

TOWN OF DAY
PROPOSED AMENDMENTS: JUNE 25, 2012
7/23/2012

Summary of Changes

Zoning Law

• **Revised Sections**

- ARTICLE 1 - SHORT TITLE, AUTHORITY AND PURPOSE
- ARTICLE 2 - REGULATED USES
- ARTICLE 3 - ESTABLISHMENT OF DISTRICTS
- ARTICLE 4 - DISTRICT REGULATIONS
 - Includes changing format to tabular for district uses and dimensional requirements
- Section 8.2 Specific Shoreline Regulations
- Section 8.12 Temporary Occupancy of Travel Trailers
- Section 9.1 Existing Use Nonconforming Uses and Structures

• **New Sections**

- Section 8.13 Blasting
- Section 8.14 Driveways
- Section 8.16 Tree Cutting
- Section 8.17 Keeping of Farm Animals
- Section 8.18 Kennel
- Section 8.19 Adult Entertainment Establishment
- Section 8.20 Bed And Breakfast Establishment
- Section 8.21 Campground, Recreational Vehicle Park
- Section 8.22 Condominium and Cooperative Development
- Section 8.23 Motor Vehicle Service and/or Repair Shop
- Section 8.24 Retail Gasoline Sales
- Section 8.25 Roadside Stand
- Section 8.26 Wind Power Generating Facility, Small

• **Deleted Sections**

- ARTICLE 9 - CLUSTER PROVISIONS (*incorporated into "Conservation Subdivision section of Subdivision Law"*)

• **Definitions**

- **Additions:** ABANDONED, JUNKED OR INOPERATIVE MOTOR VEHICLE; ADULT ENTERTAINMENT ESTABLISHMENT; ADULT ARCADE; ADULT BOOKSTORE OR ADULT VIDEO STORE; ADULT CABARET; ASSISTED LIVING FACILITY FOR SENIORS; GARAGE FOR GOVERNMENT VEHICLES; GREENHOUSE; LIVESTOCK; MANUFACTURED HOME; MANUFACTURED HOME COURT; MOTOCROSS; PUBLIC UTILITY STRUCTURE OR USE, MINOR; RECREATION FACILITY OR USE, LAKE RELATED; RETAINING WALL; SENIOR CITIZEN HOUSING DEVELOPMENT; STREET LINE; WIND POWER GENERATING FACILITY, SMALL; SPECIFIED ANATOMICAL AREAS; SPECIFIED SEXUAL ACTIVITIES; DWELLING, ONE-FAMILY

- **Deletions:** AUTOMOBILE WRECKING YARD; CAMPSITE; DUPLEX; DWELLING, TWO-FAMILY; SINGLE FAMILY DWELLING; FUELING STATION; GARAGE, PUBLIC; HOTEL, INN, TOURIST CABIN, AUTO COURT OR MOTEL; LINE, STREET; MANUFACTURING, HEAVY; MANUFACTURING, LIGHT; MOBILE HOME; PLANNED UNIT DEVELOPMENT; PUBLIC UTILITY STRUCTURE OR USE; TOWNHOUSE.
- **Revisions:** ACCESSORY STRUCTURE OR USE; APARTMENT HOUSE; BOAT STORAGE, COMMERCIAL, BOAT STORAGE; PRIVATE, BOATHOUSE; CAMPGROUND, OR RECREATIONAL VEHICLE PARK; PLACE OF WORSHIP; TREE CUTTING, COMMERCIAL; DOCKMINIUM FACILITY; KENNEL; DUMP; DWELLING, MULTIPLE-FAMILY; FENCE; FORESTRY USE; FUEL SALES, RETAIL; GROUP CAMP; INDUSTRIAL USE, LIGHT; JUNKYARD; LOT, FRONT LINE; MARINA; MAXIMUM STRUCTURE HEIGHT; PRINCIPAL BUILDING; RECREATION FACILITY OR USE, NOT LAKE RELATED; RETAIL BUSINESS; ROADSIDE STAND; STORAGE SHED; TRAVEL TRAILER OR RECREATION VEHICLE; VETERINARY CLINIC OR HOSPITAL.

Subdivision Law

- **Revised Sections**

- Article 7
- Article 8
 - Includes new Sections:
 - 8.1 Relationship to Land Features
 - 8.2 Lots
 - 8.3 Preservation of Natural and Cultural Features
 - 8.4 Tree Removal
 - 8.5 Road Design Standards
 - 8.6 Road Construction Standards
 - 8.7 Future Access to Interior Property
 - 8.8 Sight Distance at Driveways and Intersections
 - 8.9 Drainage and Storm Water Runoff
 - 8.10 Trail Systems
 - 8.11 Clearing and Grading
 - 8.12 Emergency (911) Number Signage
 - 8.13 Modification of Designs
- Article 11

- **New Sections**

- Article 9 Conservation Subdivisions
- Article 10 Boundary Line Adjustments

- **Definitions**

- **Additions:** Comprehensive Plan; Conservation Subdivision; Public Road
- **Deletions:** Master Plan; Official Map; Half Streets; Reverse Frontage Lots; Street
- **Revisions:** Subdivision; Principal Building

Text of Proposed June 25, 2012 Town of Day Amendments

Deletions in ~~strikeout~~

Additions in underline

Notes in *italics*

Zoning Law

Terminology & Basic Edits

****The following generalized and editorial changes have been omitted from this document:***

"Ordinance" changed to "Law"

"Mobile" Home changed to "Manufactured" Home

Accessory "Building" changed to Accessory "Structure"

"Church" changed to "Place of Worship"

ARTICLE 1

Section 1.3 Legislative Purpose and Intent

~~The purpose of this ordinance is to~~

A. The purpose of this law is to ensure that land use within the Town is consistent with the goals and recommendations of the Town of Day Comprehensive Plan adopted September 2010, and with the plan's vision statement: "The vision of the future of the Town of Day is grounded in the past, and in the present. Simply put, 20 years from now, the Town of Day should look and feel as it does now - rural, rustic, quiet and unspoiled with woods and lake and mountain views."

B. It is the further purpose of this law to:

1. Promote the health, safety, and general welfare of the community, provide for variety of housing opportunities and densities and protect the property values and aesthetics of the community by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yard, courts and other open spaces, then density of population and the location and use of buildings, structures and land for trade, industry, agriculture, residence and other purposes, to the extent permissible within the proper exercise of power delegated by the Town Law.

~~It is the further purpose and objective of this ordinance to insure~~

2. Ensure optimum overall conservation, protection, development and use of the scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Town.

~~It is further the purpose of this ordinance to~~

3. Satisfy the criteria for approval by the Adirondack Park Agency of a local land use program pursuant to Section 807(2) of the Adirondack Park Agency Act.

~~Further,~~

C. Nothing in this ~~ordinance~~law shall be deemed to ~~supereede~~supersede, alter, enlarge, or impair the jurisdiction of the Adirondack Park Agency pursuant to the New York State Wild, Scenic and Recreational Rivers System Acts or the New York State Freshwater Wetlands Act.

~~Further,~~

D. Nothing in this ~~ordinance~~law shall be construed to compromise the Adirondack Park Agency's sole authority to enforce, amend, or administer its permits, or to exercise continuing review authority pursuant to outstanding permits, when such authority regarding Class A and B projects is retained therein.

Section 1.4 Prior Law

This law shall replace and supersede the prior existing "Town of Day Zoning Law" as amended June 27, 2006, and any subsequent amendments thereto.

ARTICLE 2 - ~~WORD USAGE-~~ REGULATED USES

~~Section 2.1 Word Usage~~

~~Words used in the present tense shall include the future; and words used in the singular number shall include the plural number and the plural, the singular. The word "shall" is mandatory; the word "may" is permissive. The word "lot" shall include the words "plot," "piece," and "parcel"; the word "building" includes all other structures of every kind, regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for." The word "person" includes a corporation as well as an individual.
[Moved to Appendix D]~~

Section 2.1 Regulated Uses

A. All new structures, and/or changes in existing structures, that change exterior dimensions must be reviewed by the Town of Day Code Enforcement Officer to ensure compliance with existing land use laws.

B. No person shall undertake any of the following unless a Building Permit has been issued by the Town of Day Code Enforcement Officer.

1. Construction of any new building or structure one hundred (100) square feet or larger in ground coverage, including swimming pools.

2. Expansion or enlargement of any existing structure, if the completed structure is one hundred (100) square feet or greater in ground area.

3. Any other project for which a Building Permit is required pursuant to the New York State Fire and Building Code or other applicable law.

C. No person shall establish a use of land unless it is in compliance with this law and all applicable laws.

D. The following activities are not regulated by this law.

1. Interior structural alterations, or routine maintenance and improvement, which does not expand the exterior dimensions of a structure.

2. Landscaping or grading, excluding retaining walls, which is not intended to be used in connection with a land use reviewable under the provisions of this law.

3. Temporary yard sales, porch sales, garage sales and sales of a similar nature.

4. Timber harvesting not governed by Section 8.16 herein.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

Section 3.1 Establishment and Purpose of Districts

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Day, the Town is hereby divided into the following types of districts.

Development in each district should be consistent with the Town Vision Statement as stated in the Town of Day Comprehensive Plan of 2010: "The vision of the future of the Town of Day is grounded in the past, and in the present. Simply put, 20 years from now, the Town of Day should look and feel as it does now - rural, rustic, quiet and unspoiled with woods and lake and mountain views."

LR Lakefront Residential Districts

Lakefront Residential districts provide for residential use of the Great Sacandaga Lake shorefront while protecting water quality and use of the Lake. They are intended to be primarily residential in character, but to allow for the establishment of businesses seeking a lakeshore location, such as restaurants and marinas, provided that they are designed to be compatible with the scenic environment and neighboring residential properties and do not create a significant traffic hazard.

NC Neighborhood Commercial Districts

Neighborhood Commercial districts are intended to house small stores or service businesses that serve the local population.

RMD Residential Moderate Density

Residential Moderate Density districts are envisioned as rural residential neighborhoods with moderate size lots. It is intended that future development protect the rural residential character and natural environment, but allow for compatible businesses. Consolidation of vacant undersized lots should continue to be encouraged so as to be in conformity with the minimum lot size required in these districts.

