

ZONING LAW

TOWN OF ANDES

DELAWARE COUNTY, NEW YORK

Adopted: March 3, 1993

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ARTICLE 1. AUTHORITY, TITLE, PURPOSE, SCOPE

Section 1.01 Authority

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Andes, New York, hereafter referred to as the Town Board, hereby adopts and enacts as follows:

Section 1.02 Title

This Local Law shall be known and may be cited as the "Town of Andes Zoning Local Law".

Section 1.03 Overall Purpose

The provisions of this Local Law shall be held to be the minimum requirements adopted to promote the health, safety and general welfare of the Town of Andes. These regulations are intended to achieve the following purposes:

- A) Promote orderly development in accordance with a comprehensive plan.
- B) Protect the rural agricultural and scenic character of the Town.
- C) Preserve the Town's natural resources, particularly the water supply.
- D) Provide for the controlled growth of residential and commercial use of land consistent with the economic and social needs of the community while respecting existing land uses.
- E) Promote the health, safety and general welfare of the community consistent with the objectives of Article 16 of the Town Law.

Section 1.04 Scope

This Local Law shall apply to the construction, installation or alteration of any building or structure and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town of Andes, outside the corporate limits of the Village of Andes, unless specifically exempted elsewhere in this Local Law.

ARTICLE 2. GENERAL RURAL DISTRICT

Section 2.01 Purpose and Intent

The Town of Andes Comprehensive Plan and the Town Zoning Commission's Citizen Survey indicate the need for review of development to protect the town's rural atmosphere.

It is the intent of this Local Law to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town; and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this Local Law to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town, by regulating land use activity within the town. It is not the intent of this Local Law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in this Local Law.

The General Rural District is established to protect the Town's rural character, preserve important natural resources, provide reasonable development opportunities and allow for increased local business activity. This District serves to control new development which would otherwise be disruptive to the significant scenic, agricultural, forest, and open space areas of the Town.

In addition, this District will aid in minimizing adverse environmental impacts, such as soil erosion, non-point source pollution of surface waters, contamination of ground water and disturbance of wildlife habitat. This District also provides local business activity by not restricting uses and instead uses site plan and special permit as a review process.

Section 2.02 Application

This Article shall apply to all land in the Town of Andes that is outside the corporate boundaries of the Village of Andes.

Section 2.03 Allocations

There shall be permitted on each tract of land no more than the following number of dwelling units:

SIZE OF TRACT	MAXIMUM NUMBER OF DWELLING UNITS
under 5.00 acres	1
5.00 to 9.99 acres	2
10 acres and over	3 plus one additional unit for each additional 7 acres over 10 acres.

Section 2.04 Allocation Disclaimer

The Town of Andes Zoning Local Law allocates to each tract of land, a maximum number of dwelling units that can not be exceeded. On any given tract of land, site conditions such as topography, soils limitations or other regulations may limit the number of dwelling units to a number less than this maximum allocation.

Section 2.05 Allocation Disclosure

Subdivision plats approved by the Planning Board after the effective date of this Local Law, shall include a notation, in a form suitable to the Planning Board, which indicates how many dwelling units are allocated to each lot in the subdivision. The subdivider shall also provide the Planning Board with a duly sworn affidavit setting forth the allocation of dwelling unit rights to each parcel resulting from the subdivision. The affidavit shall further state that prior to the conveyance of any such parcels, the grantor will furnish a copy of the affidavit to the grantee. The affidavit shall also state the Allocation Disclaimer of Section 2.04, above.

Section 2.06 Lot Dimension and Setback Requirements

A) Minimum Lot Size - No lot created after the effective date of this Local Law shall be less than one acre.

B) Minimum Frontage:

	STANDARD LOT	(CUL-DE-SAC)
lots less than 3 acres	100 feet	(60 ft.)
lots of 3 to 5 acres	200 feet	(70 ft.)
lots over 5 acres	300 feet	(80 ft.)

C) Front Setback:

- 75 feet from center line of a road with right-of-way of less than 60 feet;
- 45 feet from the edge of the road right-of-way, if right-of-way is 60 feet or more.

D) Side and Rear Setbacks:

- lots less than 3 acres
 - lots of 3 to 5 acres
 - lots over 5 acres
- 25 feet
50 feet
75 feet

E) Driveways, fences, walls, hedges and the like do not have to meet setback requirements.

