

*Local Law Filing*

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City of Nelson  
Town\*,  
Town

Local Law No. \_\_\_\_\_ of the year 2011.

A local law to enact the 2011 Town of Nelson Land Use and Development Law and Zoning Map  
(insol noel)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Be it enacted by the Town Board  
the \_\_\_\_\_

County  
City Nelson as follows:  
Town  
Village

- Continued on following page -

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**2011**

**Town of Nelson**

**Land Use and**

**Development Law**

**Adopted June 9, 2011**

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# Article I

## Introduction and General Provisions

### Section 100 Legislative Authority

The Town Board of the Town of Nelson hereby establishes this Land Use and Development Law accordance with a Comprehensive Plan for the development of the Town pursuant to the authority granted it under the New York Municipal Home Rule Law, under Article 16 of the New York State Town Law, and under other applicable laws and authority.

### Section 101 Title

This local law shall be known as, and may be cited as **The 2011 Town of Nelson Land Use and Development Law.**

### Section 102 Purpose

This Law is enacted for the purpose of encouraging the orderly and appropriate development and use of land, buildings and structures, preserving and enhancing real property values and generally protecting the health, safety, and welfare of the citizens of the Town of Nelson.

### Section 103 General Applicability, Force and Effect of Regulations

103.1 These regulations apply throughout the Town and govern the development and use of all properties within the Town.

103.2 The provisions of this local law as they apply to agricultural operations meeting the definition of "sound agricultural practices" as defined in Article 25AA of the Agriculture and Markets Law, if conducted upon premises located within a New York State certified agricultural district, shall be deemed qualified by , and subject to the provisions of said Article 25AA. There shall be no restriction or regulation of farm structures or farming practices in a New York State certified agricultural district unless such absence of restriction bears a direct relationship to public health or safety.

103.3 Except as hereinafter provided:

- A. No work may begin on the construction, reconstruction, structural alteration, or relocation of a building, structure or facility, nor shall any surface modification, excavation or site work subject to this local law begin, until a Zoning Permit confirming compliance with these regulations is issued by the Zoning Officer. Required permit(s) and approval(s) must be obtained prior to commencement of any development activity regulated by this local law. Failure to do so is a violation of this Law and is subject to penalties as defined herein.
- B. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless in conformity with all of the regulations herein specified.
- C. No building or structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of dwelling units; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards or other open spaces than is herein specified for the district in which it is located or in the regulations applicable to all districts.
- D. No newly constructed building or facility, nor any altered building or facility, may be occupied, nor may any change in occupancy type be commenced except in compliance with the requirements of this local law and upon the issuance of a Certificate of Occupancy by the Zoning Officer.

- E. No part of a yard or open space required about any building or structure for the purpose of complying with this local law shall be included as part of a yard or open space similarly required for another building or structure.
- F. Required yards shall be open from their lowest part to the sky, unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys, and eaves, provided that no such projection extends more than two (2) feet into any required yard.
- G. Permitted uses are those listed in Article IV of this local law for each District. Unnamed uses and all uses not specifically permitted in a district by right or permitted upon site plan approval and/or issuance of a special use permit shall be deemed prohibited.
- H. Types of zoning reviews. A permitted use or structure allowed in a zoning district which may require review by the Planning Board, Zoning Board of Appeals and/or the Town Board under this local law, and also require a building permit or certificate of occupancy for certain activities. Site plan and/or Special Use Permit reviews are generally applicable to uses or structures which are allowed, but due to their nature necessitate discretionary board review over certain elements such as size, site design, intensity of use and character. No plat or map of a subdivision of land shall be filed or recorded in the Office of the County Clerk until it has been approved by the Planning Board in compliance with this local law. A variance is a grant of relief from the applicable use or dimensional controls of this local law and requires Zoning Board of Appeals review and approval.
- I. Existing buildings and uses. The adoption of this local law shall not affect the legal nonconforming status of existing buildings or structures, nor the legal nonconforming status of existing uses of any building, structure or land to the extent they were legally constructed and used according to the land use regulations and zoning map in effect at the time of commencement of construction and use of the premises. The terms of this local law shall apply to any subsequent change in use, and to alterations, extension, or movement of a building or structure, and to any change in use of land. This local law shall not affect the continued validity of any Town permit or approval for a project, whether phased or not, where construction of such project has commenced prior to the effective date of this local law.
- J. Land use under special approvals. Existing buildings, structures, and uses, either previously allowed by right and currently subject to special approvals, or uses previously authorized by special approval including variances, special use permits, site plan approvals and other similar approvals, shall be subject to the provisions of this local law regarding modifications to approved uses or structures.
- K. Existing violations. Any building, structure or use existing on the effective date of this local law, which is unlawful under any prior applicable regulations, shall be lawful only to the extent that it complies with this local law. However, such compliance shall not excuse or be used to abate or enjoin the prosecution of such unlawful conduct, whether initiated prior or subsequent to the effective date of this local law.

#### **Section 104** Relationship and Coordination with Other Codes

The requirements of these regulations are in addition to other laws and regulations governing the subdivision and/or development of land within the Town of Nelson. Permits issued under this local law do not supersede permit requirements of other town, county, state or federal governing laws or regulations. Unless otherwise indicated, in the event of multiple regulations covering the same topic, the stricter regulation shall control.

104.1 Health Department Approval. All proposed construction and occupancy permitted by this local law, particularly with respect to potable water supplies and sanitary waste water disposal, shall be in accordance with the New York State Health Code as administered by the Madison County Health Department.

104.2 Building Code of **New** York State. All proposed construction permitted by this local law shall be in accordance with the New York State Building Code. All zoning regulations and dimensional requirements stated herein are intended to be in addition to the requirements established by the New York State Building Code. Where the requirements are different, the stricter requirement shall govern.

104.3 NYS Pollutant Discharge **Elimination System Regulations (SPDES)**. All proposed development and construction permitted by this local law shall be in accordance with the New York State Pollutant Discharge Elimination System Regulations administered by the New York State Department of Environmental Conservation. When required by such regulations, a SPDES permit shall be obtained prior to the commencement of any land disturbance or development activity.

104.4 NYS General Municipal Law Article 12-B (GML 239-m). All applications submitted under these regulations shall be processed and reviewed in accordance with the requirements of Article 12-B of the New York State Health General Municipal Law. Although said statute should be reviewed in its entirety to determine its specific requirements, in general, all applications for an amendment of the zoning map or these zoning regulations, site plan approvals, special permit approvals and variances that affect property within 500 feet of a municipal boundary, a county or state park or recreation area, any county or state road, any county or state owned land with a public building, and/or the boundary of a farm operation located in an agricultural district as defined by Article 25-AA of the Agriculture and Markets Law, must be referred to the Madison County Planning Agency for recommendation under section 239-m of the General Municipal Law prior to any decision on the application by the Town Board, Planning Board or Zoning Board of Appeals.

104.5 NYS **Environmental Quality Review Act Review (SEQR or SEQRA)**. The Town of Nelson Code Enforcement Officer, Zoning Board of Appeals, Planning Board, Zoning Board of Appeals and Town Board are obligated to comply with the provisions of the New York State Environmental Quality Review Act and its implementing regulations as they may be amended from time to time by the State of New York or relevant state agency. Issuance of permits and approvals under this local law is generally subject to such prior compliance with SEQR.

### **Section 105 Interpretation**

105.1 The provisions of this law shall be held to be minimum requirements necessary to accomplish the purpose of the law. When requirements of this law conflict with itself or the requirements of other laws, the more restrictive or that imposing the higher standards shall govern.

105.2 Whenever any condition or limitation is included in an order authorizing any action taken under this law, it is to be conclusively presumed that the authorizing officer or board considered the condition or limitation necessary to carry out the purpose of the law and would not have granted the authorization except in the belief that the condition or limitation was lawful.

### **Section 106 Severability**

This law is hereby declared to be severable. If any part thereof is adjudged unconstitutional or invalid, whether or not applicable to a specific lot, facility, use, or activity, the remainder of this local law shall not be affected thereby, and shall remain valid and enforceable.

### **Section 107 Repeal**

Upon the effective date of this local law, all regulations, laws, and local laws previously enacted as the Land Use and Development of the Town of Nelson, as amended, and the Town of Nelson Land Use Map, as amended, are hereby repealed. The adoption of this local law and such repeal shall not, however, affect any pending prosecution, or prevent any future prosecution or action to abate any violation which existed prior to the effective date of this local law.

### **Section 108 Effective Date**

This law shall be in force and effect immediately upon adoption and filing in the office of the New York State Secretary of State.

# Article II

## Word Usage and Definitions

### Section 200 Intent and Interpretation of Words

200.1 Intent. To the extent not otherwise defined herein, words used in this local law are intended to correspond with generally accepted, established definitions, including definitions utilized by the U.S. Bureau of the Census and the Building Code of New York State, as well as other applicable state and federal laws and regulations.

200.2 Terms or Words For purposes of this local law, certain terms or words used herein shall be interpreted as follows:

- o Words used in the present tense shall include the future. The singular number includes the plural, and the plural, the singular.
- o The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
- o The word "lot" includes the word "site" "plot" or "parcel".
- o The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged, or designed to be used or occupied".
- o The word "shall" is mandatory.

Doubt as to the precise meaning of any word used in this Law shall be clarified by the Zoning Officer and the Zoning Board of Appeals.

### Section 201 Land Use and Development Definitions

As used in this local law, the following terms shall have the meanings set forth herein.

201.1 Access Facility. A cleared and paved area or structure providing a means for vehicular or pedestrian access to buildings or other structures.

201.2 Accessory Building. A building the use of which is incidental to that of the principal building located on the same lot.

201.3 Accessory Structure. A structure other than a building, the use of which is incidental to the principal building and lot use and is located on the same lot.

201.4 Accessory **Use. A use** incidental and subordinate to the principal use which is located on the same lot.

201.5 Addition. Extension or increase in area, height or dimensions of a building.

201.6 Agricultural Data Statement. An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which a subdivision, or a use requiring site plan approval, a special use permit, or a use variance, is proposed, as provided in § 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement

201.7 Agricultural Use. Land uses meeting the criteria for "land used in agricultural production" as set forth in Section 301 of the New York State Agriculture and Markets Law.

**201.8 Agricultural Roadside Stand.** A temporary accessory structure used for seasonal retail sales of produce or other farm products grown or produced on the same property.

