall be permitted in a location visible from adjoining properties or public roads.

### **8.12 Off-Street Parking, Loading, and Driveway Regulations**

#### **8.12-1 Minimum Parking Required for Residential and Related Uses**

- a. For single-family or two-family dwelling: two (2) spaces per dwelling unit
- b. For multi-family dwelling: two (2) spaces per dwelling unit
- c. Home occupation in a dwelling: one (1) space for each two hundred (200) square feet devoted to such home occupation, plus the required spaces per dwelling unit
- d. Lodging Facility: one (1) space for each bedroom
- e. These requirements may be reduced in the case of multi-family dwellings containing units with less than one thousand (1,000) square feet of floor space, or containing housing predominantly for senior citizens, if the reviewing Board determines that such reductions are warranted.
- f. In the HM District, the reviewing Board may require that parking spaces for multi-family dwellings be located behind the principal building.

#### **8.12-2 Parking Requirements for Non-residential Uses**

- a. *Purpose.* The Town finds that large and highly visible parking areas represent one of the most objectionable aspects of commercial development. Such parking lots may damage the historic layout and architectural fabric of hamlet areas, harm the natural environment and visual character of the community, interfere with pedestrian accessibility, and reduce the quality of life in developed areas. However, the Town also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards, and inconvenience. The Town therefore seeks to balance the need for adequate parking with the need to minimize harm resulting from the provision of parking, and to avoid the negative impacts of excessive parking requirements.
- b. *Procedure.* Off-street parking requirements for non-residential uses shall be established by the Planning Board, Zoning Board of Appeals, and/or Zoning Officer on a case-by-case basis in the course of reviewing applications for Site Plans, Special Permits, Variances, and Building Permits. Where more than one Board or official reviews an application, the decision on the number and layout of parking spaces shall be determined by only one Board or official. If the Planning Board reviews an application, it shall make the determination. If the Zoning Board of Appeals reviews an application, and the Planning Board does not, the Zoning Board of Appeals shall make the determination. If neither Board reviews the application, the Zoning Officer shall make the determination.

- c. *Criteria.* The number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic, and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. In determining the parking requirements for any proposed use, the reviewing Board or official shall consider:
  - 1. The maximum number of persons who would be driving to the use as employees, customers, clients, members, students, or other users, at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand.
  - 2. The size of the structure(s) and the site.
  - 3. The environmental, scenic, or historic sensitivity of the site. In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the reviewing Board or official may require a reduction in the size of the structure so that the available parking will be sufficient.
  - 4. The availability of safely usable on-street parking.
  - 5. The availability of off-site off-street parking within four hundred (400) feet that is open to the public, owned or controlled by the applicant, or available on a shared-use basis, provided that the applicant dedicates needed off-site land for public parking or demonstrates a deeded right to shared use.
  - 6. Standards used in generally accepted traffic engineering and planning manuals; however, such standards shall be used as a guide only and should be viewed as likely to require excessive numbers of parking spaces.
  - 7. The Siting Guidelines contained in the Appendices and the purposes of this Local Law as set forth in Section 1.3.
- d. *Set-aside for Future Parking.* The reviewing Board may require that an applicant set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be attractively landscaped, but may not be used in a manner that would prevent it from being used for parking in the future.
- e. *Parking Lot as Accessory Use to Residential Dwelling.* Parking spaces may be made available for non-residential uses on residential lots in the HM district, by Special Permit. Such spaces shall be screened from adjoining properties and roads, and shall not exceed eight (8) spaces per lot.

#### 8.12-3 Design, Layout, and Construction of Parking Areas

- a. All off-street parking shall be located behind or to the side of the principal building. Parking spaces located in a side yard shall be screened from public view.
- b. *Construction of Parking Areas.* Required parking areas for more than five (5) cars accessory to commercial, industrial, or multi-family uses shall be surfaced with a suitable dustless, durable all-weather or permeable surface appropriate for the use of the land, with adequate drainage. Oil traps may be required for larger paved parking lots. Surfacing, grading, and drainage shall facilitate groundwater recharge, to the extent practical, by minimizing impermeable pavement and run-off. Parking areas to be used at night shall be lighted in a manner that does not result in glare to adjoining residential properties or cause a traffic hazard due to glare or color.

- c. *Landscaping.* At least eight percent (8%) of the area of a lot used for off-street parking shall be landscaped with lawn, trees, shrubs, or other plant material. Any parking lot for more than ten (10) cars shall be screened to the extent practical from the road and adjoining properties. Such screening shall not interfere with safety standards for sight distance at road access points.
- d. All parking areas and landscaping shall be properly maintained.

#### 8.12-4 Loading Requirements

As with parking, loading requirements vary with the specific uses proposed. In general, loading requirements are designed to ensure that trucks load and unload cargo in a manner that does not interfere with pedestrian and automobile movements on public roads. Requirements for the number and location of loading facilities shall be established by the reviewing Board or official in the same manner as parking requirements (*see Section 8.12-2(b)*), based upon the following considerations:

- a. The expected maximum number of trucks using the loading facilities at times of peak usage.
- b. The type of business, size of the structure, and size of trucks to be servicing the structure.
- c. The need to ensure pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation.
- d. The need to screen trucks and loading facilities from publicly accessible areas as well as from abutting properties, including the need for vegetative screening, buffers, and/or fencing.
- e. The desirability of requiring service roads or alleys to achieve the purposes of this Section 8.12-3.
- f. Applicable planning and engineering standards, adapted to meet the needs of the particular business use proposed.
- g. Other operational characteristics of the business or physical characteristics of the site deemed appropriate by the reviewing Board or official.
- h. The Siting Guidelines contained in Appendix II and the purposes of this Local Law as set forth in Section 1.3.

#### 8.12-5 Driveway Requirements

- a. For reasons of traffic and pedestrian safety, as well as to provide for possible future road widening or other improvements, all new driveways entering onto any street shall comply with the requirements of this Section, and shall be subject to the approval of the Town Highway Superintendent. Where such driveways are part of a subdivision application or Site Plan approval, they shall also be subject to Planning Board approval.
- b. In the RU District, no driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two (2) street centerlines.
- c. Driveway Grades
  - 1. The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a road shall not exceed ten percent (10%) between the street and the front setback line, except where it can be demonstrated to the satisfaction of the reviewing Board or official that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction



of such a driveway is infeasible. In such a circumstance, a steeper grade may be approved, provided that the increase in driveway grade is the minimum increase necessary to provide access.

2. The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting the required off-street parking area to the road shall not exceed seven percent (7%), except that the reviewing Board or official may permit increased grades as in Subsection 8.12-5(c)(1) above, provided that such grades shall not exceed ten percent (10%).
  3. Notwithstanding the maximum permitted grades specified above, no driveway shall have a platform grade in excess of three percent (3%) within thirty (30) feet of the edge of the pavement or travel way, or within twenty-five (25) feet of the property line of the road, whichever is greater. The Planning Board may require a greater distance in situations where, because of the nature of the proposed use, substantial traffic volumes and/or truck usage are anticipated.
  4. Clear sight lines shall be provided and maintained in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance, commensurate with the speed and volume of traffic on the highway, but not less than three hundred (300) feet, and so that there is a similar view of the automobile in the driveway.
- d. Shared driveways may be permitted to serve up to four (4) residences. If the road frontage is not physically suited to driveway use, driveway maintenance agreements satisfactory to the Town and its reviewing attorney must be recorded in the Columbia County Clerk's Office as a condition of any driveway, Site Plan, Special Permit, or subdivision plan approval.
  - e. Driveways shall minimize erosion and comply with applicable state and federal erosion control requirements and guidelines for best management practices.
  - f. Construction of driveways on slopes ten percent (10%) or greater shall require an adequate stormwater drainage system to minimize erosion and sedimentation to the maximum extent possible both during and after construction. In order to receive a permit for such driveways, the applicant shall submit engineering data prepared by a Professional Engineer, licensed by the State of New York, that meets the following standards:
    1. Sediment in the runoff water both during and after construction shall be trapped by the use of sediment basins or other acceptable methods until the disturbed area is stabilized.
    2. The storm-drainage system and culvert capacity shall be based on a design flow with a minimum return interval of a ten year/24 hour storm.
    3. No new drainageways will be created and no additional runoff will be directed to adjacent properties unless necessary easements are obtained.
  - g. Driveway access on to Town, County, or State roads shall not create a traffic hazard.
  - h. Additional driveway design details shall conform to any separately enacted Town driveway standards.

## 8.13 Signs

### 8.13-1 Purpose

The purpose of this Section is to control the location, size, number, and lighting of signs in order to maintain the attractive appearance of the Town and avoid conditions of clutter and unsightliness. The specific purposes of this Section are to:

- a. Preserve public health and safety by controlling the size, location, and character of signs so they will not confuse, distract, mislead, or obstruct vision necessary for traffic safety; and
- b. Preserve the general welfare by controlling the aesthetics and attractiveness of signs in order to:
  1. Protect the existing character of the Town;
  2. Mitigate any negative impacts on adjoining properties; and
  3. Create a more attractive visual environment in order to maintain community character, protect property values, and encourage economic growth.

### 8.13-2 Criteria and Standards

Signs may only be erected and maintained in compliance with the following criteria and standards and with the Guidelines in the Appendices.