Section 2.07 Permitted Uses

The following uses are permitted by obtaining a zoning permit from the Code Enforcement Officer:

- A) Single family detached dwellings;
- B) Two family dwellings;
- C) Accessory apartments;
- D) Home businesses;
- E) Agricultural buildings;
- F) Accessory structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures;

The following uses are also permitted but do not require a zoning permit:

- G) Agricultural uses;
- H) Timber management and harvesting;
- I) Accessory uses which are customarily accessory and clearly incidental and subordinate to permitted uses and structures including but not limited to gardens, garage sales, keeping of household livestock and pets, etc.

Section 2.08 Special Uses

The following uses are permitted upon obtaining a special use permit and site plan approval from the Planning Board:

- A) Construction or establishment of multiple dwellings;

- B) The construction or establishment of commercial buildings and activities;
- C) The construction or establishment of industrial buildings and activities;
- D) Landscaping or grading in preparation for a land use reviewable under the provisions of this Section;
- E) Exterior alterations or additions to existing commercial, industrial or multiple dwelling structures which would increase the square footage of the existing structure by more than a cumulative total of 25 percent;
- F) The establishment of a mobile home.

Section 2.09 Commercial and Industrial Buildings and Activities

- A) Commercial and industrial buildings and activities include buildings classified under Part 701 of the NYS Uniform Fire Prevention and Building Code as business, mercantile, industrial, storage, assembly, or institutional;
- B) Land use activities of a business, mercantile, industrial, storage, assembly, or institutional nature are also included whether or not a building is involved;
- C) Agricultural uses and structures are specifically not included;
- D) Commercial and industrial buildings and activities that qualify as home businesses shall not require site plan or special permit approval; home businesses shall only require a zoning permit.

Section 2.10 Home Businesses

Home businesses are businesses located at the place of residence of the business owner-operator and shall include activities that do not exceed the following conditions:

- A) Open to the public more than 20 hours weekly on a fixed or flexible schedule or more than three days weekly regardless of hours;
- B) Electrical service capacity of over 300 amps, multiphase service or transformer capacity greater than 25 Kilovolt Amperage;
- C) Work area or storage (indoor and outdoor) over 600 square feet or any new structure over 24 feet in height;
- D) Petroleum storage greater than 1,000 gallons or propane storage greater than 500 gallons;

- F) On-site exterior parking or storage of two or more unregistered vehicles;
- G) Employment of more than two individuals, other than members of the family residing on the premises.

Businesses that would exceed these conditions (A - G) shall require a site plan/special use permit from the Planning Board. Agricultural uses are permitted and are not regulated by these home business provisions.

Section 2.11 Major Development Projects

Major development projects are concentrations of housing that exceed the dwelling unit allocations in accordance with Section 2.03, above. Such developments shall:

- A) be served by a central sewage treatment plant;
- B) require special use permit and site plan approval.

Section 2.12 General Regulations

- A) Steep Slope Preservation - Subdivisions, site plans and special permits shall be held to the standard that land disturbing activities, including construction of roads and structures, must avoid slopes of 25 percent and greater to the maximum extent practical. Where such slopes can not be avoided, detailed erosion control plans and permanent bank stabilization plans shall be required.
- B) Water Protection - Building construction within 100 feet of a protected stream or NYS DEC designated freshwater wetland shall require a special use permit. Subdivisions, site plans and special use permits shall be held to the standard that buildings and parking areas, must avoid the area within 100 feet of a protected stream or NYS DEC designated freshwater wetland to the maximum extent practical.

Section 2.13 Prohibited Uses

The following uses are prohibited in the General Rural District:

- A) Commercial solid waste landfills that are privately owned and operated (not owned and operated by a municipality).
- B) Any incinerator for the disposal of solid waste or medical waste unless it is an on-site accessory to an approved business or institution located in the Town.

ARTICLE 3. SUPPLEMENTAL REGULATIONS

Section 3.01 Yard Maintenance

Large appliances (washing machines, stoves, refrigerators, etc.), indoor furnishings, and solid waste shall not be placed where visible from public roads or neighboring properties for more than 10 days.

Section 3.02 Parking and Storage of Recreational Vehicles

- A) Recreational vehicles may be parked or stored on any parcel of land that has a permanent dwelling provided the recreational vehicle complies with the side and rear setback requirements and is not closer to the front lot line than the principal building.
- B) No recreational vehicle shall be stored or parked on a vacant parcel of land for more than 15 days at a time in any one calendar year unless the Planning Board grants a special permit allowing longer parking or storage. Parcels of land with a permanent dwelling are exempt from this requirement.
- C) All land owners shall comply with this Section within one year of the effective date of this Local Law.

Section 3.03 Minimum Housing Unit Size

All new housing units, including site-built homes, modular homes, mobile homes and individual units within a multiple dwelling shall have a floor area of at least 500 square feet. No habitable rooms are permitted in the basement of multiple dwellings unless a separate outside entrance way is provided.

