

LAND
MANAGEMENT
LOCAL LAW
of the
TOWN OF LEBANON

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TOWN OF LEBANON
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**LAND MANAGEMENT LOCAL LAW
OF THE
TOWN OF LEBANON**

ARTICLE I ENACTMENT AND APPLICATION

Section 1.1 Title

This local law shall be known and may be cited as the Land Management Local Law of the Town of Lebanon.

Section 1.2 Enacting Clause

The Town Board of the Town of Lebanon in the County of Madison under the authority of Section 261 of the New York State Town Law hereby ordains, enacts and publishes this Local Law.

Section 1.3 Purposes of the Land Management Local Law

The purposes of this Land Management Local Law and the regulations herein set forth are to provide for the orderly growth of the Town; to encourage the most appropriate use of land; to promote compatible land uses; to protect and conserve the value of property; to protect the natural environment in the face of population growth and technological change; to minimize traffic congestion and maximize traffic safety; to prevent the overcrowding of land; and to promote the health, safety, and general welfare of the public.

Section 1.4 Application of Regulations

Except as herein provided, no building or land shall hereafter be used or occupied; no building or part thereof shall be erected, moved or altered; and no land surface shall be altered unless in conformity with the regulations herein specified.

ARTICLE II DEFINITIONS

Section 2.1 Customary Meaning of Words

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the words “plot” and “parcel”; the word “shall” is intended to be mandatory; “occupied” or “used” shall be considered as though followed by the words “...or intended, arranged or designed to be used or occupied”.

Section 2.2 Definitions

Agricultural Product - Any organic product with commercial value grown or raised on a farm, including, but not limited to, plants, vegetables, trees, seedlings and other produce, cattle, hogs, fish, goats, chickens, turkeys, sheep, milk and other animal products, honey, corn, grains, soybeans, hay, straw and other feeds.

Agriculture, Agricultural Use or Farm - A lot which is used primarily for raising livestock or other agricultural products, including greenhouses and other farm structures and the storage of agricultural equipment; and as an accessory use for the sale of agricultural products raised on the property. Cultivation of wood lots is considered an agricultural use.

Airstrip, Private - A landing and takeoff strip, together with any accessory hangar and refueling facilities, constructed for and intended to be used by fixed wing propeller-driven aircraft of no more than 12,500 pounds gross weight and belonging to the strip’s owner or lessor.

Alternative Wastewater Treatment System - Those on-site sewage treatment systems covered in Section 75-A.9 of 10 NYCRR Part 75, including: raised bed systems, mound systems, and intermittent sand filters. As distinguished from conventional absorption trench/field or seepage pit systems and from holding tanks.

Approach Surface - An imaginary surface defined in Part 77 of the FAA Federal Aviation Regulations - Objects Affecting Navigable Airspace. The approach surface extends upward and outward from each end of a runway’s primary surface at specified dimensions determined by (cont.)

FAA runway classification and type of approach. For private airstrips as defined in this Local Law, the slope of this surface is 20:1.

Avigation Easement - A land use easement permitting the unlimited operation of aircraft in the airspace above the land area involved and prohibiting construction or natural growth in the clear zone that would exceed the height of, and extend into, the approach surface.

Board of Appeals - Board of Appeals of the Town of Lebanon.

Building - Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or personal property.

Building, Height of - The vertical distance, measured from the average elevation of the proposed finished grade at the front of the building facing the road, to the highest point of the roof.

Building Line - The line parallel to the lot line beyond which a building cannot extend under the terms of this Local Law. This is the line from which the setback measurements for purposes of Section 3.2 of this Local Law are determined. If a building has an attached sun parlor, enclosed porch, and/or covered porch projecting more than ten (10) feet from the wall of the building, excluding the steps, then the setback shall be measured from the front edge of the porch rather than from the wall of the main building.

Building and Development Permit - A postable permit issued by the Codes Enforcement Officer stating that: 1) any proposed construction complies with the Uniform Fire Prevention and Building Code, the Town of Lebanon Flood Damage Prevention Law, the Subdivision Law, and this Local Law, that 2) the purpose for which a building or land is to be used, and the site layout and design for that use is in conformity with all requirements under this Local Law, the Uniform Code, and the New York State Sanitary Code.

Certificate of Compliance - A certificate issued by the Codes Enforcement Officer upon completion of construction, alteration, or change in occupancy or use of a building or piece of land. Said certificate shall acknowledge completion of the work proposed in the Building and Development (cont.)

Permit and compliance with all the requirements of this Local Law and such adjustments thereto granted by the Board of Appeals, as well as to applicable State Codes and Town of Lebanon laws, and shall specify the use or uses to which the building and/or land may be put to use.

Clear Zone - Also known as Runway Protection Zone. A surface located on the ground at each end of the airstrip runway and located directly beneath the inner portion of the approach surface, beginning at the runway end (inner end of approach surface) at a width of two hundred fifty (250) feet and flaring to four hundred fifty (450) feet in width for the next one thousand (1000) feet from the runway.

Double-wide Mobile Home - A residential structure consisting of two separate and distinct halves, each of which contains a permanent towing frame as part of its structure enabling it to be transported by towing on a public highway, and each of which is manufactured in such a manner as to be used as a dwelling or place of business only in conjunction with the other half when the two halves are placed together.

Dwelling, Duplex - One building containing two dwelling units on two adjacent lots, attached side by side, having one common wall with yard area on three sides of each dwelling unit.

Dwelling, Modular - A dwelling unit built in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, Subchapter B, constructed off-site, consisting of more than one segment, and designed to be permanently anchored to a permanent perimeter foundation located below the frost line so as to become a fixed part of the real estate.

Dwelling, Multi-family - A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently of each other.

Dwelling, Single-family - A detached building, modular or mobile home containing one dwelling unit only.

Dwelling, Two-family - A detached building located upon a single parcel of land and containing two dwelling units.

Dwelling Unit - A complete self-contained residential unit, with living, sleeping, cooking, and sanitary facilities within the unit, for use by one family.

Family - One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured, permanent or long-term relationship providing organization and stability.

Farm Building - Any building used for the housing of agricultural equipment or agricultural products or for the incidental or customary processing of agricultural products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of, the farm.

Farm Equipment - Tractors, machinery, trucks and other equipment used in the production, harvesting, handling, maintenance, packaging, or storage of agricultural products or farm buildings.

Flag Lot - A lot with access to the buildable bulk of the lot by means of a narrow driveway corridor belonging to that lot.

Garage, Private - A secondary building, used in conjunction with a primary building, and providing for the storage of motor vehicles and in which no occupation, business or services for profit (other than incidental and infrequent services for profit) are conducted.

Junkyard - Land or structure, or part thereof, whether or not used in connection with another business or residence, used for the collection, storage and/or sale of waste paper, rags, scrap metal, tires, or discarded material, or for the collecting, dismantling, storage for salvaging of machinery, of mobile home(s), or of two or more unregistered motor vehicles not in running condition and/or for the sale of parts or reclaimed materials thereof.

Land Disturbance - Surface grading and/or any other activity causing the addition or displacement of soils by mechanical means.

Landscaping - The act of changing or enhancing the natural features of a plot of ground (usually around a building) so as to make it more attractive, as by adding lawns, trees, bushes, etc.

Lot - Parcel of land devoted to a certain use or occupied, or designed to be occupied, by a building or group of buildings united by a common interest or use, including such accessory structures and open spaces as are arranged and designed to be used in connection with the same.

Lot Area - An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public road right-of-way shall not be included in calculating lot area.

Lot Depth - The horizontal distance from the midpoint of the physical edge of the roadway frontage to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear line.

Lot Lines - The boundary lines dividing one lot from another lot or from a road.

Lot Width - The horizontal distance between side lot lines measured at the minimum required front yard setback line.

Mobile Home - Any portable structure or vehicle with a permanently affixed towing frame capable of being propelled or towed on a public highway (whether or not the wheels are presently attached), and so designed and constructed as to permit (pursuant to applicable codes) occupancy thereof as a residence, or as an office for the conduct of a trade, business, profession or occupation. For purposes of this Local Law, travel trailers and motor homes shall not be considered mobile homes.

Mobile Home Park - A non-farm parcel of land under single ownership or management, or two or more separate, contiguous non-farm parcels under common ownership or management, on which two or more mobile homes are located.

Mobile Home Site - Any delineated piece of land in a mobile home park provided by the operator and designed for accommodating one mobile home, its accessory buildings, structures and equipment for the exclusive use of the mobile home's occupants

Modular Construction - Any building not constructed on the site where it is intended to be placed, but rather assembled on that site, on a permanent foundation, entirely or mostly from factory-built components that have been transported there without use of any permanent towing frames belonging to the structure.

Motor Home - A motor vehicle propelled by its own power, containing sleeping and/or cooking and/or sanitary facilities, and designed and constructed for vacation or other similarly temporary and impermanent use.

New Mobile Home - Any mobile home purchased directly from a mobile home dealer and that has never previously been used as a residence or for the conduct of a trade, business, profession or occupation.

Nonconforming Building or Structure - A building or structure which in its design, size, setback or location upon a lot does not conform to the standards of this local law.

Nonconforming Lot - A lot of record existing at the date of the passage of this Local Law which does not conform to its dimensional standards.

Nonconforming Use - Any use of any building, structure, or land existing at the time of enactment of any use regulations in this local law which does not conform to such use regulations.

Planning Board - Planning Board of the Town of Lebanon

Permanent Residence - Any building, structure, or mobile home placed on a lot with the intent that it remain there indefinitely for use as a residence.

Residence - A dwelling place so constructed and/or situated, with water, sewerage and utility facilities attached or provided so as to allow continuous, year-round use thereof for human habitation.

Screening - A permanent barrier including, but not limited to, fences, bushes, or trees or other natural and/or artificial material, at least four (4) feet high, which obscures the visual character of any given building or use of land.

Setback - The distance between a lot line and a principal, accessory or secondary structure as required by this Local Law. Where public or private right-of-way abuts a lot line, the setback shall be measured from the centerline of said right-of-way.

Site Plan - A rendering, drawing or sketch, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features (including, as applicable, parking, access and circulation, open space, signage, and screening and landscaping) for a specific parcel of land.

Skirting - Material of rigid composition for placement around all sides of a mobile home, extending from the base of the mobile home to the surface of the ground or pad beneath it, with vent spaces as necessary, and painted in such a manner as to be compatible with the mobile home.

Street Line - Limit of street or highway right-of-way line established by deed or record, legally defining the corridors, whether improved or unimproved, for vehicular and pedestrian traffic and for roadway maintenance and drainage.

Stripping - Removing the vegetative cover or topsoil from land.