**201.9 Aircraft Landing Strip.** Any area of land, or part of any structure designed, set aside and used, or to be used in any manner for the planned taking off or landing of aircraft, regardless of the mode of power such aircraft may use when landing, taking off or flying.

**201.10 Alteration.** A change, modification, rearrangement, relocation or addition to a building or structure, other than repairs.

**201.11 Antenna.** Any external system of wires, poles, rods, reflecting disks, or other devices used for the reception or transmission of electromagnetic waves.

**201.12 Apartment.** A dwelling unit in a building containing other dwelling units or non-residential facilities.

**201.13 Applicant.** Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town of Nelson Planning Board, Zoning Board of Appeals or Town Board to approve a subdivision and/or to grant an application for a variance, a site plan approval or a special permit.

**201.14 Application, Complete.** An application for a special use permit, site plan or subdivision approval, zoning amendment or variance found by the reviewing board to satisfy all information requirements of this local law and of the New York State Environmental Quality Review Act (SEQRA), for which either a negative declaration has been issued or a draft environmental impact statement has been accepted as satisfactory pursuant to 6 NYCRR 617.8(b)(1),

**201.15 Architect.** A person licensed as a professional architect by the State of New York.

**201.16 Attached House.** Dwelling units which share common structural building elements of a house and are built on the same building lot.

**201.17 Basement.** A space of a building partly underground but having a least one-half of its height measured from floor to ceiling above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height regulation.

**201.18 Bed and Breakfast.** An owner-occupied, single-family dwelling within which is provided, for compensation, overnight accommodations for transient guests which includes the serving of breakfast, but no other meal to such guests. A bed-and-breakfast must be the primary residence of the owner/proprietor and comply with the requirements of Article V of this local law.

**201.19 Buffer Zone.** An area bordering the lot lines of a property within which a visual screen of plantings is established and maintained by the owner and within which there shall be no permanent structures or improvements, other than structures erected to further the purpose and function of the buffer.

**201.20 Building.** A roofed structure wholly or partially enclosed within exterior walls, or within exterior walls and party walls, affording shelter to persons, animals, or property. The word 'Building' includes the word "Structure".

**201.21 Building Area.** The aggregate gross area of all the enclosed and roofed spaces of the principal building and all accessory buildings located on one lot, as measured horizontally from the exterior face of exterior walls.

**201.22 Building Coverage.** The percentage of a lot area covered by the ground floor spaces of the principal building and accessory buildings, including attached roofed appendages.

**201.23 Building Height.** The vertical distance between the lowest ground elevation at the building foundation and the highest point of the roof, excluding vents, chimneys, and antennae.

201.24 **Building Line.** A line formed on the finished grade of the lot by vertical lines down from the extreme edge points of a building or structure. The building line shall not be closer to the lot line than the yard setbacks specified for all building sides.

201.25 **Building Permit.** A permit issued pursuant to section 1000.3 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

201.26 **Campground.** Any plot of land on which is located, or on which is intended to be placed two or more temporary shelters, including tents, travel trailers, motor homes and other accommodations of a design or character suitable or used for temporary recreational living purposes, but not including a mobile home park.

201.27 **Cellar.** A building space mostly or entirely underground measured from its floor to its ceiling but having less than one-half of its height above the average level of the adjoining ground.

201.28 **Cemetery.** Any land, place, structure, facility or building used for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle.

201.29 **Certificate of Occupancy /Certificate of Compliance .** A certificate issued pursuant to subdivision (b) of section 1000.6 of this local law.

201.30 **Clerk of the Planning Board.** A designated Planning Board member, or designated person not a member of the Planning Board, or in lieu of either of the above, the Town Clerk.

201.31 **Club, Private.** Building or use catering exclusively to club members and their guests for social, recreational, athletic or similar purposes which is not generally open to the public and not operated for profit. A club which falls within the definition of "recreation area" shall be deemed to be a recreation area.

201.32 **Clubhouse, Membership.** A building used exclusively by a private club and its members and their guests for social, recreational, athletic or similar purposes, which occasionally may include use for community events and fundraisers.

201.33 **Cluster Subdivision.** Subdivision of land in which the Planning Board exercises discretion given it by the Town Board to vary applicable provisions of this local law for the purpose of preserving agricultural, scenic, recreational, or other open space resources of the community in one part of the site while concentrating residential development in a separate part of the site.

201.34 **Code Enforcement Officer .** The Code Enforcement Officer appointed pursuant to subdivision (b) of section 1000.2 of this local law.

201.35 **"Code Enforcement Personnel"** shall include the Code Enforcement Officer and all Inspectors.

201.36 **Collector Street.** A street which serves or is designed to serve as a feeder between major streets.

201.37 **Commercial Wind Energy Facility.** A principal land use comprised of structures and equipment for the conversion of wind energy into electricity which is transmitted directly into the State's electrical grid for commercial sale.

201.38 **Communication Tower — Commercial.** A structure which has as a component or an attachment antennae or other equipment intended and/or operated to transmit and/or receive radio waves, television, telecommunications, microwave or other electromagnetic signals or frequencies in connection with a commercial or business enterprise.

201.39 **Communication Tower — Private.** A structure which has one or more components or attached antennae or other equipment intended and/or operated to transmit and/or receive radio waves, television, telecommunications, microwave or other electromagnetic signals, all of which are used solely for the personal, non-commercial use of the owner or other resident(s) of the premises.

201.40 **Community Center.** Includes public or private meeting hall, place of assembly, museum, art gallery, library, place of further education, church; not operated for profit.

201.41 Compliance Order. An order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 1000.14 of this local law.

201.42 **Comprehensive Plan.** A plan including supportive documentation which indicates the general planning objectives for the use and development of land within the Town.

201.43 Convenience **Store.** A retail store with 1,500 square feet or more of sales floor area accessible to the public that includes as a substantial component of its business the sale of gasoline and/or diesel fuel directly to consumers in conjunction with the sale of perishable and non-perishable food items and other general merchandise.

201.44 Corner Lot. A lot having frontage on two streets where they intersect.

201.45 **Cul-de-Sac.** A street or a portion of a street with a vehicular access intersection terminating in an unobstructed circular turn around located less than 2,500 ft. from the intersection point.

201.46 Day Care Center. A structure, other than a private residence licensed by the State of New York, which receives for care and supervision more than ten (10) children for more than three (3) hours per day, but less than twenty-four (24) hours per day, per child unattended by his/her parent or legal guardian.

201.47 **Day Care Facility.** A structure including a private residence licensed by the State of New York, which receives for care and supervision at least three (3) children but not more than ten (10) children for more than three (3) hours per day, but less than twenty-four (24) hours per day, per child unattended by his/her parent or legal guardian.

201.48 **Dead-End Street.** A street or a portion of a street with a vehicular traffic access intersection beyond which there is no turn around located at its end and the end is no greater than 2,500 ft. from the intersection point.

201.49 Detached Houses. Independently constructed and functioning dwelling units, which share no common structural building elements and are constructed on separate building lots.

201.50 **Developable Land.** That portion of a lot which is suitable for constructing buildings and structures and locating septic disposal facilities, i.e., all land, excluding wetlands and watercourses, preexisting utility easements and rights-of-way, slopes exceeding 15% (slopes measured as 5,000 square feet or more of contiguous sloped area at least 10 feet in width) and the one-hundred-year flood zone.

201.51 **Developer.** Any person, firm, partnership, association, corporation, company or organization of any kind who or which constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development with the intent to convey/convey or dedicate the same to the Town, or requests the Town to create a district, or requests the Town to approve an application for a subdivision, variance, site plan approval and/or special permit.

201.52 **Development.** Any man-made changes to improved or unimproved property, buildings or structures, which includes, but is not limited to a site specific development plan, subdivision or a special district.

201.53 Diner. A business devoted primarily to the preparation and sale of food and beverages for consumption by customers on the same premises, but which excludes sales of alcoholic beverages and also excludes drive through window services.

201.54 **Dish Antenna Structure.** A communications device created for the purpose of receiving and/or transmitting electronic signals from or to satellites.

201.55 Distance **Separation.** An open space between buildings on the same lot or between a building and an interior lot line, provided to prevent the spread of fire.

201.56 District. An area of land, with precise boundaries, established for the purpose of regulating development.

201.57 Dock. A structure projecting from or along the shore into the waters of a lake or other body of water, whether used for anchoring of boats, pedestrian access, or any other purpose, which may float or rest upon the lake bed, but which shall not be permanently anchored to the lake bed.

201.58 Double Frontage (or Through) Lot. A lot having frontage on two (or more) streets at points other than where they intersect.

201.59 **Drainage Facility.** All surface water drainage facilities, including but not limited to detention and retention basins, storm sewers and their appurtenances, drainage swales and ditches and any easements through or over which such facilities may be constructed or installed within or in conjunction with a development.

**201.60 Driveway.** That space or area of a lot which is specifically designated and reserved for the movement of motor vehicles from a lot to a street.

201.61 Dwelling Unit. One or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for the use of one household or family.

201.62 **Easement.** An area of land owned by one party but over which another party has some legal rights of use short of ownership.

201.63 **Enclosed Storage.** Storage inside a roofed, walled, and floored structure

201.64 Energy **Code.** The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

201.65 **Engineer.** A person licensed as a professional engineer by the State of New York.

201.66 Environmentally Sensitive Areas. Includes areas containing impermeable soils, highly erodible soils, shallow bedrock, shallow groundwater table, wetlands, flood plains, shorelines and steep slopes (in excess of 15%),

201.67 Family. One or more persons occupying a dwelling unit as a common household, which persons may be related either by blood, marriage or adoption, and which may also include unrelated individuals living, sleeping, cooking and eating in and otherwise occupying one dwelling as a single housekeeping unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restriction in residential neighborhoods, as distinguished from persons occupying a rooming house, fraternity house, hotel, a multiple-unit dwelling, a dormitory or other group quarters.

201.68 **Farm Use.** Land containing at least 5 acres which is used for raising or boarding livestock or agricultural products, but excluding an activity or activities that constitute an Agricultural Use as defined herein.

201.69 Final Plat or Final Subdivision Plat. A completed final plat drawing, showing a proposed subdivision containing all information and detail required by law, the Planning Board, and by these regulations.

201.70 **Financial Institution.** Any building wherein the primary occupation is concerned with such governmental regulated businesses as banking, savings and loans, loan companies, and investment companies.