- a. Non-illuminated signs as specified below are permitted on premises in all districts:
  1. Nameplates and identification signs not to exceed two (2) square feet in size;
  2. Sale or rental signs not to exceed six (6) square feet in size;
  3. Commercial and institutional signs not to exceed twenty (20) square feet in size; and
  4. Temporary development signs during construction, repair, or alteration not to exceed one (1) per premises, with each sign not to exceed six (6) square feet in size.
- b. Illuminated signs shall be permitted on non-residential premises, provided that:
  1. No sign shall be illuminated by or contain internal fluorescent lighting or flashing, intermittent, rotating, or moving light or lights.
  2. An illuminated sign or lighting device shall not be placed or directed so that its light is directed or beamed upon a public street, highway, sidewalk, or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or a traffic hazard.
  3. No more than two (2) signs shall be permitted for each business on any premises.
  4. Flush-mounted signs shall not cover more than ten percent (10%) of the front surface of a building.
  5. Detached signs shall not exceed twenty (20) square feet in size.
- c. Neon type lighted signs and portable signs mounted on wheels are prohibited.
- d. No signs shall interrupt a roofline or be placed on the roof of a structure. Signs placed in windows shall not occupy more than thirty percent (30%) of the window area.
- e. No banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices shall be used for advertising purposes, whether or not on

a sign. Representational signs depicting products or services in three (3) dimensions may only be flush-mounted on a building or displayed inside a window.

- f. No signs shall use fluorescent material or paints. Garish colors and combinations of colors shall not be used.
- g. Any sign existing on or after the effective date of this Local Law which no longer advertises an existing business conducted or product sold on the premises shall be promptly removed by the owner of the premises upon which the sign is located. Such removal shall occur no later than thirty (30) days after the date of written notice from the Zoning Officer to remove the sign.
- h. If the Zoning Officer finds that any sign is unsafe or insecure, or otherwise endangers the public, he shall give written notice to the owner of the land upon which the sign is erected. The landowner shall promptly remove or repair the sign. If the sign is not removed or repaired within thirty (30) days of the date of the notice, the Zoning Officer shall revoke any permit for such sign, and may remove or repair the sign, assessing all costs and expenses incurred in such removal or repair against the land or structure on which the sign was located. The Zoning Officer may cause any sign which is a source of imminent danger to persons or property to be removed summarily and without notice.
- i. A sign erected prior to the effective date of this Local Law which does not conform with the provisions of this Local Law may remain for a period of three (3) years, at which time the sign must be replaced to meet the provisions of this Local Law or be removed, unless the sign has historical significance to the Town and has been so designated.
- j. Only one (1) non-illuminated sign, not over four (4) square feet in size, is permitted per dwelling unit where a home occupation is conducted.
- k. Signs shall be set back at least ten (10) feet from any property line and twenty (20) feet from a street line. A sign that is not attached to a building shall not project more than fifteen (15) feet above ground level.

#### 8.13-3 Sign Bonuses

To encourage design excellence, the maximum sign sizes specified in Section 8.13-2 may be increased by the percentages herein. A separate increase is granted for compliance with each of the criteria and the total is cumulative, but each percentage increase is based on the original sign size limitation. Sign sizes may be increased as follows:

- a. Fifteen percent (15%) when the sign is made of wood.
- b. Fifteen percent (15%) if the sign is designed to contain only the identification of the establishment without advertising any products sold on the premises.
- c. Twenty percent (20%) if the sign is the only sign identifying the establishment or its principal product.
- d. Twenty percent (20%) if the sign is not designed or used with illumination.
- e. Thirty percent (30%) if the Planning Board finds that the sign has special aesthetic merit, or that additional size is necessary or appropriate due to such circumstances as the sign's distance from the road, the design speed of the road, or the size of the building on which the sign is placed.

#### 8.13-4 Maximum Sign Size

Notwithstanding any provision of this Section to the contrary, no sign shall be greater than one hundred (100) square feet in size.

- 8.13-5 Advertising signs shall be prohibited, except signs that direct the public to specific businesses or community uses, provided that such signs do not exceed four (4) square feet in size, conform with applicable regulations, and are shown on a Site Plan approved by the Planning Board (*see Section 8.13-7*).
- 8.13-6 Temporary posters, covering such subjects as political events, sporting events, shows, and elections shall be permitted, provided that they are not displayed until four (4) weeks prior to an event and are removed within five (5) days after the event. No poster shall be attached to a tree, utility pole, or road sign.
- 8.13-7 For all signs which will be erected in connection with a project requiring site plan approval, sign approvals shall be conducted by the Planning Board pursuant to the Site Plan approval process. If no site plan approval is required, signs shall be approved in connection with building permits issued by the Zoning Officer.

## **8.14 Home Occupations**

### **8.14-1 Purpose and Intent**

The conduct of business uses on residential properties shall be permitted under the provisions of this Section. It is the intent of this Section to:

- a. Ensure the compatibility of home occupations with other uses;
- b. Maintain and preserve the rural character of the Town;
- c. Ensure that public facilities and services designed for residential areas are not misused for inappropriate commercial purposes;
- d. Ensure peace, quiet, and domestic tranquility within residential areas; and
- e. Allow residents to engage in gainful employment in their homes while avoiding excessive noise, traffic, nuisance, fire hazard, and other possible adverse effects of commercial uses.

### **8.14-2 Criteria and Standards**

- a. Home occupations shall be permitted as indicated in the Use Table in Section 3.2, in compliance with the following criteria and standards.
  1. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business, does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units, and does not alter the character of the neighborhood. A home occupation may be conducted within a dwelling unit and/or within accessory structures.
  2. The home occupation is to be conducted only by members of the family residing in or maintaining the dwelling unit plus no more than three (3) nonresident assistants or employees at any one time.
  3. Any signs used in conjunction with a home occupation shall meet the requirements of Section 8.13, Signs, of this Local Law, and shall not exceed four (4) square feet.
  4. Off-street parking shall be provided as required in Section 8.12-1(c).
  5. Automobile and truck traffic generated shall not be excessive, considering both the character of the road on which the use is located and the volume of traffic that would otherwise be generated by a typical residential use.

6. There shall be no exterior storage of materials, equipment, vehicles, or other supplies used in conjunction with a home occupation, unless screened from the road and from other properties.
7. No offensive appearance, noise, vibration, smoke, electrical interference, dust, odors, or heat shall occur. The use of substances which may endanger public health or safety or which pollute the air or water are prohibited.
8. More than one (1) home occupation may be conducted on a parcel, provided that the combined impact of all home occupations satisfies these criteria and standards.

#### 8.14-3 Home Occupations Permitted by Right

The following home occupations are permitted by right, provided that they are carried on in a manner which complies with the criteria and standards in Subsection 8.14-2 above:

- a. Professional office, as defined in Chapter 14;
- b. Art restoration;
- c. Art studio;
- d. Babysitting;
- e. Data processing;
- f. Dental technician with laboratory;
- g. Drafting and graphic services;
- h. Dressmaking, sewing, tailoring, contract sewing;
- i. Flower arranging;
- j. Gardening, landscape maintenance;
- k. Home crafts including ceramics with kiln up to six (6) cubic feet, jewelry making, basketry;
- l. House cleaning service;
- m. Locksmith;
- n. Sales or manufacturer representative (office only);
- o. Swimming pool cleaning;
- p. Telephone answering, switchboard, and call forwarding;
- q. Tutoring;
- r. Typing and word processing;
- s. Watch and small appliance repair;
- t. Writing, computer programming; and
- u. Any other use that is permitted by right within the Base Zoning District, pursuant to the Use Table in Section 3.2.

#### 8.14-4 Home Occupation by Special Permit

Any home occupation meeting the criteria and standards of Section 8.14-2 above, but not listed as a permitted home occupation under Section 8.14-3 above, may be allowed by Special Permit issued by the Zoning Board of Appeals. In issuing such Special Permit, the

Zoning Board of Appeals must find that the proposed home occupation meets the criteria and standards in Section 8.14-2 above, as well as generally applicable Special Permit standards in Chapter 6 of this Local Law.

### **8.15 Soil Mining**

- 8.15-1 Soil Mining shall be allowed by Special Permit within the RU District, provided that the operator complies with all applicable requirements of the New York State Department of Environmental Conservation. At such time as the Town designates, by zoning amendment, a Soil Mining Overlay District, soil mining shall be limited to such district, subject to the Special Permit requirements herein.
- 8.15-2 An applicant for a Special Permit for Soil Mining shall submit to the Zoning Board of Appeals copies of all applications and other materials submitted to the New York State Department of Environmental Conservation (DEC) in connection with its Soil Mining application.
- 8.15-3 In determining whether to grant or deny a Special Permit application for Soil Mining, the Zoning Board of Appeals shall consider all applicable Special Permit criteria. If the Zoning Board of Appeals grants a Special Permit subject to conditions, such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions:
- a. Ingress from and egress to public thoroughfares controlled by the Town;
  - b. Routing of mineral transport vehicles on roads controlled by the Town;
  - c. Requirements and conditions specified in the permit issued by the DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control, and hours of operation;
  - d. Enforcement of reclamation requirements contained in any DEC permit.
- 8.15-4 In issuing a Special Permit for Soil Mining uses not subject to regulation by DEC, the Zoning Board of Appeals may impose such additional conditions as it deems necessary.

### **8.16 Satellite Dish Antennas**

Satellite dish antennas shall be permitted as-of-right in rear yards in compliance with applicable provisions of this section. If a usable satellite signal cannot be obtained from a rear yard, the applicant may seek a Special Permit for the antenna to locate it in the side or front yard, subject to the setback requirements for conventional subdivisions contained in Section 4.3. The installation of a satellite dish antenna requires a building permit and is subject to the following conditions:

- 8.16-1 Not more than one satellite dish antenna shall be allowed on a lot.
- 8.16-2 All satellite dish antennas shall be safely and securely anchored to the ground or to a suitable structure.
- 8.16-3 The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.
- 8.16-4 Satellite dish antennas shall be properly grounded.
- 8.16-5 Satellite dish antennas shall be designed and located to minimize visual impact on adjacent property and roadways. The dish shall be made of mesh rather than a solid material and its color shall be compatible with the surroundings.

- 8.16-6 A landscaped evergreen planting screen shall be provided for any ground mounted satellite dish antenna to screen it from adjacent lots and public areas, unless such screening interferes with signal reception.
- 8.16-7 A satellite dish antenna shall be located at least ten (10) feet from any access or drainage easement area.
- 8.16-8 A satellite dish antenna shall not exceed a diameter of twelve (12) feet or a height of fifteen (15) feet when mounted on the ground.
- 8.16-9 Wiring between a ground-mounted satellite dish antenna and a receiver shall be placed under ground.