RLD Residential Low Density

Residential Low Density districts are envisioned as rural residential neighborhoods that retain their forested low density character. It is intended that these districts protect the rural residential character and the natural environment while allowing for compatible business uses. Construction on steep slopes should be discouraged.

RRC Residential/Resource Conservation

Residential/Resource Conservation districts are envisioned to remain much as they have been, characterized by large tracts of open space used for managed forest, recreation, and resource protection, with some sparse, scattered development near existing town highways.

VPA Viewshed Protection Area (an overlay district)

The Viewshed Protection Area is intended to protect the many landscape features, geologic features, and other resources within the Town that have special aesthetic, scenic, or historic value, and are visible from the Great Sacandaga Lake, North Shore Road, Kathan Road, or South Shore Road.

~~PUD Planned Unit Development Districts~~

LR: Lakefront Residential ~ APA Moderate Intensity Use

NC: Neighborhood Commercial ~ APA Moderate Intensity Use

RMD: Residential Moderate Density ~ APA Low Intensity Use

RLD: Residential/Resource Conservation ~ APA Low Intensity Use

RRC: Lakefront Residential ~ APA Resource Management

ARTICLE 4 -- ~~SCHEDULE OF DISTRICT REGULATIONS~~

Purposes for each district have been moved to ARTICLE 3

USES	LR	NC	RMD	RLD	RRC
<u>Adult Entertainment Establishment</u>				<u>S</u>	
Agricultural Use (1) -see also Section 8.17 Keeping of Animals			S	x	x
Any other accessory building structure or use customarily incidental to the principal use.	x	<u>x</u>	x	x	x
<u>Assisted Living Facility for Seniors</u>		<u>S</u>	<u>S</u>	<u>S</u>	
Automotive Repair		S	S	S	
<u>Barber Shop, Beauty Shop</u>		S	S	S	
Bed and Breakfast	S	S	S	S	
Campground, RV or Recreational Vehicle Park	<u>S</u>	<u>S</u>	S	S	S
Cemetery	<u>S</u>	<u>S</u>	S	S	
Church Place of Worship	S	<u>S</u>	S	S	<u>S</u>
Private Club or Lodge	<u>S</u>	S	S	S	S
Commercial Boat Storage, <u>Commercial</u>		S	S	S	
Commercial Dock	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	
Commercial Greenhouse		<u>S</u>	<u>S</u>	<u>S</u>	
Day Care Facility	<u>S</u>	S	S	S	
Dog Kennel			S	S	
Dry Good Store, Pharmacy, Grocery Store, Meat or Produce, Stationary Store, Fishermen or Hunter Supply Store		<u>S</u>			
Duplex			<u>S</u>	<u>S</u>	
Dwelling, <u>One Family Single-Family</u>	x	x	x	x	S
Fueling Station Retail Gasoline Fuel Sales, <u>Retail</u>	-	<u>S</u>			
Funeral Home		S	S	S	
Garage for Public Government Vehicles		<u>S</u>	S	S	
Golf Course			S	S	S
Greenhouse	x	x	x	x	x
Group Camp			S	S	S
Home Occupation	x	x	x	x	x
Hospital		S	S	<u>S</u>	
Hotel, Motel Tourist Accommodation		S	S	S	
Hunting <u>or</u> Fishing Camp <u>and cabin less than 600 square feet</u>			S	x	x

	LR	NC	RMD	RLD	RRC
Junkyard			S	S	
Laundromat		S			
Light or Heavy Manufacturing or Industrial Use, <u>Light</u>			S	S	
Lodge		S			
Major Public Utility Structure or Use, <u>Major</u>	<u>S</u>	<u>S</u>	S	S	S
Marina, <u>Dockminium</u>	S	S	S	<u>S</u>	
Dockminium	S	S	S		
Mining <u>and</u> / Quarry Operations			S	S	S
Minor Public Utility Structure or Use, <u>Minor</u>	S	S	S	S	S
<u>Motocross</u>					<u>S</u>
Multi-Family Dwelling, <u>Multi Family or</u> Apartment House			S	S	
Museum		<u>S</u>	S	S	
Nursing <u>or Convalescent</u> Home		S	S	S	
Off-Street Parking	X	X			
Office Building	S	S	S	S	
Private Boat Storage, <u>Private</u>	X	X	X	X	X
Private Boathouse	X	X	X	X	X
Private Docks, <u>Private</u>	X	<u>X</u>	X	X	X
Private Garage, <u>Private</u>	X	X	X	X	X
Professional Office	S	S	S	S	
Real Estate Office		S			
Recreation Facilities or Uses			S	S	S
<u>Recreation Facility or Use, Lake Related</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>Recreation Facility or Use, Not Lake Related</u>	<u>-</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
Restaurant	S	S	S	S	
Retail Store <u>Business</u>		S	<u>S</u>	<u>S</u>	
Riding Stable			S	S	
Sawmill			S	S	S
School		S	S	S	
<u>Roadside Stand</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>Senior Citizen Housing Development</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>-</u>
Shopping Center		S			
Sign	X	X	<u>X</u>	<u>X</u>	<u>X</u>

	LR	NC	RMD	RLD	RRC
Ski Center			<u>S</u>	<u>S</u>	<u>S</u>
Storage Shed	x	x	x	x	x
Swimming Pool	x	x	x	x	x
Tavern	S	S	<u>S</u>	<u>S</u>	
Telecommunication Tower	<u>S</u>	<u>S</u>	S	S	S
Telecommunications Antenna, Private Satellite Receiving Antenna	x	x	x	x	x
Timber harvesting /Forestry Use	<u>S</u>	<u>S</u>	<u>X, S</u> (2)	<u>X, S</u> (2)	x
Tourist Attraction				<u>S</u>	<u>S</u>
Travel Trailer or Recreational Vehicle	x	S <u>x</u>	x	x	x
Veterinary Clinic <u>or Hospital</u>		S	S	S	
Warehouse			S	S	
<u>Wind Power Generating Facility, Small</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

Dimensional Table

	LR	NC	RMD	RLD	RRC
Minimum Lot Area	60,000 sf	60,000 sf	3.2 acres	8.5 acres	42 acres
Minimum Lot Width	150 ft	150 ft	200 ft	300 ft	400 ft (a)
Maximum Building Coverage (percent of lot area)	25%	25%	25%	25%	25%
Front Yard Setback	50 ft	50 ft	75 ft	75 ft	100 ft
Side Yard Setback	20 ft	20 ft	40 ft	50 ft	75 ft
Rear Yard Setback	50 ft	50 ft	50 ft	50 ft	75 ft
Accessory Structure Setback	15 feet in all zones (except that accessory structures are subject to shoreline setbacks if they are 100 square feet or larger, and except that accessory structures of any size are subject to the same front yard setback as principal buildings).				
Fences	<u>Boundary/perimeter fences may be constructed within the setback area and shall not exceed six (6) feet in height, except that within shoreline areas the provisions of Section 8.2C shall apply.</u>				
Stream Setback from the mean high water mark of navigable lakes, ponds and streams	50 ft	50 ft	75 ft	75 ft	100 ft
Shoreline Setback from the mean high water mark of the Great Sacandaga Lake	75 ft	75 ft	75 ft		
Minimum Floor Area (square feet)	600 sf	600 sf	600 sf	600 sf	600 sf
Maximum Structure Height (feet)	30 ft	30 ft	30 ft	30 ft	30 ft

(a) Except for hunting and fishing camps.

Section 4.6 Viewshed Protection Area

8(B)(5)

(e) Assess the nature and extent of the development's actual visibility from each identified public use area. This step is to include identification of any screening of the structure provided by intervening vegetation, structures, etc. It can best be determined by inventorying each public use area delineated (shaded) pursuant to subparagraph (d) and sighting back on a readily identified target

located at the height of the proposed structure. A brightly colored balloon, yellow or red and 40 inches in diameter, or collection of such balloons, may be the best target for this procedure. Other possible targets include a tarp, scaffolding or a crane. All balloons, lines, tarps or other equipment shall be removed upon completion of the visibility assessment.

ARTICLE 8

Section 8.2 Specific Shoreline Regulations

...

A(2)

(c) No dock shall exceed eight (8) feet in width, or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which shall not exceed eight feet in width.

...

3. Shoreline Setbacks.

The minimum shoreline setback ~~from the mean high water mark of the Great Sacandaga Lake of~~ applies to all principal buildings and accessory structures, greater than 100 square feet in size other than docks or boathouses, shall and can be seventy five (75) feet in the LR zones and 75 feet found in Section 4.4 the RMD zone.

Section 8.12 Temporary Occupancy of Travel Trailers

~~A. Travel trailers and~~ travel trailer or recreational ~~vehicles~~ vehicle less than 400 square feet in size may be temporarily occupied on any lot in any zoning district for a period not to exceed one hundred and eighty (180) days in any calendar year, provided that: (a) no principal structure exists on the lot where such travel trailers and trailer or recreational vehicles must meet the vehicle is located, and (b) such trailer or vehicle is situated such that it complies with the structure setback regulations requirements for the zoning district zone in which they are it is located and must comply with, meets all sanitary code requirements. ~~Such travel trailers and recreational vehicles must also comply with the,~~ and complies with applicable provisions of the New York State Uniform Fire Prevention and Building Code.

...

Section ~~8.13~~ 8.15 Telecommunications Towers.

...

C. Where these regulations conflict with other laws and regulations of the Town, the more restrictive shall apply, except for tower height restrictions which are governed by these ~~special-use~~ standards.

Section 8.13 Blasting

Whenever any blasting or explosion is planned, the owner of the parcel of land on which said blasting or explosion is to occur shall give notice by placing a sign on the premises where said blasting or explosion is to occur, such sign to be at least four feet by four feet in size, and readily visible and readable to passersby. Said sign shall be erected not less than 15 days prior to said blasting or explosion. Notice of said blasting or explosion shall also be provided to the enforcement officer, in writing, not less than 5 days prior to said blasting or explosion. Said sign and notice shall set forth the anticipated date, time and purpose of said explosion or blasting. If the date of the proposed blasting or explosion shall change, a new notice meeting the requirements of this Section shall be posted, and a copy of such additional notice shall be filed with the enforcement officer not less than 5 days prior to said blasting or explosion.