201.71 **Flag Lot.** A lot which has limited, nonconforming frontage on a public road, but has sufficient frontage to provide access to the lot (minimum of 60 feet in width), the remaining lot dimensions and areas of which meet the requirements of the zoning district in which the lot exists.

201.72 **Flood.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland areas of water.

201.73 Flood Hazard Area. A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded during a 100-year flood as depicted by the Federal Emergency Management Agency and/or the NYS Department of Environmental Conservation.

201.74 Flood, 100-Year. The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year).

201.75 Floodplain **Management**. The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and land use control measures.

201.76 **Floor Area**. The sum of the gross horizontal area of the floors of a building, excluding attic and basement floor areas not designated, utilized or capable, under the New York State Building Code, of being utilized as habitable space. All dimensions shall be measured between interior faces of walls.

201.77 Footcandle. A measure of light falling on a given surface. One footcandle (one FC) is equal to the amount of light generated by one candle shining on a square foot surface one foot away. Unless otherwise noted, footcandle readings are taken **at** ground level.

201.78 Front Yard. The yard between the front setback building line and the lot line along the principal and secondary street and/or lake frontages, extending the full dimension of the lot. In the case where an existing Street Line is nearer the building than is the Lot Line, the Front Yard is measured to the Street Line. Corner lots have front yards on each frontage.

201.79 **Frontage**. The lineal length of the lot line abutting on a street.

201.80 Garage, Commercial. A building, structure or lot used for the storage, repair, painting, towing, rental, incidental sale and/or servicing of motor vehicles, recreational vehicles, equipment and/or machinery.

201.81 Garage, Private. Enclosed space primarily for the personal storage of motor vehicles or other personal property by a resident of the premises.

201.82 Group Quarters. A residential facility in which parts of the living accommodations are separated into private and/or shared use facilities by occupants not living together as a family.

201.83 **Grade, Finished**. The completed surfaces of ground, lawns, walks, paved areas and roads brought to elevations as shown on approved plans or designs relating thereto, or in existence at the time the certificate of occupancy is issued.

201.84 Hazardous Substance. Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which:

- (a) Because of its quantity, concentration or physical, chemical or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of or otherwise managed.
- (b) Poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (c) Because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

201.85 **Highway Standards**. (Design and construction specifications and requirements for the development and dedication of public roads as approved by the Town Highway Superintendent and the Town Board.

201.86 **Home Occupation Minor**. An accessory commercial enterprise, trade or occupation conducted entirely within a residence building or residential accessory structure carried on solely by one or more residents of the premises with no other employees, which is clearly subordinate and secondary to the residential use of the premises, has regular retail sales of products upon the premises, does not change the exterior residential character of the premises and produces no exterior indication of the business being carried on inside the residence building and/or accessory structure.

201.87 Home Occupation Major. An accessory commercial enterprise, trade or occupation conducted entirely within a residence building or residential accessory structure by one or more residents of the premises which exceeds the criteria for a Minor Home Occupation.

201.88 Hospital. A building used for the treatment or other care of human ailments by doctors and other licensed health care professionals on an in-patient or out-patient basis, which term includes an emergency treatment facility, clinic, sanitarium, sanatorium, rest home, nursing home, convalescent home, assisted living, congregate care and rehabilitation facility.

201.89 Housing Unit. A discrete unit of residential space designed to be occupied by a household, not including Group Quarters, also known as a 'dwelling unit'.

201.90 Impervious Surface. A surface area composed of any material which significantly impedes or prevents the infiltration of water into the soil. Any roofed or other solid structure or material covering the ground through which water does not readily penetrate, including but not limited to, concrete, oil and stone, tar or asphalt pavement, stone, masonry, tightly spaced lumber or compacted gravel shall be considered impermeable. A deck with spaced boards at least 1/8 inch apart, a swimming pool surface, and a patio with a permeable paving system shall not be considered impermeable.

201.91 Inspector. An inspector appointed pursuant to subdivision (d) of section 1000.2 of this local law.

201.92 Interior Lot. A lot which is not a corner lot, and has frontage on only one street.

201.93 **Kenel.** An activity involving the harboring of six or more dogs over six months old.

201.94 Keyhole Lot. A lot meeting the requirements of this local law, which is shaped to provide extended area access to an adjacent lot or usage.

201.95 **Lake Frontage.** All lands bordering directly on Tuscarora Lake or Eatonbrook Reservoir.

201.96 **Land, Buildable.** That portion of a lot which is suitable for building structures and locating septic disposal facilities, i.e., all land, excluding regulated wetlands and watercourses, preexisting utility easements and rights-of-way, slopes exceeding 15% (slopes measured as 5,000 square feet or more of contiguous sloped area at least 10 feet in width) and areas within the one-hundred-year floodway zone.

201.97 **Land Surveyor.** A person licensed as a land surveyor by the State of New York.

201.98 **Landscaping and Landscape Facility.** Natural or planted site vegetation installed to meet certain size, density, aesthetic, and stabilizing requirements for the purpose of preserving the value and enhancing the appearance and livability of buildings and property,

201.99 Licensed **Professional.** A person licensed as a professional architect, engineer, or land surveyor by the State of New York.

201.100 Light Industrial. A business principally engaged in the manufacturing and/or assembly of products with all such operations (with the exception of loading operations) conducted entirely within an enclosed building, and which do not emit any smoke, odor, noise, heat or vibration which is detectable at the property line.

201.101 **Livestock.** All animals other than traditional household pets.

201.102 Lot. A deeded area of land occupied or permitted to be occupied by one principal building and/or use in accordance with this law. This term is synonymous with parcel. Refer to drawing PL-1 and PL-2 located in the Appendix of this local law for a graphical representation of lot requirements.

201.103 Lot Area. The calculated dimensional limit of lot lines bounding an area of land expressed in terms of sq. ft. or acres. Any portion of a lot included in a public street or deeded right-of-way to a public street shall not be included in calculating the permitted number of subdivided lots.

201.104 Lot Consolidation. The elimination of one or more existing lot line(s) so as to consolidate one or more lots into a lesser number.

201.105 **Lot Coverage.** A number indicating the portion of the total surveyed area of a lot occupied by buildings, structures or other impermeable materials expressed as a percentage of the total lot area.

201.106 Lot Line, The perimeter boundary line of a lot.

201.107 Lot Line **Change**. A reconfiguration the area of two or more lots involving the adjustment of one or more existing lot line(s) without the creation of a new (additional) lot, nor an extended street(s), new curb cut(s), or other infrastructure, provided that, as reconfigured, all the affected lots meet the dimensional and area requirements for a lot in the zoning district within which the lots are located.

**201.108 Lot of Record**. A lot created prior to June 1, 1977 for which there is a map on file in the County Clerk's Office, which bears the County Clerk's seal with date of filing, or a lot on subdivision which has been approved and certified by the Town of Nelson Planning Board after June 1, 1977,

201.109 **Lot Width**. A distance measured parallel to the street centerline at the front setback distance.

201.110 Lumen. A measure of light energy generated by a light source.

201.111 **Major Street**. A public street with the capacity to serve primarily as a route for traffic between heavy traffic generating areas.

201.112 Mobile Home. A self-contained portable structure capable of being propelled or towed on a highway and constructed with a permanently attached towing frame, whether or not the wheels and/or tongue are presently attached, and constructed in accordance with U.S. Department of Housing and Development Code requirements for use as a residential dwelling, but not including travel trailers or motor homes.

201.113 Material Storage Facility. A building or structure on a residential lot used for storage or protection of residential use or materials.

201.114 **Minor Street**. A public street intended to serve primarily as an access to abutting properties or feeder to collector streets.

201.115 Mobile **Home Park**. A parcel of land at least five (5) acres in size owned or operated by a single party upon which five (5) or more mobile homes are placed and occupied for residential purposes in accordance with licenses issued by the Town of Nelson and the Madison County Department of Health.

201.116 Mobile Home Site. Any designated parcel 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 occupants.

201.117 Modular Home. A house which is produced in a factory in two or more pieces, transported to the site on one or more trailers, and placed together on a permanent foundation. Differs from a "Mobile Home" in that it is generally not constructed on a chassis to be transported as a trailer and it is subject to local building construction codes rather than to the HUD Title VI requirements.

201.118 Motor Home. A motor vehicle propelled by its own power which contains sleeping, and/or cooking and/or sanitary facilities designed and constructed for vacation or other similar temporary use.

201.119 **Multi-family House**. Same as Multiple Dwelling.

201.120 Multiple Dwelling. A residential building containing three or more dwelling units.

201.121 **Multiple Frontage Lot**. A lot having frontage on more than one street.

201.122 Natural Products. Soil, sand, gravel, rock, stone, coal, minerals, oil, natural gas, and other aggregate materials in their natural undisturbed state within the ground.

201.123 **Natural Resources**. Includes, but not necessarily limited to rivers, streams, lakes, ponds, wetlands, woodlands, wildlife, wildlife habitat, protected species and ecosystems.

201.124 **Non-waterborne System**. Any sewage disposal system that does not discharge waste into the premises, such as composting toilets, incinerating toilets, chemical toilets, and holding tanks.

201.125 **Nonconforming Lot.** Existing lots which were lawful before these regulations were passed or amended, which would now **be** prohibited under the terms of these regulations. It is the intent of this local law to permit these nonconformities to continue, but not to encourage, modify, or expand their continuance.

201.126 **Nonconforming Use.** A building or land use existing at the time of enactment of this local law, which does not now conform to the current regulations of the district or zone in which it is situated, but was lawful prior to such enactment of the current regulations.

201.127 **Occupied Area.** Space within a building where persons work or remain for a period of time. Differs from habitable, assembly, and non-habitable space.

201.128 **Open Space.** An area of land not developed with structures and dedicated permanently to recreation, agriculture, lawn or forestry use, or left in its natural state, with a deeded and recorded provision ensuring such permanent maintenance and continuance.

201.129 **Operating Permit.** A permit issued pursuant to section 1000.9 of this local law. The term 'Operating Permit' shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

201.130 **Overlay District.** A zoning district that is drawn over the basic districts to define an area of special concern.

201.131 **Park.** An area of land which is open to the public and devoted to active or passive recreation.

201.132 **Parking Facility.** Any suitably surfaced open or enclosed facility for parking of automobiles and other vehicles.