## **8.17 Communication Towers**

Installation or operation of a communication tower (including accessory facilities) shall require a Major Project Special Permit from the Zoning Board of Appeals and Site Plan approval from the Planning Board. The ZBA and Planning Board shall not approve a communication tower application unless it satisfies the Special Permit criteria contained in Section 604 as well as the following additional requirements:

### **8.17-1 Shared Use**

- a. Shared use of existing communication towers and use of other existing structures shall be preferred to the construction of new towers. Where shared use of an existing validly approved tower occurs, the new user shall be exempt from the provisions of this Section 8.17, except that any ground-level site alterations shall require Site Plan review. Alterations to an existing tower and installation of new equipment on an existing tower shall require a building permit only, provided that the height of the tower is not increased and that no lights are added more than 35 feet above average grade level.
- b. Where shared use of an existing tower or location of communications equipment on another existing structure as an accessory use (see Section 8.18) is a technically feasible alternative, the applicant may be denied a Special Permit for a new tower. In determining feasibility, the Town Board shall consider the costs to the applicant of adapting an existing facility to shared use, including structural reinforcement, preventing transmission or receiver interference, additional site screening and other physical changes to the tower and/or the site, as well as acquisition of a lease to accommodate shared use. Costs associated with this Subsection (B) shall be considered unreasonable if they exceed the cost of the proposed new tower by more than 10%.
- c. In approving any new communication tower, the Zoning Board of Appeals shall require that:
  - 1. The Proposed tower be structurally capable of accommodating shared use; and
  - 2. The applicant make the tower available to other users at a reasonable charge, based on generally accepted accounting principles. The charge may include but is not limited to: a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, and depreciation, and all the costs of adapting the tower and ancillary equipment to accommodate a shared user in a manner that complies with the provisions of this Section 8.17. This Subsection (2) may be waived by the Zoning Board of Appeals when a communication tower is not owned, leased, or operated by a wireless communications company or by any other company which might be competing against other potential users of the tower.

#### 8.17-2 Dimensional Regulations

- a. The minimum lot size for a new communication tower shall be five acres.
- b. The minimum setback from any property line shall be at least the height of the tower to be erected plus 30 feet, and shall apply to all tower parts, guy wire anchors, and accessory facilities. The setback shall be adequate to protect neighboring properties from falling ice or debris and from tower structural failures.
- c. No communications tower shall be located within 500 feet of a residence, school, day care center, children's camp, or other facility regularly used by minors.

#### 8.17-3 Site Planning Considerations

In reviewing a Site Plan application for a communication tower, the Planning Board shall consider the following factors, in addition to the criteria contained in Section 7.4:

- a. Communication towers shall not be artificially lighted or marked except to ensure public safety if required by the Federal Aviation Administration (FAA). However, they shall be sited and designed to be the minimum height necessary to fulfill their purposes and to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall be an appropriate color to harmonize with the surroundings, as approved in advance by the Planning Board.
- b. Communication tower structures shall not contain any signs other than safety warning signs.
- c. Communication towers and related accessory facilities shall be enclosed by a fence not less than eight feet in height above ground level.
- d. All towers and accessory facilities shall be designed and sited to minimize any adverse visual effect on the environment. The choice of a monopole, lattice or other type of structure shall be based upon technical feasibility as well as ensuring that the structure blends into its surroundings. Accessory facilities shall use building materials, colors, and textures designed to blend with the natural surroundings.
- e. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured four feet from the ground) shall take place prior to approval of the Special Permit and Site Plan. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited, except as may be necessary for construction of an access road.
- f. Adequate emergency and service access and parking shall be provided, making use of existing roads, public or private, to the maximum extent feasible. Road construction shall minimize disturbance and cutting of vegetation to within the toe of fill, the top of cuts, and no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal adverse visual impact and reduce soil erosion potential.

#### 8.17-4 Application Requirements

Special Permit and Site Plan approval applications for a communication tower shall include, in addition to other submission requirements for Special Use Permits and Site Plans, the following information:

- a. The locations of all structures and trees on the site and on any adjacent property within 30 feet of the subject property lines.



- b. All information prepared by the manufacturer of the tower and associated apparatus for which a Special Permit is being sought including but not limited to the following:
  - 1. Make and model of tower to be erected.
  - 2. Specifications for communications equipment to be installed.
  - 3. Design data, installation instructions, and construction plans for the tower.
  - 4. Identification of levels of radiation emitted by or from the communication tower equipment and ancillary facilities.
  - 5. Identification of the effects the communication tower's operation will have on existing communication towers, antennas, or other electromagnetic devices within 1,000 feet of the proposed structure.
- c. Applicant's proposed tower maintenance and inspection procedures and records system.
- d. In the case of new towers, the applicant shall be required to submit a report documenting the following:
  - 1. Good faith efforts to secure shared use from existing towers as well as capacity for future shared use of the proposed tower. An applicant shall inventory existing communication towers and other tall structures within a reasonable distance of the proposed site (including locations in other towns) and describe opportunities for shared use of existing structures as an alternative to the new tower. The applicant shall submit copies of written requests to and responses from owners of other towers and structures regarding shared use opportunities.
  - 2. A technical and visual impact analysis of reasonable alternative tower sites which could serve the needs of the applicant in different locations, including the installation of antennae on existing structures.
  - 3. Documentation of the local and regional need for the tower in the specific location selected, showing that the tower in the proposed location is a public necessity, is essential to the safe and adequate provision of service, and that shared use of existing towers will not be adequate.
  - 4. Alternative designs for the communication tower, including those that minimize adverse visual impact by enclosing the communication apparatus in a silo, belfry, steeple, cupola, turret, or other traditional building design element, or by attaching such apparatus to structures that look like or blend in with trees.
- e. A report by a qualified professional which demonstrated compliance of the proposed facility with applicable radiation and other health standards established by the FCC, as well as any other information the Board or its consultant deems necessary to establish compliance with applicable health standards.
- f. A statement agreeing to defend and indemnify the Town of Hillsdale and any of its agents or employees from any and all claims made in connection with the installation, construction, use, or operation of the communication tower, as well as proof of insurance in an amount deemed necessary by the Zoning Board of Appeals to cover damage to persons or property, with coverage limits of at least three million dollars. The applicant shall provide a certificate of insurance to the Town board on annual basis, naming the Town of Hillsdale as an additional insured. The ZBA may from time to time require the applicant to increase the limits of such coverage.

- g. A completed Visual Environmental Assessment Form (Visual EAF) as part of the SEQRA documentation. The Planning Board may require a more detailed visual analysis based on the results of the Visual EAF.
- h. Landscaping and screening. The landscape plan required for Site Plan shall pay particular attention to visibility from key publicly accessible viewpoints within and outside the Town as identified in the Visual EAF. At least one row of native evergreen scrubs or trees capable of forming a continuous hedge at least ten feet high within two years of planting shall be provided and maintained to effectively screen the tower base and accessory facilities from adjoining property.

8.17-5 Compliance with FCC requirements

Applicants shall be required to show adequate proof of compliance with all applicable FCC requirements, including but not limited to those relating to interference with other communications equipment, radiofrequency radiation, and other public health standards.

8.17-6 Abandonment and Removal

In the event a communication tower ceases operations and is abandoned for a period of six months, the tower, structures, and facilities shall be dismantled by the owner and removed from the site within 60 days of receipt of written notice to do so from the Town Board. In order to secure his obligation to remove the tower, the Planning Board may require the applicant to post a bond or other security at the time of site plan approval.

8.17-7 Conflict with Other Requirements

Where these regulations conflict with other applicable laws and regulations, the more restrictive shall apply, except for tower height restrictions which are governed by this Section 8.17.

## **8.18 Communication Facilities as Accessory Uses**

Antennas and other transmission or receiving equipment or facilities that are mounted on structures principally used for purposes other than receiving or transmitting radio, television, microwave, cellular telephone, or similar electromagnetic signals shall be permitted in all districts as an accessory use by Minor Project Special Permit, in compliance with all applicable FCC requirements. No equipment used for signal transmission (other than for federally licensed amateur radio operators) shall be located within 500 feet of a residence, school, day care center, children's camp, or other facility regularly used by minors. No special permit shall be required for receive-only antennae and satellite dishes accessory to a residential use, except as provided in Section 8.16.

## Chapter 9 Non-conforming Uses, Structures, and Lots

### 9.1 Continuation of Non-conforming Uses and Structures

Any lawful structure or use existing at the time of enactment or amendment of this Local Law which becomes non-conforming as a result of such enactment or amendment may be continued, except that any advertising sign which was non-conforming under this Local Law or under any previous ordinance or local law shall be removed or brought into conformity within three (3) years of the date of the enactment or amendment of the ordinance or local law under which it became non-conforming.

### 9.2 Abandonment

A non-conforming use of land or structures which is abandoned for a period of twenty-four (24) consecutive months shall not be re-established, and any subsequent use of the same property shall conform to the requirements of this Local Law.

### 9.3 Alteration and Restoration

A non-conforming use or structure shall not be extended, enlarged, or structurally altered except as provided below. (The extension of a lawful use to any portion of a non-conforming structure shall not be deemed the extension of a non-conforming structure or use.) A non-conforming structure or use may be rebuilt in the event of total or partial destruction thereof, to occupy the same or a lesser amount of footprint, but may not exceed the height of the totally or partially destroyed structure. The Zoning Board of Appeals may issue a Special Permit allowing an expansion of a non-conforming use or structure by up to fifty percent (50%) of its size at the time of the adoption of this Local Law, provided that all other requirements can be met, and that such expansion does not further reduce the size of any non-conforming yards. (For expansion of non-conforming residential uses in the HB District, see Section 4.8-2).

### 9.4 Necessary Maintenance and Repairs

A non-conforming use or structure may be repaired or restored to a safe condition.