Section 3.04 Outdoor Lighting Standards

Any outdoor lighting fixture, other than incandescent fixtures of 150 watt intensity or less, shall be shielded from above with an opaque shield that extends below the light source in such a manner that direct rays from the light source are confined to the property boundaries.

Section 3.05 Flag Lots

Flag lots may be permitted by the Planning Board during the subdivision review process, where appropriate, to allow for the economical development of back land areas and only under the following conditions.

- A) The access strip of land shall be a minimum of 50 feet wide and

- B) The minimum lot area, lot width and lot depth requirements shall be met exclusive of the land contained in the access strip.
- C) Minimum front, side and rear setback requirements shall be met, excluding the narrow access strip.
- D) No more than one flag lot shall be served by a single access strip.
- E) Access strips shall be a minimum distance apart of at least the minimum frontage of a standard lot (see Section 206-B).
- F) Access strip shall not be a right-of-way, but shall be owned in fee title by the owner of the flag parcel.
- G) Access strip shall not exceed 800 feet in length.

Section 3.06 Mobile Homes

- A) A mobile home on a private lot and not in a mobile home park will be permitted in the Town of Andes, in the General Rural District only, when the following standards have been met:
 - 1) Mobile homes shall comply with setbacks and lot size requirements that apply to other buildings.
 - 2) The mobile home shall be provided with potable water and a safe and adequate sewage disposal system. All of the requirements for soil percolation, septic tank capacity and installation, separations, well location and similar factors, which apply to conventional housing shall apply to the mobile home.
 - 3) The mobile home is provided with a permanent foundation with footers below the frost line or a stand and support capable of providing a firm base and containing the mobile home in a stable position. Such stand shall have a dimension equal to the width and length of the home and any extensions or expansions thereto and shall be either:
 - a) A full basement foundation;
 - b) A crawl space foundation;
 - c) Full depth piers;
 - d) A full size reinforced concrete slab at least 6 inches thick placed over a six inch bed of compacted gravel.
 - 4) The mobile home shall be provided with ground anchors and tie-downs. Ground anchors, including means for attaching ties, shall be located so as to effectively match the anchoring system instructions provided by the mobile home manufacturer or, if there are no instructions, in accordance with the generally accepted standard, and shall be designed and installed to transfer the anchoring loads to the ground.

- 5) Tires and wheels shall be removed from the mobile home. If practical, the hitch shall also be removed.
 - 6) The mobile home will be provided with skirts to screen the space between the mobile home and the stand. Such skirts shall be of a permanent material similar to that used on the mobile home and providing a finished exterior appearance, and shall be installed within one year from the date of issuance of a building permit for the mobile home.
 - 7) Within one year from the start of construction, any construction of storage space, additional rooms, or enclosed patios or carports shall have a finished exterior appearance.
 - 8) The mobile home shall bear the data plate, heating/cooling certificate and certifying labels required by the State of New York or an equivalent acceptable to the State of New York.
 - 9) The mobile home shall have at least 500 square feet of floor area.
 - 10) Any new or previously-owned mobile home moved to a site shall have at least a 3/12 peaked or shed roof; the roof shall be installed within one year from the issuance of the building permit for the mobile home.
 - 11) Relocation of any mobile home containing aluminum wiring shall not be permitted until such wiring is replaced with wiring meeting current standards as determined by the Building Inspector and State Law.
- B) The Code Enforcement Officer may issue a temporary building permit for one mobile home when such mobile home is to be used as an interim dwelling during construction of a permanent residence when a building permit has been issued or in the event a permanent residence has been damaged or destroyed. Such mobile home installation shall comply with the standards set for in Subsection (A) 2, 4, 7, 8 and 11 above. The permit shall be valid for one year. When the new structure is occupied, the temporary mobile home shall be removed from the property within 30 days.

3.07 Signs

A) Exempt Signs

Exempt Signs require no zoning permit. The following types of signs may be erected and maintained without permits or fees, providing such signs comply with the general requirements of this Local Law.