201.133 **Performance Guarantee.** A form of security, approved by the Town Board, guaranteeing that all maintenance and improvements agreed to be made by the subdivider in compliance with these Rules and Regulations will be made. May include a performance bond, escrow agreement, letter of credit, or similar collateral or surety agreement.

201.134 **Permanent Foundation.** A concrete block, cast-in-place concrete, all weather wood, or stone structure forming the basement, crawl space, or frost wall of a structure, and complying with the Building Code of New York State.

201.135 **Permit Holder.** The Person to whom a Building Permit has been issued.

201.136 **Person.** Shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

201.137 **Personal Services Establishment.** A business principally engaged in providing services involving the care of a person and/or his or her personal goods or property, including barber/beauty shops and hair salons, fitness and exercise facilities, tanning, tailors, shoe repair, laundry/dry cleaners, and photography.

201.138 **Pervious Surface.** A surface area that allows water to infiltrate into the ground.

201.139 **Planned Unit Development.** A diversified development project which does not fit the basic district regulations of this law, and which is developed as an entity in such manner as to promote the general development policies of this Town.

201.140 **Planning Board.** The Planning Board of the Town of Nelson.

201.141 **Preliminary Plat.** A drawing, submitted to the Planning Board clearly marked "preliminary plat", showing the salient features of a proposed subdivision as required by this local law, part of the initial or second-stage Submission to the Planning Board for purposes of its detailed consideration and public hearing.

201.142 **Prime Agricultural Soils.** Soils classified in Mineral Soil Groups 1 through 4, and Organic Soil Group A as provided in section 304-a of the Agriculture and Markets Law.

201.143 Principal Building. The building in which the principal use on the lot is located.

201.144 Principal Frontage. On lots with two or more frontages, the one considered the main access to the lot.

201.145 Private Energy Facility. An accessory structure, or any equipment or device which converts biological waste materials or solar or hydro energy into electricity which is used to power on-site machines or devices, or which is transmitted through an on-site "reverse" meter for the benefit of the owner of the home or business located on the premises.

201.146 Private Road. A road that is not to be dedicated to, accepted by, or maintained by the Town. If provided to serve more than one lot, a private road shall be constructed centered on an approved right of way designed to meet Town highway specifications for the use intended.

201.147 Private Wind Energy Facility. An accessory structure or device which includes equipment for the conversion of wind energy into electricity which is used to power on-site machines or devices, or which is transmitted through an on-site "reverse" meter for the benefit of the owner of the home or business located on the premises.

201.148 Professional Services Offices. Offices for the conduct of the following businesses and professions: medicine, chiropractic, law, engineering, architecture, dentistry, accounting, surveying, tax preparation, banking, financial/investment services, and insurance and other business services similar in nature and intensity or operations as those specifically listed.

201.149 Quarry. Commercial excavation and extraction of soil, day, sand, stone, rock, gravel, minerals or other natural consolidated or unconsolidated aggregate materials and substances from land in such quantities as to trigger the requirement for a a mined land reclamation permit from the New York State Department of Environmental Conservation.

201.150 Real Property. Property consisting of land and buildings and structures affixed to the land, as opposed to vehicles, movable equipment and other items of personal property.

201.151 Rear Yard. The yard between the rear setback line and the rear lot line, extending the full width of the lot. Triangular lots, corner lots, and lots containing lake frontage do not have rear yards.

201.152 Receive/Transmit Antenna Tower Accessory Facility. A tower with attached receive and transmit devices.

201.153 Recreation Area. An area of undeveloped lands, or minimally improved lands, comprised of natural greenspace and/or landscaped spaces, picnic areas, streams, water bodies, athletic fields and/or facilities and/or walking/hiking/skiing/riding trails, with or without on-site recreational staffing, used for temporary, seasonal or permanent outdoor recreational activities and events, whether conducted on a commercial or non-profit basis.

201.154 Recreation Facility. A building or structure utilized in a recreational area, such as an athletic field facility, a picnic pavilion, stage or assembly hall, snack bar or dining facility, a gazebo or swimming pool.

201.155 Reference Plat. A Plat in addition to the Subdivider's intended Plat, prepared by the Subdivider and used by the Planning Board for evaluating the suitability and acceptability of a subdivision's relationship and impact on the future development of adjoining properties or, conversely, the future development of adjoining properties impact on a proposed subdivision.

201.1566 Religious Institution. A building or buildings used as a place of assembly and worship by individuals who share a common religious faith, which may include a parish house or other similar support function in the same building or in a separate building on the same parcel.

201.157 Residential Use. Property not less than 900 SF gross area used solely as a permanent place of abode excluding transient or seasonal occupancies.

201.158 Restaurant. A business devoted primarily to the preparation and sale of food and beverages for consumption by customers on the same premises, which may include sales of alcoholic beverages for on-premises consumption by patrons, but which excludes drive through window services.

- 201.159 Retail Sales. The on-premises sale or lease of goods or commodities directly to the public.
- 201.160 Retail Shop. A business consisting of the sale of only non-perishable products from a fixed location directly to consumers, which may also include the sale of services incidental to the products sold.
- 201.161 Retail Store. A business consisting of the sale of both perishable and non-perishable products from a fixed location directly to consumers, which may also include the sale of services incidental to the products sold, but excluding any business defined as a Convenience Store in this Local law.
- 201.162 Road. Refer to street.
- 201.163 Rooming Unit. A facility designed or used for living or sleeping quarters. A rooming unit never has its own kitchen; it may have its own bathroom.
- 201.164 Sawmill. The mechanical processing of timber, other than as part of an agricultural operation, into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of cutting and/or splitting equipment, whether such equipment is readily movable or is affixed to a base or foundation.
- 201.165 Scenic Public Highway. A public road designated as such on the Official Zoning Map, from which a scenic vista or resource, as identified on the Official Zoning Map, is visible.
- 201.166 Scenic Resource. An element of a scenic vista that contributes to the area's scenic and aesthetic value and includes landforms, vegetation, water bodies and adjacent scenery.
- 201.167 Scenic Route **20**. The portion of the public highway denominated as U.S. Route 20 which has been designated by the State of New York as a scenic byway highway.
- 201.168 Scenic Vista. The view of an area that is visually or aesthetically pleasing, including, but not necessarily limited to views of natural ridges, valleys and bodies of water. Aesthetic components of a scenic vista include; 1) scenic quality, 2) sensitivity level, and 3) view access.
- 201.169 School. Any institution of learning recognized by the New York State Department of Education which offers instruction in the several branches of learning either as a public, private, or a vocational institution.
- 201.170 Seasonal Residential Use. Occupancy of a residence for less than one hundred eighty (180) days in a year.
- 201.171 Secondary Frontage. On lots with two or more frontages, those frontages other than the Principal Frontage.
- 201.172 SEQR or SEQRA. The New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law, and its implementing regulations, Part 617 of Title 6 of the New York Code of Rules and Regulations.
- 201.173 Setback. A distance measured inward from and perpendicular to each lot line. These measurements establish lines outside of which building construction involving foundations or structures above finished grade are prohibited.
- 201.174 Setback Line. A line demarcating the Setback Distance.
- 201.175 Sewage Disposal System. Any legal device to which waste from a facility is discharged, in particular, septic systems, leaching pits, and holding tanks.
- 201.176 Shoreline Distance. The shortest horizontal distance from the nearest point of a structure or object to the mean high water mark of lake or pond, and to the edge, margin, or top of a precipitous bank forming the ordinary high water mark of a flowing watercourse.
- 201.177 Side Yard. The yard between the setback line and the side lot line, extending from the front yard to rear yard setback lines.

201.178 Single Family Residence. A permitted habitable building having provision for one household.

201.179 Site-built House. A house which is produced with all of its major components being constructed on the site and is subject to the Building Code of New York State Requirements.

201.180 Site Plan. A single or group of renderings, drawings, or sketches prepared by a licensed professional in New York State, i.e. an architect, landscape architect, engineer, land surveyor or planning consultant, which shows the arrangement, layout and design of the proposed use of an individual parcel of land as shown on said plan.

201.181 Site Plan Approval. The term "site plan approval" refers to an authorization of a particular use which is granted by the Planning Board, and which may be subject to satisfaction of specific conditions imposed by the Planning Board to assure that the proposed use is in harmony with the zoning law and will not adversely affect the neighborhood if such conditions are satisfied.

201.182 Sketch Plat. An initial concept drawing of a proposed subdivision complying in sufficient detail to classify the subdivision type and provide an overview of the subdivision proposal.

201.183 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.

201.184 Special District. Any special district existing or formed under Article 12 or Article 12-A of the Town Law.

201.185 Special Use. A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and, therefore is subject to particular standard and conditions set forth for such use, compliance with which is determined by the Planning Board.

201.186 Special Use Permit. The term "special use permit" refers to an authorization of a special use which is granted by the Planning Board, and which may be subject to satisfaction of specific conditions imposed by the Planning Board to assure that the proposed use is in harmony with the zoning law and will not adversely affect the neighborhood if such conditions are satisfied.

201.187 Stable. Building in which more than six horses are kept.

201.188 Stop Work Order. An order issued pursuant to section 1000.5 of this local law.

201.189 Storage Facility. Any form of facility where space for the storage of items of personal property is provided to persons not residing on the same lot with the facility.

201.190 Stroboscopic Lighting. A flash lamp that produces repeated high-intensity, short duration light pulses.

201.191 Story. The vertical space between a floor and the floor above or below, which in no instance shall be less than the minimum vertical distance required by the Building Code of New York State. For the purposes of these regulations, multi-level structures or dwelling units shall be defined as having more than one story for the purposes of height regulation if the minimum vertical distance between any floor and the next highest floor anywhere in the structure or dwelling unit exceeds seven (7) feet.

201.192 Street. A term used interchangeably with road, avenue, lane, and highway, among others; a right-of-way improved or intended to be improved as a private or public way for vehicular traffic which affords principal means of access to abutting properties. Includes, but is not limited to a street avenue, road square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass or underpass and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks within or in conjunction with a development.

201.193 Street Centerline. A continuous line located midway between and parallel to the street lines.

201.194 Street Line. A lot line dividing a lot from a street. The right-of-way line of a street as established by a deed or record. Where the width of the street is not established, the Street Line shall be considered to be 30

(thirty) feet from the Centerline of the street pavement. Minimum frontage is measured along the Street Line and in all cases shall be not less than 60 feet.