### 9.5 Change to Other Non-conforming Use

A non-conforming use of a structure or parcel of land may, upon issuance of a Special Permit by the Zoning Board of Appeals, be changed to another non-conforming use which is of the same or lesser impact. However, no structure in which a non-conforming use has been changed to a use of lesser impact shall again be devoted to a non-conforming use with greater impact. In determining whether a use is of greater or lesser impact, the Zoning Board of Appeals shall consider the criteria listed in Section 6.4-1. A permitted change to another non-conforming use shall include changing a non-conforming sign, provided that such sign is not increased in size or degree of non-conformity.

### 9.6 Construction Started Prior to this Local Law

Any structure for which construction was begun prior to the effective date of this Local Law, or of any amendment thereto, may be completed and used in accordance with the approved plans and specifications for such structure. Any structure for which construction has not begun pursuant to approved plans shall be subject to the provisions of this Local Law and any amendments thereto, even if all approvals required by this Local Law have been granted.

## 9.7 Existing Non-conforming Lots

9.7-1 Any lot of record created prior to January 1, 1995 which does not comply with the area, density, or dimensional requirements of this Local Law shall be deemed to comply with such requirements, and no Variance shall be required for its development, provided that:

- a. The following minimum area and dimensions are maintained for residential uses, unless smaller dimensions are permitted in the district:

Lot Area:	Five thousand (5,000) square feet
Lot Width:	Fifty (50) feet
Front Yard:	Fifteen percent (15%) of lot depth but not less than twenty-five (25) feet
Side Yard:	Each twenty percent (20%) of lot width but not less than eight (8) feet
Rear Yard:	Fifteen percent (15%) of lot depth but not less than twenty-five (25) feet

- b. All other dimensional requirements are satisfied.
- c. Any residential use of a non-conforming lot shall be limited to one single-family dwelling.
1. A non-conforming lot may be subdivided only if the owner stipulates in writing that every subdivided portion of such lot will be purchased by the owners of adjoining properties to increase the size of such owners' properties, thereby eliminating the non-conforming lot.
  2. Notwithstanding the foregoing provisions, any undeveloped lot in a subdivision which was not properly approved by the Planning Board or not filed in the Office of the County Clerk, and whose area or dimensions do not comply with the requirements of this Local Law, shall be considered a violation of this Local Law and shall not be protected under Section 9.7-1.
  3. Reduction in Lot Area  
No lot shall be reduced in area in a manner that violates the dimensional requirements of this Local Law.
  4. Exemption of Lots Shown on Approved Subdivision Plats  
In accordance with Town Law, Section 265-a, any lot proposed for residential use in a subdivision whose plat delineates one or more new roads or highways, which is shown in a subdivision plat that has been properly approved by the Planning Board and filed in the Office of the County Clerk prior to the effective date of this Local Law, and which violates the minimum area and dimensional requirements of this Local Law, shall be deemed to comply with such minimum requirements for two (2) years after the filing of the subdivision plat.
  5. Mobile Homes  
Notwithstanding any provision of this Local Law, owners or lessees of property within the Town upon which mobile homes have been situated prior to the enactment of this Local Law shall be permitted to continue their use in the same manner as any other dwelling, and shall have the right to replace the mobile home with another mobile home that satisfies the criteria in Section 8.9-4. Such

replacement may be done by right, without a Special Permit, provided that the replacement occurs within one (1) year of the removal of the pre-existing mobile home.

6. Special Permit Uses

Any use which can be allowed by Special Permit under this Local Law, but which has not been issued a Special Permit, shall be permitted to continue as a non-conforming use until such time as an owner or operator applies for and is granted a Special Permit. Upon the granting of such a Special Permit, the use shall become conforming and shall be governed by the conditions attached to the Special Permit. If such a Special Permit is denied, the use may continue as a non-conforming use, subject to the requirements of this Chapter 9.

## Chapter 10 Administration and Enforcement

### 10.1 General

This Local Law and related enactments shall be administered and enforced by the various Boards and officials of the Town as indicated below.

#### 10.1-1 Town Board

The Town Board is responsible for:

- a. Adopting this Local Law, and all amendments thereto (rezoning), including the adoption of map changes and Floating Districts, as provided in Chapter 12;
- b. Bringing legal action to enforce this Local Law;
- c. Appointing the Zoning Officer and the members of the Zoning Board of Appeals and the Planning Board;
- d. All other functions given to it by State Law, including the approval of amendments to the Subdivision Regulations.

#### 10.1-2 Zoning Board of Appeals

The Zoning Board of Appeals is responsible for:

- a. Granting Special Permits pursuant to Chapter 6, except in the case of new two-family, multi-family, and accessory dwellings, as provided in Section 4.7;
- b. Reviewing decisions of the Zoning Officer by hearing appeals for Interpretation and for Variance pursuant to Chapter 11.
- c. Giving informal interpretations of this Local Law to the Zoning Officer, pursuant to Section 10.5.

#### 10.1-3 Planning Board

The Planning Board is responsible for:

- a. The preparation and adoption of the Master Plan and Subdivision Regulations and for any amendments thereto;
- b. Granting Site Plan approval pursuant to Chapter 7 of this Local Law;
- c. Granting Special Permits for new two-family, multi-family, and accessory dwellings, as provided in Section 4.7;
- d. Advising the Town Board on proposed zoning amendments;
- e. Advising the Zoning Board of Appeals, if requested, on Special Permits and appeals;
- f. Reviewing Subdivisions under the Land Subdivision Regulations.

#### 10.1-4 Zoning Officer

The Zoning Officer is responsible for:

- a. Day-to-day administration of this Local Law, including the initial processing of all applications for Building Permits or other approvals required by this Local Law.
- b. Enforcement of this Local Law under the supervision of the Town Board;

10.1-5 Building Inspector

The Building Inspector is responsible for:

- a. Granting Building Permits and Certificates of Occupancy;
- b. Administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

10.1-6 Review of Actions

Final determinations of the Town Board, Planning Board, and Zoning Board of Appeals under this Local Law may be reviewed only by a court of competent jurisdiction pursuant to New York State Law. Determinations under this Local Law made by the Zoning Officer or the Building Inspector may be reviewed only by the Zoning Board of Appeals.

10.1-7 Compliance with this Local Law

No Building Permit or Certificate of Occupancy shall be issued by the Building Inspector, and no permit, approval, or license for any purpose shall be issued by any official of the Town, if it would be in conflict with this Local Law.

## **10.2 Building Permit**

10.2-1 No structure shall be erected or moved, nor shall any existing structure or land be changed in use until a Building Permit therefore has been issued by the Building Inspector.

10.2-2 All applications for Building Permits shall be made initially to the Zoning Officer, accompanied by three (3) copies of a plot plan drawn to scale and with accurate dimensions showing the location of all existing and proposed structures on the lot, applicable Overlay Zones, wetlands, slopes greater than fifteen percent (15%), and such other information as may be required by the Zoning Officer to determine compliance with this Local Law. One (1) copy of such plans shall be returned to the owner upon the payment of the required fee as established by the Town Board and issuance of a Building Permit.

10.2-3 No Building Permit application shall be processed unless the Zoning Officer finds that:

- a. All structures will be located on buildable land as defined in this Local Law.
- b. The proposal set forth in the application complies with the use, area, and dimensional regulations, the requirements of applicable Overlay Districts, and all applicable Supplementary Regulations of this Local Law and the Land Subdivision Regulations, as well as the terms and conditions of any approvals required under this Local Law.
- c. All required reviews and actions have been performed, and all necessary approvals have been secured.

10.2-4 If the Zoning Officer finds that the conditions in Section 10.2-3 have been satisfied, he shall transmit the Building Permit application to the Building Inspector. The Building Inspector shall issue a Building Permit, provided that the following conditions have been satisfied:

- a. All plans conform to the New York State Uniform Fire Prevention and Building Code and other applicable building regulations.
- b. All water supply and sewage disposal facilities conform to the Columbia County Department of Health regulations, the New York Public Health Law, any applicable regulations of the New York State Department of Environmental Conservation, and the requirements of this Local Law.
- c. All pre-construction conditions imposed have been satisfied.

- d. In the case of a Major Project or a Major Subdivision, the following additional conditions must be satisfied:
1. All roads, sidewalks, and curbs, as shown on the approved subdivision plat or Site Plan, have been installed, and if they are to be dedicated to the Town, offered to the Town for dedication, and accepted by the Town.
  2. All drainage easements, storm sewers, catch basins, and other drainage facilities, as shown on the approved subdivision plat or Site Plan, have been installed and, if they are to be dedicated to the Town, offered to the Town for dedication, and accepted by the Town.
  3. All sanitary sewer lines, sewage disposal plants, water lines, water plants, wells, or other sources of water supply, as shown on the approved subdivision plat or Site Plan, have been constructed, and if they are to be dedicated to the Town, offered to the Town for dedication, and accepted by the Town.
  4. All public or private recreational facilities as shown on the approved subdivision plat or Site Plan have been constructed, and certificates of occupancy, to the extent required for such facilities, have been issued.
  5. At the discretion of the Town Board, and as an alternative to the completion of the improvements set forth in Subsections (1) through (4) above, a performance guarantee in the form of a bond, cash deposit, or other financial security may be furnished to the Town by the applicant. Such performance guarantee shall be sufficient to cover the full costs of such improvements, as estimated by the Planning Board or other appropriate municipal Board or officer designated by the Planning Board. The Town Board may require that such performance guarantee be issued either by the applicant with security acceptable to the Town Board, or by a bonding or surety company approved by the Town Board. Such performance guarantee shall be approved by the Town Board as to form, sufficiency, and manner of execution, and shall run for a term not longer than three (3) years, to be fixed by the Town Board. The term of such performance guarantee may be extended by the Town Board with the consent of the parties. In the event that any required improvements have not been installed as required by this Subsection (5) within the term of the performance guarantee, the Town Board may declare a default and collect the sum payable thereunder. Upon receipt of the proceeds of such performance guarantee, the Town shall install the required improvements, at a cost not to exceed the amount of such proceeds.