Structure - Anything constructed, erected, installed visibly on or in the ground or which is visibly attached to something located on or in the ground, for permanent use or recurring use at the same location. The term includes, but is not limited to, buildings, platforms, fences, communications towers, storage bins and above-ground fuel or storage tanks, dumpsters, grandstands and stadiums, in-ground or rigid above-ground swimming pools, and freestanding (whether permanent or portable) and projecting signs.

Structure, Accessory - Detached structure designed to accommodate an accessory use, such as a garage for vehicles accessory to the principal use, a free-standing storage shed, or a garden house. An accessory structure attached or contained within a principal structure shall be considered part of the principal structure. Barns or other structures--except individual pet shelters--designed or intended for the housing of livestock or other animals shall not be considered accessory structures.

Structure, Principal - A structure designed primarily to accommodate the principal use of a lot, such as a dwelling, house, apartments, office, factory, store. A structure designed to provide closed storage of vehicles and which is attached to or contained in a principal structure shall be considered part of it.

Temporary Residence - Any mobile home placed on a parcel for use as a residence during such time, not to exceed two years, as a permanent residence is being constructed upon the same parcel.

Travel Trailer - A vehicle not propelled by its own power and drawn by a separate powered motor vehicle, containing sleeping and/or cooking and/or sanitary facilities, and which is designed for vacation or other temporary and impermanent use.

Use, Accessory - A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Use, Principal - An activity which may be carried on independently of any other activity and which generally characterizes the primary purpose for which land and/or the principal structures thereon are intended and designed.

Uniform Code - New York State Uniform Fire Prevention and Building Code (9 NYCRR Subtitle S, Chapter I).

Yard - An open space on the same lot with a building, unoccupied by structures other than signs, light fixtures, flag poles, utility service poles, or open fences.

Yard, Front - The open unoccupied space on a lot extending the full width of the lot and situated between the street line (the edge of the road right-of-way) and the front line of the building or the nearest point of the structure to the road, projected to the side lines of the lot.

Yard, Rear - The open space on a lot extending the full width of the lot and situated between the principal building's rear building line (or the rearmost point of the principal structure) and the rear lot line (or if none, the rearmost point of the property boundary), unoccupied except for accessory buildings and structures and open porches to the extent allowed by this Local Law.

Yard, Side - An open space on a lot situated between the principal building or structure and a side line of a lot and extending from the front yard to the rear yard (or, if no rear yard, to the point of intersection with the opposite side yard). Any lot line not a front line or a rear line shall be deemed a side line. Side yards must be kept unoccupied except for accessory buildings and structures and open porches, to the extent allowed by this Law.

ARTICLE III REGULATIONS APPLICABLE TO ALL PROPERTIES, BUILDINGS, AND USES

Section 3.1 The following uses, when newly undertaken or physically (areally or structurally) expanded after the original date of adoption of this Land Management Local Law, require Site Plan Approval or Special Use Permit by the Planning Board under the procedures and according to the standards of this Local Law:

- a. Multi-family dwellings.
- b. Relocated single-family dwellings, including used mobile homes, and mobile homes on farms for farm labor. (Applicable procedures and standards of Article VII also apply.)
- c. Mobile home parks (Procedures and standards of Article VII also apply.)
- d. Other non-farm commercial, business, or professional uses.

- e. Facilities for the storage, dismantling, or processing of scrap metal, junk, junked cars and equipment, or solid waste. Junkyards also require a license from the Town Board, as specified in Section 5.1.
- f. Other industrial uses.
- g. Private airstrips (including ultra-light), airports, heliports. These uses must meet special standards and require Town Board authorization, as specified in Sections 6.1 and 6.2.
- h. Private not-for-profit facilities.
- i. Public utility uses.

Section 3.2 Land disturbances of the following sort require Site Plan Approval (if undertaken in conjunction with uses listed in Section 3.1, the Site Plan Review processes may be combined in a single application):

- a. Addition or removal of more than one foot of soil or fill extending over an area greater than ten thousand (10,000) square feet.
- b. Any surface modification exceeding five thousand (5000) cubic feet on a slope exceeding ten (10) percent.

Section 3.3 The following lot size and dimension standards apply to all lots created, and to all buildings or structures built or expanded, after the date of adoption of this Land Management Local Law except as otherwise specified in this Local Law:

- a. Minimum lot size shall be one (1) acre unless an alternative wastewater treatment system is required in order to comply with New York State standards (in Appendix 75-A, 10 NYCRR Part 75) in which case it shall be two (2) acres.
- b. Minimum road frontage shall be one hundred fifty (150) feet.
- c. Minimum lot depth shall be one hundred fifty (150) feet from physical edge of roadway.
- d. Minimum front yard setback shall be seventy-five (75) feet from centerline of road.
- e. Minimum rear yard setback shall be twenty (20) feet.
- f. Minimum side yard setback shall be twenty (20) feet. Duplex dwellings may have one side yard zero (0) lot line setback.
- g. Maximum building height shall be thirty (30) feet. Farm buildings

and structures and public utility structures shall be exempt from this standard.

- h. Maximum area of lot coverage by buildings or structures shall be twenty (20) percent.
- i. In order to allow the efficient use of otherwise developable property that lacks adequate road frontage for development, the creation of flag lots may be approved subject to the following conditions:
 - (1) Minimum front, side, and rear yard setback requirements shall be met exclusive of the driveway property strip connecting the flag lot with the street.
 - (2) The driveway property strip shall have a width no less than twenty (20) feet at all points along its length, and the physical driveway shall be centered along the axis of the property strip.
 - (3) No more than one flag lot shall be approved for each driveway property strip.
 - (4) Driveway property strips may not be combined and shall be at least as far away from each other as the minimum lot width, measured at the street line.
 - (5) The maximum length of the driveway property strip, measured from the street line, shall be no greater than three hundred (300) feet. The flag lot shall have an area of no less than two (2) acres, exclusive of the driveway strip. The lot, exclusive of the driveway property strip, shall not be deeper than three times its width.
 - (6) Subdivision of an existing flag lot into more than one lot will require the creation by the subdivider of a new street, built to Town standards, to access each lot in place of the driveway property strip.

Section 3.4 Single-family Residential Use of Lots Existing Prior to Adoption or Amendment of this Local Law

Any lot which has less than the minimum area, minimum depth, and/or the minimum frontage required by this Local Law, but which was duly approved or legally existed prior to adoption of this Local Law **on February 22, 1999** may be used for a single-family dwelling provided that the proposed dwelling's site plan

satisfies the dimensional requirements of this Local Law for building setbacks, lot coverage, and building height, as well as the NYS Sanitary Code's site and design requirements for sewage disposal and water supply.

Section 3.5 Dwellings on Residential Lots

There shall be only one residential building on a non-farm lot. More than one residence per lot shall be permissible on farms for hired help or family members of the farm operator only, upon the granting of Site Plan Approval by the Planning Board. A second residence per lot for occupancy by a family member may be permissible on non-farm lots only upon granting of Site Plan Approval by the Planning Board. A second residence per lot for occupancy by non-family members may be permissible on non-farm lots only upon granting of a Special Use Permit by the Planning Board.

All single family residences shall be a minimum of 840 square feet on ground floor, or for a two-story residence, a minimum of 600 square feet on the ground floor.

Section 3.6 Building Coverage and Setbacks-Open Porches, Carports, and Garages

In determining the percentage of building coverage of a lot or the size of yards, roofed, unenclosed porches, or carports, as well as all principal and accessory buildings, shall be included.

Section 3.7 Reduction of Lot Area

A lot shall not be so reduced in area that the area, yards, lot width, frontage, or lot coverage of this Local Law shall exceed the respective minimums or maximums herein prescribed.

Section 3.8 Yards on Corner Lots

Any yard adjoining a road shall be considered a front yard for the purpose of this Local Law, and shall comply with all requirements for a front yard.

Section 3.9 Projection in Yards

In determining any front, side, or rear yard setback, the point of measurement on the structure shall be the foundation, unless the structure has sills, cornices, pilasters, chimneys, and/or eaves which extend more than two feet out from the foundation, in which case the point of measurement shall be the edge of such extension.

Section 3.10 Access and Safety

- a. For uses requiring Site Plan Approval, the Planning Board may require changes or additions in relation to yards, driveways, driveway entrances and exits, landscaping, and the location and height of buildings, enclosures, and signs to ensure safety, minimize traffic difficulties, and safeguard adjacent properties.

The location of a new driveway for ingress and egress to town, county and state roadways shall be cleared with the appropriate highway department for approval of the location in compliance with its recommendations and requirements, and such recommendations or requirements concerning appropriate storm water management structures must be complied with as well.

- b. All buildings and structures shall be provided with unobstructed access for fire fighting and emergency services personnel. Premises which are not readily accessible from public roads, and which a fire department or an emergency service may be called upon to protect in case of fire or other emergency shall be provided with access roads or fire lanes, in accordance with Section 1161.2 of the Uniform Code, so that all buildings on the premises are accessible to fire department and emergency service apparatus.

Section 3.11 Accessory Structures on Residential Lots

Minimum lot line setbacks from the side or rear lot lines shall be reduced to ten (10) feet for non-garage accessory structures under four hundred (400) square feet in total floor and under twenty (20) feet in height. Accessory garages shall meet the normal setback requirements of Section 3.3.

Section 3.12 Sanitary Facilities

- a. All residential, commercial and industrial structures shall have and maintain adequate and sanitary water supplies and sewage disposal systems in accordance with the State Sanitary Code and this Local Law, to include indoor plumbing and adequate and approved on-site sewage disposal system.
- b. On all premises, any storage of garbage, offal or other noxious domestic wastes that could create a public health nuisance by attracting, feeding or harboring rodents, insects or other animals or

by creating an offensive odor, shall be stored in a sanitary manner in covered containers and removed from the premises on a regular periodic basis.

- c. No sewage or untreated waste water of any sort, including that from washing machines, dishwashers and any other appliances or machines, shall be deposited or discharged onto any ground, or into any ditch, water body or waterway.

Section 3.13 Vacant Buildings

Every person owning or having charge or control of any building which has been vacant for over 60 days shall remove all combustible waste and refuse therefrom and lock, barricade, guard continuously, or otherwise secure all windows, doors and other openings in the building to prevent entry by unauthorized persons.

Section 3.14 Compliance with Uniform Code

All repairs or construction not requiring a Building and Development Permit shall, however, still be performed in accordance with the New York State Uniform Fire Prevention and Building Code.

ARTICLE IV PREEXISTING USES

Section 4.1 Nonconforming Buildings, Structures and Uses

The use of any building, structure or land existing at the time of enactment of this Local Law may be continued, although such use does not conform to the provisions of this Local Law, except as hereinafter provided. However, any use of any building, structure or land which under the provisions of prior ordinances or statutes, local or otherwise, is or was unlawful and in violation thereof, shall not operate to legalize such prior violation or to prevent enforcement of penalties upon it.