201.195 Street Pavement. The wearing or exposed surface of a street used by vehicular traffic, excluding road shoulders.

201.196 Street Width. The right-of-way dimension measured at right angles to the centerline of the street. No street width shall be less than 60 ft.

201.197 Structure. An assembly of materials located on or permanently affixed to the ground with improvements constructed above the ground. A building is one type of structure.

201.198 Subdivider. Any individual, group, or entity acting as or legally empowered by a property owner to divide or consolidate a lot or lots into a new configuration in accordance with Article 9 requirements.

201.199 Subdivision. Division of one or more legal lots of record into two or more newly configured lots for the purpose of sale, transfer of ownership, lease, or development. All subdivisions must obtain Town of Nelson Planning Board approval. A lot line change and a lot consolidation are not considered subdivisions, and only one Planning Board meeting is required, and no fee is imposed for their review.

201.200 Subdivision, Conventional. A subdivision which creates lots complying with all area and dimensional requirements of this local law in which no provision is made for any common ownership of land.

201.201 Submission. The complete packet of information prepared and issued to a reviewing body as part of an application procedure.

201.202 Submission Date of a Plat. The date on which a completed Preliminary Plat is filed with the Town Clerk. Planning Board Review which might lead to approval of a project, cannot begin until a complete application is accepted by the Board.

201.203 Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored before the damage occurred.

201.204 Supervisor. Supervisor of the Town of Nelson.

201.205 Surface Modification. Any earth work or grading activity which alters the existing topography and/or removes the natural vegetative ground cover such that the ground and soil materials are left exposed to erosion by wind and/or rain. The term specifically excludes agricultural and planned horticultural activities.

201.206 Temporary Certificate. A certificate issued pursuant to subdivision (d) of section 1000.6 of this local law.

201.207 Temporary **Use**. A non-permanent improvement to, or occupancy of land permitted pursuant to section 511 of this law.

201.208 Town. The Town of Nelson

201.209 Town Board. The Town Board of the Town of Nelson.

201.210 Town Engineer. The person or firm employed or otherwise retained by the Town Board to review and approve the design and installation of improvements required by these regulations.

201.211 Town Highway. A strip of land controlled or owned by the Town, constructed and maintained to meet Town standards for street design, providing vehicular and pedestrian access to abutting lots and streets. Roads are maintained for access on either a year round or seasonal basis, as determined and so designated by the Town. Unless otherwise indicated Town road rights of way are 60 feet wide.

201.212 Town Highway Standards. Design and construction specifications and requirements for roads to be dedicated as Town Highways as recommended by the Town Highway Superintendent and approved by resolution of the Town Board.

201.213 Town Right-of-Way (unimproved). A strip of land owned or controlled by the Town for the purpose of either providing future access to abutting lots or streets or for providing a bed for a future improved roadway. Unless otherwise indicated all Town rights-of-way are 60 feet wide.

201.214 Trailer House. A Trailer House is similar to a Mobile Home except that it was produced prior to and was not subject to compliance with the US Department of Housing and Urban Development Code for Mobile Homes, which went in to effect on June 15, 1976.

201.215 Travel Trailer. A vehicle not propelled by its own power and drawn by a separate powered motor vehicle, which contains office, sleeping, and/or cooking and/or sanitary facilities designed and constructed for office, vacation or other similar temporary use.

201.216 Uniform Code. The Building Code of New York State, as currently in effect and as hereafter amended from time to time.

201.217 Use. The specific approved purpose in a district for which land, buildings, or structures are utilized.

201.218 Utilities. All water, sanitary sewer, gas, electric, telephone and cable television facilities and any easements through or over which said facilities may be construction or installed within or in conjunction with a development.

201.219 Utility. A public or private services company or entity supplying services to multiple customers within the Town, including, but not necessarily limited to, electricity, gas, telephone, cable television and other forms of communications. Specifically excluded from this definition is any facility with a process or manufacturing procedure that creates a fuel or generates electricity or power that is exported from the facility.

201.220 Utility Facility. Structures for accommodating utility functions to supply electric, gas, water, cable television, telephone or other utility service. Included are such facilities as electric unit substations, high-voltage transmission lines, pump stations, water towers and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities.

201.221 Utility Electric Substation. A power facility operated by the utility company designated to serve the surrounding area.

201.222 Variance, Area. The authorization by the Zoning Board of Appeals for the use of land in a manner which is not otherwise allowed by the dimensional or physical requirements of the applicable zoning regulations, granted under the standards set forth in Article 16 of the New York Town Law.

201.223 Variance, Use. The authorization by the Zoning Board of Appeals for the use of land or structures for a purpose, which is otherwise not allowed, or is prohibited by the applicable zoning regulations, granted under the standards set forth in Article 16 of the New York Town Law.

201.224 Vehicle Sales. The sale and/or leasing of used and/or new vehicles, including farm equipment and automobile showrooms and sales lots.

201.225 Vehicle Service. The on-premises repair, maintenance, improvement and general servicing of vehicles and farm equipment, including gasoline service stations, car wash facilities, body and fender shops, gas pumps and any and all types of similar facilities, whether automatic or attendant managed.

201.226 Watercourse. Every permanent or annually recurring spring, pond, lake, stream, marsh, or other channel of water of whatever type found in the Town.

201.227 Watershed. That body of land through which or from which water drains into a Watercourse.

201.228 Wildlife Refuge. A facility operated on a non-commercial, non-profit basis, which consists primarily of open, undeveloped lands, which is set aside for the care and preservation of wild animals, with no hunting permitted.

201.229 Wind Energy System. A machine or combination of machines and appurtenant equipment that converts the kinetic energy in the wind in a usable form (commonly known as a "wind turbine" or "windmill").

201.230 Yard. The part of a lot and which lies between the setback line and the closest of either the lot line or street right-of-way line.

201.231 Veterinary Hospital. A facility to diagnose and treat animal disease and/or disorders, or to prevent animal diseases or disorders, and may include the incidental sheltering of animals being treated.

201.232 Zoning Board of Appeals. The Zoning Board of Appeals of the Town of Nelson.

## **Article III Zoning Map**

### **Section 300 Official Zoning Map**

There shall be a map known and designated as the Official Zoning Map of the Town of Nelson, which shall show the boundaries of all zoning districts within the Town of Nelson. This map shall be dated, certified by the Town Clerk, and kept on file in the office of the Clerk of the Town of Nelson. The Official Zoning Map dated June 9, 2011 is hereby adopted and incorporated herein by reference.

### **Section 301 Interpretation of District Boundaries on Zoning Map**

When uncertainty exists with respect to the boundaries of any district as shown on the Official Zoning Map, the Zoning Officer shall determine which Zoning Districts are applicable to each lot, and shall apply the following standards to determine the appropriate district boundary:

- (a) Zoning District boundary lines are intended to follow centerline of streams, streets and railroads as shown on maps of record at the time these regulations became effective.
- (b) Boundaries indicated as approximately following tax map parcel boundaries or other mapped lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as following shorelines of lakes shall be construed to follow such shorelines, and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
- (d) Where boundaries are shown approximately parallel to a stream, lake, street, highway, or railroad they are intended to be parallel and at the distance there from indicated on the map. If no dimension is shown, the distance is to be measured based on the official zoning map drawn to scale.

### **Section 302 Lots Divided by District Boundaries**

When a lot is divided by a district boundary, the regulations and requirements of either district may be extended as the applicant chooses for a distance of 100 feet beyond the district boundary, but not across any lot line.

**Section 303 Lot Status - Lot of Record.** To qualify for subdivision review or a zoning permit under this local law, the applicant must first establish that the lot to be developed is a lot of record in accordance with one of the following:

- (a) It has been recorded as a lot in the office of the Madison County Clerk, prior to the adoption of a Town of Nelson Subdivision Regulation on June 1, 1977.

(b) It is a lot on a subdivision plat which has been approved and certified by the Nelson Planning Board after June 1, 1977 and recorded in the office of the Madison County Clerk.

### **Section 304 Amendments to Official Zoning Map**

- (a) Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments of this local law.
- (b) The Town Clerk shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Town Board. Upon entering any such amendment on the map, the Town Clerk shall make note of the date of the Town Board approval of the changes, certify the changes, and change the date of the map to indicate its latest revision. New copies may then be issued.
- (c) The Town Clerk shall keep copies of superseded prints of the Official Zoning Map for historical reference.

## **Article IV Zoning District Regulations**

### **Section 400 Zoning Districts**

The Town is divided into multiple zoning districts, all of which are regulated by these land use and development regulations.

### **Section 401 Area and Dimension Regulations**

401.1 The Zoning Officer issues permits only after determining that the proposal meets all of the regulations for the use and the District in which the lot is located.

401.2 The area and dimension regulations applicable to development within each zoning district are contained Appendix "A" located at the end of this local law.

### **Section 402 Basic Zoning Districts**

**402.1 Establishment** of Districts. The following districts are hereby established in the Town of Nelson. The boundaries of each district are shown on the Official Zoning Map of the Town of Nelson.

**402.2 Rural — R.** The rural zone includes the majority of the town, and is comprised of large areas of undeveloped agricultural and forested open space, mixed with single family homes, farms and equestrian uses. Many of the rural roadways that serve this area provide broad vistas of forested hills and valleys. The lands comprising this zone best represent the rural agrarian and natural character that is associated with the Town. The intent of the zone is to maintain the area's rural and natural setting, promote agricultural and equestrian land uses, and to preserve open space, prime agricultural soils, natural resources, environmentally sensitive areas, and scenic vistas. Low density one and two family residences and small home based businesses are allowed when they are compatible with the primary objectives and character of this zoning district.

**402.3 Neighborhood — N.** The neighborhood zone is an area of the town south of Route 20 that has been developed almost exclusively with single family homes on medium density lots created from former agricultural lands. The intent of this district is to preserve the sense of residential neighborhoods and to promote a feeling of community undisturbed by other uses.

**402.4 Nelson Corridor — NC.** The Nelson Corridor zone is comprised of a mix of residential, retail, service and warehouse uses located on U.S. Route 20, a state and nationally designated scenic byway highway. This populated area is most commonly identified as the Town of Nelson by non-residents. The intent of the zone is to promote a

cohesive character consistent with the architecture of the older structures and the scenic highway designation, while encouraging services and businesses that can enhance this area as a destination for Town residents and travelers on Route 20.