Section 8.14 Driveways

No person shall install or alter a driveway or other entrance or exit to or from a public road without a Driveway Permit. Saratoga County issues permits for driveways on Saratoga County highways and the Town of Day issues permits for driveways on town roads. An application for a Town of Day Driveway Permit shall include the plans for such a driveway, including the elevation profile, plot plan and drainage plan for same. All new driveways and alterations to existing driveways on Town of Day roads shall conform to the following requirements.

A. Construction shall be in accordance with the "Typical Residential Driveway" and "Standard Driveway Ditch Crossing" drawings which are incorporated into this local law and are attached hereto.

B. The applicant shall furnish all materials and bear all costs of construction within the town highway right of way, and all work done and materials used shall meet the requirements of the Town of Day Highway Department.

C. The angle of the driveway with respect to the highway pavement edge shall be not less than 60 degrees and not more than 120 degrees.

D. No driveway shall be permitted within 50 feet of a highway intersection.

E. No driveway shall be permitted at any location where the lack of sight distance in either direction along the highway poses a hazard.

F. Finished grades of any new driveway exiting downhill toward the public road shall not exceed 12 percent average grade over any 150 foot length, shall not exceed 15 percent at any point, and shall not

exceed three percent within 25 feet of the intersection of the driveway with the public road.

G. Residential driveways shall be a maximum of 20 feet in width.

H. Commercial driveways shall be a maximum of 50 feet in width for a single combined entrance and exit, or a maximum of 50 feet each when two separate entrances are permitted. No more than two driveways shall be permitted to any commercial establishment. Applications for a commercial driveway shall include a fully dimensioned plan of the proposed driveway showing a drainage plan.

I. A stake flagging the proposed driveway location shall be placed at the proposed driveway entrance to identify the location for inspection.

Section 8.15–8.16 Tree Cutting *[section formatting adjusted]*

Section 8.17 Keeping of Farm Animals

A. Prohibited Uses in LR and NC Zones. No person shall keep or allow to be kept or suffer to be kept upon land owned or in the possession of such person, any goats, hogs, pigs, swine, horses, cattle or domestic fowl within the Lakefront Residential or Neighborhood Commercial Zones.

B. No building or structure in which fowl, hogs, cows, horses, goats, sheep or other farm animals are kept shall be less than one hundred (100) feet from any side or rear property line or from any shoreline, and shall comply with the front yard setback for the zoning district in which it is located.

C. Additional regulations for the keeping of fowl, hogs, cows, horses, goats, sheep or other farm animals as a commercial operation:

1. Minimum lot size: 20 acres

2. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.

3. No animals shall be kept, either indoors or outdoors, within five hundred (500) feet of any neighboring residential structure that was in existence at the time that such operation became a legally established use.

4. A commercial operation shall mean the keeping of farm animals for the purpose of sale, off-site, of the animals themselves or any product derived therefrom.

Section 8.18 Kennel

A. Minimum lot size: five(5) acres

B. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.

C. All buildings, structures or other accessory uses shall be at least (50) feet from any property line.

D. No animals shall be kept, either indoors or outdoors, within 500 feet of any neighboring residential structure that was in existence at the time that the dog kennel or animal hospital became a legally established use.

E. All animals, except livestock, shall be kept within a totally enclosed building between 6 p.m. and 6 a.m.

Section 8.19 Adult Entertainment Establishment

A. No adult use and entertainment establishment shall be located within 1000 feet of the property line of any: public or semi-public building or grounds; dwelling; religious building, facility, or grounds; group camp; or campground.

B. No adult entertainment establishment shall be located within 500 feet of any property line.

C. Any adult entertainment shall be set back at least 500 feet from any highway right-of-way.

D. The adult use shall be conducted entirely within an enclosed building. No "specified anatomical area" or "specified sexual activity" (see definitions) shall be visible at any time from outside the building. This requirement shall also apply to any signs or displays.

E. No outside displays or advertising other than an approved sign shall be permitted.

F. The serving of alcoholic beverages shall be prohibited unless specifically permitted by the Planning Board in their review of the site plan.

Section 8.20 Bed And Breakfast Establishment

A. Not more than five rooms shall be offered for rent for transient occupancy.

B. If meals are offered, they shall be offered only to registered lodgers.

Section 8.21 Campground, Recreational Vehicle Park

A. Minimum lot size: 10 acres.

B. Campgrounds and recreational vehicle parks shall be occupied only by travel trailers, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreational purposes. The removal of wheels, and placement of a unit on a foundation in a camping ground is prohibited.

C. Each campground or recreational vehicle park shall have adequate access to a public highway, and each recreational vehicle site shall be serviced from interior roadways.

D. A campground or recreational vehicle park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.

E. The minimum size of each campsite shall be 2500 square feet, provided however, that there shall be no more than 10 campsites per acre.

F. There shall be a minimum fifty (50) feet green space buffer surrounding the campground or recreational vehicle park, except for road cuts no wider than 50 feet that provide access to a public highway from the internal roadway. No campsite or portion thereof, building, structure or roadway shall be placed within the buffer area.

G. No campsite shall be located within seventy-five (75) feet of the mean high water mark of any navigable body of water, and shall otherwise comply with the setbacks from shorelines required by this law.

H. The Planning Board may require that the campground or recreational vehicle park be substantially screened from the view of public roads and neighboring properties by use of vegetation and/or fencing.

I. Each campground or recreational vehicle park shall comply with all applicable rules and regulations of the New York State Department of Health.

J. Adequate plans shall be made for the collection and disposal of garbage, rubbish and solid wastes generated within the park. There shall be no on-lot exposed garbage, junk, or other wastes. The operator shall provide for the pick-up of trash at least once a week.

K. Manufactured homes, whether permanent or temporary, shall not be parked or stored in any campground or recreational vehicle park except if owned and occupied by the park management.

Section 8.22 Condominium and Cooperative Development

A. Requirements of this law, including use restrictions and dimensional requirements, shall be determined by the physical form and proposed use of the development, not by the form of ownership.

B. A multiple family dwelling that is also a condominium or cooperative shall meet the standards for a multiple family dwelling.

C. A single family housing development which is also a condominium or cooperative development shall meet the minimum lot size, maximum average density, and setback requirements for single family dwellings, and its design and layout shall be approved by the Planning Board in accordance with the Town of Day Subdivision Control Law.

D. Any condominium or cooperative development that also constitutes a land subdivision shall require review and approval pursuant to the Town of Day Subdivision Control Law.

E. All state regulations pertaining to the creation of condominium or cooperative developments shall be satisfied.

Section 8.23 Motor Vehicle Service and/or Repair Shop

A. All vehicles awaiting service, pick-up by customers, or otherwise stored overnight on the lot shall be parked within a vehicle parking area approved by the Planning Board.

B. Any abandoned, junked or inoperative motor vehicle as defined herein, or any automobile part, stored on the property shall be kept in an enclosed structure or within a fenced area so as to not be visible from adjacent properties.

C. The Planning Board may require a green space buffer, vegetative screening and appropriate fencing in order to reduce visual impact upon surrounding properties.

Section 8.24 Retail Gasoline Sales

A. Gasoline and/or fuel pumps and above ground or underground fuel storage tanks shall not be located closer to any side or rear lot line than the minimum setbacks for buildings as specified in this law.

B. Gasoline and/or fuel pumps shall be set back far enough from the road line so as to not present a traffic hazard as a result of vehicles waiting in line at the pumps.

C. Fire and Building Code Compliance. All applicable provisions of the New York State Uniform Fire Prevention and Building Code shall be satisfied.

Section 8.25 Roadside Stand

Roadside stands shall be located at least ten (10) feet from any public highway right-of-way. Entry, exit and parking shall not constitute a traffic hazard.

Section 8.26 Wind Power Generating Facility, Small

A. A residential wind power generating facility shall not create sound levels exceeding 55 dBA as measured from the closest property line.

B. Minimum setback from any lot line shall be 100 feet plus the height of the tower.

C. For purposes of this section, the height of tower shall be measured from the original grade of the ground to the top the turbine blades as they revolve.

D. Towers greater than 40 feet in height require a permit from the Adirondack Park Agency.

~~ARTICLE 9 — CLUSTER PROVISIONS~~

~~[Re-titled "Conservation Subdivisions" and moved to ARTICLE 9 of the proposed Subdivision Control Law]~~

~~Section 9.1 Cluster Provisions Per Town Law, Section 281~~

~~A. Authorization. The Town Board hereby authorizes the Planning Board, simultaneously with the approval of a plat or plats pursuant to the Town Subdivision Regulations, to modify applicable provisions of the Zoning Ordinance, subject to the conditions hereinafter set forth and such other reasonable conditions as the Town Board may in its discretion add thereto. The purpose of such authorization shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands.~~

~~B. Application. If the owner makes written application for the use of this procedure, or if the Planning Board determines cluster~~

~~development to be an option to be considered, it may be followed at the discretion of the Planning Board, if in the Board's judgment, its application would benefit the Town. Any application for a subdivision which is a Class A or B regional project in the RRC or RLD zones shall include at least one plat showing a clustering alternative, and in the such cases clustering shall be presumed by the Planning Board (or, in the case of Class A Regional Projects, by the Adirondaek Park Agency) to be the preferred option, and it shall be the burden of the applicant to demonstrate to the satisfaction of the Planning Board (or, in the case of Class A Regional Projects, the Adirondaek Park Agency) that any other configuration sought will comply with the criteria for approval of Class B Regional Projects.~~

~~C. Applicable in All Zones This procedure shall be applicable to lands in all zones and its application shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgement, if the lands were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Ordinance applicable to the district in which such land is situated and conforming to all other applicable requirements.~~

~~D. Unit Types. The dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth in this Ordinance, are detached, semi-detached, attached, or multi-story structures.~~

~~E. Open Space Areas. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, or other municipal purposes directly related to the plat, then the Planning Board, as a condition of plat approval, may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.~~

ARTICLE 9 - CONSERVATION SUBDIVISIONS - of the Subdivision Control Law

Section 9.1 Purpose

The purpose of this article is to allow flexibility in the design and development of land in order to preserve valuable open space, scenic qualities, and environmentally sensitive features, as well as to provide for the economical construction and maintenance of roads and other improvements.