Section 4.2 Nonconforming Lots

- a. Any lot which was duly approved or legally existed prior to adoption of this Local Law on Feb. 22, 1999 and which has an area or a depth less than required by this Local Law may be used for any permitted purpose provided that:

- (1) all other dimensional requirements of this Local Law and applicable State regulations are satisfied, or
 - (2) the owner obtains a variance pursuant to the provisions of Article X for any setback, road frontage, lot coverage or other requirement of this Local Law which cannot otherwise be met. Such variance may only be granted if the applicant demonstrates that all requirements of New York State law relating to development lots (such as for percolation, sewage disposal, and water supply) can be satisfied, and such variance may include conditions imposed by the Board of Appeals to mitigate or minimize safety or nuisance impacts, unrelated to public health considerations, that would otherwise follow from its granting.
- b. A nonconforming lot shall not be created where no nonconforming lot existed prior to the passage of this Local Law on February 22, 1999; i.e., no lot shall be so reduced in area that the total area, yard setbacks, road frontage, lot depth, lot coverage, or other dimensions fail to satisfy the standards herein prescribed without a variance. This section's provisions shall not apply when part of a lot is taken for a public use.
 - c. Nonconforming lots which are not readily accessible from a public road, and which a fire department or emergency service may be called upon to protect in case of emergency shall be provided with an access road or fire lane in accordance with Section 1161.2 of the Uniform Code.

Section 4.3 Restoration and Repair of Unsafe Nonconforming Structures

A nonconforming structure or part thereof, if dangerous or unsafe as defined in Section 1153.1 of the Uniform Code, may, without need of a variance, be:

- a. Restored to a safe condition, or
- b. Repaired if damaged by accidental fire or other accident.

In such cases compliance with the standards of Section 1231. 1-6 of the Uniform Code is still required and shall be enforced by the Codes Enforcement Officer.

Section 4.4 Extension of Nonconforming Structures

A non-conforming building or structure shall not be extended without a variance. Extension to any further part of a non-conforming building of any use listed in Section 3.1 and existing at the time of adoption of this Local Law shall require site plan approval.

ARTICLE V JUNKYARDS

Section 5.1 Storage of Vehicles and Junk

- a. More than one unregistered motor vehicle and accumulations of automotive or machine parts and/or scrap materials (including, but not limited to, metal, wood, paper or rags), rubbish or debris of any type must be stored in an enclosed garage or be hidden from the road and neighboring properties by an opaque fence at least ten feet in height. This provision does not apply to farm equipment on operating farms. Any such fence shall be located to meet the setback requirements of Section 3.3 of this Law, except for the fences of licensed junkyards, which shall be governed by Section 5.1 b. below.
- b. All owners of property upon which is situated a junkyard as defined in Section 136 of the General Municipal Law of the State of New York or in this Local Law shall secure a license from the Town Board authorizing such. A Special Use Permit Application shall be used to apply for said license.
 - (1) Junkyard perimeter fences shall be a minimum of five hundred (500) feet from adjacent dwellings and at least one hundred twenty-five (125) feet from the centerline of any public road and shall be properly maintained.
 - (2) Prerequisite to original issuance of such a license is a Special Use Permit issued by the Planning Board.
 - (3) The Town Board shall hold a public hearing for each junkyard license application in accordance with the procedures specified in Section 136 of the General Municipal Law.
 - (4) All such licenses shall be renewable annually upon application to the Town Board, subject to the report of the Codes Enforcement Officer that the junkyard remains in compliance with its approved site plan and the conditions required by this Local Law.

Section 5.2 Removal of Unlawful Junkyards and Unsafe or Detrimental Conditions

- a. If the Town Board determines by written resolution that a property is in violation of Section 5.2 of this Local Law or Section 136 of the New York State General Municipal Law, or that the condition of the property is dangerous or detrimental to the public health, safety or welfare, it shall issue an order to the property owner to remedy such condition upon such terms as the Town Board deems reasonable and just.
- b. Such a determination may only be made by the Town Board following a public hearing, notice of which was given to the property owner at least fourteen days prior thereto by both Certified and First Class U.S. mail and to the public in general by publication in the official town newspaper at least five days prior thereto.
- c. Conditions may be deemed dangerous or detrimental to the public health, safety or welfare shall include, but not be limited to, the following:
 - (1) unsafe or damaged buildings, structures, vegetation, pits or underground facilities;
 - (2) accumulation of junk, garbage or material of any sort likely to attract or harbor rodents or insects or foster disease or which hampers or obstructs the ability of fire, police, ambulances or other emergency vehicles to access any structure upon the premises or adjoining premises; and
 - (3) conditions which may be an attractive nuisance for children or others
- d. Upon notification from the Codes Enforcement Officer that the owner of the property has failed or refused to comply with the order of the Town Board, the Town Board may direct that the Town shall cause the offending conditions to be remedied. After the work has been completed, the Town Board shall compile a verified statement of all the direct costs of same, and add thereto a charge of fifty percent (50%) of the direct costs as compensation to the town for administering, supervising, and handling said work.
- e. Upon completion of the verified statement, acceptance of it by the Town Board, and filing with the Town Clerk, the Board shall direct that the direct costs thereof, including the charges (cont.)

added thereto, shall constitute a lien against the said premises and direct that the same shall be added to the next assessment roll of general Town taxes and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties, as the general Town tax and as part thereof. In addition thereto, interest shall run thereon from the date of filing the verified statement to the date of actual payment at seven and one-half percent (7 1/2%) per annum.

- f. Notwithstanding any provision herein to the contrary, the Town may at its election institute suit against the owner of the said premises for the direct costs, together with a charge of fifty percent(50%) in addition thereto as compensation to the Town for administering, supervising and handling said work, and enter judgment thereon against the owner personally for the aforesaid amount. The imposition and collection of any fine or penalty herein prescribed shall not bar the right of the Town to collect the costs of the removal or repair of an unsafe structure or condition as herein prescribed.

ARTICLE VI PRIVATE AIRSTRIPS & OTHER LANDING FACILITIES

Section 6.1 Required Approvals

No private airstrip shall be constructed nor extended, altered, realigned, or added to without authorization, by resolution, by the Town Board in accordance with §249 of the General Business Law. For the Town Board to so authorize there must be on file with the Town Clerk:

- a. Site plan and Special Use Permit approval by the Town Planning Board,
- b. A determination of compliance with applicable New York State standards governing privately-owned airports by the Commissioner of Transportation, and
- c. Approval from the Federal Aviation Administration in the form of a Letter of Airspace Determination.

Section 6.2 Procedures and Standards

- a. Site Plan Approval.
 - (1) In addition to the features required by Section 11.2 b of this

Local Law, any private airstrip site plan submitted for Planning Board approval shall include the clear zone; locations (to scale) and heights of any buildings, other above-ground structures, or trees located within the clear zone; and airstrip setback distances from the adjacent property boundaries.

(2) Special standards for site plan approval. In addition to a finding of satisfaction of the general site plan approval standards found in Section 11.2 e of this Local Law, site plan approval for a private airstrip requires:

- (a) All parts of the landing strip itself be set back not less than two hundred fifty (250) feet from all property lines, and any related buildings, hangars, vehicular and plane parking areas comply with the yard setbacks set out in Section 3.3 d, e, and f of this Local Law.
- (b) All land within the airstrip's clear zone, regardless of ownership, be free of residences, fuel handling and storage facilities, smoke generating activities, and places of public assembly.
- (c) Any land within the airstrip's clear zone, but not part of the airstrip property, be subject to an avigation easement to the airstrip operator: i. permitting the unlimited operation of aircraft, subject to what the FAA allows for the airstrip's runway classification, design group, and type of approach, in that portion of the airspace above the airstrip's approach surfaces, and ii. prohibiting construction or vegetative natural growth above a height that would penetrate the approach surface.
- (d) The Planning Board shall hold a public hearing in accordance with the procedures for such hearings in Section 274-a of the Town Law. When feasible, such public hearing shall be held in conjunction with any New York Department of Transportation hearing held under the General Business Law Section 249 (4).

(3) Planning Board evaluation of site plans for heliports or of airports other than private airstrips as defined in this Local Law will also include consideration of the following additional material and standards:

- (a) Delineation on the site plan of their own respective approach, transitional, and primary surfaces as specified

in Part 77 of the Federal Aviation Regulations and with clear zones established and structures and potential natural obstacles within such clear zones shown accordingly, and

- (b) A professionally-done day-night noise level (DNL) evaluation to establish a DNL perimeter of 60 DbA, within which there may be no residences and places of public assembly located off the airport or heliport property.
- b. New York Department of Transportation approval. On receiving a copy of the Site Plan Approval application and site plan from the Planning Board or Codes Enforcement Officer, the Town Board shall forward a copy of the application material to the Commissioner of Transportation and request that official to make a determination of whether or not the establishment of such a privately owned airstrip or airstrip improvement complies with State standards regarding safety of public buildings, facilities, and highways and with impact on other airports in the vicinity.
- c. Federal Letter of Airspace Determination. Applicant is responsible for providing a copy of this to the Town Board. It may be submitted with the site plan approval application or made a condition for Town Board authorization after the other prerequisites have been satisfied.
- d. Town Board approval. When the above requirements have been satisfied, the Town Board may authorize the airstrip by a resolution of a majority of its members, which resolution shall be recorded in its minutes.

ARTICLE VII MOBILE HOMES

Section 7.1 General Regulation of Mobile Homes

- a. It shall be unlawful, within the limits of the Town of Lebanon, to park or place a mobile home except upon compliance with the provisions of this Land Management Law.
- b. Except to the extent particular provisions of this Article conflict with or are more specific than other provisions of this Land Management Law, all provisions of this Land Management Law pertaining to residential structures and placement of structures upon any lot shall also be deemed applicable to mobile home residences. No mobile home shall be parked or placed within the Town, outside of a

licensed junkyard, except upon the issuance of a permit for it by the Town Codes Enforcement Officer. No mobile home shall be occupied except upon the issuance of a Certificate of Compliance by the Codes Enforcement Officer.