1) Exempt Permanent Signs

- a) Signs not exceeding two square feet in area and bearing only property numbers, post box numbers, or names of occupants of premises
 - b) Subdivision or multiple dwelling project name signs: One unlighted sign not to exceed sixteen (16) square feet in area per exclusive entrance to a subdivision or tract, such signs restricted to the subdivision or development name.
 - c) Flags and insignia of any government, except when displayed in connection with a commercial promotion.
 - d) Public signs: Signs of a public or noncommercial nature, which shall include community service information signs, public utility information signs, safety signs, trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, and all signs erected by a public officer in the performance of a public duty.
 - e) One on-premise sign, either free-standing or attached, in connection with any residential building in any zoning district, for home occupations, not exceeding four (4) square feet and set back at least ten (10) feet from the highway right-of-way. Such signs shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line.
 - f) One sign or bulletin board per street front, setting forth or denoting the name of any public, noncommercial, charitable, or religious institution when located on the premises of such institution, providing such sign or bulletin board shall not exceed thirty-two (32) square feet in sign area
- 2) Exempt Temporary Signs
- a) Temporary, unlighted "For Sale", "For Rent" real estate signs and signs of a similar nature, concerning the premises upon which the sign is located. The total area of all signs shall not exceed thirty-two (32) square feet. All such signs shall be removed within seven (7) days after the sale, lease or rental of the premises.
 - b) Temporary, unlighted window signs and posters not exceeding twenty-five (25) percent of the window surface.
 - c) Temporary signs for a roadside stand selling farm products grown on the premises in season, providing that such signs in total do not exceed thirty-two (32) square feet and are set back at least ten (10) feet from the public right-of-way.
 - d) Private-owner merchandise sale signs for garage sales and

- e) Political posters, banners, promotional devices and similar signs, not exceeding sixteen (16) square feet. Signs must be removed within ten (10) days after the event.
- f) One sign, not exceeding sixteen (16) square feet, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation, or repair is in progress.
- g) Special Event Signs, portable or otherwise, advertising special events for nonprofit organizations, such as fireman's field days, church bazaars, bake sales, etc. Such signs shall not be displayed for more than thirty (30) days.

B) Prohibited Signs

- 1) No off-premises signs shall be allowed other than as permitted under the Exempt Signs and General Regulations provisions of this Section.
- 2) No sign shall contain flashing, intermittent, rotating or moving lights. No sign shall contain internal lighting.
- 3) All portable signs other than those advertising special events of nonprofit organizations.
- 4) No permanent sign or part thereof shall contain or consist of any banner, pennant, ribbon, streamer, spinner or other similar moving, fluttering, or revolving device. The said devices, as well as strings of lights, shall not be used for advertising or attracting attention whether or not they are part of the sign. No sign or part thereof may rotate or move back and forth.
- 5) Signs exceeding 32 square feet in area.

C) Sign Requiring Zoning Permit: All signs that are not prohibited and are not exempt signs require a zoning permit and must comply with these following regulations:

- 1) No more than two off-site advertising signs are permitted for a business or activity, provided the signs are not illuminated and each sign does not exceed thirty-two (32) square feet in area.
- 2) In addition to allowed off-site advertising signs, a business or activity is permitted to have off-site directional signs not exceeding eight (8) square feet provided there is only one such sign per road intersection.
- 3) No sign shall be illuminated between the hours of 11 P.M. and 6 A.M. unless the premises on which it is located is

- 4) Signs shall not be mounted or extended above the ridgepole or top of a roof.
- 5) No person shall erect a sign that constitutes a hazard to pedestrians or vehicular traffic because of intensity or direction of illumination or because it blocks a driver's view of the road.
- 6) Any sign that identifies a business or organization which is either defunct or no longer located on the premises shall be removed by the owner of the sign or owner of the premises.
- 7) A maximum of three (3) signs per lot is permitted.
- 8) Such signs may not exceed a combined area of sixty-four (64) square feet in area.
- 9) Freestanding signs shall not exceed sixteen feet (16') in height and thirty-two (32) square feet in sign area.
- 10) All existing signs are grandfathered and shall be allowed to remain pursuant to Article 7.

Section 3.08 Minimum Area Required for Principal Building

There shall be only one principal building per lot, except that where a sufficiently large parcel exists, additional principal buildings may be established, provided each such structure has an identifiable land area which satisfies the lot area, frontage and setback requirements. Building permits shall not be issued until the Planning Board has determined that the application meets these requirements.

ARTICLE 4. NONCONFORMING STRUCTURES AND LOTS

Section 4.01 General Provisions

- A) Transference: Rights granted to nonconforming lots and structures pursuant to this Article shall remain with the land when title is transferred.
- B) Construction Approved Prior to Enactment of Local Law: Nothing contained in this Local Law shall require any change in plans, construction or designation of use of a building for which a building permit has been heretofore issued and the construction of which has commenced as of the effective date of this Local Law and is fully constructed and completed within one year from the effective date of this Local Law.