#### 10.2-5 Denial of Permits

The Zoning Officer shall not transmit a Building Permit application to the Building Inspector unless it meets the requirements of this Local Law. If the Zoning Officer finds that the applicant's proposed development does not meet the requirements of this Local Law, the Building Permit application shall be returned promptly to the applicant with a letter stating the deficiencies in the application. If the Building Inspector finds that the proposed development does not satisfy the requirements of this Local Law or of any other applicable laws or regulations, the Building Permit shall be denied.

#### 10.2-6 Public Record

One (1) copy of the layout or plot plan shall be returned to the applicant when approved by the Building Inspector, together with the Building Permit, upon payment of the required fee. One (1) copy shall become a public record after a Building Permit is issued or denied, and one (1) copy shall be filed in the Town Assessor's Office.



#### 10.2-7 Posting

Building Permits shall be issued in duplicate, and one (1) copy shall be posted conspicuously on the premises affected whenever construction work is being performed. No owner, contractor, workman, or other person shall perform any site work or building construction of any kind unless the required Building Permit is displayed.

#### 10.2-8 Revocation of Permits

If it shall appear, at any time, to the Zoning Officer or Building Inspector that the application or accompanying plot plan is in any material respect false or misleading, or that work is being done in violation of the provisions of the applicable building codes, ordinances, rules, or regulations, or in violation of this Local Law, or in an unsafe or dangerous manner, or if the permit was issued in error and should not have been issued, or that work is being done upon the premises in a way differing materially from that called for in the filed application, he may forthwith revoke the Building Permit and issue a stop work order which shall be conspicuously placed on the affected premises. The person holding the Building Permit shall surrender both copies of the Building Permit to the Zoning Officer or Building Inspector. No owner, contractor, workman, or other person shall perform any further construction or site work of any kind after the posting of the stop work order and notification that a Building Permit has been revoked.

#### 10.2-9 Expiration of Permit

A Building Permit shall expire one (1) year from the date of issuance if the applicant fails to substantially complete the construction authorized by the Building Permit. The Building Permit may be extended for up to one year by the Building Inspector for good cause.

### 10.3 Certificate of Occupancy

10.3-1 No land shall be used or occupied and no structure hereafter erected, altered, or expanded shall be used or changed in use until a Certificate of Occupancy has been issued by the Building Inspector in accordance with the provisions of this Local Law and the New York State Uniform Fire Prevention and Building Code.

10.3-2 All Certificates of Occupancy for new, altered, or expanded structures shall be applied for at the same time as the application for a Building Permit. A Certificate of Occupancy shall be issued within ten (10) days after the erection, alteration, or expansion is approved by the Building Inspector as complying with the terms of the Building Permit and all provisions of this Local Law.

### 10.4 Violations

#### 10.4-1 Penalties

A violation of this Local Law is an offense punishable by fine not exceeding three hundred fifty dollars (\$350.00), or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense. Conviction of a second offense, committed within five (5) years of the first offense, is punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both. Conviction of a third or subsequent offense committed within a period of five (5) years is punishable by a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.

#### 10.4-2 Inspection and Notice of Violation

In order to determine compliance with this Local Law, the Zoning Administrator is authorized to enter, inspect, and examine any building, structure, place, premises, or use in the Town of Hillsdale, and to issue a written order for remedy or compliance, within a reasonable period of time, of any condition found to be in violation thereof. He or she shall keep a permanent record of all violations of this Local Law, whether reported by private citizens or by any board, agency, officer, or employee of the Town, and such record shall show the disposition of all such violations.

#### 10.4-3 Complaints of Violations

Whenever a suspected violation of this Local Law occurs, any person may file a signed written complaint reporting such violation to the Zoning Officer. All such complaints must be in writing (unless the suspected violation threatens life, health, or safety, in which case the Zoning Officer or Building Inspector is authorized to act on an oral complaint) and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

#### 10.4-4 Abatement of Violations

If any premises is in violation of this Local Law, the Town Board or, with its approval, the Zoning Officer or Building Inspector, may institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate such violation, to prevent the occupancy of the premises, or to prevent any illegal act, conduct, business, or use in or about such premises.

#### 10.4-5 Taxpayer Action

Upon the failure or refusal of the Zoning Officer, Building Inspector, or Town Board to institute an appropriate legal action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town to do so, any three (3) taxpayers of the Town residing in the district in which such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in the same manner as the Zoning Officer, Building Inspector, or Town Board.

#### 10.4-6 Accountability

For every violation of the provisions of this Local Law, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists, shall be punishable according to the provisions of this Local Law.

### **10.5 Escrow Deposits**

In connection with any application for a Special Permit, Site Plan approval, Zoning Amendment, or Variance, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, legal review, and other technical services required for a proper and thorough professional review of the application.

## **10.6 Zoning Board of Appeals**

### 10.6-1 Establishment

- a. The Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its chairperson, and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson. A member of the Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.
- b. Members shall serve terms of five years. Such terms shall expire at the end of the calendar year. Any current members with terms that do not expire at the end of a calendar year shall serve until the end of the calendar year in which their terms are due to expire.
- c. If a vacancy occurs other than by the expiration of a term, it shall be filled by the Town Board for the period of the unexpired term.

### 10.6-2 Conduct of Business

- a. The Zoning Board of Appeals may employ such clerical or other staff or consulting assistance as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes, except for expenses that are covered by escrow deposits held pursuant to Section 10.5.
- b. The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this Local Law.
- c. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The concurring vote of a majority of all members shall be necessary to take action on any matter before it.
- d. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every decision. If a member is absent or fails to vote, the minutes shall so indicate. Every rule, regulation, and every amendment or repeal thereof, and every order requirement, decision, interpretation, or determination of the board shall immediately be filed in the office of the Town Clerk and shall be a public record.

## Chapter 11 Appeals and Variances

### 11.1 General

In addition to granting Special Permits pursuant to Chapter 6, the Zoning Board of Appeals shall perform all the duties and powers prescribed by the Laws of New York State and by this Local Law in connection with appeals to review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of this Local Law, generally the Zoning Officer or Building Inspector. An appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the town.

### 11.2 Appeals of Orders, Requirements, Decisions, Interpretations, or Determinations

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this Local Law. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

### 11.3 Appeals for Variance

- 11.3-1 Where there are practical difficulties or unnecessary hardships imposed by the strict letter of this Local Law, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Zoning Officer and after public notice and hearing, to vary or modify the application of any of the provisions of this Local Law relating to the use, construction, or alteration of structures or the use of land, so that the spirit of this Local Law is observed, public safety and welfare secured, and substantial justice done.
- 11.3-2 All applications for Variances shall be accompanied by three (3) copies of a plot plan, drawn to scale with accurate dimensions, showing the location of all existing and proposed structures on the lot. An application for a Use Variance may require submission of an agricultural data statement pursuant to Section 8.6-3. The Zoning Board of Appeals may, if circumstances require, also request submission of a Site Plan that satisfies some or all of the requirements of Section 7.2-2.
- 11.3-3 Any Variance which is not exercised within one (1) year of the date of issuance shall automatically lapse without further hearing by the Zoning Board of Appeals.
- 11.3-4 Use Variances
- a. The Zoning Board of Appeals, on appeal from a decision or determination of the Zoning Officer, shall have the power to grant Use Variances, authorizing a use of the land which otherwise would not be allowed by this Local Law.
  - b. No Use Variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions, as applied to him, have caused unnecessary hardship. In order to prove unnecessary hardship the applicant shall demonstrate that:
    1. Under applicable provisions of this Local Law the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
    2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

3. The requested Use Variance, if granted, will not alter the essential character of the neighborhood; and
4. The alleged hardship has not been self-created.
5. The Zoning Board of Appeals, in granting Use Variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### 11.3-5 Area Variances

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Officer, to grant Area Variances from the area or dimensional requirements contained in Chapter 4.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the Variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making such determination, the Board shall also consider whether:
  1. An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance;
  2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance;
  3. The requested Area Variance is substantial;
  4. The proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether
  5. The alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the Area Variance.
- c. The Board, in the granting of Area Variances, shall grant the minimum Variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

#### 11.3-6 Imposition of Conditions

The Board shall, in granting Use Variances and Area Variances, impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact the Variance may have on the neighborhood or community.

### **11.4 Appeal Procedures**

#### 11.4-1 Application

Appeals shall be taken by filing a written notice of appeal and any required plans with the Zoning Officer and the Zoning Board of Appeals, within sixty (60) days after the filing of the order, requirement, decision, interpretation, or determination of that is being appealed, on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Local Law involved and shall specify the grounds for the Variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision, or determination of an administrative official. The Zoning Officer shall forthwith transmit all the papers constituting the record of the appeal to the Zoning Board of Appeals.

#### 11.4-2 Referral to County Planning Board

- a. Requests for Variances 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 shall be referred to the Columbia County Planning Board pursuant to General Municipal Law, Article 12-B, Sections 239\_l and 239\_m, as amended.
- b. No action shall be taken on Variances referred to the County Planning Board until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed Variance 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 Variance 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.

#### 11.4-3 Referrals to the Town Planning Board

The Zoning Board of Appeals may, at its discretion, refer an appeal to the Town Planning Board for an advisory opinion. If the Zoning Board of Appeals requests such an advisory opinion, the appeal shall be transmitted to the Planning Board at least thirty days prior to the public hearing. The Planning Board shall submit to the Zoning Board of Appeals its advisory opinion prior to the public hearing. The failure of the Planning Board to submit such opinion shall be interpreted as a favorable opinion for the appeal. This Section 11.4-3 shall in no way obligate the Zoning Board of Appeals to obtain the opinion of the Planning Board on any appeal. It shall only offer the option of obtaining such an opinion.