Section 9.2 Planning Board Authority

A. The Planning Board may, at their discretion, require that a conservation subdivision design be applied to a particular site in order to preserve important environmental features such as scenic views, riparian buffers, historic sites or archeological sites,

wildlife habitats, other sensitive environmental areas, and potential public use areas or trails.

B. The Planning Board may, at their discretion, determine that a conservation subdivision design is not appropriate for a particular site, and may require that a conventional subdivision design be applied where buildings are situated on lots of the minimum size and dimensions required by the Town of Day Zoning Law.

Section 9.3 Conservation Objectives

A conservation subdivision is one that conserves important open space and/or recreation lands on a development site by placing buildings and facilities to avoid such areas, and that provides for permanent preservation of open space. Objectives of a conservation design may include:

- Preservation of large tracks of forested open space and the maintenance of the forested open space character of the town,
- Preservation of scenic views from, and of, the site,
- Providing open space/vegetative buffers between neighboring properties or roads,
- Preservation of wildlife habitat,
- Preservation of historic sites or structures, or archeological resources,
- Preservation of farmland or managed forest land,
- Protection of environmentally sensitive features such as watercourses, shorelines, wetlands, or steep slopes,
- Minimizing erosion and runoff into watercourses by maintaining steeper slopes as forested areas,
- Preservation of natural areas,
- Preservation of lands for planned or potential recreation areas or trails,
- Satisfaction of similar concerns that enhance or preserve the quality of the natural or residential environment, and/or benefit the community at large.

Section 9.4 Lot Size and Lot Width

In order to achieve conservation objectives lot sizes and widths may be smaller than otherwise permitted by the minimum lot size

A. Only single family dwellings, and their accessory structures, are allowed to be located within the subdivision. Two-family or multi-family dwellings shall not be permitted. Commercial or industrial uses shall not be permitted. Occupied travel trailers shall not be permitted.

B. The subdivision consists of five (5) or more residential lots.

C. The minimum lot size for any lot is 60,000 square feet.

D. The maximum number of residential lots allowable is calculated in accordance with Section 9.5 below.

E. Minimum front yard, rear yard, and side yard dimensions are as specified in the Town of Day Zoning Law for the zone in which the subdivision is located.

F. All dwellings and/or structures have frontage, on and have access to, an internal road or drive constructed to serve the Conservation Subdivision, or upon a road or drive constructed to serve a previously approved Conservation Subdivision. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved Conservation Subdivision.

G. All structures within a Conservation Subdivision are set back a minimum of one hundred (100) feet from any state or county highway. The 100 foot setback area shall be maintained as a vegetated buffer. Existing vegetation shall be retained to the extent practicable in order to screen the development from view of the public road.

H. The Conservation Subdivision has a minimum frontage of fifty (50) feet upon an existing public road in order to provide road access into the subdivision.

I. For shoreline parcels to be subdivided, the number of principal buildings proposed to front on the shoreline does not exceed the number which otherwise could front upon such shoreline in a conventional subdivision layout designed in compliance with the minimum shoreline lot width requirements of the Town of Day Zoning Law.

J. All provisions of New York State Town Law, Section 278 are complied with.

Section 9.5 Number of Permitted Lots

A. The maximum number of residential lots permitted on the site shall not exceed the number which would otherwise be permitted by application of the required minimum lot size for single family dwellings to the site. Said maximum number shall be calculated by dividing the total area of the site, subject to the rules below, by the required minimum lot size for single family dwellings as required by the Town of Day Zoning Law, and rounding down to the nearest whole number.

B. The following rules shall apply in calculation of the maximum number of permitted lots:

1. State designated wetlands, water bodies, and lands located within the right-of-way of a public highway or of a proposed public or private road shall be excluded in the calculations.

2. The following shall be counted separately: (a) any lot to be retained by the subdivider, and (b) all lots in the same land use area which are part of one project and which would otherwise be adjoining but which are located on opposite sides of a public or private road, or railroad or right-of-way owned in fee

3. If a parcel is improved with one or more existing principal buildings which were in existence on August 1, 1973, such lots and the principal buildings thereon shall not be considered for purposes of the intensity calculation, which shall apply only to the remaining unimproved land on the parcel or lands improved by other buildings or structures.

C. The Planning Board, at their discretion, may require the applicant to submit a plan for a conventional subdivision design in order to determine the maximum allowable number of residential lots to be permitted.

Section 9.6 Conservation Features Map

A. Conservation Features Map. The first step in the conservation design process is to identify and map important environmental and cultural resources and constraints on the site. A Conservation Features map shall be prepared early in the planning process and shall be used by the applicant or his agent in designing the project. It shall be reviewed by the Planning Board during their "Preliminary Review" of the project (see Section 5).

The following features shall be shown on the map as required by the Planning Board, together with accompanying explanation.

- Regulated wetlands or flood hazard areas,

- Steep slope (areas of over 15 percent, and over 25 percent slope),
- Soils unsuitable for development (such as muck or wetland soils),
- Large tracts of forested open space and/or managed forest that are to be preserved,
- Viewshed protection areas (visually sensitive areas), ridgelines,
- Rock outcrops,
- Vegetative buffer areas along watercourses or shorelines,
- Buffer areas from public roads and neighboring properties,
- Sensitive wildlife habitats,
- Notable natural features such as cliffs, gorges, or waterfalls,
- Historic or archeological structures or resources,
- Other valuable open space,
- Proposed or potential recreation areas, such as hiking trails,
- Other features as may be required by the Planning Board.

Section 9.7 Open Space Preservation.

The approved site plan for a Conservation Subdivision shall delineate areas chosen for permanent open space and or recreation areas. Said areas shall be permanently preserved by one of the following means, or by alternative means acceptable to the Planning Board.

A. Designated open space areas may be owned privately. Adequate provision shall be made by covenant, deed restriction or other legal means to insure that such open spaces shall remain so in perpetuity. Covenants and deed restrictions shall be enforceable by the Town of Day.

B. Open space or recreation areas may be owned in common by individuals within the development through the creation of a Home Owners Association or other mechanism. In such case, covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment

provisions, and any other specifications deemed necessary by the Planning Board.

C. Open space may be preserved by a conservation easement held by a not-for-profit land trust organization registered in the State of New York, or other appropriate entity.

D. Open space or recreation areas may be deeded to the Town upon approval by the Town Board.

ARTICLE ~~10~~ 9 - NONCONFORMING BUILDINGS, STRUCTURES AND USES

Section ~~109~~ 1 Existing Use Nonconforming Uses and Structures

...

~~D.—Extension.~~ E. Any nonconforming use, building or structure may be enlarged up to, but not more than, fifty percent (50%) of its floor or lot area as it existed at the time of passage of this ~~Ordinance~~ Law. Such enlargement must conform to all other regulations of the district in which it is located and may be used only once for each nonconforming use...

I. An existing structure located within the shoreline setback area may not be expanded in any direction, including an increase in structure height.

APPENDIX D - DEFINITIONS

Words used in the present tense shall include the future; and words used in the singular number shall include the plural number and the plural, the singular. The word "shall" is mandatory; the word "may" is permissive. The word "lot" shall include the words "plot," "piece," and "parcel"; the word "building" includes all other structures of every kind, regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for." The word "person" includes a corporation as well as an individual. [moved from Article 2]

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

(a) Unlicensed, wrecked, stored, discarded, dismantled or partly dismantled.

(b) Being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some or all of the materials therein or for the purpose of disposing of the same.

(c) In such condition as to cost more to repair and place in operating condition than its reasonable market value prior to such repair.

(d) Left unattended for more than ninety-six (96) hours on property of another if left without permission of the property owner.

ACCESSORY ~~BUILDING~~STRUCTURE OR USE - A building or use which is clearly customarily incidental and subordinate to and serves the principal use or building and is located on the same lot with such principal use or building.

ADULT ENTERTAINMENT ESTABLISHMENT - An establishment, or any part thereof, which provides legally permitted opportunities for adults to access, purchase or view explicit sexual materials. These include any of the following: topless or bottomless dancers or waitresses; strippers; topless hair care or massages; entertainment where the servers or entertainers wear pasties or G-strings; adult cabaret; adult arcade; adult bookstore; or adult video-store.

ADULT ARCADE - An Adult Entertainment establishment where film, slides, or any other images of "specified sexual activities" or "specified anatomical areas" are available for viewing by the public.

ADULT BOOKSTORE OR ADULT VIDEO STORE - An Adult Entertainment bookstore or video-store where as one of its principal business purposes offers for sale or rental any printed matter or videocassettes that depict "specified anatomical areas" or "specified sexual activities." For the purpose of this definition, a principal business purpose shall mean that part of the business that constitutes 20 percent or more of the printed material or videocassettes for sale or rent in the establishment.

ADULT CABARET - An Adult Entertainment nightclub, bar, restaurant, juice bar, or similar establishment where persons appear in a state of nudity, or where there are live performances, films, videocassettes or slides characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

APARTMENT HOUSE - A building arranged, intended and designed to be occupied by ~~three~~ (2) or more families living independently of each other which may or may not have common services and entrances and of which units are rented.

~~AUTOMOBILE WRECKING YARD - The use of any area or portion of any lot or plot, whether inside or outside a building, for the temporary storage of automobiles awaiting dismantling or the dismantled parts of automobiles, or for the dismantling, cutting, demolition and storage or disposal of automobiles.~~

ASSISTED LIVING FACILITY FOR SENIORS - A residential facility that accepts adults 55 years or older, who by reason of physical or other

limitations are unable to live independently, primarily for domiciliary care rather than nursing or medical care.

BOAT STORAGE, COMMERCIAL - A place, site or structure used to store more than three boats, not registered to family members, for 30 consecutive days or more.

BOAT STORAGE, PRIVATE - A place, site or structure used to store watercraft of any type by the owner of said facility, a member of the owner's immediate family, the owner or lessee of an immediately adjoining upland property, members of their immediate families, or an overnight guest on said property.

BOATHOUSE - A covered structure with direct access to a navigable body of water which: (1) is used only for the storage of boats and associated equipment and which; (2) does not have contain bathroom, kitchen or other residential facilities, sanitary plumbing, or sanitary drains of any kind; (3) does not contain kitchen facilities of any kind; (4) does not contain a heating system of any kind; (5) does not contain beds or sleeping quarters of any kind; (6) does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall, and all rigid roof surfaces have a minimum pitch of four on twelve, or, alternatively, one flat roof covers the entire structure; and is not designed or used for lodging or residency(7) has a footprint of 1200 square feet or less measured at the exterior walls (or in the absence of exterior walls, at the perimeter of the roof), and a height of fifteen feet or less. For the purpose of this definition, the height of a boathouse shall be measured from the surface of the floor serving the boat berths the highest point of the structure.