**402.5 Erieville Hamlet — EH.** The Erieville hamlet zone is comprised of a mix of developed properties, many on relatively small lots, centered around the intersection of Erieville/ Eaton brook/ Damon Rds. ,whose structures and architecture reflect the character of the community's nineteenth century roots. The purpose and intent of this zone is to preserve the existing streetscape, the neighborhood, and the style of the structures, in an effort to foster a sense of community and place for its residents. Small ,neighborhood scale businesses are encouraged.

**402.6 Waterfront Zone — WF.** The waterfront zone is comprised generally of properties fronting upon Eaton Brook and Tuscarora Reservoirs, and consists mostly of compact seasonal cottages on very small lots with some larger scale year round homes in a backdrop of forested hillsides. The intent of this zone is to preserve the scale and character of the lakefront summer cottage community, to preserve any remaining undeveloped shoreline, to preserve and/or improve shoreline vistas and lake views, and to improve lake water quality. The zone encourages consolidation of substandard lots, naturalization of developed shorelines, and use of water quality improvement practices. Due to limited new development opportunities in these confined, highly developed shoreline areas, increased intensity of land use, additional impervious surfaces, tree removal, and excessive building heights are discouraged.

**402.7 Business Commercial — BC.** The business/commercial zone comprises an area generally north of Route 20 encompassing an existing planned development business park, and also includes nearby commercial businesses with frontage on the Highway. The intention of this zone is to promote commerce and provide local employment opportunities in a controlled and concentrated business park/highway corridor setting without impacting rural and residential uses in the Town. Light manufacturing with clean technology, offices, commercial and service uses are encouraged in this zone. Development along and/or visible from Route 20 must be compatible with the scenic byway highway designation of Route 20.

## **Section 403 Use Regulations for Basic Districts**

### **403.1 Uses and Activities in Rural Zone: R**

A. The following uses are permitted in this zone upon the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:

1. Agricultural use
2. One and two family residential use
3. Home Occupation Minor
4. Agricultural roadside stand
5. Two accessory buildings
6. Farm **use**, if larger than 5 acres
7. Private wind energy facilities, subject to prior site plan review and approval by the Planning Board.

B. The following uses are permitted upon review by the Planning Board and after issuance of a Special Permit by the Planning Board:

1. Home Occupation Major
2. Wildlife refuge
3. Stable
4. Additional residential accessory buildings
5. Religious institution
6. School
7. Community Center
8. Hospital
9. Private club
10. Membership clubhouse
11. Recreation area
12. Cemetery

13. Quarry
14. Kennels
15. Veterinary hospitals
16. Campgrounds
17. More than one residential dwelling for family members and/or hired help on premises devoted to Agricultural Use
18. Retail sales
19. Farm Use if under 5 acres
20. Utility electric substation
21. Bed and Breakfast (with additions to the structure)
22. Commercial Wind Energy Facility
23. Aircraft Landing Strips
24. Mobile Home Park
25. Mobile Home for housing of employee(s) of agricultural operation located on a parcel used for agricultural use.

C. The Town of Nelson 2007 Comprehensive Plan Update notes that "[t]he Nelson community remains dedicated to preserving its rural agrarian culture, image and practices ...." In order to promote the achievement of that objective, planned mixed use developments consisting of one and/or two family uses combined with agricultural uses are allowed in this district upon review by the Planning Board and after issuance of a Special Permit and subdivision approval by the Planning Board pursuant to Section 470 (Cluster Development) of this local law if the developer wishes to convey title to separate lots within the development, provided the planned development meets the following conditions:

1. The existing parcel to be developed and subdivided is at least ten acres in area.
2. Following subdivision, at least fifty percent (50%) of the initial lot area is permanently protected from development by means of a conservation easement or such other legal instrument as may be approved by the Town Attorney or such legal counsel as may be retained by the Town to provide such legal advice. At least ninety percent (90%) of the lands to be protected from future development shall consist of the most productive and viable farmland of the original parcel (as determined by the Planning Board based upon soil mapping, aerial mapping, landowner and/or expert testimony and such other evidence as the Planning Board may deem relevant)
3. The planned development includes the use of shared driveways for all residential lots that do not meet the frontage requirements set forth in Exhibit "E" and/or other provisions of this local law. Such shared driveways shall, at a minimum, be designed and constructed in accordance with the provisions of Section 610 of this local law.
4. That all non-residential lots in the planned development that do not meet the frontage requirements set forth in Exhibit "E" and/or other provisions of this local law shall be provided with legal access to one or more public highways (as determined by the Town Attorney or such legal counsel as may be retained by the Town to provide such legal advice) which access must also be practical for access to the lot(s) by agricultural equipment and vehicles.
5. In order to alert prospective residents of the potential nature of future agricultural activities around them, prior to the conveyance of any residential lots within the planned use development, the owner must prepare and submit to the Town for recording in the County Clerk's office, along with the requisite recording fees, a declaration of covenants, in such form as may be approved by the Town Attorney or such legal counsel as may be retained by the Town to provide such legal advice. The covenants and the approved map and plan for the mixed development must contain the following statement: "It is the policy of the State of New York and the Town of Nelson to conserve, protect, and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This notice is to inform prospective residents that the residential property within this development is in close proximity to agricultural lands and that farming activities occur on those lands. Such farming activities may include, but are not be limited to, activities that cause noise, dust and odors, and such activities may occur at non-traditional working times."
6. The number of lots and/or dwelling units within the planned development shall not exceed 150% of the number of lots and dwelling units that could be developed in a conventional development on the

existing parcel. The applicant shall submit a concept site plan demonstrating a conventional development on the parcel and the total number of lots and dwelling units that could be located on the parcel in such a conventional development.

7. The development minimizes the disturbance of natural resources and avoids environmentally sensitive areas.

Notwithstanding the minimum lot size and other dimensional requirements (including, but not limited to requirements for lot area, lot frontage, yard depth, setbacks and lot coverage) that would otherwise apply under this local law, in a planned mixed use development meeting the above-stated conditions of this section, the Planning Board may modify any and/or all of such requirements for lots within the planned development to facilitate the permanent preservation of agricultural lands in accordance with the conditions stated in this section, provided, however, that the lot sizes and lot dimensions of all residential lots within the planned mixed use development shall be such as to allow development of each such lot in accordance with the standards of the Public Health Law for individual water supplies and private septic systems.

#### 403.2 Uses and Activities in Neighborhood Zone: N

A. The following uses are permitted in this zone upon the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:

1. Agricultural use
2. One family residential use
3. Home Occupation, Minor
4. Two accessory buildings
5. Farm use, if larger than 5 acres

B. The following uses are permitted upon review by the Planning Board and after issuance of a Special Permit by the Planning Board:

1. Additional residential accessory buildings
2. Two family residential use

#### 403.3 Uses and Activities in Erieville Hamlet Zone: EH

A. The following structures and uses are permitted in this zone upon the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:

1. One and two family residential use
2. One accessory building
3. Home occupations, Minor.

B. The following structures and uses are permitted in this zone upon prior site plan approval by the Planning Board and the issuance of a building permit and/or zoning permit by the Code Enforcement Officer.

1. Bed and breakfast.
2. Retail shops with less than 900 square feet of sales floor area accessible to the public.
3. Retail stores with less than 1,500 square feet of sales floor area accessible to the public.
4. Diners.
5. Restaurants.
6. Personal service establishments.
7. Professional services offices.
8. Religious institutions.
9. Single family dwellings in the same building and in combination with site plan permitted uses (2), (3), (4), (6), and (7) of this section.
10. One additional residential accessory building.
11. Home occupation, Major.

#### 403.4 Uses and Activities in Nelson Corridor Zone: NC

- A. The following structures and uses are permitted in this zone upon the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:
1. One and two family residential use
  2. One accessory building.
  3. Home occupations, Minor.
- B. The following structures and uses are permitted in this zone upon prior site plan approval by the Planning Board and the issuance of a Building Permit and/or zoning permit by the Code Enforcement Officer:
1. Bed and Breakfast.
  2. Retail shops with less than 1,500 square feet of sales floor area accessible to the public.
  3. Retail stores with less than 3,000 square feet of sales floor area accessible to the public.
  4. Diners.
  5. Restaurants.
  6. Personal service establishments.
  7. Professional services offices.
  8. Religious institutions.
  9. Single family dwellings in the same building and in combination with site plan permitted uses (6) and (7) of this section.
- C. The following structures and uses are permitted in this zone upon prior issuance of a special permit by the Planning Board and the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:
1. Convenience stores
  2. Automotive, farm machinery and recreational vehicle sales, service and repair.
  3. Light industrial uses.
  4. Multiple family dwellings.
  5. One additional residential accessory building.
  6. Home occupation, Major.
  7. Recreation facility.

#### 403.5 Uses and Activities in Waterfront Zone: WF

- A. The following uses are permitted in this zone upon the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:
1. One family residential use
  2. Home occupations, Minor
  3. One Accessory Building
  4. Docks, for private, non-commercial use only, subject to the provisions of subsection 17 below.
- B. The following uses are permitted after issuance of a Special Permit by the Planning Board upon findings that the use(s) do not adversely affect the general scale, environment or character of the area or resultant vistas to or from the site:
1. Bed and Breakfast
  2. Diners and Restaurants
  3. One additional residential accessory building

- C. Use of any property within the Waterfront Zone for access to the lake waters by or for the benefit of any lot other than the lot with lake frontage is prohibited, whether such access be granted by easement, right of way, license or other legal grant or conveyance.
- D. Each lot within the Waterfront Zone is permitted one dock extending into the lake waters, subject to the restrictions stated in this subsection. If the lot has more than fifty (50) feet of shoreline frontage, one additional dock shall be permitted for each fifty (50) feet of shoreline frontage over and above the first fifty (50) feet of shoreline frontage. Docks shall extend not more than forty (40) feet into the lake waters as measured from a line on shore representing the high water mark. No dock shall exceed four (4) feet in width, and no dock shall exceed one hundred sixty (160) square feet of total surface area. No dock shall be constructed within ten (10) feet of any lot line extended as a straight line into the lake.
- E. Existing non-conforming lots under common ownership and sharing one or more common boundaries shall be combined to either create a conforming lot, or a less non-conforming lot if any new structure, or expansion of any existing structure is proposed. Any expansion of the floor area of an existing structure that already exceeds maximum height, lot coverage percentage and/or setback limitations shall not be permitted.
- F. All applications for development within the Waterfront Zone shall be subject to site plan review by the Planning Board prior to the commencement of any site work. When directed by the Planning Board or otherwise required by law, all waterfront zone development shall incorporate appropriate measures to reduce stormwater runoff and pollutants, and shall preserve and/or improve the lake shoreline in accordance with the Town of Nelson Guidelines for Improving Lake Water Quality, which are attached and incorporated as Appendix C to this local law.