Section 4.02 Nonconforming Lots

- A) On any lot nonconforming because of insufficient width, side yard requirements shall be reduced in accordance with the following standards:

Width of lot at front yard setback line (feet)	Minimum side yard width (feet)
Less than 55	5
55 but less than 65	8
65 but less than 75	10
75 but less than 85	15
85 but less than 100	20
100 but less than 200	25

- B) Subdivision: A nonconforming lot may be subdivided if every part of such lot is purchased by the owners of adjoining properties to increase the dimensions of such adjoining properties. Otherwise, the dimensions of a nonconforming lot may not be reduced.
- C) Any recorded lot, held in single and separate ownership prior to adoption of these regulations and which acreage and/or width are less than minimum requirements specified herein for the district, may be considered as complying with these regulations; and no variance therefore shall be required, provided that the minimum setback requirements of this Local Law are met.

Section 4.03 Nonconforming Structures

- A) Nonconforming structures may be enlarged or altered provided such construction will not result in the increase of any nonconformity in height, setback, or other dimensional

- B) As an exception to Subsection A, above, the front or side setback requirements shall not apply for additions to existing nonconforming buildings; provided such additions shall not exceed the present front or side building line of the main structure.
- C) Nothing in this Local Law shall prevent normal maintenance and repair of any nonconforming building or structure.
- D) No nonconforming structure shall be moved to another location where such building or structure would also be nonconforming.
- E) Any nonconforming structure may be restored or reconstructed after being destroyed or damaged by fire, accident or other act of God provided that the restoration or reconstruction is started within twelve (12) months and completed within twenty-four (24) months after such damage is incurred.

Section 4.04 Mobile Homes

Existing mobile homes, that for whatever reason, are to be replaced on the same lot and/or on the same site by another mobile home, shall only be replaced with a mobile home meeting the requirements of this Local Law and the construction standards of the New York State Uniform Fire and Building Code.

- G) Location, design and type of construction of all parking and truck loading areas showing access and egress;
- H) Provision for pedestrian access;
- I) Location of outdoor storage, if any;
- J) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- K) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- L) Description of the method of securing public water and location, design and construction materials of such facilities;
- M) Location of fire and other emergency zones, including the location of fire hydrants;
- N) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- O) Location, size and design and type of construction of all proposed signs;
- P) Location and proposed development of all buffer areas, including existing vegetative cover;
- Q) Location and design of outdoor lighting facilities;
- R) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- S) General landscaping plan and planting schedule;
- T) An estimated project construction schedule;
- U) Record of application for and status of all necessary permits from other governmental bodies;
- V) Identification of any permits from other governmental bodies required for the project's execution; and
- W) Other elements integral to the proposed development as may be considered necessary in particular case by the Planning Board.
- Y) Photograph of any used mobile home that is being relocated.

Section 5.07 Public Hearing

The Planning Board may conduct a public hearing on the site plan/special use permit if considered desirable by a majority of its members. Such hearing shall be held within forty-five days of the receipt of a complete application for site plan/special use permit and shall be advertised in the town's official newspaper of, if there is none, in a newspaper of general circulation in the town at least five (5) days before the public hearing.

Section 5.08 Planning Board Decisions

Within forty-five (45) days of receipt of the complete application for site plan/special use permit approval or if a public hearing is held within forty-five (45) days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan and special use permit. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- A) Approval - Upon approval of the site plan/special use permit, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it with the Town Clerk and a written statement of approval shall be mailed to the applicant by Certified Mail, Return Receipt Requested.
- B) Approval With Modifications - The Planning Board may conditionally approve the final site plan/special use permit. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by Certified Mail, Return Receipt Requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by Certified Mail, Return Receipt Requested.
- C) Disapproval - Upon disapproval of the site plan/special use permit, the decision of the Planning Board shall immediately be filed with the Town Clerk, and a copy thereof mailed to the applicant by Certified Mail, Return Receipt Requested, along with the Planning Board's reasons for disapproval.

Section 5.09 General Standards and Considerations

The Planning Board's review of the site plan/special use permit application shall include, as appropriate, but is not limited to, the following general considerations:

- A) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;
- B) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls;
- C) Location, arrangement, appearance and sufficiency of off-street parking and loading;
- D) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience;
- E) Adequacy of stormwater and drainage facilities;
- F) Adequacy of water supply and sewage disposal facilities.
- G) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- H) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;
- I) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to

- J) The building setbacks, area and location of parking, architecture, signage, and landscape of the development, and how these features harmonize with the surrounding townscape and the natural landscape.

Section 5.10 Conditions

The Planning Board, in granting site plans/special use permits, may impose such conditions, safeguards and restrictions upon the proposed development as may be deemed necessary in the public interest to secure compliance with the provisions of this Article.