CAMPGROUND, ~~CAMPSITE~~ OR RECREATIONAL VEHICLE PARK - Any area designed and/or in fact used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facilities designed for temporary shelter. Camping structures shall not be deemed to be for transient occupancy if they

- ~~(i)-a)~~ are larger than 8 by 35 feet;
 - ~~(ii)-(b)~~ contain structural additions such as porches or decks;
 - ~~(iii)-(c)~~ have their wheels removed;
 - ~~(iv)-(d)~~ have all weather water supply or sewage disposal connections at individual sites; or are used for more than transient occupancy.
- Transient occupancy shall mean use for less than ~~150~~180 days per year.

~~CAMPSITE - An individual site designed to accommodate transient occupancy by camping in a tent, camp trailer, motor home, truck cap camper or pickup camper or similar temporary shelter.~~

~~CHURCH PLACE OF WORSHIP - - A building for public worship including a synagogue or mosque. Any building, together with its accessory structures and uses, where persons regularly assemble for religious worship and/or~~

related social, cultural, and fund raising activities, and which building is contained and controlled by a recognized religious body organized to sustain public worship.

~~COMMERCIAL-TREE CUTTING, COMMERCIAL~~ - The cutting of trees 6" or more in diameter in exchange for any consideration to the landowner.

DOCKMINIUM FACILITY - A multi-boat slip docking facility in which each boat slip is individually owned. Up to a total of two (2) boats shall be considered a private dock. A dockominium facility may sell fuel and other services for watercraft.

~~DOG~~-KENNEL - Any premises on which dogs or cats are maintained, boarded, bred or cared for in return for remuneration or are kept for the purpose of sale.

DUMP - A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind. This is not a permitted use.

~~DUPLEX~~ — ~~See Dwelling, two family.~~

~~DWELLING, TWO-FAMILY~~ — ~~A detached building containing two dwelling units designed for occupancy by two families.~~

DWELLING, MULTIPLE-FAMILY - A building or portion thereof containing ~~three~~ (3two (2)) or more dwelling units and designed for occupancy by ~~threetwo~~ three or more families living independently of each other. Includes apartment Houses, and condominiums.

~~SINGLE FAMILY DWELLING~~ — ~~A building, including a mobile home, of one or more stories of height above the main grade level, which is designed or used exclusively as the living quarters for one family, whether seasonal or year-round.~~

DWELLING, ONE-FAMILY - A detached building containing one dwelling unit designed for occupancy by one family. A ~~mobile~~ manufactured home is considered a one-family dwelling.

DWELLING UNIT - A room or group of rooms providing complete housekeeping facilities for one (1) family and occupied by a single family unit.

~~FENCE~~ — ~~A~~ An accessory structure or partition erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions or to separate two (2) contiguous lots, but shall not include a building or growing plants or trees.

FORESTRY USE - Any management, including ~~logging, of~~ timber harvesting ~~from~~ a forest, woodland or plantation, and related research and

educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, fences and forest drainage systems.

~~FUELING STATION - Any area of land, including structures thereon, that is used or designated to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles or boats and which may include facilities used or designed to be used for polishing, greasing, washing, or otherwise cleaning of such motor vehicles or boats.~~

FUEL SALES, RETAIL - Any retail establishment that sells fuel to the public, including a marina or Dockominium.

~~GARAGE, PUBLIC - Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, dispensing of fuel, adjustment or equipping of automobiles or other motor vehicles.~~

GARAGE FOR GOVERNMENT VEHICLES. A garage for use of vehicles owned or operated by the New York State Government or its subdivisions, including but not limited to towns, counties, or school districts.

GOLF COURSE - An area or course for playing golf, consisting of a least nine (9) holes, except miniature golf, within which the playing area is not artificially illuminated.

~~GREENHOUSE, COMMERCIAL - A building in excess of three hundred (300) square feet structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.~~

GROSS FLOOR AREA - For computing off-street parking requirements, the sum of the gross horizontal area(s) of the floor(s) of the building(s) measured from the exterior faces of the walls. All roofed areas, except porches, terraces, cellars, basements, enclosed off-street parking areas and pedestrian walkways in an enclosed structure, shall be included in calculation of floor areas.

GROUP CAMP - Any land or facility for seasonal housing and recreation, educational or business related use by private or semi-public groups, such as a boy or girl scout camp, fraternal lodge or university or college conference center.

~~HOTEL, INN, TOURIST CABIN, AUTO COURT OR MOTEL - An establishment which provides overnight sleeping accommodations for transient guests, in contradistinction to a boarding, rooming or lodging house, and is commonly known as a "hotel" or "motel" in the community in which it is located and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk~~

~~service and the use and upkeep of furniture. A "hotel" or "motel" may include dining and laundromat facilities located on the premises.~~

TOURIST ACCOMMODATION - A building or group of buildings, whether detached or in connected units, used as individual sleeping or temporary dwelling units, designed for transients and providing for the accessory off-street parking facilities. The term "tourist accommodations" includes buildings designated as tourist courts, motor lodges, motels, hotels, bed and breakfast, overnight cabins, housekeeping units and similar facilities.

INDUSTRIAL USE—~~Any, LIGHT -~~ A manufacturing, production or assembly or maintenance facility where any process is used to alter the nature, size or shape of goods, articles or raw materials, including any on-site waste disposal area directly associated with an industrial use. or where articles are assembled and where said goods or services are consumed or used at another location. This term ~~includes junkyards but~~ does not include mineral extractions, private and commercial sand and ~~gavel~~ extractions gravel extraction, sawmills, chipping mills, pallet mills and similar wood using facilities, or any manufacturing or assembly facility that involves: (a) the manufacture of hazardous chemicals; (b) the use of petroleum-based products except as incidental to the primary industrial use; (c) the outdoor storage of scrap metal or junk; (d) the creation of solid, liquid, or airborne hazardous wastes; (e) the creation of smoke or airborne particulate matter except as incidental to the main industrial use; or (f) the creation of noise which would have an adverse impact upon neighboring properties.

JUNKYARD - Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or second-hand motor vehicles, no longer intended or in condition for legal use on the public highways, and held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the material therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any part of storage or deposit for any such purpose of used parts or waste materials from motor vehicle which, taken together, equal in bulk two or more vehicles, and shall also include operations performed and carried on, wholly or in part, outside of a fully enclosed building or structure, for the acquisition, purchase, storage, conversion, dismantling, processing, or resale of all types of used machinery, appliances, equipment, metal, rages, paper, fabrics, ~~rubber, sewage waste disposal areas including manure pits, and any other waste material or their combination~~ or rubber.

~~LINE, STREET: also RIGHT OF WAY LINE—The dividing line between the street and the lot.~~

LIVESTOCK - Includes but is not limited to cows, cattle, sheep, goats, hogs, horses, poultry and other farm animals.

LOT, FRONT LINE - The lot line which abuts upon a street or highway right-of-way boundary, ~~or shoreline if the principal structure faces such shoreline.~~

~~MANUFACTURING, HEAVY - Any industrial process whereby the nature, size or shape of articles or raw materials are changed into a product which generally could be stockpiled in outdoor storage areas and would require shipping by rail or heavy truck.~~

~~MANUFACTURING, LIGHT - Any industrial process whereby the nature, size or shape of articles are changed into a product which generally shall be a finished product which ordinarily would not be stockpiled in an outdoor storage area.~~

~~MOBILE HOME - A dwelling unit manufactured in one or more sections on an integral metal frame, designed for long term occupancy; containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on wheels, or on flatbed or other trailers; arriving at the site where it is to be occupied as a dwelling. A mobile home is considered to be a single family dwelling.~~

MANUFACTURED HOME - A home as defined in Article 21-B of the Executive Law of New York State: a structure, transportable in one or more sections, which, in the traveling mode is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code; and except that such term shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME COURT - A parcel of land under single ownership which is designed and improved for the placement of two or more manufactured homes.

MARINA - Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

1 (a) the sale of marina products or services;

2(b) the sale, lease, rental or charter of vessels of any type; or

3(c) the sale, lease, rental, or any other provision of storage, wharf space, of mooring for vessels not registered to the owner of said facility, a member of the owner's immediate family, the owner or lessee of the immediately adjoining upland property, members of their

immediate families, or an overnight guest on said property. A marina may sell fuel and other services for watercraft.

MAXIMUM BUILDING COVERAGE - The maximum percentage of the lot area that may be covered by the combined area of all buildings or structures on the lot.

MAXIMUM ~~BUILDING~~STRUCTURE HEIGHT - The maximum height to which a building or structure may be constructed, measured by the distance between the highest point of the structure and the average low point of the structure along the finished grade. Shall not apply to ~~belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to~~ chimneys, and ventilators, ~~skylights, water tanks, and necessary mechanical appurtenances usually carried~~which may extend no more than 10 feet above the roof level; ~~nor to barns, silos, monuments, transmission towers and similar structures.~~ Such features, however, shall be erected ~~only to such~~structure height ~~as is necessary to accomplish the purpose for which they are intended.~~.

MOTOCROSS. A cross-country racecourse or trail designed or used for racing or sport by motorized vehicles for a fee, including but not limited to motorcycles, all-terrain vehicles and automobiles, excepting snowmobiles. This term does not include: (a) snowmobile trails, (b) trails designated or owned by municipal, county or state governments, or (c) trails located on private property for occasional use where no fee is charged.

~~PLANNED UNIT DEVELOPMENT - See Article 4, Section 4.7 of this Ordinance.~~

~~PUBLIC UTILITY STRUCTURE OR USE - Any public utility use, equipment or structure which is not a major public utility use. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law.~~

PUBLIC UTILITY STRUCTURE OR USE, MINOR - Any public utility use, equipment or structure which is not a major public utility use. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law. May include any facility constructed, erected, or operated by a municipal agency or public utility, including but not limited to: telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities; electrical, telephone, gas or water transmission or distribution cables; lines, wires, conduit, pipes, or other equipment including dams, buildings, towers, and other structures or facilities associated with privately or publicly owned utilities.