- c. No more than one mobile home shall be parked or placed on any lot within the Town except under the conditions and subject to the procedures set out in Sections 3.5 (farm use) or 7.6 (mobile home park) of this Land Management Law.
- d. A mobile home shall not be parked or placed on any lot within the Town for any purpose other than use as either a principal residence or a regularly occupied business work area (henceforth, “a place of business”). Use of a mobile home on any lot for any other purpose, including, but not limited to, storage or animal housing, is hereby prohibited. Junked mobile homes shall be allowed only in licensed junkyards.
- e. A Certificate of Compliance for the placement of a mobile home within the town shall not be issued until all of the following performance standards have been met to the satisfaction of the Codes Enforcement Officer:

The lot must be graded to allow the safe placement of the mobile home. The lot shall have one of the following in place to accommodate the placement of the mobile home:

- (1) A steel mesh reinforced 6-inch-thick concrete pad with dimensions at least as large as the exterior dimensions of its mobile home, or
 - (2) Concrete piers at least 12 inches in diameter or width, placed no more than 10 feet apart (or to manufacturer’s recommendations, if available) under the bearing members of the mobile home, and also placed to a depth of 4 feet below the ground surface or to bedrock, whichever is less, or;
 - (3) A permanent foundation.
- f. Prior to the issuance of a Certificate of Compliance, all mobile homes shall be anchored in accordance with the roof load and wind zone standards for mobile/manufactured homes referenced in Section 1223.2 of the Uniform Code and, if the site is situated in a Special Flood Hazard Zone (Zone A) shown on the current Town of Lebanon

Flood Insurance Rate Map, in accordance with provisions of the Flood Damage Prevention Law Section 5.1-1.(2).

- g. All mobile homes not placed on a permanent foundation shall be skirted prior to the issuance of a Certificate of Compliance. If a mobile home is placed in such a manner that settling of earth around the mobile home may occur after placement of the mobile home, a provisional Certificate of Compliance may be issued for a period not to exceed sixty (60) days to allow for settling prior to the placement of skirting and the issuance of a final Certificate of Compliance.
- h. Within nine months of placement of the mobile home, all ground within 25 feet of the mobile home, or to the property line, whichever is less, shall be graded and seeded, surfaced with crushed stone, or paved to allow sufficient access by emergency vehicles and personnel. In addition, any ground disturbed during site preparation or placement of the mobile home shall be regraded and seeded or otherwise appropriately landscaped within nine months of the placement of the mobile home. This provision shall not be construed to require the removal of any trees which the owner otherwise desires to remain for landscaping purposes.
- i. No travel trailer or motor home shall be used as a permanent residence within the Town of Lebanon.

Section 7.2 Permanent Use

No mobile home shall be introduced by parking or placement in the Town of Lebanon for use as a permanent residence or place of business unless it bears the manufacturer's data plate and a label certifying it has been constructed in accordance with the Manufactured Home Construction and Safety Standards (24 CFR Part 3280) of Title VI of the US Department of Housing and Urban Development Code of June 15, 1976 (hereafter, "HUD Code") and is no more than twelve (12) years old unless on a farm and used for farm labor, or used as a temporary residence under Section 7.3. A mobile home more than 12 years old may be re-positioned on the owner's same lot, with Site Plan Approval.

Section 7.3 Temporary Residences

- a. Upon the issuance of Site Plan Approval, a used mobile home more than twelve (12) years old may be parked or placed within the Town for use as a temporary residence, while the owner of the subject lot constructs a permanent residence, so long as it meets the inspection requirements of Section 7.4 b.

- b. No such mobile home shall be parked or placed in the Town of Lebanon as a temporary residence for a period longer than two years from the date of its permit. Such a permit shall be issued for a period of two (2) years from date of issuance or up to ninety (90) days after the permanent residence becomes legally habitable, whichever occurs first. Upon the expiration of such maximum two-year period, no more than one six-month provisional extension of the permit to use a mobile home as a temporary residence may be issued by the Codes Enforcement Officer upon that officer's determination that the applicant is proceeding in good faith toward the completion of the permanent residence structure, and that at least the foundation of the permanent residence structure has been completed.
- c. The permanent residence shall be either a home of conventional construction, one of modular construction, a new double-wide mobile home or a new mobile home.

Section 7.4 Used Mobile Homes

- a. No used mobile home shall be parked or placed within the Town, either as a permanent or a temporary residence, nor shall the Codes Enforcement Officer issue a permit for the placement of any such mobile home, except upon the prior granting of Site Plan Approval by the Planning Board.
- b. Upon application for Site Plan Approval for the placement of a used mobile home for use as a residence, the burden of proof shall be upon the applicant to demonstrate, through the use of documents, photographs, or such other appropriate evidence, that each of the following conditions is met:
 - (1) The mobile home shall meet all requirements of the New York State Uniform Fire Prevention and Building Code and Energy Conservation Code pertaining to mobile/manufactured homes; specifically, mobile homes constructed after June 14, 1976 shall comply with Sections 1221, 1222, and 1223 of the Uniform Code, while those constructed before June 15, 1976 shall be inspected *prior* to relocation to the intended site, by an agency or individual acceptable to the Codes Enforcement Officer, and that agency or individual shall provide signed documentation that the mobile home is:

- (a) Structurally sound, and
- (b) Free of heating and electrical system hazards;
- (2) The mobile home shall be free of detectable defects in plumbing, heating and electrical systems;
- (3) No exterior rust shall be visible on the mobile home;
- (4) The factory or replacement siding and roof shall be intact;
- (5) All windows shall be intact and functional;
- (6) All standards of Section 11.2 e. (standards for Site Plan Approval) of this Land Management Law shall be satisfied;
- (7) All smoke detectors shall be in place and functional in accordance with applicable State and Federal Codes and guidelines and
- (8) The mobile home can be no more than twelve (12) years old unless on a farm and used for farm labor, or used as a temporary residence under Section 7.3.

Section 7.5 Existing Mobile Homes and their Replacement

- a. Any mobile home situated within the Town of Lebanon and being used as a principal residence or place of business pursuant to a valid mobile home permit and/or Certificate of Occupancy or Compliance issued by the Codes Enforcement Officer as of Feb. 22, 1999 shall be considered as of Feb. 22, 1999 a nonconforming use and structure, the occupancy of which may be continued subject to the provisions of this Article. Any other provisions of this Land Management Law which apply generally to nonconforming uses and structures, including, but not necessarily limited to Article IV, shall not be applicable to nonconforming mobile homes.
- b. Notwithstanding the provisions of the preceding paragraph a., of this Section, or any other provision of this Land Management Law, any mobile home situated on any lot within the Town which is not being used as a principal residence or place of business as of Feb. 22, 1999 other than junked mobile homes within a licensed junkyard, shall be permitted to remain on such lot for a period not to exceed two years from the effective date of Feb. 22, 1999. Upon the expiration of such two-year period, all properties within the Town shall be in compliance with Section 7.1, paragraph d. of this Article.
- c. The nonconforming status of any use, structure or lot grandfathered under the provisions of paragraph a. of this Section 7.5 shall terminate to the extent hereafter noted upon the cessation of use of the nonconforming mobile home as a principal residence or a place of

business upon the lot. Any mobile home considered non-conforming may hereafter be replaced with a mobile home only if it conforms with this Article.

Section 7.6 License to Operate a Mobile Home Park

- a. It shall be unlawful, within the limits of the Town of Lebanon, to permit two or more mobile homes to park or be located on a single lot, or upon adjoining nonconforming lots owned or controlled by the same party, either for the purposes of occupying them for living quarters or for the conduct of any business, profession, occupation or trade, without first having obtained a Mobile Home Park License from the Codes Enforcement Officer.
- b. Such Mobile Home Park License shall be issued by the Codes Enforcement Officer after payment of a \$1,000 application fee and upon the review and Site Plan Approval of the Planning Board. Such Site Plan Approval shall only be granted after inspection of the premises by the Codes Enforcement Officer and certification by either such inspector or by a New York State licensed professional engineer that said mobile home park location is found to be in conformance with the requirements of this Land Management Law and with requirements of the New York State Department of Health. A yearly inspection of the mobile home park, to confirm compliance with all provisions of this Local Law and requirements of the New York State Department of Health, will be conducted by the Codes Enforcement Officer on or about the anniversary date of said permit and a \$25 per unit fee shall be paid to the Town Clerk within 30 days of inspection.
- c. A Mobile Home Park License shall not be issued unless the applicant has complied with the following requirements:
 - (1) The applicant shall submit a scale drawing, by a New York State licensed surveyor or engineer of the proposed mobile home park, which plan shall show the exact location of the park; the number, location and dimensions of the individual mobile home sites for which the park shall be licensed; the location of internal and adjacent roadways; recreational or other common facilities for residents' use; and the layout and component design specifications of the park's water supply, sewage disposal system, and electrical power supply system.

- (2) A mobile home park shall not be located except in a well-drained site suitable for such purpose, and one having adequate room for the number of mobile home sites authorized in said license.
 - (3) A mobile home shall not be placed in a mobile home park closer to the street than any other building adjacent or nearby thereto.
 - (4) A mobile home shall not be placed or parked closer than 50 feet from any permanent building or closer than 30 feet from any property line.
 - (5) A mobile home shall not be placed closer than 50 feet from an adjoining mobile home or structure attached thereto.
 - (6) Drains from toilets, lavatories, showers, sinks, or washing machines shall not be permitted to flow on to the surface of the ground or into any ditch, but must be connected to a sewer line emptying into a septic tank and draining into an adequate seepage field or other approved treatment facility.
 - (7) All mobile homes shall be provided with a connection to a private or public water system providing a steady flow of clear and pure water found safe to drink after being tested by approved standards.
 - (8) All mobile home parks shall be adequately equipped with sanitary covered receptacles for all garbage containers and refuse, and covered receptacles shall be furnished for the use of the occupants. Uncovered refuse (other than recyclable items awaiting pickup) or other unsanitary conditions shall not be permitted in any mobile home park.
 - (9) For any mobile park of five or more sites a Mobile Home Park Permit from the Madison County Health Department shall be prerequisite for the issuance of a Town Mobile Home Park License. Such County permits must be renewed by the permit holder annually.
- d. All mobile home sites and mobile homes located in any mobile home park shall meet all performance standards and other requirements of this Article.
- e. The owner of a licensed mobile home park shall keep a registry of all occupants which shall include the occupants' names, addresses, and mobile home license or serial numbers and the number of persons occupying each unit. This registry shall be available at all times for inspection by the Codes Enforcement Officer or any other Town official as necessary.

- f. Any licensed mobile home park in the Town of Lebanon shall be a minimum of five (5) acres and may have a maximum of three (3) mobile homes per acre.

Section 7.7 Additions to Mobile Homes

Any additions or alterations not consisting of factory-manufactured components built to HUD Code standards shall be constructed to accord with Sections 1231 and 1232 of the Uniform Code.

ARTICLE VIII SPECIAL USE PERMIT

Section 8.1 Definition

The term “Special Use Permit” shall mean an authorization of a particular land use which is permitted in the Land Management Local Law, subject to conditions imposed by law or the Planning Board to assure that the proposed use is in harmony with such law and will not adversely affect the neighborhood if such conditions are met. Appendix C sets forth examples of the uses that require a Special Use Permit.