Conditions may include, but are not limited to the following:

- A) The hours of operation;
- B) Access to the subject property;
- C) Protection of surface and groundwater;
- D) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent, nearby property owners or highway traffic;
- E) Adequate sewage disposal and water supplies
- F) Sound limitations as needed to ensure peaceful enjoyment of neighbors;
- G) The location, size, height, design of building, walls, fences, landscaping and buffer yards;
- H) Covenants, easements, and/or homeowners' association for maintenance of applicable restrictions;
- I) Timing or phasing of the development;
- J) Underground utilities;
- K) Control of dust, smoke, odor and soil erosion;
- L) Bonding as required to ensure standards are met and plans are implemented;

Section 5.11 Effect of Approval

- A) No building permit shall be issued for any structure regulated by this Article until such site plan/special use permit has received Planning Board approval and a copy of a resolution to that effect has been presented to the building inspector.
- B) No certificate of occupancy shall be issued for any structure or use of land regulated by this Article until the structure is completed or the land developed in strict accordance with the Planning Board resolution of site plan/special use permit approval.
- C) Site plan/special use permit approval is transferable with the title to the land; if property is sold or transferred, the approval will remain in effect on the property.

Section 5.12 Expiration of Site Plan/Special Use Permit

commenced and diligently pursued within two (2) years of the date of issuance of the site plan/special use permit or if the use ceases for more than two (2) years for any reason; however, the site plan/special use permit shall not expire if the Planning Board finds that the two-year limitation could not be complied with due to hardships, such as death, illness, probate, fire or natural disaster.

Section 5.13 Further Regulations by Planning Board

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this Article, subject to the approval of the Town Board.

Section 5.14 Appeal to Supreme Court

Any person aggrieved by any decision of the Planning Board, Zoning Board of Appeals or any officer, department, board or bureau of the Town, may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

Section 5.15 Repeal of Site Plan Review Local Law

Effective on the date that the Town of Andes Zoning Local Law becomes effective, the Town of Andes Site Plan Review Local Law of 1990 is hereby repealed and superceded by the Zoning Local Law.

ARTICLE 6. ADMINISTRATION

Section 6.01 Code Enforcement Officer

- A) The Code Enforcement Officer shall be appointed by the Town Board and shall issue permits only in strict compliance with this law, and shall have no authority to vary the requirements. The Code Enforcement Officer shall be empowered to make site inspections as necessary to assure compliance with this law. It shall be the mutual responsibility of the permit applicant and the Code Enforcement Officer to arrange for inspection of premises prior to permit issuances.
- B) With regard to special use permit/site plans, the Code Enforcement Officer has the duty of enforcing any additional regulations adopted pursuant to Section 5.13 hereof. The Code Enforcement Officer shall also be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

6.02 Zoning and Building Permit

The following subsections apply to activities that are not subject to special use permit/site plan approval by the Planning Board:

- A) No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun and no Building Permit issued by the Building Inspector, unless and until a zoning permit therefore has been issued by the Code Enforcement Officer.
- B) No zoning permit shall be issued until there has been filed with the Zoning Officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location on the lot of the building or accessory buildings to be erected, relocated or altered and such other information as may be necessary to determine and provide for the enforcement of these regulations.
- C) Each application shall state the purpose for which the structure or land is to be used and general description of the type of construction.
- D) Upon written request of the Code Enforcement Officer, additional information (such as drawings, data, computations) necessary to ensure compliance with this Local Law, shall be provided by the applicant.
- E) If construction authorized by a zoning permit has not been started within one year, the permit shall be null and void

certification (Certificate of Compliance) from the Code Enforcement Officer that the use conforms to all zoning requirements.

ARTICLE 7. VIOLATIONS

Section 7.01 Penalty for Violations

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this Local Law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than Three Hundred Fifty Dollars (\$350) and by penalty of not more than Three Hundred Fifty Dollars (\$350) to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation continues.

Section 7.02 Other Enforcement Proceedings

The Town may institute any appropriate action or proceeding to prevent a violation of this law, to restrain, correct, or abate such violation, or to prevent the illegal use of land, building, or structures.

Section 7.03 Complaint of Violation

Any person may register a complaint with the Town Clerk when a violation of this law is suspected. The Town Clerk who shall promptly notify the Code Enforcement Officer. If a violation is found to exist, the Code Enforcement Officer shall order the violation to cease. Where uncertainty exists, an interpretation from the Board of Appeals shall determine if a violation exists.