RECREATION FACILITIESFACILITY OR USE - ~~A use of land or buildings for athletics, NOT LAKE RELATED. Includes any public, private, or commercially operated recreation facility, including but not limited to:~~

playground, sports field or structure, ski center, hiking trail, bicycling trail, ski trail, snowmobile trail, all terrain vehicle trail, firing range, paintball facility, or miniature golf facility. This definition does not include motocross.

RECREATION FACILITY OR USE, LAKE RELATED. Includes public or private beach, picnic grounds with view of lake, playground, boat launch, canoe/kayak launch, non-motorized trail, and similar uses, but for the purposes of this chapter shall not include the use of pinball machines, video games or other such uses involving any mechanical device for private gain, except, however, food, soda, candy and cigarette dispensing devices recreational use that is related to the use or enjoyment of a water body or a waterfront. Such use may or may not be operated for profit. This definition does not include a commercial marina, dock or dockominium.

RETAIL BUSINESS - The offering for a fee, of goods and merchandise excluding restaurants, to the general public and where the providing of services is clearly incidental to the sale of such goods or merchandise. This definition does not include an adult entertainment establishment as defined herein.

RETAINING WALL - A permanent structure of cribbing, wood, masonry, stone, concrete or other material that supports a mass of soil.

~~ROADSIDE STAND - A structure for the display and sale of agricultural products.~~

ROADSIDE STAND. Buildings, structures or vehicles that : (a) occupy no more than one-hundred (100) square feet in ground area, (b) are used primarily for the sale of products produced on site, (c) are operated no more than one-hundred eighty (180) days per year, (d) are moveable, and (e) are removed in the off-season. This definition includes stands for the sale of agricultural products as well as crafts and other non-agricultural items.

SENIOR CITIZEN HOUSING DEVELOPMENT - A residential development that may contain attached dwelling units where at least one of the following conditions is true: (a) the federal Department of Housing and Urban Development has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program, (b) it is occupied solely by persons who are 62 years of age or older, or (c) it houses at least one person who is 55 years of age or older in a least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

SPECIFIED ANATOMICAL AREAS. (a) Less than completely and opaquely covered: human genitals, pubic region, buttocks, female breast below a point immediately above the areola, or (b) human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. (a) Human genitals in a state of sexual stimulation or arousal, (b) acts of human masturbation, sexual intercourse or sodomy, or (c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

STORAGE SHED - An accessory buildingstructure used to store materials or small equipment, not including vehicles, which supports the principal use of the site.

STREET LINE - also RIGHT-OF-WAY-LINE - The dividing line between the street and the lot.

~~TOWNHOUSE - An attached house in a row or group, with each house separated from adjoining houses by a common wall or walls. May also be called a rowhouse.~~

TRAVEL TRAILER OR TRAVELRECREATION VEHICLE - Any portable vehicle, including a tent camper or motor home, less than ~~300~~400 square feet in size, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and which may or may not include one or all of the accommodations and facilities customarily included in a ~~mobile~~ home. ~~A travel trailer is not a single family dwelling~~manufactured home.

VETERINARY CLINIC OR HOSPITAL - A facility providing health services and medical or surgical care to animals suffering from illness, disease, injury, deformity, and other abnormal conditions including related facilities such as laboratories ~~and, but excluding~~ boarding facilities.

WIND POWER GENERATING FACILITY, SMALL - A wind conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce on-site consumption of utility power.

Subdivision Control Law

Terminology & Basic Edits

**The following generalized and editorial changes have been omitted in this summary.*

"Mobile" Home changed to "Manufactured" Home

"Regulations" changed to "Law"

"Streets" changed to "Roads"

Formatting change from paragraphs to enumeration.

For example the following would not be included:

Section 3.3 Step Two, Preliminary Review:

A. The Owner shall present a Preliminary Submission at a Planning Board meeting. The date of the Preliminary Submission shall be the date of the meeting at which a completed application ~~therefor~~therefore is presented.

B. A field walk by the Board with the Owner may be required. Temporary stakes showing ~~street~~road centerlines may be required.

ARTICLE 1 - AUTHORITY AND DECLARATION OF POLICY

~~Authority--By~~

Section 110 Enactment

~~Pursuant to the authority of granted to the resolution Town in Articles 2 and 3 of the Municipal Home Rule Law the Town Board of the Town of Day, adopted on the 11th day of March, 1989, pursuant to the provisions of Article 16 of the Town Law of the State of New York, authorizes and empowers the Planning Board of the Town of Day ~~is authorized and empowered to approve Plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the Office of the clerk of Saratoga County and to conditionally approve preliminary plats.~~~~

~~Declaration of Policy--It is declared to be the policy of the Planning Board to consider land Subdivision Plats as part of a plan or disapprove applications for the orderly, efficient and economical development of subdivision plat approval within the Town of Day. ~~This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace. Proper provision shall be made for drainage, water supply, sewerage, electric, gas, telephone, cable tv and other needed improvements. All proposed lots shall be so laid out and of such size as to be in~~~~

~~harmony with the development pattern of neighboring properties. Proposed streets shall compose a convenient system conforming to the Official Map (if such exists) and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, facilitate fire protection and provide access of fire-fighting equipment, snow removal, garbage, emergency and school busses.~~

~~In order that land subdivisions may be made in accordance with this policy, these regulations which~~

Section 120 Title

This law shall be known and cited as, the Town of Day Subdivision Control Law.

Section 125 Prior Regulations have been adopted

This law shall replace and supersede the prior existing "Town of Day Subdivision Law" as amended January 8, 2001, and any amendments thereto.

Section 130 Purpose

The standards and procedures contained herein are intended to insure that (a) land to be subdivided is suitable for building purposes without creating dangers to health, or peril from fire, flood, traffic hazard, or other hazard, (b) lots are created such that adequate provision can be made for sewage disposal, water supply, emergency vehicle access, storm water drainage, utility service, and other needed improvements, (c) roads are constructed to Town standards and are suitable to accommodate the expected volume of traffic, and (d) the rural and scenic character of the Town is preserved in accordance with the Town Vision Statement as stated in the town of Day Comprehensive Plan:

"The vision of the future of the Town of Day is grounded in the past, and in the present. Simply put, 20 years from now, the Town of Day should look and feel as it does now - rural, rustic, quiet and unspoiled with woods and lake and mountain views."

Section 140 Applicability

A. This law regulates all subdivisions as defined herein.

B. The Town of Day Planning Board shall review all proposed subdivisions. It shall have the authority to approve all subdivisions except Class A Regional Subdivisions which shall be reviewed and approved by the Adirondack Park Agency in accordance with Section 3.6.

C. Whenever any subdivision of land is proposed to be undertaken, the subdivider shall make application for and receive final approval of such proposed subdivision in accordance with this local law before any lot is leased or sold any land is cleared or vegetation removed (except vegetation removed for surveying, engineering tests and

inspection), any permit is issued for a structure in the subdivision, and any building, utility installation, road construction or other new land use or development within the subdivision is undertaken.

D. Pursuant to Article 16 of the Town Law, the Planning Board and Townis hereby authorized to review and approve the development of plats which were filed in the Office of the Saratoga County Clerk prior to November 16, 1989 and which are undeveloped. "Undeveloped" means that 20 percent or more of the lots within the plat are unimproved or that the plat or a portion thereof has been determined by the Adirondack Park Agency not to qualify as a "pre-existing" subdivision. The procedure for approval of development of any such plat shall be the same as for a proposed new subdivision under this local law, as may be appropriately modified by the Planning Board on the 6th day of February, 1989, and amended May 11 1992.

Section 150 Fees

Application review and inspection fees shall be established by resolution of the Town Board.

Section II

ARTICLE 2 - DEFINITIONS

Comprehensive Plan - The Town of Day Comprehensive Plan, as most recently adopted and/or amended.

~~Master Plan - If adopted, is a comprehensive plan for the development of the Town as authorized in Section 272-a of the Town Law.
Official Map - Is a map established by the Town Board under Section 270 of the Town Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes or additions thereto made under the provisions of the Town Law.~~

Conservation Subdivision - A subdivision that conserves important open space and/or recreation lands on a development site by placing buildings and facilities to avoid such areas, and that provides for permanent preservation of open space.

~~Half Streets - Are those that are less than full width, in either paving or right-of-way.~~

Public Road - A Town, County, State, or Federal Highway.

~~Reverse Frontage Lots - Are lots with the rear lot line abutting an existing or proposed street.~~

~~Street - Means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, cul-de-sac, place or however otherwise designated and includes the entire area within the right of way.~~

- ~~a. Arterial streets and highways are those used or destined to be used primarily for fast or heavy traffic whether existing or proposed.~~
- ~~b. Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways. Collectors may also serve as secondary arteries to carry some through traffic. A street which is the outlet toward an arterial street for more than 100 acres or is a main entrance to a residential developments shall be considered a collector street.~~
- ~~c. Local roads are those which are used primarily for access to the abutting properties.~~
- ~~d. Rural roads are those which are used primarily for abutting properties, but using rural road standards.~~

Subdivision -- Means:

A. (1) the division of any parcel of land by any person, or by any other person controlled by under the common control with or controlling such person, or by any group of persons acting in concert as part of a common plan or scheme,...

SECTION III
ARTICLE 3 - PROCEDURE

B. Section 3.6 Regional Subdivisions.

~~1. Applicability of this Subsection III.B.~~

~~A. When a proposed subdivision is a Regional Subdivision, the provisions of this Subsection III.B.section shall apply in addition to all other provisions of these regulations.this law. For the purpose of these regulationsthis law, ...~~

~~4D. Criteria and Certain Procedures for Adirondack Park Agency Review of Class A Regional Subdivisions-~~

...

Section 4.3 3.7 Planning Board Review

~~The preapplication conference may take place at any time acceptable to the Board.~~

~~The Owner shall furnish nine (9) copies of a sketch plan of the proposed Subdivision and all adjacent land owned by the Owner or under option to him. The sketch shall include a street layout and drainage plan. The sketch shall be to a scale not less than one hundred (100) feet per inch.~~

The Planning Board shall advise as to feasibility and any special considerations for the Subdivision design. A field walk with the Owner may be required.