#### 11.4-4 Hearing and Public Notice

The Zoning Board of Appeals shall set a reasonable time (within forty-five days after receipt of a complete application) for the hearing of appeals. At least five (5) days prior to the date of such hearing, the appellant shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to the Planning Board, to any other property owners in the affected area that the Zoning Board of Appeals may require to be notified, and to the regional park commission having jurisdiction over any State park within five hundred (500) feet of the property affected. At the hearing, any party may appear in person or by agent or by attorney. The Zoning Board of Appeals may adjourn the hearing for a reasonable period in order to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said appeal.

#### 11.4-5 Action

The Zoning Board of Appeals may, in conformity with the provisions of this Local Law, reverse, affirm, or modify, wholly or in part, the order, requirement, decision, or determination of the Zoning Officer in accordance with the provisions of this Chapter.

- a. Any such action shall be decided within sixty-two (62) days after the final hearing.

- b. Every decision of the Zoning Board of Appeals shall be approved by vote of a majority of the members by resolution which contains a full record of the findings of the Zoning Board of Appeals in the case.

#### 11.4-6 Filing

Every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed immediately in the office of the Town Clerk, and shall be a public record.

#### 11.4-7 Rehearing and Review of Prior Decisions

Upon motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Zoning Board of Appeals shall review at a rehearing held upon notice given as upon an original hearing, any order, decision, or determination of the Zoning Board of Appeals not previously reviewed. Upon such rehearing, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision, or determination reviewed will not be prejudiced thereby, the Zoning Board of Appeals may, upon the concurring vote of all the members then present, reverse, modify, or annul its original order, decision, or determination.

#### 11.4-8 Court Review of Board Decisions

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals, may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules and Section 267-c of the Town Law.

#### 11.4-9 Expiration of Appeal Decision

Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to obtain any necessary Building Permit within six (6) months of the date of such decision.

#### 11.4-10 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certifies for the Zoning Board of Appeals, after the notice of appeal has been filed, that such a stay of proceedings would, in his opinion, cause imminent peril to life or property by reason of facts stated in the certificate. In such a case, proceedings shall not be stayed except by a restraining order granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Zoning Officer for due cause shown.

## Chapter 12 Amendments

### 12.1 Authority

The Town Board may, at any time, on its own motion, on petition by any official or member of the public, or on recommendation of the Planning Board, amend, supplement, modify, or repeal the provisions of this Local Law after public notice and hearing, as required by the Laws of New York State.

### 12.2 Review by Planning Agencies

As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the Town Board shall refer proposed amendments to the Town and County planning agencies as required by this Local Law and by the Laws of New York State.

#### 12.2-1 Referral to Town Planning Board

Every proposed amendment or change initiated by the Town Board or by petition (but not if initiated by the Planning Board), shall be referred to the Town Planning Board for report thereon prior to public hearing.

#### 12.2-2 Referral to County Planning Board

- a. Any proposed amendment 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 right-of-way 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, and 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, shall be referred to the Columbia County Planning Board before final action is taken pursuant to General Municipal Law, Article 12\_B Sections 239\_l and 239\_m, as amended.
- b. No action shall be taken on proposals referred to the County Planning Board until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed amendment, unless the County and Town agree to an extension beyond the thirty (30) day requirement for the County Planning Board's review.

### 12.3 Public Hearing and Notice

No proposed amendment shall become effective until after a public hearing thereon at which the public shall have an opportunity to be heard. The Town Board shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause public notice to be given as required by the Laws of New York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and for notice to adjacent municipalities, if necessary.

#### 12.3-1 Publication of Notice in Newspaper

Notice of the time and place of the public hearing shall be published at least five (5) days in advance of such hearing in the official newspaper. This notice shall specify the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.



#### 12.3-2 Posting

Notice of the time and place of the public hearing shall be posted at least five (5) days in advance of such hearing on the bulletin board of the Town Clerk located at the Town Hall. This notice should specify the general nature of the proposed amendment, in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

#### 12.3-3 Notice to Adjacent Municipalities

Written notice of any proposed amendment affecting property lying within five hundred (500) feet of an adjacent Town shall be served personally or by mail upon the Clerk of such municipality at least ten (10) days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

#### 12.3-4 Notice to Taconic State Park Commission

Written notice of any proposed amendment affecting property lying within five hundred (500) feet of a state park or parkway shall be served personally or by mail upon the Taconic State Park Commission at least ten (10) days prior to the date of public hearing. Representatives of the Taconic State Park Commission receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

### 12.4 Adoption

The Town Board may adopt amendments to this Local Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Board as noted below.

#### 12.4-1 Local Protest

The favorable vote of three fourths (i.e. four) of the Town Board members shall be required for passage of any amendment which is subject to a written protest signed by twenty percent (20%) or more of the owners of land in any of the following areas:

- a. The land area included in the proposed amendment.
- b. The land area immediately adjacent to the area proposed to be changed and extending one hundred (100) feet there from.
- c. The land area directly opposite the area proposed to be changed and extending one hundred (100) feet from the road frontage of such opposite land.

#### 12.4-2 County Disapproval

A majority plus one (1) vote of all Town Board members shall be required to pass any proposal which receives a recommendation of disapproval from the County Planning Board because of the referral process specified in Section 12.2-2 above, along with a resolution setting forth the reasons for such contrary action.

### 12.5 Effective Date

Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of the State of New York pursuant to Municipal Home Rule Law of the State of New York.

## Chapter 13    Miscellaneous Provisions

### **13.1    Interpretation as Minimum Requirements**

In their interpretation and application, the provisions of this Local Law shall be deemed minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this Local Law differ from the requirements of any other lawfully adopted regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **13.2    Severability**

If any provision of this Local Law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this Local Law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

### **13.3    Conflict with Other Laws**

This Local Law shall not repeal, abrogate, annul, or in any way impair or interfere with any provisions of law or rules or regulations previously adopted or issued and still in effect relating to the use of structures or premises, provided that where this Local Law imposes a greater restriction upon the use of structures or premises or requires larger lots or yards than are imposed or required by such existing laws, rules, or regulations, the provisions of this Local Law shall control.

### **13.4    Effective Date**

This Local Law shall take effect on May 1, 1995.

## Chapter 14 Definitions

### 14.1 Use of Words

- a. Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The word shall is always mandatory. The word may is permissive. Building or structure includes any part thereof. The word lot includes the word plot or parcel. The word person includes an individual person, a firm, a corporation, a partnership, and any other agency of voluntary action. The word he shall include she or they. The phrase used for includes arranged for, designed for, intended for, maintained for, and occupied for.
- b. In Section 14.2, where two words are separated by a slash mark (/), they shall have the same meaning.

### 14.2 Definitions

**ACCESSORY APARTMENT:** A dwelling unit occupying the lesser of 1,000 square feet or 30% of the floor space of an owner-occupied structure containing a principal use that is single-family residential or non-residential, or a dwelling unit no larger than 1,000 square feet located in an accessory structure on an owner-occupied property.

**ACCESSORY STRUCTURE:** A structure detached from and subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the principal building or use, including accessory apartments.

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

**ACCESSWAY:** A strip of land at least twenty-five (25) feet in width, abutting an improved road or a County or State highway, providing access to a rear lot.

**AGRICULTURAL DATA STATEMENT:** An identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which a Subdivision is proposed, as provided in Section 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed Project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the Project is proposed; and a tax map or other map showing the site of the proposed Project relative to the location of farm operations identified in the agricultural data statement.

**AGRICULTURAL INDUSTRY:** The processing of agricultural and forestry products by machine, including slaughterhouses, canneries, rendering plants, sawmills, furniture factories, and similar operations.

**AGRICULTURE:** The utilization of land and structures for the production, preservation, non-industrial processing, storage, and sale of agricultural commodities such as crops, plants, flowers, vines, trees, sod, shrubs, livestock, honey, Christmas trees, compost, poultry, or dairy products, not including agricultural industry or farms primarily for the disposal of offal or garbage.

**ALTERATION:** As applied to a structure, a change to or rearrangement of the structural parts or exterior appearance of such structure, or any expansion thereof, whether by extension of any side or by any increase in height, or the moving of such structure from one location to another.

**APPLICANT:** Any person, corporation, or other entity applying for a Building Permit, Certificate of Occupancy, Special Permit, Site Plan or subdivision approval, Variance, or Zoning Amendment.

**AQUIFER:** A geologic formation or groups of geologic formations or portions thereof, that contain saturated permeable material such as sand and gravel, limestone, or limestone overlaid with sand and gravel sufficient to yield significant and usable quantities of water to drinking wells and springs.

**AUTOMOBILE SERVICE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning, servicing, or repairing such motor vehicles.

**BED AND BREAKFAST:** A dwelling in which overnight accommodations not exceeding six (6) bedrooms are provided or offered for transient guests for compensation, providing no meals except breakfast for guests.

**BOARDING HOUSE:** A building other than a hotel containing a shared kitchen and/or dining room, in which at least three (3) but not more than six (6) sleeping rooms are offered for rent, with or without meals.

**BUILDABLE LAND:** That portion of a lot which is suitable for building structures and locating septic disposal facilities, excluding wetlands and water courses, slopes exceeding twenty percent (20%), and flood hazard areas as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

**BUILDING:** A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property.

**BUILDING AREA:** All land covered by structures, interior roads, parking areas, sidewalks, and loading areas.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof. When a lot fronts on two (2) or more streets of different levels, the lower street level shall be taken as the base for measuring the height of the building.

**BUILDING LINE:** The line established by statute, local law, or ordinance, beyond which a structure shall not extend, as specifically provided by this Local Law.

**BUILDING, PRINCIPAL:** A building or structure in which is conducted the main or principal use of the lot on which it is located.

**BUSINESS OFFICE:** An office used for a for-profit or non-profit business or organization.

**BUSINESS, RETAIL:** See *RETAIL BUSINESS*.

**BUSINESS, SERVICE:** See *SERVICE BUSINESS*.

**CAMP:** Any parcel of land on which are located two (2) or more tents, shelters, or other accommodations of a design or character suitable for seasonal or other temporary living purposes, including resort and day camp but not including mobile home park, boarding house, hotel or motel, or cottage camp.