**403.6 Uses and Activities in Business Commercial Zone: BC**

The following structures and uses are permitted in this zone upon prior site plan approval by the Planning Board and the issuance of a building permit and/or zoning permit by the Code Enforcement Officer:

- 1. Enclosed manufacturing industries
- 2. Enclosed warehouse or wholesale use
- 3. Public utility
- 4. Vehicle sales, service and repair
- 5. Machinery and transportation equipment, sales, service and repair
- 6. Enclosed industrial process and service
- 7. Research laboratories
- 8. Retail shops
- 9. Retail stores
- 10. Diners
- 11. Restaurants
- 12. Personal service establishments
- 13. Professional services offices
- 14. Convenience stores
- 15. Automotive, farm machinery and recreational vehicle sales, service and repair
- 16. Light industrial uses
- 17. Multiple family dwellings
- 18. Private and Commercial wind energy facilities
- 19. Recreation facility

**Section 404 Overlay District**

404.1 An overlay district combines with the requirements of the underlying basic zoning district to provide additional regulations in areas where warranted by specific conditions or concerns.

#### 404.2 Scenic Vista I Scenic Highway Overlay District

The scenic vista I scenic highway overlay district is designated on the Official Zoning Map of the Town of Nelson and comprises areas of the town where sweeping vistas of minimally developed ridges, valleys and rolling hills are visible from public highways. The intention of this overlay district is to preserve the Town's significant viewsheds and their corresponding viewing locations from designated scenic public highways (as denominated on the Official Zoning Map) by applying specific development standards (compatible with the underlying zoning designation) that serve to minimize visual impacts.

It is the intent of these regulations to avoid overly obtrusive development in these locations that may result from any of the following conditions:

- a. The color of the structure(s) may not blend with the surrounding vegetation or structures;
- b. Construction materials may reflect light (e.g. large un-shaded windows, light colored and metal roofs);
- c. Decorative or other lighting that brightens otherwise dark skies;
- d. Structures that are bulky or out of scale with other background features, natural or man-made;
- e. Structures with tall elements that protrude from their surroundings and are difficult to hide;
- f. Landscaping that is inadequate to mute the visual impact of the structure(s);
- g. Construction of buildings and/or structures that impair the view of a scenic vista from a scenic public highway.

404.3 No person shall commence or conduct any of the following regulated activities upon any lot within the scenic vista / scenic highway overlay district except upon the prior issuance of a special use permit by the Planning Board:

- a. Construction of new buildings or structures, or additions or modifications to existing buildings or structures.
- b. Any surface modification requiring Planning Board approval pursuant to section 601 of this local law as it applies to quarries.
- c. Extraction of Natural Products.
- d. Removal of trees from an area of one acre or more, unless such removal is in accordance with a forest management plan or is part of an agricultural operation.

404.4 No application for a special use permit for a regulated activity within the scenic vista / scenic highway overlay district shall be granted unless:

- a. The applicant has demonstrated, and the Planning Board has found that the development activity will not have a substantial adverse effect upon the scenic vista as viewed from any public highway. This shall be demonstrated by the applicant through the use of computer generated photos depicting the proposed development.
- b. Cutting of trees will be minimized and will not adversely impact the visual quality of the scenic vista.
- c. The applicant has demonstrated, and the Planning Board has found, that there is no reasonable alternative for the proposed development activity to be located on a portion of the site not containing a scenic vista or in a location that will not impair the view from a scenic public highway.

### **Section 405 Special Purpose District: Planned Unit Development (PUD)**

405.1 Intent. The intent of a Planned Unit Development procedure is to provide a degree of flexibility in conventional land use and design regulations which will provide an opportunity for developers to propose residential, non-residential and combined-use development projects that were not contemplated in the district regulations. The objectives a Planned Unit Development are to achieve, insofar as practical, the following:

- (a) A maximum choice in the types of housing, and community facilities available to existing and potential Town residents at all economic levels;
- (b) More usable open space and recreation areas;

- (c) More convenience and flexibility in the location of any nonresidential facilities;
- (d) The preservation of trees, drainage ways, outstanding natural topography and geologic features, and prevention of soil erosion;
- (e) A use of land and facilities which will produce an orderly transition between intensive and less intensive uses of land;
- (f) A use of land resulting in smaller networks of utilities and streets, and thereby, lower community costs;
- (g) A development pattern in harmony with the long-range objectives of the general development plan of the Town.

405.2 Regulations. Where the Planned Unit Development concept is appropriate and the land is rezoned to a Planned Unit Development, the regulations set forth in the Basic District regulations are replaced with regulations adopted specifically for the proposed Planned Unit Development.

405.3 General Considerations.

- (a) A PUD may be considered anywhere in the Town on a site larger than 5 acres.
- (b) Any residential, nonresidential or combined-use development will be considered if the developer can demonstrate that the development will promote the long-range purposes of this local law and the objectives of the Comprehensive Plan of the Town.

## **Article V**

### **Supplemental Regulations**

### **Applicable to Particular Uses**

#### **Section 500 Agricultural Roadside Stands**

Temporary roadside stands for the sale of agricultural produce raised on the property may be erected on lots and used provided that no stand shall be within the public road right of way or within 30 feet of either side line.

#### **Section 501 Aircraft Landing Strips**

501.1 The Planning Board may allow landing strips by Special Permit to be operated by the lot owner or tenant if the owner or tenant shows evidence of approval of the landing strip by Federal and State governing authorities, and if the following conditions are satisfied:

- A The landing strip is private and not used for any commercial purpose.
- B) All parts of the landing strip are set back at least 200 feet from all property lines, and all related building, hanger, vehicular and plane parking areas comply with all yard setback distances for the district.
- C No obstacles are currently in place which would inhibit the clear flight path to and from the landing strip.

501.2 The Special Permit must be applied for by the lot owner and will apply for three years at which time it must be renewed.

#### **Section 502 Bed and Breakfast**

Bed and Breakfast businesses shall comply with the requirements set for Home Occupations, Major, except that all bed and breakfast operations are to be conducted in the primary structure on the lot (the house) and in contiguous additions to the primary structure. These operations shall not include sleeping or dining structures

separate from the primary structure and shall be planned to provide adequate off-street parking and safe, unobstructed access for fire trucks.

### **Section 503 Communication Towers**

503.1 Private communications towers are permitted in all districts as follows:

- A. All private communication structures shall be located within the buildable lot area defined by the front, side and rear yard setback lines.
- B. The top of the structure shall not exceed fifty (50) feet in height above adjacent grade.
- C. Structures erected in existing buildings in N, NC, EH, and WF districts are permitted providing they do not extend above the height of the building more than 33.3% of the total height of the building, or fifty (50) feet, whichever is less.
- D. All structures shall be installed as visually unobtrusive as practical.

503.2 Commercial communications towers shall comply with the following requirements:

- A. Towers shall be erected only to such height as is necessary to accomplish the purpose they are to serve. The total height of the structure or building and structure shall not exceed 200 feet above adjacent grade.
- B. All structures shall be completely located within the buildable lot area defined by the front, side and rear yard setback lines.
- C. All structures shall be installed as visually unobtrusive as possible.
- D. The structure shall not unreasonably interfere with the view of or from any public park, natural scenic vista, historic building, district or major view corridor.
- E. The structure shall be located no closer than 1-1/2 times the height of the structure above adjacent grade from any building or property line. Additional setbacks may be required by the Planning Board if reasonably necessary to contain on-site ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and any accessory facilities.

503.3 Any structure no longer in use shall be removed within one year of discontinuance of its use, which requirement shall be specifically stated as a condition of the special use permit initially authorizing construction of the tower

503.4 All applications for a special permit for a commercial communication tower shall comply with the following requirements:

**A. Site Plan.**

- 1. All applicants shall be required to submit a site plan showing all existing and proposed structures and improvements, including roads, and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use, as well as a justification for the height of any tower or antennae, and justification for any land or vegetation clearing required. The applicant shall demonstrate with a reasonable degree of certainty that the proposed location and height for the telecommunications tower is necessary to meet the frequency re-use and spacing needs of the system, and to provide adequate coverage in the Town and the public generally.
- 2. Additionally, the Planning Board shall require that the site plan be accompanied by a completed SEAR Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the town as identified in the Visual EAF. The applicant shall provide the Planning Board with photographs of the site, edited to show a simulated image of the view of the site with the proposed tower in place. The applicant shall supply a number of such edited images from various vantage points as reasonably requested by the Planning Board.

**B. Shared Use.**

- 1. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall

be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.

2. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new-shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.
3. in the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

#### C. Visibility.

1. All towers and accessory facilities shall be sited to have the least adverse visual effect on the viewshed and environment consistent with achieving the required performance of the tower and its antennae. If requested by the Planning Board, applicant shall arrange for and coordinate with the Planning Board for placing balloon(s) at the proposed tower location to rise to the height of the tower so that the Planning Board members and the public may better assess the visual impact and the locations within the town from which some portion of the proposed tower may be visible.
2. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
3. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

D. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the Special Use Permit. Clear cutting of trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

E. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

F. Access and Parking. An access road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

G. Signs. Signs shall not be permitted on towers, antennae, or related accessory facilities, except for signs displaying owner contact information and/or safety instructions. There shall be a maximum of two such signs, and shall not exceed five (5) square feet in area per sign.

- H. Utility connections to towers and accessory facilities shall be underground.
- I. Towers and related facilities shall be maintained in good working condition and repair. Towers shall be inspected annually by a professional engineer, licensed in the State of New York, for structural integrity and continued compliance with these regulations. A copy of the inspection report, including findings and conclusions, shall be submitted to the Town's Code Enforcement Officer no later than December 31 of each year.
- J. Authority to Impose Conditions.
  - 1. The Planning Board shall have the authority to impose such reasonable conditions and restrictions upon the Special Use Permit and/or site plan approval as may be directly related to the achievement of the purposes envisioned by this section with respect to the proposed communications tower.
  - 2. Such conditions shall include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, including posting of a financial bond of security.