Section 4.4 3.8 Reimbursable Costs

Costs incurred by the Planning Board for consultation fees or other expenses in connection with the review of a subdivision plat shall be charged to the applicant. Prior to incurring such costs the Planning Board shall discuss such costs with the applicant, and may require that an escrow account be established for such purpose.

IV-ARTICLE 4 - PRE-APPLICATION CONFERENCE

Section 4.1 Time

The pre-application conference may take place at any time acceptable to the Board.

Section 4.2 Sketch Plan

The Owner shall furnish nine (9) copies of a sketch plan of the proposed Subdivision and all adjacent land owned by the Owner or under option to him. The sketch shall include a road layout and drainage plan. The sketch shall be to a scale not less than one hundred (100) feet per inch.

ARTICLE 5 - PRELIMINARY SUBMISSION

A. The Section 5.1 Preliminary Submission for a Major Subdivision

The application shall include the following in triplicate.

1. Preliminary Plat ~~to~~at ...

Section 5.2 Preliminary Submission for a Minor Subdivision

The application shall ...

~~SECTION VI~~ARTICLE 6 - FINAL SUBMISSION

A. The Section 6.1 Final Submission for a Major Subdivision

The application shall ...

Said fee shall be waived where the second public hearing and final approval have been waived.

~~Said fee shall be waived where the second public hearing and final approval have been waived.~~

6F. More detailed information may be required by the Planning Board as a part of the Final Submission for a Major Subdivision in special cases.

B. The Section 6.2 Final Submission for a Minor Subdivision

The application shall ...

**~~SECTION VII~~ ARTICLE 7 - ~~INSPECTION OF CONSTRUCTION AND AS-BUILT DRAWINGS~~
~~HIGHWAY DEDICATION~~ INSPECTIONS, FINANCIAL GUARANTEES, TOWN ACCEPTANCE OF
HIGHWAYS**

Section 7.1 Inspections, Financial Guarantees

Section 7.2 Town Acceptance of Highways, Land, Public Improvements

A. Final Plat approval by the Planning Board shall not be deemed an acceptance by the Town of any public highway, public improvement or public land dedicated by the subdivider.

B. When the Town Engineer or Town Highway Superintendent, following final inspection of the project, certifies to the Planning Board and the Town Board that all public highways and improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept some or all of the improvements.

...

SECTION VIII -- ARTICLE 8 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

~~The Owner shall observe the following general requirements and principles of land subdivision.~~

~~Streets~~

~~1. The arrangement, character, extent, width, and location of all streets shall conform to the Official Map and Master Plan, if any, and shall be considered in their relation to other existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of land to be served and/or abutted by such streets.~~

~~2. Where such is not shown on the Official Map, the arrangement of streets in a Subdivision shall:~~

~~a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or~~

~~b. Conform to a plan for the neighborhood approved or adopted by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable or undesirable.~~

~~c. Be in conformance with the guidelines established by the APA.~~

~~3. Local streets shall be so laid out that their use by through traffic will be discouraged.~~

~~4. Where a Subdivision abuts or contains an Arterial Street, the Planning Board may require Marginal Access Streets, Reverse Frontage Lots with screen planting contained in a non-access reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.~~

~~5. The Board may require that street names be approved by the County Highway Department or the Town Officials designated by the Town Board to avoid duplications or use of similarly sounding or spelled names.~~

~~6. Public access shall be provided to streets, water plants, sewage treatment plants or to land dedicated.~~

~~7. Where a Subdivision is traversed by a water course, there shall be a storm water easement not less than twenty five (25) feet in width conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate to confine a design storm as specified in the subdivision storm drainage~~

~~design standards. Parallel streets or parkways may be required in connection therewith.~~

~~8. Where a subdivision with a single access road exceeding 800 feet in length or a dead end street from an intersection exceeding 800 feet in length is proposed, either a second means of access or an emergency access road must be provided.~~

~~Blocks and Lots 1. The lengths, widths, and shapes of blocks and~~

Section 8.1 Relationship to Land Features

Subdivision design shall preserve, insofar as is possible, the natural features, terrain and drainage of the land to be developed. Accordingly, proposed subdivisions which are to be located in areas characterized by steep slope, wet soils, shallow soils or other physical limitation for development shall be presumed to have significant problems requiring special design features or mitigating measures if such problems are to be satisfactorily overcome. In general, future uses upon land to be subdivided should be able to blend harmoniously with the surrounding topography, vegetation, and other natural features, and should avoid the need for costly land alterations or intricate engineering to overcome adverse site conditions.

Section 8.2 Lots

A. Conformance with Zoning. All lots shall meet the minimum area and dimensional requirements for a building lot as specified in the Town of Day Zoning Law unless approved as a Conservation Subdivision.

B. Lots to be Buildable. There shall be a buildable area on each proposed lot of sufficient size and suitably located for (a) a building, (b) an on-lot waste water disposal system consistent with the requirements of the "On-Site Sewage Disposal Ordinance" of the Town of Day, and (c) a well. Such buildable area shall be free from such restrictions as wetlands, wet soils, ponded or wet areas, flood hazard, slope greater than fifteen (15) percent, rock outcrops, soil with bedrock close to the surface, and other conditions which would create difficulties for home construction and/or for sewerage treatment.

C. Access to Highways. Each lot shall have access onto a public road by means of direct frontage upon such road as specified by the minimum highway frontage requirement of the Town of Day Zoning Law.

D. Driveway Locations. Each lot shall have a location for a driveway that complies with Section 8.14, Driveways, of the Town of Day Zoning Law.

E. Shape. Extremely narrow elongated lots shall be determined with due regard to: a. ~~Provision avoided. The average depth of adequate building sites suitable to the special needs of the type of use contemplated;~~ b. ~~Needs for convenient access, circulation, control and safety of street traffic;~~ c. ~~Limitations and opportunities of~~

~~topography; d. Block length which a lot shall generally shall not exceed 1,500 feet, nor be lessgreater than 600 feet; four (4) times its average width.~~

~~e. Intersections with Arterial Streets which should be held to a minimum and preferably spaced at least 1,000 feet apart; and,
2. Land subject to flooding shall not be platted for residential occupancy nor for such other uses as may increase danger to life or property or aggravate the flood hazard.~~

~~3. The subdividing of the land shall be such as to provide, that each lot abut a public street which provides satisfactory access via public streets to an existing public street or highway, meeting all other applicable ordinances or local laws.~~

~~4. Double Frontage and Reverse Frontage Lots should be avoided except where essential to provide separation of residential development from Arterial streets or other disadvantageous use or to overcome specific disadvantages of topography and orientation.~~

5F. Lot Lines. Side lot lines shall generally be substantially approximately at right angles or radial to street right of way lines to the road or road except to follow natural features.

~~6. In case a tract is subdivided into larger parcels than normal building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivision.~~

~~7. The subdividing of land shall conform to all applicable regulations established by the APA.~~

Utilities

~~1. It shall be the responsibility of the Owner to provide waterlines, storm drains, sanitary sewers, electric lines, gas lines, telephone lines, cable television lines, bridges and street pavement to the limits of the Subdivision. It shall also be the responsibility of the owner to provide appropriate street lighting at the intersection of proposed street with an existing arterial street as determined by the Town Engineer. These facilities shall be constructed as required for inclusion in future Town systems. Each Owner shall be responsible for the complete construction even though larger than normal sizes may be required.~~

~~2. If it will be necessary to construct utilities within the right-of-way of an existing Town road, it will be the responsibility of the owner to apply for a Permit for Construction of Utilities from the Town Highway Department. It shall be the responsibility of the owner, following approval of the application, to comply with all conditions and restrictions set forth in the permit.~~

~~At the discretion of the Planning Board, the Owner may install such improvements at his own cost and expense or may secure the formation of a special district to install such improvements pursuant to pertinent laws of the State of New York.~~

The G. Corner Lots. Corner lots for residential use shall have extra width to permit required building setback from both roads.

Section 8.3 Preservation of Natural and Cultural Features

Features such as historic landmarks and buildings, existing trails, country lanes, rock outcrops, cliffs, hill top lookouts, rock gorges, unique stands of vegetation, significant wildlife habitats, and similar features of physical or cultural value that provide a sense of uniqueness to the site shall be preserved where practicable. Shorelines of streams, lakes, and ponds shall be left in their natural state except for areas where vegetation is removed in compliance with shoreline vegetative cutting regulations of the Town of Day Zoning Law. The Planning Board may require the provision of a green space buffer around such features.

Section 8.4 Tree Removal

Removal or damage to existing mature trees shall be avoided to the extent practicable.

Section 8.5 Road Design Standards

A. All standards in this section are minimum requirements. The Planning Board may require additional design standards and specifications for single family residential subdivisions are contained in-, or vary these regulations and design and construction standards. Additional improvements or improvements meeting more stringent, in any particular case based upon the recommendation of the Town Highway Superintendent or Town Engineer.

B. Standards.

<u>Minimum width of right-of-way</u>	<u>50 feet</u>
<u>Pavement surface width</u>	<u>20 feet</u>
<u>Shoulder width</u>	<u>4 feet</u>
<u>Width, total roadbed</u>	<u>28 feet</u>
<u>Surface material</u>	<u>See Appendix A</u>
<u>Minimum horizontal and vertical alignment sight distance. (a)</u>	<u>300 feet</u>
<u>Minimum sight distance at intersections</u>	<u>300 feet</u>
<u>Maximum grade over any 150 feet length</u>	<u>10 %</u>
<u>Maximum grade at intersections</u>	<u>3 %</u>

(a) At all points along a road, there shall be an unobstructed line of sight in each direction for the distance specified.

C. Relation to Terrain. All roads shall be logically related to the existing topography, soils, vegetation, and other natural features and shall be coordinated into a logical and efficient system. Areas with steep slopes, shallow soils, soils with a water table at or near the surface, and soils that are highly susceptible to erosion or slippage shall be avoided insofar as practical. Roads shall be designed to be parallel to natural land contours where possible. Long stretches of road straight downhill should be avoided in order to minimize erosion problems, and for safety reasons. All roads shall be

arranged so as to obtain a maximum number of building sites at or above the grade of the roads. Road layout shall minimize stream crossings.