Section 8.2 Approval.

The Planning Board shall grant Special Use Permits as set forth herein.

Section 8.3 Submission Requirements and Procedure

The application for Special Use Permit Appendix D shall comply with all site plan review and approval requirements and procedures as previously defined except as herein modified:

- a. Submit a Special Use Permit Application in lieu of site plan review application.
- b. Prepare and submit a completed sketch plan of the proposed building and site modifications necessary to accommodate a special permit use or activity on this site. Locate and thoroughly describe the following conditions thereon:
 - 1). Location of lot relative to adjoining lots and streets
 - 2). Existing natural site features, limits of vegetation, topography and drainage

- 3). Vehicular and pedestrian site access and circulation
 - 4). Existing and proposed building and site conditions and modifications
 - 5). Proposed signage and lighting
- c. Prepare and submit a detailed written narrative describing the proposed special permit use and activity together with the impact these uses and activities will have on the existing lot and neighborhood conditions.
 - d. Pursuant to the initial review of the Special Use Permit Application, additional information may be required including submittal of a more detailed site plan as required by the site plan review process.

Section 8.4 Conditions

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Special Use Permit. Upon its granting of said Special Use Permit, any such conditions must be met in connection with the issuance of any permits by the Code Enforcement Officer.

Section 8.5 Public Hearing and Decision

The Planning Board shall conduct a public hearing within 62 days from the day a completed application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in the Town's official newspaper at least five days prior to the date thereof. The Planning Board shall decide upon the application within 62 days after the conduct of the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board, after the public hearing is completed, shall be filed in the Office of the Town Clerk within five business days after the decision is rendered, and a copy of the decision shall be mailed to the applicant.

Section 8.6 Compliance with the State Environmental Quality Review Act (SEQRA)

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article VIII of the Environmental Conservation Law and its implementing regulations.

Section 8.7 Referral to County Planning Department

Upon receipt of application materials it deems complete, the Planning Board may refer to the Madison County Planning Department any Special Use Permit Application. Any application affecting land use within 500 feet of the boundary of any land within the Town of Lebanon to State land or neighboring Town or County land must be referred to the County Planning Department.

No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after the receipt of the complete application, unless the County and Town agree to an extension beyond the 30 day requirement for County review.

County Disapproval. A majority-plus-one vote of the Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the County Planning Department.

Section 8.8 Expiration, Change of Use, Revocation and Enforcement

A Special Use Permit shall expire if the use ceases for more than 24 consecutive months for any reason, if the applicant fails to obtain the necessary Certificate of Compliance or fails to comply with the conditions of the Special Use Permit within 12 months of its issuance, or if its time limit expires without renewal.

Any other change to a use allowed by the Special Use Permit shall require the granting of a new Special Use Permit or Amendment.

A Special Use Permit may be revoked by the Planning Board, upon recommendation of the Code Enforcement officer, if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit .

Any violation of the conditions of a Special Use Permit shall be deemed a violation of this local law, and shall be subject to enforcement action as provided herein.

Section 8.9 Telecommunications Tower

The following Special Use Permit submission requirements, standards and procedures, in addition to the provisions of Article XI, apply to any proposed tower used for transmitting or retransmitting of radio, television, cellular telephone or other personal communications service (PCS), common carriers, two-way radio, fixed-point microwave or other telecommunications signals.

a. Submissions

In addition to the items required by Section 11.2 b of this Local Law, an application for Site Plan Approval for a telecommunications tower exceeding thirty (30) feet shall include the following:

1). Identification and distance from the tower of all existing residences within two thousand (2000) feet of the proposed tower structure.

2). A visual impact assessment including:

(a). A computer generated graphic depiction of what the tower will look like at the proposed location when fully utilized,

(b). The flying of a balloon at the height of the proposed tower at that location at a date and time to be mutually agreed upon with the Planning Board and announced in the official newspaper of the Town, and

(c). Proposed measures, to include co-location on existing structures, camouflage, or screening, to minimize visual impact on views and adjoining and nearby properties

(d). Documentation of need for the proposed tower at the proposed site, to include:

(1) Identification of alternative sites and modes of (re)transmission, for example, no-tower repeater facility, considered, with an explanation of why they were rejected, and

(2) Mapping of the existing signal coverage situation and predicted signal coverage with the proposed tower.

(e). (For new towers only) A statement of the structural capacity of the proposed tower to accommodate additional reception or transmission antennas belonging to other operators and a letter of intent committing the owner of the proposed tower to negotiate in good faith for shared use of the tower up to that capacity, for reasonable charges, by other telecommunications providers in the future.

b. Standards

In addition to a finding of satisfaction of the general site plan approval standards found in Section 11.2 e, site plan approval for a telecommunications tower requires:

- 1). The tower facility is placed, designed and finished in a manner which will minimize its visual impact on surrounding properties and views consistent with the safe and adequate provision of the intended telecommunication service.
- 2). The tower is located on the site so that any icefall and all debris from a collapsed tower will remain within the site's property lines.
- 3). Any tower on which strobe lights are mounted must be located no closer than two thousand (2000) feet from the nearest residence.
- 4). Applicant agrees to remove the tower and related facilities if and when it becomes obsolete or ceases to be used for its intended purpose for a period of twelve (12) months. A demolition bond or other security acceptable to the Planning Board shall be posted for the purpose of removing such facilities in case the applicant fails to do so.

c. Other Required Approvals

Prerequisite for any final Site Plan Approval by the Planning Board for a telecommunications tower shall be approvals by the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) (with any warning lighting requirements), and a letter of determination by the State Historical Preservation Office (SHPO) regarding any potential adverse impact on structures (such as the Old Chenango Canal) on the National Register of Historic Places.

Section 8.10 Windpower

The local law regarding windpower is available at the Town Clerk's Office. In addition, a windmill for a private residence and business that generates less than 100 kW must apply for a Special Use Permit, however is exempt from regulations previously mentioned.

Section 8.11 Private Burial Plots

New private burial plots require a Special Use Permit application and may also require a Subdivision application. Applications must include a plat of the proposed burial ground, and include surrounding parcel boundaries, residences and other buildings, elevations with 5 foot contours, bodies of water, streams and wetlands. The plat should be drafted at a scale of 1" to 100' or smaller. Boundaries of the private burial grounds must be located at least 100 feet from any existing parcel boundary.

In addition, burial plots are allowed providing the following criteria are met:

- a). Boundary lines must be located at least 250 feet from all drain fields (draining to a water course), lakes, ponds, streams, rivers and wetlands.
- b). Boundary lines must be located at least 900 feet from wells and residences.
- c). When the burial cavity is first dug, the bottom of the hole must be free of water.
- d). Have at least 3 feet of subsoil below the bottom of the burial cavity, allowing a hole deep enough for at least 3 feet of soil to cover the burial.
- e). Documentation of the existence of a financial trust or other permanent account which will assume the cost of maintenance of the burial plot in perpetuity.

ARTICLE IX ENFORCEMENT, ADMINISTRATION & AMENDMENTS

Section 9.1 Enforcement

This Local Law shall be strictly enforced by the Codes Enforcement Officer of the Town of Lebanon, who shall be appointed by the Town Board and serve at its pleasure. The duties of the Codes Enforcement Officer under this Local law shall be as follows:

- a. Enforce and administer this Land Management Local Law, the Town of Lebanon Flood Damage Prevention Law (Local Law 1-88), and the New York State Uniform Fire Prevention and Building Code (henceforth “Uniform Code”).
- b. Enforce and administer that part of the New York State Sanitary Code governing well-based water supply and on-site sewage disposal systems that is not the responsibility of the County Health Department, including approval of plans for conventional on-site sewage disposal systems on sites that are not part of realty subdivisions. Ensure referral by the developer to the Madison County Health Department for approval of plans for on-site sewage disposal systems on sites where soils require alternative designs and for modifications of existing nonconforming systems.
- c. Conduct construction inspections where a Building and Development Permit has been issued, prior to enclosing or covering and upon completion of each stage of construction, including but not limited to the foundation, the structural elements (e.g., framing and superstructure), the electrical and plumbing systems, the fire prevention and detection systems and exit features for compliance with the Uniform Code. Conduct installation inspections for on-site sewage disposal systems. The owner or applicant shall be responsible for notifying the Codes Enforcement Officer when the work is to be done and when that work is ready for inspection.
- d. Conduct inspections for compliance with the Uniform Code, the Sanitary Code, the Flood Damage Prevention Law and this Land Management Local Law prior to issuance of a Certificate of Compliance, as required.
- e. Conduct inspections in response to *bona fide* complaints regarding conditions or activities allegedly failing to comply with building code provisions of the Uniform Code or with the provisions of this Local Law.

- f. Conduct any other inspections required by this chapter and as otherwise directed by the Town Supervisor and report to the Supervisor for appropriate enforcement action all known violations of this Local Law.
- g. Provide forms and applications for Building and Development Permits and Certificates of Compliance.
- h. Receive and grant or deny applications for Building and Development Permits, and Certificates of Compliance.
- i.
 - (1) Maintain a record in the office of the Town clerk of all applications, permits, certificates, complaints, inspections, and fees charged and collected, and, upon request, furnish copies of such certificates and permits to persons having a proprietary or tenancy interest in the subject building or structure, and
 - (2) File a monthly report with the Town Supervisor and the Chairman of the Planning Board on the number and type of Building and Development Permits and Certificates of Compliance issued the previous month.
- j. Prepare and serve appearance tickets directing any person or persons whom the Codes Enforcement Officer has reasonable cause to believe has violated any provision(s) of this Local Law to appear in Town of Lebanon Justice Court, or such other court of competent jurisdiction, to be prosecuted on such charge(s).
- k. Meet Uniform Code minimum training standards for code enforcement personnel as specified in 19 NYCRR Section 443 and minimum standards for administration and enforcement of the Uniform Code as specified in 19 NYCRR Section 444.

Section 9.2 Fees for Permits, Site Plan Reviews, and Variances

Fees may be charged for Special Use Permits, Building and Development Permits issued and for processing of site plan reviews and variance applications. A schedule of fees as approved from time to time by the Town Board shall be kept posted in the office of the Town Clerk.