Section 7.04 Appearance Tickets

The Code Enforcement Officer is authorized to issue appearance tickets returnable in Town Justice Court in connection with any violation of this local law.

ARTICLE 8. ZONING BOARD OF APPEALS

Section 8.01 Creation of Appeals Board

A Zoning Board of Appeals is hereby created pursuant to the authority and provisions of Section 267 of the Town Law. The Board shall elect officers and prescribe rules for conduct and appoint a recording secretary.

Section 8.02 Powers of Appeals Board

The powers of the Board of Appeals are as follows:

- A) Interpretation - Upon appeal from a decision by the Code Enforcement Officer, to decide any question involving the interpretation of any provision of this law.
- B) Variances - to vary or adapt the specification of any requirement of this law.
- C) Appeal of Planning Board Decisions - Planning Board decisions on special use permit/site plan applications in accordance with Section 8.04, below.

Section 8.03 General Procedures

The Board of Appeals shall act in accordance with Section 267 of the Town Law, State Environmental Quality Review Act, General Municipal Law Section 239, the procedures specified in this law, and their own bylaws. All appeals and applications made to this Board shall be in writing.

Section 8.04 Appeal of Planning Board Decision on Special Use Permits/Site Plan

- A) Any applicant for a special use permit/site plan approval may appeal the Planning Board's decision of denial or conditional approval to the Zoning Board of Appeals in writing within thirty (30) days after the filing of the decision in the Office of the Town Clerk. It is intended that this appeal mechanism shall be optional; applicants may appeal directly to Supreme Court.
- B) The Zoning Board of Appeals shall affirm or reverse, in whole or in part, the decision of the Planning Board within sixty (60) days of receiving a written appeal. The Appeals Board shall hold a public hearing before making its decision. The Appeals Board shall not alter a decision of the Planning Board unless it finds that the Planning Board's decision was unreasonable, based on a substantial error of facts, or not properly related to the standards set forth in this Local Law.

- C) The applicant may appeal the original decision of the Planning Board to Supreme Court as provided by statute within thirty (30) days of the Appeals Board's decision or of the applicant's withdrawal of an appeal before the Appeals Board. In addition, any person aggrieved by the Appeals Board's decision, may appeal within thirty (30) days to Supreme Court, as provided by Section 274-a, Paragraph 3, of the Town Law.
- D) This Section supersedes Town Law Section 274-a, Paragraph 3, to the extent that it provides an additional, optional appeal and that the thirty (30) day time limit for appeals to Supreme Court provided by statute does not commence until an appeal directed to the Zoning Board of Appeals is concluded, if such appeal to the Board is made.

ARTICLE 9. FEES

9.01 Fees for Permits

The Town Board shall by resolution establish reasonable fees for permits and actions under this Local Law, including amendments, special use permits, zoning permits, site plan review, variances, appeals, temporary permits, etc.

9.02 Other Costs

The cost of any additional site inspections, tests, or professional consulting needed to comply with the regulations of this Local Law shall be paid by the applicant.

ARTICLE 10. ZONING LOCAL LAW GENERALLY

Section 10.01 Relationship of This Law to Other Laws and Regulations

This Local Law in no way affects the provisions or requirements of any other Federal, State, or local law or regulations. Where this Local Law is in conflict with any other such law or regulation, the more restrictive shall apply.

Section 10.02 Integration of Procedures

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the Town, the Planning Board, Zoning Board of Appeals and Code Enforcement Officer shall attempt to integrate, as appropriate, zoning review as required by this Local Law with the procedural and submission requirements for such other compliance.

Section 10.03 Severability

The provisions of this Local Law are severable. If any article, section, paragraph or provision of this Local Law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this Local Law shall remain valid and effective.

Section 10.04 Effective Date

This Local Law shall be effective upon filing with the Secretary of State.

Section 10.05 Periodic Review

The Town Board shall comprehensively review this Ordinance periodically. Periods between such reviews shall not exceed five (5) years. The Town Board shall consult with the Planning Board, Zoning Board of Appeals and Code Enforcement Officer in conducting this review.

ARTICLE 11. AMENDMENTS

Section 11.01 Amendments by Town Board

The Town Board may amend, supplement or repeal the regulations and provisions of this law after public notice and public hearing. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- A) By publishing a notice at least ten (10) days prior to the time of such hearing in newspaper of general circulation in the town.
- B) By making any referrals and studies as may be required by the General Municipal Law Section 239, the State Environmental Quality Review Act and Section 11.02 of this Local Law.