**CEMETERY:** Land used or intended to be used for the burial of dead human beings and dedicated for such purpose, including columbariums, mausoleums, and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

**CHARITABLE ORGANIZATION:** A not-for-profit corporation or association organized for charitable purposes including but not limited to education, social welfare, environmental conservation, scientific research, cultural enrichment, and the arts.

**CLEAR-CUTTING:** The cutting of more than 50% of trees of 6 inches or more in diameter at breast height over a 2,000 sq. ft. area of land.

**CLUB, MEMBERSHIP:** Premises used by a not-for-profit organization catering exclusively to members and their guests for social, recreational, athletic, or similar purposes.

**COMMON DRIVEWAY:** A driveway serving no more than four (4) lots owned in common or created by reciprocal easements.

**COMMUNICATION TOWER:** A structure used primarily for transmitting and/or receiving radio, television, microwave, cellular telephone, or similar electromagnetic signals. Any communication tower exceeding 35 feet in height above average grade level shall be deemed to be a principal use, not an accessory use. The following shall not be considered to be communication towers:

- a. Receive-only antennae and satellite dishes designed for residential use.
- b. Any other antennae less than 15 feet in height, no part of which exceeds five feet in width or ten feet in diameter, when mounted on buildings, telephone poles, or other pre-existing structures as an accessory structure or use.
- c. Antennas used by a federally licensed amateur radio operator, which shall be subject to the same requirements as other residential accessory structures.

**COMPLETE APPLICATION:** An application for a Special Permit, Site Plan or subdivision approval, Zoning Amendment, or Variance, found by the reviewing board to satisfy all information requirements of this Local Law and of the New York State Environmental Quality Review Act, for which either a Negative Declaration has been issued or a Draft Environmental Impact Statement has been accepted as satisfactory pursuant to 6 NYCRR Section 617.8(b)(1).

**COMPREHENSIVE PLAN:** The comprehensive plan adopted by the Town Board for the future preservation and development of the Town of Hillsdale pursuant to Section 272\_a of the Town Law, which identifies the general locations recommended for different types of development, for open space preservation, and for public improvements, including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

**CONDOMINIUM:** A system of ownership of dwelling units, either attached or detached, established pursuant to the Condominium Law of the State of New York, in which the apartments or dwelling units are individually owned.

**CONFORMITY/CONFORMING:** Complying with the use, density, dimensional, and other standards of this Local Law, or permitted to deviate there from by Special Permit or Variance.

**CONSERVATION EASEMENT:** A perpetual restriction on the use of land, created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or Section 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural, historic, and scenic resources.

**CONSTRUCTION TRAILER:** A mobile home used for non-residential purposes associated with on-site construction.

**CORNER LOT:** See *LOT, CORNER*.

**COTTAGE CAMP:** A group of two (2) or more dwelling structures on a single property designed for seasonal occupancy, not more than one (1) of which is used as a year-round residence,

including bungalow colonies and cabin colonies, but excluding mobile home parks, boarding houses, hotels, or motels.

**COVERAGE:** That percentage of the lot covered by the building area as defined herein.

**CRAFT WORKSHOP:** A place where artists, artisans, craftsmen, and other skilled trades people produce custom-made art or craft products including but not limited to baskets, cabinets, ceramics, clothing, flower arrangements, jewelry, metalwork, musical instruments, paintings, pottery, sculpture, toys, and weaving.

**DAY SCHOOL:** A structure or structures used for academic or technical instruction to students, such as public or private schools that include any combination of grades from nursery school or kindergarten through twelfth grade, as well as trade, business, or technical schools, colleges, universities, or not-for-profit institutes, in which there are no residential facilities.

**DENSITY UNIT:** One (1) dwelling unit or five hundred (500) square feet of transferable non-residential building floor space (*see Section 4.7*).

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as mining, dredging, filling, paving, excavations, grading, clear-cutting, or drilling operations.

**DRIVEWAY:** A private way providing vehicular access from a public or private road to a residence or to a commercial or non-commercial establishment.

**DWELLING:** A building designed or used exclusively as living quarters for one (1) or more families.

**DWELLING, MULTI-FAMILY:** A dwelling containing separate living units for three (3) or more families.

**DWELLING, SINGLE-FAMILY:** A detached building designed for the use of one (1) household, including one (1) or more persons living as a family, and wherein not more than three (3) boarders are sheltered and/or fed for compensation.

**DWELLING, TWO-FAMILY:** A detached building containing two (2) dwelling units.

**DWELLING UNIT:** A building or portion thereof providing complete housekeeping facilities for one (1) family.

**EROSION:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**FAMILY:** One person, or a group of two or more persons living and cooking together in the same dwelling unit as a single housekeeping entity. A roomer, boarder, lodger, or occupant of supervised group quarters shall not be considered a member of a family.

**FARM OPERATION:** Land used in agricultural production, farm buildings, equipment, and farm residential buildings.

**FLOOR SPACE:** The sum of the areas of habitable or commercially usable space on all floors of a structure.

**FOOTPRINT:** Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.

**FRONT:** The side of a building or structure parallel to and closest to a road or street. On a corner lot, both sides of a building facing the street shall be considered the front.

**GRADING:** Any excavation, alteration of land contours, grubbing, filling, or stockpiling of earth materials.

**HOME OCCUPATION:** An occupation or business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure as an accessory use.

**HOSPITAL:** A building containing beds for ten (10) or more patients, used for the diagnosis, treatment, and care of disease and other ailments by medical professionals.

**HOTEL:** See *LODGING FACILITY*.

**JUNK:** Any worn-out, cast-off, discarded, or neglected article or material which is ready for destruction or has been collected or stored for salvage or conversion to another use. Junk does not include any article or material which unaltered or unchanged and without further reconditioning can be used for its original purposes as readily as when new, or any article stored for restoration or display as part of a bona fide hobby (such as antique automobiles, antique farm machinery, antique engines, special interest automobiles, etc.).

**JUNK CAR:** Any vehicle not operable on the State, County, and local road or highway system, unless such vehicle is an antique or special interest automobile stored for restoration and/or display as part of a bona fide hobby.

**JUNKYARD:** The use of two hundred (200) square feet or more of area on any lot outside a structure for the storage or collection of junk or junk cars.

**KENNEL:** Any establishment including cages, dog runs, and structures wherein more than three (3) dogs which are over six (6) months old are kept for sale, boarding, care, or breeding, for which a fee is charged.

**LODGING FACILITY:** Any hotel, motel, inn, bed and breakfast, or other establishment providing sleeping accommodations for transient guests, with or without a dining room or restaurant.

**LOT/PARCEL:** A delineated area or plot of land which may be occupied or designed to be occupied by a principal building and its accessory structure or structures, including the yards required by this Local Law, shown as a distinct parcel on the Tax Assessor's maps of the Town. Where a parcel is divided by a road, such division shall be deemed to create separate lots, even if such lots do not have individual tax parcel numbers or have been transferred in the same deed.

**LOT, CORNER:** A lot at the junction and abutting on two (2) or more intersecting roads, when the interior angle on the intersection does not exceed one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred and thirty-five (135) degrees.

**LOT LINES:** The property lines that bound a lot as defined herein.

**LOT OF RECORD:** Any lot which has been established as such by plat, survey record, or deed prior to the date of this Local Law as shown on the records in the Office of the Columbia County Clerk.

**LOT, REAR:** A lot on which the buildable area is located generally to the rear of other lots having frontage on the same road as such lot, and having access to the road via a strip of land that does not have the minimum road frontage ordinarily required in the Zoning District.

**LOT, THROUGH:** A lot which faces on two (2) streets at opposite ends of the lot, which is not a corner lot.

**LOT WIDTH:** The horizontal distance between the side lot lines measured along the rear line of the required front yard.

**MAJOR PROJECT:** A proposed use that requires a Special Permit and that exceeds any of the thresholds for a Minor Project.

**MAJOR SUBDIVISION:** A subdivision of land resulting in the construction of a new public or private road and/or in the creation of five (5) or more residential lots, or any other subdivision classified as major by the Planning Board because of its probable major impact on the surrounding area.

**MEMBERSHIP CLUB:** See *CLUB, MEMBERSHIP*.

**MINOR PROJECT:** A proposed use that requires a Special Permit and that falls below all of the following thresholds:

1. Construction of four or fewer multi-family dwelling units.
2. Construction of facilities or structures for a non-residential use covering no more than two thousand (2,000) square feet of building footprint.
3. Minor alteration of existing structures or expansion of such structures by no more than one thousand (1,000) square feet.
4. Conversion of existing structures to another use.
5. Alteration and active use of 5,000 square feet or less of land, with or without structures, in connection with the Special Permit use.

**MINOR SUBDIVISION:** A subdivision of land resulting in the construction of four (4) or fewer residential lots, with no new roads, and classified by the Planning Board as a Minor Subdivision because of its probable minor impact on the surrounding area.

**MOBILE HOME:** A movable residential structure without means of propulsion, which is installed on a site on a solid fixed foundation.

**MOTOR HOME:** A motor vehicle designed as a temporary dwelling for travel and recreational use.

**MULTI-FAMILY DWELLING:** See *DWELLING, MULTI-FAMILY*.

**MUNICIPAL, MUNICIPALITY, TOWN:** Refers to the Town of Hillsdale, Columbia County, New York.

**MUNICIPAL USE:** A use engaged in by the Town, County, or State governments, or by any governmental or quasi-governmental entity such as a fire district, school district, or water district.

**NON-COMMERCIAL RECREATION:** The use of land on a non-profit basis for hiking, observation of nature, athletics, swimming, or other recreational purposes that do not create noise, odor, or dust impacts greater than would occur from customary single-family residential use.