Section 9.3 Building and Development Permit

A single multi-purpose Building and Development permit application form will be used for the purpose of regulating pre-development compliance with the Uniform Code (construction requiring a Building Permit); pre-development compliance

with this Land Management Law, the Flood Damage Prevention Law, and the NYS Sanitary Code (new construction whether or not requiring a Building Permit, land disturbance covered by this Land Management Law, and change of use of existing building or facility); and post-development compliance with all applicable codes (Certificate of Compliance for any of the preceding prior to actual use or occupancy of land or facility).

a. Development approval, to include issuance of a Building Permit if required by Town of Lebanon Local Law 2-88 Providing for the Administration and Enforcement of the New York State State Fire Prevention and Building Code, must be obtained from the Codes Enforcement Officer *before* commencing any of the following types of development:

- (1) Any construction requiring a Building Permit.
- (2) Construction or installation not done under a Building Permit, but which would increase the surface coverage of an existing structure or result in a new structure.
- (3) Building-related excavation and/or earthwork when not done under a Building Permit.
- (4) Establishment of a new use in an existing, unaltered facility or relocation of an existing use to a different site.
- (5) Addition or removal of more than one foot of soil extending over an area greater than ten thousand (10,000) square feet.
- (6) Any surface modification exceeding five thousand (5,000) cubic feet on a slope exceeding ten (10) percent.

b. Development approval is *not* required for normal agricultural surface modification practices, nor for minor landscaping work that will not increase the existing natural discharge rate of water and soil from a site.

c. Unless a proper variance has been granted by the Board of Appeals, the Codes Enforcement Officer shall not grant a Building and Development Permit where the proposed construction, alteration, or use would be in violation of this Local Law.

d. The Codes Enforcement Officer shall not issue a Building and Development Permit until he has been presented with, and he has approved, any plans for construction in accordance with the Uniform Code and also any plans for any water supply and sanitary sewage disposal in accordance with the New York State Sanitary Code. On-site sanitation and water supply facilities shall be designed to meet

the specifications of NYS Department of Health, and a statement to this effect shall be made on the application or plans. Alternative design on-site sewage disposal systems and changes to existing nonconforming on-site sewage disposal systems must be approved by the Madison County Health Department. Unless the site is served by a public sewer system, the certified results of a site and soil appraisal as described in Appendix 75A of the New York State Sanitation Code and performed by a licensed design professional must be provided with the application. A minimum of two percolation tests shall be performed in the area of the sewage disposal field and at the depth of the bottom of the proposed trench. The certified results of at least one deep hole or soil boring test shall also be reported in the application as evidence of the depth to bedrock or groundwater and of type and depth of soils.

- e. There shall be submitted with all applications for Building and Development Permits three (3) copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon; the exact size and location on the lot of any existing and proposed buildings and accessory structures, water supply facilities, sanitary facilities (prepared by a licensed design professional in accordance with NYS Education Law, and including all setbacks imposed by and described in Appendix 75A of the NYS Sanitation Code); the existing, and any proposed changes in, the drainage of the lot; and any natural features (rock outcroppings, wetlands, steep slopes, etc.) which might affect or constrain the proposed construction or property use.
- f. One copy of this layout or plot plan, along with a copy of any building plans, and the Permit, and shall be returned to the applicant when approved by the Codes Enforcement Officer upon payment of the fee required by the Fee Schedule approved by the Town Board.
- g. Except for those uses not listed in Section 3.1 that do not involve land disturbance regulated by this Local Law (see §8.3a(5), (6), and (7). above), no Building and Development permit shall be issued prior to the granting of Site Plan Approval by the Planning Board.
- h. A Building and Development Permit issued pursuant to this Local Law shall expire one (1) year after the date of its issuance or upon issuance of a Certificate of Compliance (other than a Temporary Certificate of Compliance), whichever comes first. The permit may, upon written request, be renewed for successive one-year periods provided that:

- (1) The permit has not been revoked or suspended at the time the application for renewal is made;
- (2) The relevant information in the application is up to date; and
- (3) The renewal fee is paid.

All work shall conform to the approved application and shall be in accordance with applicable laws and regulations.

- i. The Code Enforcement Officer may require electrical inspections, by licensed inspectors. The landowner shall arrange for such inspections and shall be responsible for the cost thereof.

Section 9.4 Certificate of Compliance

- a. A land shall not be occupied, built upon, nor disturbed hereafter, nor new principal use established either on already-developed or hitherto undeveloped land or building thereon where a Building and Development Permit is required under Section 8.3 until a Certificate of Compliance has been issued in accordance with the provisions of this Local Law and of Town of Lebanon Local Law #2-88 Providing for the Administration and Enforcement of the New York State Fire Prevention and Building Code.
- b. The Certificate of Compliance is applied for at the same time as the application for a Building and Development Permit and upon the same application form. Said certificate shall be issued within ten (10) days after any construction, alteration, or land disturbance shall have been approved as complying with the provisions of this chapter and upon certification by the builder, if construction is involved, and the Building and Development Permit holder that each has fully complied with all provisions of this Local Law, the NYS Uniform Code, and the NYS Sanitary Code. The Certificate of Compliance will state the use(s) allowed under it for the property.

Section 9.5 Violation and Penalties

- a. A violation of this law is hereby declared to be an offense, punishable by a fine not exceeding \$350, or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months or both; and upon conviction for a

third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation. Any and all fines levied will be increased by the costs to the township for that legal action.

- b. If any building or structure is erected, constructed, reconstructed, altered or converted or maintained or any building or structure of land is used or any land is divided into lots, blocks, or sites in violation of this article or of any ordinance or other regulations made, under authority, conferred thereby, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use of division of land, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in and about such premises.

Section 9.6 Complaints of Violations

- a. Any person may file a complaint about a violation of this law. Such complaints should be in writing, signed and filed with the Code Enforcement Officer. The Code Enforcement Officer shall investigate within ten (10) business days and take the appropriate action to satisfy the complaint.
- b. Any violation of this law as determined by the Code Enforcement Officer must be reported to the offender by the Code Enforcement Officer with the date by which the violation must be corrected.

Section 9.7 Amendments

- a. Amendments to this Land Management Law may be made by the Town Board upon its own motion, or by petition, or upon recommendation of the Planning Board after public notice and hearing. At least ten (10) days notice of the time and place of such hearing shall be published in the official newspaper.
- b. Every such proposed amendment initiated by the Town Board or by petition shall be referred to the Town Planning Board, with supporting documents and notice of hearing, for its recommendation

at least thirty-five (35) days before the public hearing. The Planning Board shall submit its recommendation to the Town Board prior to the date of the public hearing. Failure of the Planning board to submit a recommendation to the town Board shall not prevent the Town Board from acting on such proposed amendment nor impair the validity of any such approval.

- c. At least thirty (30) days prior to taking final action on proposed amendments of this Land Management Law, the Town Board shall refer them, with supporting documents, to the Madison County Planning Department for its recommendation in accordance with Section 239-m of the New York State General Municipal Law.

Section 9.8 Court Review

Any person aggrieved by a decision of the Planning Board, the Board of Appeals or any other officer, department, or board of the town may, after exhausting administrative remedies within the Town, apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision by such board, officer or department in the Office of the Town Clerk. The Court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The Court at special term shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

Section 9.9 Costs

Costs shall not be allowed against the Town, its boards, officers or departments unless it shall appear to the Court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

Section 9.10 Preference

All issues addressed by the Court in any proceeding under this section shall have preference over all civil actions and proceedings.

ARTICLE X APPEALS AND INTERPRETATIONS

Section 10.1 Organization of the Board of Appeals

The existence of the Board of Appeals of the Town of Lebanon is hereby affirmed and continued. The Board of Appeals shall continue to consist of three (3) members and, in addition, one (1) alternate member, all to be appointed by the Town Board and it shall have all the powers and duties bestowed by this Local law and by Article 16 of the Town Law of the State of New York. The alternate member would be designated by the chairperson of the Board of Appeals to assume the responsibilities of such member where the member cannot attend, or is unable to participate on a matter or application before the Board of Appeals, and in such case the alternate member would exercise full powers of the member, including the ability to vote on any matters before the Board of Appeals.

Section 10.2 Powers and Duties

- a. Interpretation: Upon appeal from a decision of the Codes Enforcement Officer, or upon request of another board or officer of the Town of Lebanon, to decide questions involving interpretation of any provision of this Land Management Law or of the Flood Damage Prevention Law.
- b. Variances: To vary strict application of the requirements of this Local Law or of the Town of Lebanon Flood Damage Prevention Law in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby strict application would result in practical difficulty or unreasonable hardship in the use of the land or building involved by any owner of the property.

Section 10.3 Granting of Variances

- a. Area variances, those allowing use of land in a manner not allowed by the dimensional or physical requirements of this Land Management Law, shall only be granted or denied after the Board has weighed the benefit to the applicant, if the variance is granted, against the detriment to the health, safety and welfare of the neighborhood by such grant. In making its determination the Board shall consider:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by the granting of the area variance;
 - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) Whether the requested area variance is substantial;
 - (4) Whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- b. Variances granting relief from requirements of the Town of Lebanon Flood Damage Prevention Law shall only be granted in the circumstances and according to the standards and procedures set out in Section 6.0, Variance Procedure, of that Local Law.
- c. In granting a variance, the Board shall grant the minimum variance that it deems necessary and has the authority to impose such reasonable conditions and restrictions as are directly related to the proposed use of the property and as it finds necessary to minimize any adverse impact such variance may have on the neighborhood or community.
- d. The Board of Appeals has no authority to grant variances from standards of the Uniform Code or the State Sanitary Code.

Section 10.4 Procedure for Interpretation or Variance

- a. The Board of Appeals shall act in strict accordance with the procedure specified by Section 267 of the New York State Town Law and by this Local Law. All applications made shall be in writing, on forms prescribed by the Board of Appeals. Every application shall refer to the specific provision of the Land Management or Flood Damage Prevention Law involved and shall set forth the interpretation claimed or the details of the variance applied for and the grounds on which it is requested.

- b. Each application shall include a site plan of the proposed use or construction to enable the Board of Appeals to evaluate development constraints inherent in the property and the proposed development's compatibility with the existing land use in its vicinity and with the purpose of the applicable local law. Upon the granting of any variance, the submitted site plan, with any modifications imposed by the Board, shall become a part of the record on which future compliance with the terms of the variance shall be based.
- c. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper of the Town at least five days prior to the date thereof.
- d. At least thirty days before the date of the public hearing, the Secretary of the Board of Appeals shall transmit to the Town Planning Board a copy of the application and notice of hearing. The Planning Board shall submit a report of its advisory opinion prior to the hearing. Failure of the Planning Board to submit such a report shall signify its recommendation of approval.
- e. Written notice setting forth the general nature of variance application and the date of the public hearing shall be forwarded by first-class mail by the Town Clerk to owners of real property within the Town of Lebanon at those addresses as appear on the Town tax roll in use at the time of mailing for owners of property located adjacent to or within 200 feet of the lot(s) which is/are the subject of the proposed variance.
- f. In the case of variance applications on property lying within 500 feet of any of the features listed in Section 239-m 3.(b) of the New York State General Municipal Law, the Board shall take no action until the county planning agency referral requirements of that Law have been met.
- g. Decisions of the Board of Appeals shall be made within ninety days from the time a complete application has been filed with the Board. Decisions shall be by resolution, shall contain a full statement of findings of fact in the case, and shall be recorded in the minutes of the Board of Appeals.