Section 11.02 Referral of Amendments to Town Planning Board

All proposed amendments shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within ninety (90) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

Section 11.03 Supermajority Requirements

In case of a protest against such change or an adverse recommendation from the Delaware County Planning Board, a supermajority may be required in accordance with Town Law and General Municipal Law in order to adopt the amendments.

ARTICLE 12. DEFINITIONS

Agriculture - The use of a parcel of land for agricultural purposes including tilling the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, aquatic farming, harvesting of tree products and animal husbandry; also included are the necessary accessory uses and structures for packing, treating, and storing of products, produce and equipment, provided that the operation of any such accessory use shall be secondary to that of normal agricultural activities; agricultural does not include kennels or slaughter houses.

Central Sewage Treatment Plant - A single publicly or privately owned facility installed for the purpose of treating, neutralizing, stabilizing or disposing of all water-carried sanitary sewage that is generated from a major development project at a single facility.

Commercial and Industrial Buildings and Activities - Includes buildings classified under Part 701 of the Uniform Fire Prevention and Building Code as business, mercantile, industrial, storage, assembly or institutional; land use activities of a business, mercantile, industrial, storage, assembly or institutional nature are also included whether or not a building is involved; agricultural uses and structures are specifically not included.

Dwelling Unit - A building or portions thereof, providing complete housekeeping facilities for one family, including living, cooking, sanitary and sleeping facilities.

Family - A person or persons living together as a single housekeeping unit.

Flag Lot - a lot that does not meet minimum frontage requirements on a public road or approved subdivision road where access to such road is by a narrow strip of land that is an undivided part of the lot.

Frontage - The distance along a lot which abuts a public road or private road in an approved subdivision.

Land Use Activity - Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land Use Activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions to existing structures, changes in or expansions of existing uses, and excavations for the purpose of extracting soil, mineral deposits, gravel or stone in excess of 1,000 tons per year.

Lot Width - The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front setback specified for the district.

Mobile Home - A factory-built structure transportable in one or more sections and which is constructed on a chassis to facilitate its transportation to the site. A mobile home shall not be construed to be a travel trailer or recreational vehicle or modular home.

Multiple Dwelling - Three or more complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping and sanitary needs; such as townhouses, apartments and condominiums.

Nonconforming Lot - any lot which legally existed at the time this Local law was enacted and which is deficient in depth, width, frontage, area or other dimensional requirement when compared to the present requirements of the zoning district.

Nonconforming Structure - any structure, building or sign which legally existed at the time of enactment of this Local Law and which is used for a permitted use, but does not conform to the present requirements of zoning district for size, dimensions or setbacks.

One-Family Dwelling - A complete, self-contained residential unit, including mobile homes, for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

Principal Building - Any building or structure designed to accommodate the primary or predominant use of the lot.

Project Density - The total project housing unit count divided by the acreage of all land to be developed as a single project, including local roads and other areas of common use incorporated in the project.

Recreational Vehicle - Boats, boat trailers, pick-up campers and coaches (designed to be mounted on on a automobile or pick-up truck), motorized dwellings, travel trailers and the like.

Sign - Any permanent or temporary structure, devise, letter, word, model, banner, pennant, insignia, trade flag, or representation use as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by means including intermittent or repeated motion of illumination.

Sign, area of -

- A) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.
- B) The area of a sign consisting of individual letters or symbols

- shall be considered to be that of the smallest quadrangle or a triangle which encompasses all of the letters and symbols.
- C) The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.
 - D) In computing the area of signs, one side of back-to-back signs shall be included. A two sided sign is considered one sign.

Sign, freestanding - A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

Sign, off-site advertising - Any sign that calls attention to a business, so as to induce a desire to buy or patronize a commodity, service or entertainment sold or offered by that business when such sign is not located on the property where the business is located.

Sign, off-site directional - Signs limited to directional messages pertaining to the identification and location of a business and not containing any other advertising information.

Sign, portable - sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs; but not including signs made only of wood and not more than four feet in total height.

Sign, temporary - Any sign, including its support structure, intended for advertising for a season or before an occasional event or sale, and not intended to be displayed on a continuous basis.

Solid Waste - all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles, and offal.

Structure - Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

Structure, Accessory - Any structure designed to accommodate an accessory use but detached from the principal structure, such as a free-standing garage for vehicles, accessory to the principal use, a storage shed, garden house or similar facility.

Tract of Land - A parcel of land for which there exists a separate parcel designation on the Delaware County Real Property Identification Maps as of the date of adoption of this Local Law.

Two-Family Dwelling - Two complete, but separate, self-contained residential units each intended for permanent habitation.

family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping and sanitary needs.

Vehicle - a motorized conveyance designed for use on public highways.

Any term used in this Local Law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.