**NON-CONFORMING STRUCTURE:** A structure which contains a permitted use, but does not meet the setback, side yard, rear yard, height, coverage, or floor area requirements of this Local Law for the district in which it is located, which was lawful when constructed.

**NON-CONFORMING LOT:** A lot of record which does not comply with the area, shape, frontage, or locational provisions of this Local Law for the district in which it is located.

**NON-CONFORMING USE:** Any use lawfully existing prior to and at the time of the adoption or amendment of this Local Law or any preceding zoning law or ordinance, which use is not permitted by or does not conform with the permitted use provisions of this Local Law for the district in which it is located. A pre-existing lawful use which is allowed only by Special Permit



under this Local Law shall be considered a non-conforming use until such time as a Special Permit is granted for it.

**NUISANCE VEGETATION:** Plants commonly found in the wild, with no commercial, agricultural, or significant ecological value, and which cause damage or discomfort to humans or to more ecologically or economically valuable plant or animal species; examples of nuisance vegetation are poison ivy, multiflora rose, and purple loosestrife.

**NURSERY SCHOOL:** A school designed to provide daytime care or instruction for two (2) or more children between two (2) and five (5) years of age, operated on a regular basis.

**NURSING HOME:** Any establishment where three (3) or more persons are housed and furnished with meals and nursing care for compensation.

**OFFICE, BUSINESS:** See *BUSINESS OFFICE*.

**OFFICE, PROFESSIONAL:** See *PROFESSIONAL OFFICE*.

**OFFICIAL NEWSPAPER:** The newspaper or newspapers designated by the Town for the publication of official notices of meetings and public hearings.

**OPEN SPACE:** An area of land not developed with structures and used for recreation, agriculture, lawn, or forestry, or left in its natural state. (*"Permanent Open Space" is defined and discussed in Section 4.5.*)

**OUTDOOR STORAGE:** See *STORAGE, OUTDOOR*.

**PARCEL:** See *LOT*.

**PARKING SPACE:** The net area needed for parking one (1) automobile, usually equal to one hundred eighty (180) square feet with dimensions of nine feet by twenty feet (9' x 20').

**PLACE OF PUBLIC ASSEMBLY:** Auditorium, grange hall, or other non-municipal structure in which people congregate for meetings, social events, recreation, or entertainment.

**PLANNING BOARD:** The Town of Hillsdale Planning Board.

**PLAT:** A subdivision map or plan approved by the Planning Board pursuant to the Town of Hillsdale Land Subdivision Regulations.

**PLATFORM:** That portion of a driveway contiguous to a road where vehicles stop before entering the road from the driveway.

**PLOT PLAN:** A map or plan showing the boundaries of a parcel and all structures and important physical features on it, drawn to scale with accurate dimensions.

**POSTER:** A temporary sign which announces, directs, or advertises any political, educational, charitable, philanthropic, civic, professional, religious, or similar organization, campaign, show, fund drive, movement, or event.

**PREMISES:** A lot, together with all the structures and uses thereon.

**PRINCIPAL BUILDING:** See *BUILDING, PRINCIPAL*.

**PRIVATE ROAD:** A privately owned road held in common ownership by a homeowners' association.

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

**PROFESSIONAL OFFICE:** Office for professionals including but not limited to accountants, architects, attorneys, consultants, engineers, interior designers, real estate brokers,

stockbrokers, and surveyors. Professional office also includes office for outpatient health care services, including but not limited to chiropractors, dentists, psychologists, physical therapists, physicians, veterinarians (excluding kennel facilities), and other health care professionals.

**PROPERTY:** Any lot, piece, or parcel of land.

**PUBLIC STABLE:** Premises on which horses are boarded for compensation or kept for riding instruction, hire, sale, or related purposes.

**REAR LOT:** See *LOT, REAR*.

**RECREATIONAL BUSINESS:** A business which, for compensation, offers recreational services or entertainment, including but not limited to hunting clubs, ski resorts, public stables, travel trailer, tenting, and cottage camps, golf courses and driving ranges, miniature golf, movie theatres, and other places of public or private entertainment.

**RELIGIOUS INSTITUTION:** A church, synagogue, or other place of religious worship, as well as a monastery or other place of religious retreat.

**RESIDENTIAL USE:** A use of land and structures in which people live and sleep overnight on a regular basis.

**RETAIL BUSINESS:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, restaurant, shoe store, stationery store, and variety store.

**ROAD FRONTAGE:** The distance along a street line measured at the front of a lot.

**ROAD/STREET:** A public or private way for pedestrian and vehicular traffic, including avenue, lane, highway, or other way, excluding a driveway or common driveway.

**SCREEN/SCREENING:** The location of structures in such a manner that they are not visible from a public road or any other public place during the summer months, and no more than partially visible in winter. Objects or structures may be screened by topography, vegetation, or other structures not required to be screened.

**SERVICE BUSINESS:** A business or non-profit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing, and landscape contracting, arts instruction or studio, auto repair, business and educational services, catering, health club, house cleaning services, locksmith, photocopying, repair and restoration services, tailoring, typing, and word processing. Service business does not include retail business, restaurants, warehouses, or other uses separately listed in the Use Table.

**SETBACK:** The distance in feet from a property line or a street centerline to a structure on a lot.

**SIGN:** Any material, structure, or device composed of lettered or pictorial matter which is placed for public display of an advertisement, announcement, notice, directional matter, or name including sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs, or ground signs.

**SIGN, ADVERTISING:** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the premises on which the sign is located.

**SIGN, ILLUMINATED:** A sign designed to reflect artificial light intentionally shone upon it.

**SIGN SIZE:** The area of a sign, excluding support structures, including all portions of the sign visible to the public. The size of a sign visible on both sides shall be the area of one (1) side.

**SINGLE-FAMILY DWELLING:** See *DWELLING, SINGLE-FAMILY*.

**SOIL MINING:** Use of a parcel of land or contiguous parcels of land, or portions thereof, for the purpose of extracting and selling stone, sand, and/or gravel, not including the process of preparing land for construction of a structure for which a Building Permit has been issued.

**SQUARE ON A LOT:** A square area of buildable land fitting within a lot.

**STORAGE, OUTDOOR:** Land used for the keeping of goods, wares, equipment, or supplies outside of a structure.

**STORY:** The portion of a building included between the surface of any floor and the floor above it; if there is not a floor above it, then the space between the floor and the ceiling next above it.

**STREET:** See *ROAD*.

**STREET LINE:** The dividing line between the road or highway and the lot, formed by the edge of pavement or travel way, regardless of the location of the right-of-way line.

**STRUCTURE:** A static construction of building materials affixed to the ground, such as a building, dam, display stand, fence, gasoline pump, installed mobile home or trailer, reviewing stand, shed, sign, stadium, storage bin, or wall.

**STRUCTURE, ACCESSORY:** See *ACCESSORY STRUCTURE*.

**SUBDIVISION:** The division of any parcel of land into two (2) or more lots, parcels, or plots, with or without streets, for the purpose of development or conveyance by deed or lease. A division of real property into single-family or two-family dwelling units in condominium or co-operative ownership shall be deemed a subdivision of land.

**SWIMMING POOL:** Any body of water (excluding natural bodies of water fed by watercourses including rivers, streams, brooks, or springs) or receptacle for swimming or bathing, and constructed, installed, or maintained in or on the ground outside any structure.

**THIS LOCAL LAW:** See *ZONING LAW*.

**THROUGH LOT:** See *LOT, THROUGH*.

**TOWN LAW:** The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

**TRANSPORTATION FACILITY:** A structure or land area used primarily as an arrival or departure point or as a storage or repair facility for buses, airplanes, limousines, taxis, and other modes of passenger and freight transportation other than private automobiles.

**TRAVEL TRAILER:** A vehicular portable structure designed as a temporary dwelling for travel or recreational use.

**TRAVEL TRAILER CAMP:** A tract of land which is used or intended to be used for the parking of two or more travel trailers or motor homes.

**TRAVELLED WAY:** That portion of a road which, because of its grading, base, drainage, and surface, is passable in all seasons by motor vehicles, including fire trucks and ambulances. As used in this Local Law, traveled way shall refer to the average width of the road.

**TWO-FAMILY DWELLING:** See *DWELLING, TWO-FAMILY*.

**USE:** The purpose for which any premises may be arranged, designed, intended, maintained, or occupied, or any occupation, activity, or operation conducted or intended to be conducted on a premise.

**USE, ACCESSORY:** A use which is customarily incidental to and subordinate to the principal use of a lot or structure, located on the same lot as the principal use or structure.

**UTILITY FACILITY:** An installation used by a public utility to supply electric, gas, water, cable television, telephone, or other utility service. Included are such facilities as electric unit substations, high voltage transmission lines, pump stations, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities.

**VISIBLE/VISIBILITY:** Able to be seen by a person with normal vision on a clear day when there is no foliage on deciduous trees.

**WAREHOUSE:** A structure or structures in which materials, goods, or equipment are stored.

**WATERCOURSE:** Any stream, pond, lake, drainage channel, or other area of land that is normally or seasonally filled with water.

**WAY:** A thoroughfare permanently established for passage of persons or vehicles.

**WETLAND:** An area of land that is characterized by hydrophytic vegetation, saturated soils, or periodic inundation. See Section 8.4.

**WINDMILL:** A mechanized system which converts wind energy into electrical or mechanical power.

**YARD:** An open space on the same lot with a structure.

**YARD, FRONT:** An open space extending across the full width of the lot between the front building line and the street line.

**YARD, REAR:** An open space extending across the full width of the lot between the rear lot line and the rear of the principal building nearest the rear lot line.

**YARD, REQUIRED:** That portion of any yard required to satisfy minimum yard setbacks. No part of such yard can be included as part of a yard required for structures on another lot.

**YARD, SIDE:** An open space on the same lot with a principal building between the principal building and side line of the lot and extending from the front yard to the rear yard.

**ZONING LAW/THIS LOCAL LAW:** The officially adopted Zoning and Land Use Control Law of the Town of Hillsdale, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.