ARTICLE XI PLANNING BOARD

Section 11.1 Organization, Powers, and Duties

The existence of the Planning Board of the Town of Lebanon is hereby affirmed and continued. The Planning Board shall continue to consist of five (5) members and, in addition, one (1) alternate member, all to be appointed by the Town Board, and it shall have all the powers and duties bestowed by this Land Management Law and by Article 16 of the Town Law of the State of New York, including the power to review and approve site plans, special use permit applications, subdivision plats and the duty to make recommendations to the Board of Appeals regarding appeals to that Board. The alternate member would be designated by the chairperson of the Planning Board to assume the responsibilities of such member where the member cannot attend, or is unable to participate on a matter or application before the Planning Board, and in such case the alternate member would exercise full powers of the member, including the ability to vote on any matters before the Planning Board.

Section 11.2 Site Plan Approval

- a. In every case of those uses and activities listed in Sections 3.1 and 3.2 of this Land Management Law as requiring Site Plan Approval by the Planning Board, no Building and Development Permit shall be issued by the Codes Enforcement Officer until such Site Plan Approval has been granted. The Planning Board will be governed by Section 274-a of the New York State Town Law in its review of such site plans.
- b. An application for Site Plan Approval shall be accompanied by three sets of site plans, drawn to scale, and any other descriptive material needed to portray clearly the intentions of the applicant with regard to the arrangement, layout, and design of the proposed use and/or the extent, nature, and purpose of the proposed land disturbance. Such site plan shall include property lines, directional orientation (north arrow), location and dimensions of existing and proposed buildings on the site property, adjacent land uses and public and private roads and road rights of way, surface drainage, and means of access. Where appropriate, it shall also include parking, screening, signs, landscaping, on-site water supply and sewage disposal facilities, architectural features, and proposed physical features

meant to protect adjacent land uses or water bodies, and changes in degree of slope or grade elevation, degree of perviousness of surface, or alteration of existing vegetative cover.

- c. At its option the Planning Board may hold a public hearing in accordance with the procedures for such hearings in Section 274-a(8). of the Town Law. At a minimum, the applicant must be mailed a written notice of the time and place of the hearing ten days prior, and a public notice shall be published in the official newspaper of the Town of Lebanon at least five days prior, to such hearing.
- d. In the case of site plans for property lying within 500 feet of any of the features listed in Section 239-m 3.(b) of the General Municipal Law the Planning Board shall take no action until the county planning agency referral requirements of that Law have been met.
- e. The Planning Board shall review the site plan and supporting information and make its decision either to approve it as submitted, to approve it subject to specific conditions, or to require its modification. To this end it must find that the following conditions and standards have been satisfied:
 - (1) Structures' size and location on the site, intensity of operations involved, and size of site in relation to those operations are such that the property's use will not unnecessarily have an adverse impact upon adjacent and nearby land uses.
 - (2) Proposed parking, vehicular and pedestrian access, and interior circulation facilities shall be adequate for reasonably expected needs and shall allow safe traffic circulation both on the site and along adjacent roads and walkways.
 - (3) No operations normally producing noise, odor, dust, dirt, smoke, gaseous fumes, building vibrations, glare, or other impairment of vision shall do so on the site to the extent that they will, as judged by reasonable and generally accepted standards, endanger the health or safety of persons upon adjacent or nearby properties or roadways or materially have an adverse effect upon adjacent or nearby structures, equipment or machinery through damage or soiling.
 - (4) Sufficient and appropriate landscaping or other screening is provided where necessary to mitigate adverse effects of noise or light, other than those above, upon adjacent properties.

- (5) There will be no increase of storm runoff from the site to adjacent land or surface water over the pre-development rate.
 - (6) There will be no increase in soil erosion off-site from the pre-development rate, either on to adjoining land or into adjoining surface water, either during, or after completion of, development activities.
 - (7) Development of, land disturbance upon, and animal waste generated upon the site will not adversely affect groundwater or surface water quality in its vicinity.
 - (8) Access for emergency vehicles and personnel shall not be unnecessarily impeded during extreme weather conditions.
- f. The Planning Board shall have the authority to require such reasonable modifications to the submitted site plan and to impose such reasonable conditions and restrictions as are directly related to and incidental to the site plan in order to minimize detrimental effects of development on adjacent property, to preserve the general character of the site's neighborhood, or to provide adequate safeguards for protection of the health, safety, or general welfare of the public. Should modifications of the site plan be required by the Board, final approval of the site plan and issuance of a Building and Development Permit shall be conditional upon the satisfactory compliance by the applicant with those conditions.
- g. Performance bond or other security. As an alternative to the installation of required improvements prior to approval by the Planning Board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board or by any Town of Lebanon official authorized by the Planning Board to make such an estimate and subsequently accepted by the Planning Board, shall be furnished to the Town by the owner, in accordance with Sections 274-a(7) and 277(9) of the New York State Town Law.
- h. Time lines. If the Planning Board chooses to hold a public hearing, this hearing shall occur within sixty-two days of the day a complete site plan and application is received, and the Planning Board's decision shall be made within sixty-two days of that hearing. If no public hearing is held, the Planning Board's decision shall be made within sixty-two days of the date a complete site plan and application is received. These time lines may be extended by mutual consent of the applicant and the Planning Board.

- i. Decisions shall be by resolution and shall be recorded in the minutes of the Planning Board. The approved site plan, showing any modifications imposed by the Planning Board shall become a part of the record on which future compliance with the terms of the Site Plan Approval shall be based.

Section 11.3 Recommendations to the Board of Appeals

Upon receipt of a copy of a variance or interpretation appeal to the Board of Appeals for the Planning Board's recommendation, the Planning Board shall place the matter on the agenda of a Planning Board public meeting to be held sometime during the next thirty days for determination of that recommendation. A public hearing by the Planning Board is not necessary for this recommendation. The Planning Board shall submit its recommendation to the Board of Appeals no more than thirty days after receiving the copy of the appeal or prior to the latter Board's public hearing if that occurs later. Failure of the Planning Board to submit such a report shall signify its recommendation of approval.

Section 11.4 Fees and Fines

The Planning Board shall recommend to the Town Board a schedule of fees for various applications dealing with site plans, subdivisions, and special use permits. The Planning Board shall also recommend a schedule of fines to be imposed upon violators.

Section 11.5 Subdivision Application (Appendix A)

The Planning Board shall review Subdivision Applications that involve Minor and Major Subdivisions, Merging of lots and Lot Re-Alignment.

Section 11.6 Application for Special Use Permit (Appendix B)

The Planning Board shall review all Special Use Permit Applications.

Section 11.7 List of Uses and Permits They May Require (Appendix C)

Depending on the change of land use or activity a Special Use Permit may be required. Examples of uses or activities that require a Special Use Permit are listed in Appendix C.

Section 11.8 Site Plan Review Application (Appendix D)

A Site Plan is a rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in local law, which demonstrates the arrangement, layout and design of the proposed use of a single parcel of land as shown on the said plan. A Public Hearing is not required. Appendix D is the application that will enable review of a Site Plan. An example of the use of this application is the placement of a mobile home.

APPENDIX

**State Law Provisions Referenced in Text -
Text or Summary**

General Municipal Law §239-m

Referral of certain site plan and variance applications
for County Planning Agency recommendation.....A-1

Sanitary Code Appendix 75-A

Soil and site appraisal requirements for on-site wastewater
treatment systems.....A-2

Required separation distance from wastewater system
components and site design requirements for individual
wastewater treatment systems.....A-4

Alternative on-site systems: definitions, site requirements,
and design criteria.....A-8

Education Law §§7201, 7301, 7208(n)

Applicability of the term "licensed design professional" with
regard to site evaluation, design, and plan preparation for
individual on-site wastewater treatment systems.....A-13

Uniform Fire Prevention and Building Code

Part 1153 Dangerous or unsafe buildings or structures &
Part 1161 Fire department and emergency service access.....A-14

Parts 1221, 1222, 1223 Mobile home construction standards,
certifying seal labels, and installation standards.....A-15

Parts 1231 and 1232 Conversions, alterations, additions
and repairs to existing buildings and mobile homes:
applicability, special provisions, and requirements.....A-17

Town Law §§274-a.7, 277.9

Performance bonds and other forms of security for required
infrastructure or other improvements.....A-22

General Municipal Law §136

Regulation of automobile junkyard: definitions, procedures,
and standards.....A-24

General Business Law § 249

Location of privately-owned airports and airstrips:
State-mandated procedures exclusive of any zoning.....A-29

Federal Aviation Regulations Part 77

Objects Affecting Navigable Airspace.....A-32

General Municipal Law §239-m 3.(b) Site plans or area variances proposed for sites on lots lying within 500 feet of the following features require review by the Madison County Planning Department prior to a final decision by, respectively, the Lebanon Planning Board or the Lebanon Board of Appeals:

1. The boundary of any village or town; or
2. The boundary of any existing or proposed county or state park or any other recreation area; or
3. The right-of-way of any existing or proposed road or highway; or
4. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
5. The boundary of a farm operation located in a State-certified agricultural district, as defined by Article 25-AA of the NYS Agriculture and Markets Law. This last feature does not require County review of area variances.

STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

MOBILE/MANUFACTURED HOME CONSTRUCTION STANDARDS

PART 1221

The only section in this part, **§1221.1, CONSTRUCTION STANDARDS**, states that mobile/manufactured homes will be constructed in accordance with reference standard RS 35-3, which is, in fact, the HUD Code, that is, **MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (24 CFR Part 3280)** of Title VI of the US Dept. of

Housing and Urban Development Code applying to mobile homes built after June 14, 1976. Compliance is established by means of the certifying seal labels discussed in **Part 1222** below. The HUD Code, a.k.a. RS 35-3, is not actually included in the published version of the State Uniform Code.

PARTS 1231 and 1232 of the Uniform Code, included here, establish that additions, conversion, alterations, and repairs to existing buildings, as well as to mobile/manufactured homes that were built after June 14, 1976, must be performed in accordance with the Uniform Codes standards for conventional site-built houses. They also specify all those specific exceptions, qualifications, and special cases to this general rule.

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NEW YORK STATE TOWN LAW
SECTION 274-A

SECTION 277

EDUCATION LAW "Licensed Design Professionals" allowed to do site evaluations, system designs, and plan preparations for on-site wastewater treatment systems.