D. Intersections. Roads shall intersect one another at right angles. No proposed intersection with an existing road shall be less than 125 feet from any existing intersection unless the proposed intersection is directly opposite the existing intersection so as to create a four-way intersection..

E. Dead End Roads. Dead-end roads shall be provided at the closed end with a tee type turn-around deemed sufficient for snow plowing and fire trucks by the Town Highway Superintendent.

F. Access to adjoining property. In order to make possible the extension of roads or utilities into neighboring properties, the arrangement of roads in a subdivision shall provide for connection to adjoining lands which may be subdivided in the future.

G. Names and Numbers. Names of new roads shall not duplicate existing or platted roads. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads.

H. Road Signs. The sub divider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.

I. Utilities. Installations of utility distribution and service lines shall be planned at the time road layout is determined.

Section 8.6 Road Construction Standards

All subdivision roads shall be constructed in accordance with the standards and specifications specified in Appendix A - "Town Road Cross-Section."

Section 8.7 Future Access to Interior Property

The Planning Board may require that one or more 50 feet rights-of-way be reserved in order to provide for future road access to interior land.

Section 8.8 Sight Distance at Driveways and Intersections

A. To the extent practicable, all intersections with any public road, including driveway intersections, shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

Design Speed of Highway	Left Turn	Right Turn
-------------------------	-----------	------------

30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road.

B. If the location of one or more proposed driveways is such that a traffic hazard is created on an existing roadway due to inadequate sight distance, the Planning Board may require an alternative lot arrangement making use of a shared driveway or short access road which enters the existing roadway at a safer location.

C. This section is intended to insure that the best location for a driveway or entrance to a roadway is chosen given the unique circumstances of the lot to be subdivided. It is not intended to prevent the subdivision of a lot, but to minimize any possible hazard.

Section 8.9 Drainage and Storm Water Runoff

A. Off-site storm water runoff shall not create damage or difficulty to downstream properties, shall not overload downstream culverts and other drainage facilities, and shall not introduce significant amounts of pollutants to surface waters of the Town of Day. Features of the natural terrain shall be used to the extent practical to reduce runoff from the site. Retention basins, dry wells and other infiltration structural devices to reduce runoff from the site may be required by the Planning Board ~~for~~.

B. All major subdivisions as defined herein, and any subdivision that involves one acre or more of land disturbance, shall comply with applicable Storm water Phase II Permit and State Pollution Discharge Permit requirements of the New York State Department of Environmental Conservation, including the preparation of a Storm water Pollution Prevention Plan (SWAPP), and the construction and/or implementation of all drainage control measures prescribed by such SWAPP.

C. Ditch bottoms shall be constructed and maintained to minimize soil erosion by means of sodding, mulching, netting, stone paving, rip-rap, or other suitable materials.

D. All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas, and all cut and fill slopes including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions.

E. Areas on which vegetation has been destroyed or removed, excluding roadways, driveways, building sites and parking lots, shall be

successfully re-vegetated or otherwise stabilized with structural erosion control measures.

F. Upon completion of final grading of any area, mulching and re-vegetation operations shall begin within five (5) working days and shall be completed within ten (10) working days, provided however that where this is not possible or desirable because of weather conditions or other circumstances, such re-vegetation operations shall be performed as soon as reasonably possible.

G. Re-vegetation measures shall be evaluated for compliance between 180 and 360 calendar days from the date of planting. Corrective action shall be instituted and completed within fifteen (15) working days upon determination of unsatisfactory compliance. In making their determination the Planning Board or designee thereof shall consider rills, gullies, loss of mulch, loss of seed, or failure of seed germination as evidence of unsatisfactory compliance.

Section 8.10 Trail Systems

A. Where deemed appropriate by the Planning Board, provision shall be made for unimproved walking trails within the subdivision, either as paths or trails wholly within the land to be subdivided or connected to existing or possible future trails through adjacent properties or along roadways.

B. The Planning Board may require that up to ten (10) percent of the total land area of the subdivision be designated for such trails.

Section 8.11 Clearing and Grading

Clearing and grading for road and utility installations shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide for utility installation.

Section 8.12 Emergency (911) Number Signage

Each building lot shall be provided with an identification number sign for emergency (911) purposes, constructed in accordance with the New York State Building Code.

Section 8.13 Modification of Designs

If at any time before or during construction of improvements it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements, the Chairman of the Planning Board may authorize such modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not amount to a waiver or substantial alteration of any improvements required by the Board. The Chairman shall issue any authorization under this paragraph in writing, and shall submit a copy of such authorization to the Planning Board at their next meeting. If such authorization should result in a modified final plat, the revised final plat shall be filed with the County Clerk.

ARTICLE 9 - CONSERVATION SUBDIVISIONS [See Zoning Law notes]

SECTION X — VARIANCES **ARTICLE 10 BOUNDARY LINE ADJUSTMENTS**

Section 10.1 Boundary Line Adjustments

A boundary line adjustment is the transfer of real property between adjacent property owners. In such a case the following general procedures and requirements shall apply.

A. The applicant shall comply with the preliminary submission requirements required for minor subdivisions as provided for in Section 5.2.

B. The Planning Board shall determine the completeness of the application at its next regularly scheduled meeting after the date on which the application is filed with the Planning Board, and shall determine, within its sole discretion, whether the application constitutes a boundary line adjustment.

C. All property transferred between adjoining property owners as a result of the boundary line adjustment shall be merged with an existing parcel and become a part thereof.

D. Whenever an applicant proposes to transfer real property to an adjacent property owner pursuant to a boundary line adjustment, the remaining acreage must, in all cases, satisfy the minimum lot area requirements of the zoning district wherein the property is situated. A boundary line adjustment may not result in the creation of a non-conforming parcel, and a boundary line adjustment may not occur between adjoining property owners whenever the property owner reducing his acreage maintains a non-conforming parcel prior to the proposed adjustment.

E. In its absolute discretion the Planning Board may waive a public hearing regarding a boundary line adjustment application.

F. A revised plat and deed showing the boundary line adjustment must be submitted to the Planning Board prior to approval and filing with the county.

ARTICLE 11 - WAIVERS AND MODIFICATIONS

Section 11.1 Waiver of Standards and Required Improvements

A. Where the Planning Board finds that ~~because of unusual circumstances of shape, topography or other physical features of the proposed subdivision or because of the nature of adjacent developments, extraordinary hardship may result from strict~~ compliance with these regulations, it may waive certain requirements

~~of these regulations so that substantial justice requirements would cause unusual hardship or unreasonable difficulties, and/or where the lots created by subdivision have no reasonable expectation of being used for any use except an open space use such as forestry, agriculture, or open space recreation, the minimum requirements of this article may be done and waived or modified provided that: (1) the public interest secured; provided that no such waiver shall be granted which will have is served, (2) the effect of nullifying development is in keeping with the spirit and intent and purpose of the Official Map, these regulations or ordinances of this law and the Town of Day Comprehensive Plan, and (3) no provisions of the Town. In granting changes and modifications, of Day Zoning law are waived or modified unless so authorized in the Zoning Law or by variance as provided in said law. and (4) approval standards pursuant to the State Environmental Quality Review Act (SEQR) are not waived.~~

~~B. The Planning Board may require shall record the reasons for any such conditions as will, waiver in its judgment, secure substantially the objectives of the standards or requirements so changed or modified minutes. The standards and requirements of these regulations may be modified by the Planning Board in the case of a plan and program for a complete community or other planned development which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the community when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the Plan.~~

~~XI~~ **SEPARABILITY**

ARTICLE 12 - SEVERABILITY

Section 12.1 Severability

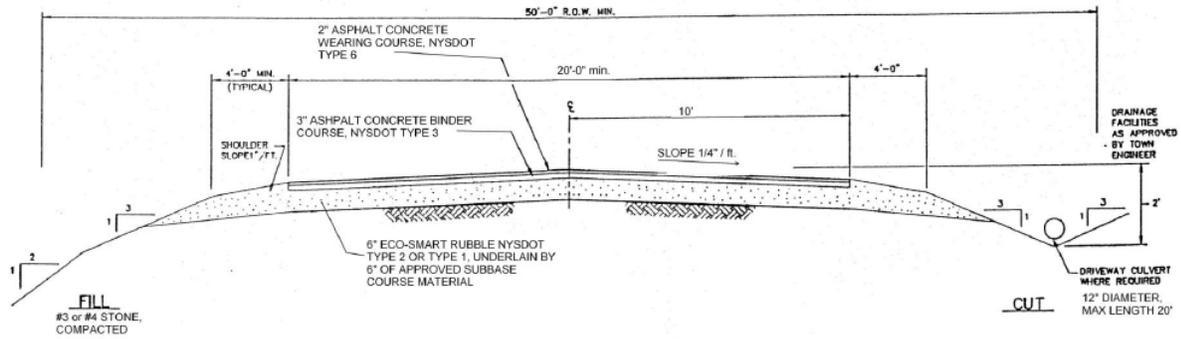
A declaration of the invalidity of any provision contained in ~~these~~this Subdivision ~~Regulations~~Law shall not invalidate or affect any other provision thereof.

~~XII~~ **ARTICLE 13 - PENALTIES**

Section 13.1 Penalties

APPENDIX A: TOWN ROAD CROSS-SECTION

APPENDIX A : TOWN ROAD CROSS-SECTION



GENERAL NOTES:

1. Thickness of all courses shown on the drawing are compacted thickness.
2. All materials shall conform to NYSDOT, Section 401-3.
3. Construct asphalt pavement in accordance with DOT Section 401-3.
4. Proof rolling of subgrade shall be witnessed by the Town Highway Superintendent or the Town Engineer. All unsatisfactory areas, as determined by the engineer, shall be excavated and replaced with subbase material to the engineer's satisfaction.
5. Notify the Town of Day 48 hours prior to commencing paving.
6. Tack coat binder before placing top course. Tack coat composition shall conform to NYSDOT Section 407-2. Place tack coat in accordance with NYSDOT Section 407 at application rate of .05 to 10 gallons/square yard.
7. Sub-base material to be approved by Town Highway Superintendent or Town Engineer.
8. Maximum slopes in cuts or embankments may be 2:1 if approved by the Town Highway Superintendent or Town Engineer.
9. All testing for compaction shall be as ordered by the Town Highway Superintendent or Town Engineer. The contractor shall pay for all testing.