The scope and practice for all licensed design professionals is defined by the New York State Education Law. Neither the New York Department of Health nor any local or county Board of Health may expand or redefine the scope of practice of licensed design professionals. Section 7201 of the Education law defines the practice of engineering, and Section 7301 of the Education law defines the practice of architecture. These are the only two professions which would encompass the design of sewage disposal systems for either individual lots or subdivisions. Section 7203 of the Education Law defines the practice of land surveying, and Section 7321 of the Education Law defines the practice of landscape architecture. Neither land surveyors* nor landscape architects may design sewage disposal systems for either individual lots or subdivisions under their scope of practice definitions.

* Under Section 7208(n) of the Education Law a land surveyor who was licensed on or before January 1, 1972, and who filed for an exemption on or before July 1, 1972, may design sanitary sewage facilities of a minor nature. Only under this limited circumstance may a land surveyor design any sewage disposal system. Any land surveyors who design any sewage disposal system outside of this limited exemption**, and any landscape architects who design any sewage disposal system would be subject to professional discipline under Section 6509(2) of the Education Law for practicing beyond the scope of their professions.

** As of 1998, there is only one licensed surveyor with this exemption practicing in Central New York.

The Madison County Health Department's Environmental Health Section (366-2526) maintains a list of area licensed engineers and architects legally allowed to do site and soil evaluations and design sanitary systems.

**PLANNING BOARD REVIEW AND ACTION
FOR SUBDIVISION**

Initial Review

Meeting Date: _____

Type of Subdivision:

a. Minor: _____

b. Major: _____

c. Merge: _____

d. Lot realignment: _____

Type of sewage/ water installation proposed: _____

Date Material Received : 2 copies of property survey: _____ 1 Mylar: _____

Preliminary Plat: _____ Final Plat: _____

Is Application Complete: Yes _____ No: _____

Missing Documentation or Information/Supplemental Information Needed:

Is County Planning Department Review Required: Yes: _____ No: _____

If "Yes" Why: _____

Is Public Hearing Required: Yes _____ No _____

Subsequent Meeting Date(s) Scheduled:

Date: _____ Time: _____

Date: _____ Time: _____

Madison County Review (Not Applicable: **Y** **N**)

Date Referred to County: _____

Date of County Recommendation: _____

County Recommendation:

Returned for Local Determination _____ (Initial)

Recommending Approval: _____ (Initial)

Recommending Approval with Conditions as follow: _____ (Initial)

Recommending Disapproval: _____ (Initial)

Public Hearing Scheduled for: Date: _____ Time: _____

Date Public Notice Published: _____

Final Determination: (Initialed by Planning Board Chair or Presiding Member)

Approved _____ Conditions of Approval: _____

Denied: _____ Reason(s) for Denial: _____

Date Applicant Notified: _____ **Notified By:** _____

Planning Board Chair Signature: _____

Date: _____

APPENDIX B. SPECIAL USE PERMIT APPLICATION
SPECIAL USE PERMIT APPLICATION -- NUMBER 2008 SUP _____
TOWN OF LEBANON, NY

| | |
|---|---|
| Owner _____ Street Address _____ Town _____ State _____ Zip _____ Phone _____ E-mail _____ Tax Map No: _____ - _____ - _____ (Section) (Block) (Lot) | Applicant _____ Street Address _____ Town _____ State _____ Zip _____ Phone _____ E-mail _____ |
| Project Description: <i>(Attach a Sketch Map or Scaled Drawing if Required)</i> What is Proposed: _____ _____ Location: _____ _____ <i>(Give Street Address, Distance and direction from nearest road intersection or prominent landmark)</i> Size of Parcel: _____ Acreage Affected by Project: _____ Structures to Be Built & Size: _____ _____ Will this special use involve creation of a new business(describe): _____ Does this property have an agricultural exemption for tax purposes? _____ | |
| Project Impacts: Current Use of Parcel (and Site Affected by Project) Parcel: (all or portion) _____ Site: (actual piece to be altered) _____ Noise Impact Y/N: _____ Odor Impact Y/N: _____ Vista Impact Y/N: _____ Historic Site Impact Y/N: _____ Current Use of All and any Adjacent Parcels/Buildings within 500' & Distance to Nearest Building/Structure/Well and Septic System <i>(In feet)</i>: North of Project: _____ Distance: _____ Owner: _____ South of Project: _____ Distance: _____ Owner: _____ East of Project: _____ Distance: _____ Owner: _____ West of Project: _____ Distance: _____ Owner: _____ Other: _____ Distance: _____ Owner: _____ | |
| Project Equipment and Machinery: To be or currently installed on site: _____ Temporarily installed for use in construction: _____ | |
| Anticipated Traffic and Parking Needs: _____ _____ | |
| Date of Previous Applications for Parcel: _____ Signature of Applicant: _____ Date: _____ | |
| Applicant must complete and attach either a Short Environmental Assessment Form or an Environmental Assessment Form (as appropriate) with Part I completed. | |

| |
|--|
| |
| |

**PLANNING BOARD REVIEW AND ACTION
FOR SPECIAL USE PERMIT**

Initial Review

Meeting Date: _____
Is Application Complete: Yes ____ No: ____
Missing Documentation or Information/Supplemental Information Needed:

Date Material Received : _____
Is County Planning Department Review Required: Yes: _____ No: _____
If "Yes" Why: _____
Is Public Hearing Required: Yes ____ No ____
Subsequent Meeting Date(s) Scheduled:
Date: _____ Time: _____
Date: _____ Time: _____

Madison County Review

Date Referred to County: _____
Date of County Recommendation: _____
County Recommendation:
Returned for Local Determination _____ (Initial)
Recommending Approval: _____ (Initial)
Recommending Approval with Conditions as follow: _____ (Initial)

Recommending Disapproval: _____ (Initial)

Public Hearing Scheduled for: Date: _____ Time: _____
Date Public Notice Published: _____

Final Determination: (Initialed by Planning Board Chair or Presiding Member)

Approved ____ Conditions of Approval: _____

Denied: ____ Reason(s) for Denial: _____

Date Applicant Notified: _____ Notified By: _____
Planning Board Chair Signature: _____
Date: _____

Appendix C List of Uses and Permits They May Require

Legend: S= Site Plan Approval, SUP= Special Use Permit, NA=Not Applicable

| Category | Application | Category | Application |
|--|-------------|--|-------------|
| 1. One Family Home | NA | 26. Rod & Gun Club | SUP |
| 2. Two Family Home | NA | 27. Telecommunication Towers and/or Buildings | SUP |
| 3. Apartment Housing | SUP | 28. Home Day Care Center | NA |
| 4. Senior Housing | SUP | 29. Fast Food & Restaurant | SUP |
| 5. Mobile Home Park | SUP | 30. Funeral Home | SUP |
| 6. Mobile Home | S | 31. Hospital, Medical Clinics | SUP |
| 7. Seasonal Accommodations Bed & Breakfast | NA | 32. Indoor Recreation Center | SUP |
| 8. Group Home | SUP | 33. Kennel | SUP |
| 9. Motel & Hotel | SUP | 34. Motor Vehicle Service | SUP |
| 10. Agriculture – Farms | NA | 35. Personal Service Hair Care Massage Therapy | SUP |
| 11. Cemetery, Burial Plot | SUP | 36. Veterinarian Office, Hospital | SUP |
| 12. Churches/Places of Worship | SUP | 37. Airport | SUP |
| 13. Educational Institutions | SUP | 38. Contractor’s Yard | SUP |
| 14. Garages, Sheds, Fences | NA | 39. Mining | SUP |
| 15. Home Occupation No employees, No Outside Storage, No regular traffic | NA | 40. Junkyard | SUP |
| 16. Home Occupation- Other | SUP | 41. Manufacturing | SUP |
| 17. Public Buildings | SUP | 42. Research Facility | SUP |
| 18. Parks, Playgrounds, Playfields | SUP | 43. Storage Facility, Warehouse | SUP |
| 19. Satellite Dish, Solar Equipment | NA | 44. Trucking Terminal | SUP |
| 20. Swimming Pool | NA | 45. Wind Power Facility | SUP |
| 21. Domestic Animal Stable | NA | 46. Second Residence on a Non-Farm Property for Family Members | S |
| 22. Agriculture Related Business | SUP | 47. Second Residence on a Non-Farm Property for Non-Family Members | SUP |
| 23. All Commercial enterprise | SUP | | |
| 24. Public & Private Campsites | SUP | | |
| 25. Commercial Outdoor Recreation Fishing & Hunting Preserves Paintball Course, Golf Course Driving Range, Miniature Golf Motor Cross Course Ski Slope & Trails | SUP | | |

PLEASE NOTE: Building permits may be required, please consult the law and the Code Enforcement Officer.

APPENDIX D. SITE PLAN APPLICATION

SITE PLAN APPLICATION -- NUMBER 2008 SPA _____

Applicant: _____ Owner (if different): _____
Name _____ Name _____
Address _____ Address _____
Telephone _____ Telephone _____
E-mail _____ E-Mail _____
Location of Site _____

Tax Map ID. _____ (attach a sketch map or scaled drawing)

Proposed Use(s) of Site _____

Size of Parcel _____ Acreage Affected by Project _____

Current Land Use of Site (agriculture, commercial, undeveloped, etc) _____

Current Condition of Site _____

Character of Surrounding Lands (suburban, agriculture, wetlands, etc) _____

If the intended Use is for a Mobile home, what is the make, model and what in year was it constructed?

PLANNING BOARD REVIEW AND ACTION FOR SITE PLAN APPROVAL

Initial Review

Meeting Date: _____

Is Application Complete: Yes ____ No: ____

Missing Documentation or Information/Supplemental Information Needed:

Date Material Received : _____

Is County Planning Department Review Required: Yes: _____ No: ____

If "Yes" Why: _____

Is Public Hearing Required: Yes ____ No ____

Subsequent Meeting Date(s) Scheduled:

Date: _____ Time: _____

Date: _____ Time: _____

Madison County Review

Date Referred to County: _____

Date of County Recommendation: _____

County Recommendation:

Returned for Local Determination _____ (Initial)

Recommending Approval: _____ (Initial)

Recommending Approval with Conditions as follow: _____ (Initial)

Recommending Disapproval: _____ (Initial)

Public Hearing Scheduled for: Date: _____ Time: _____

Date Public Notice Published: _____

Final Determination: (Initialed by Planning Board Chair or Presiding Member)

Approved ____ Conditions of Approval: _____

Denied: ____ Reason(s) for Denial: _____

Date Applicant Notified: _____ **Notified By:** _____

Planning Board Chair Signature: _____

Date: _____