### **Section 504 Home Occupation Use**

504.1 Two classes of Home Occupation are permitted in the Town. The key distinction between the two is that "Home Occupation Minor" generally presents no visual evidence of its occurrence while "Home Occupation Major" is permitted to be evident with restrictions.

504.2 Home Occupation Minor: A compatible nonresidential activity or use considered by the Planning Board appropriate to take place in residential districts under the following conditions:

- A. The activity or use is conducted entirely within the dwelling and / or a permitted accessory building, and is secondary to the use of the dwelling.
- B. The activity or use does not change the visual or functional character of either the building or the neighborhood which existed prior to the Home Occupation.
- C. There shall be no disturbances which may interfere with neighboring properties or residents in any manner as a consequence of the home occupation.
- D. The principle operator of the business is a resident of the dwelling.
- E. Home occupation use is carried on solely by the residents of the dwelling, with no other on-site employees.
- F. No external signage is permitted.

504.3 Home Occupation Minor includes, but is not necessarily limited to, craft, professional office, business office, and repair activities where no goods, wares, or merchandise are sold, displayed, or exhibited, and offices of religious organizations, fraternal offices or social agencies.

504.4 Home Occupation Major: A Home Occupation Major may be carried on by one or more residents of the premises in accordance with the following conditions:

- A. The business use must be secondary to the residential use of the dwelling and lot and must be compatible with and not detrimental to the neighboring properties. There shall be no disturbances which may interfere with neighboring properties or residents in any manner than is greater than that usually experienced from a purely residential use of the premises.
- B. No more than two people who do not reside in the dwelling may work in the business use, and a total of no more than four people may work in the business use.
- C. The owner and operator of the business use must be a resident of the premises and occupant of the dwelling.
- D. The area within the building used for business use may be no more than 50% of the building area.
- E. The business use may be carried on only after a special permit is granted pursuant to the provisions of this local law. In granting a special permit, the Planning Board may attach such conditions as it deems necessary to carry out the purposes of this local law. Any special permit granted hereunder shall expire at the end of one (1) calendar year from its issuance, and may thereafter be renewed by application made to the Zoning Officer. The Zoning Officer shall renew such permits only if the Officer finds that the business use complies with this local law, and any conditions of the Special Permit.
- F. All retail sales from residential lots require a Special Permit from the Planning Board, except Roadside Agricultural Stands. This permit will only be issued if the operation does not threaten the character of the neighborhood, increase undesirable traffic, or create public hazards and nuisances.

## Section 505 Mobile Homes

505.1 It shall be unlawful, within the limits of the Town of Nelson, to park or place a mobile home except upon compliance with the provisions of this Local Law and all applicable health and sanitary codes.

505.2 Except to the extent particular provisions of this Section conflict with or are more specific than other provisions of this Local Law, all provisions of this Local Law pertaining to residence 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 of Nelson except within a zoning district which permits such use, and except upon compliance with the provisions of this local law for temporary use, upon a farm, or in a duly licensed mobile home park and upon the prior issuance of a permit therefore by the Town Code Enforcement Officer. No mobile home shall be occupied, either as a residence or as a place of business, except upon the prior issuance of a certificate of occupancy by the Code Enforcement Officer.

505.3 No mobile home shall be parked or placed on any agricultural use parcel within the Town unless a Special Permit has been issued.

505.4 No mobile home shall be parked or placed on any parcel within the Town for any purpose other than use as a principal residence structure. Use of a mobile home on any parcel for any purpose other than as a principal residence, including, but not limited to, storage or animal housing, is prohibited. Junked mobile homes shall be permitted only in licensed junkyards.

505.5 No permit for the placement of a mobile home within the Town shall be issued until all of the following performance standards have been met to the satisfaction of the Code Enforcement Officer:

- A. The mobile home site must be graded to allow the safe placement of the mobile home. The mobile home site shall have one of the following in place to accommodate the placement of the mobile home
  - 1. A six inch thick, steel mesh reinforced concrete pad with dimensions at least as large as the exterior dimensions of the mobile home to be placed upon it, or;
  - 2. Concrete piers at least 12" in diameter or width, placed no more than 10 feet apart (or to manufacturer's recommendations if available) around the perimeter of the mobile home, and also placed to a depth of 4 feet below the ground surface or to bedrock, whichever is less.
- B. Driveway, septic system and water supply must be installed and approved by the Code Enforcement Officer prior to placement of the mobile home on the mobile home site.

505.6 All mobile homes shall be skirted prior to the issuance of a certificate of occupancy.

505.7 All ground within 25 feet of the mobile home, or to the property line, whichever is less, shall be graded and seeded 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 re-graded and seeded or otherwise appropriately landscaped. This provision shall not be construed to require the removal of any trees which the owner otherwise desires to remain for landscaping purposes.

505.8 No travel trailer or motor home shall be used as a residence within the Town of Nelson.

505.9 No mobile home may be enlarged or otherwise altered by any construction which penetrates in any way the exterior of the mobile home except as may be permitted under the New York State Building Code and as permitted under this local law for the modification or expansion of a nonconforming use and structure.

505.10 No mobile home shall be parked or placed in the Town of Nelson for use as a residence unless it has affixed to it its original manufacturers data plate indicating a year of manufacture of 1976 or later.

505.11 Any mobile home situate within the Town and being used as a principal residence pursuant to a valid mobile home permit and/or certificate of occupancy issued by the Code Enforcement Officer as of the

effective date of this Section shall be considered a nonconforming use and structure, the occupancy of which may be continued subject to the provisions of this local law.

505.12 Notwithstanding the provisions of subsection 505.11, or any other provision of this Local Law, any mobile home situate on any parcel within the Town as of the effective date of this Section which is being used for non-residential use as of the effective date of this Section (other than junked mobile homes within a licensed junkyard) shall be permitted to remain on such parcel for a period not to exceed two years from the effective date of this Section. Upon the expiration of such two year period, all properties within the Town shall be in compliance with the provisions of this Section.

505.13 The nonconforming status of any use, structure or parcel grandfathered under the provisions of subsection 505.11 shall terminate upon the abandonment of use of the nonconforming mobile home as a principal residence structure upon the parcel for a period of twelve (12) consecutive months.

505.14 A mobile home which has a legal nonconforming status as a residence structure under the provisions of subsection 505.11 and subsection 505.13 may be replaced on the same lot with a newer mobile home upon satisfaction of the following conditions:

- A. Issuance of a Special Use Permit;
- B. All other provisions of this Article are satisfied to the same extent as if it were the initial placement of a mobile home upon the lot;
- C. Square footage of the replacement mobile home must be equal to or greater than that of the existing mobile home;
- D. The replacement mobile home must be of a model year that is newer than that of the mobile home being replaced.

#### 505.15 License to Operate Mobile Home Park

- A. It shall be unlawful, within the limits of the Town of Nelson, to operate a mobile home park without first having obtained a mobile home park license from the Town Code Enforcement Officer and the Madison County Department of Health.
- B. Such mobile home park license shall be issued by the Town Code Enforcement Officer upon the payment of an application fee to be determined from time to time by resolution of the Town Board, and upon the review and approval of the Planning Board, which approval shall be granted only after inspection of the premises by the Town Code Enforcement Officer, and certification by such inspector (or a New York State licensed professional engineer) that said mobile home park location was found to be in conformance with the requirements of this Local Law and the requirements of the New York State Department of Health.
- C. No mobile home park license shall be issued unless the applicant therefore has complied with the following requirements:
  - 1. The applicant shall submit a scale drawing by a New York State licensed surveyor or engineer of his proposed mobile home park, which plan shall show in detail the exact location of said mobile home park, the number of units for which said park shall be licensed, the distance between the mobile homes, the location of roadways, recreational facilities, and the proposed plan for water supply and sewage disposal facilities and electrical power.
  - 2. No mobile home park shall be located except in a well drained site suitable for such purpose, and having adequate room for the number of mobile homes authorized in said license.
  - 3. No mobile home shall be placed in a mobile home park within 100 feet of any adjoining public streetline.
  - 4. No mobile home shall be placed or parked closer than 50 feet from any permanent structure or closer than 50 feet from any property line.
  - 5. No mobile home shall be placed in a mobile home park closer than 50 feet from an adjoining mobile home or structure attached thereto.

6. No drains from toilets, lavatories, showers or sinks shall be permitted to flow onto 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 such with other approved sanitary systems.
  7. All mobile homes located within a mobile home park 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 and refuse and covered receptacles shall be furnished for the use of the occupants. No uncovered refuse or other unsanitary condition shall be permitted in any mobile home park.
  9. No mobile home park license shall be issued unless the applicant has filed with the Town Clerk a certificate from the Madison County Health Department that the proposed mobile home park has been inspected by the County Health Department, and has been approved and found to be in compliance with the New York State Sanitary Code.
  10. All mobile homes within a mobile home park shall access the public highway via an internal drive. No mobile home site shall have direct access to the public highway.
- D. All mobile home sites and mobile homes located in any mobile home park shall meet all performance standards and other requirements of this Section.
- E. The owner of a licensed mobile home park shall keep a registry of all occupants which shall include the occupant's name, address, and mobile home license or serial number, the make, model and year of the mobile home and the number of persons occupying same, which registry shall be available at all times for inspection by the Code Enforcement Officer or other Town official.

### **Section 506 Private Energy Structure**

In districts where they are a permitted use, private energy structures shall be operated only upon the prior issuance of a Special Permit by the Planning Board, and in accordance with the following conditions:

- A. All structures shall be located within the buildable lot area defined by the front, side and rear yard setback lines.
- B. No top of structure shall exceed 50 ft. in height above adjacent grade.
- C. Structures erected on an existing building shall not extend above the building more than 1/3 of the height of the building excluding the private energy structure.
- D. All structures shall be installed as visually unobtrusive as possible.
- E. Roof mounted structures shall be located back from the roof edge.

### **Section 507 Public Utility Substations**

Public utility substations and similar utility structures, where permitted, shall comply with the following:

- A. The facility shall be surrounded by a security fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
- B. A landscaped area at least 15 ft. wide shall be maintained in front, rear and side yards.

### **Section 508 Recreation Area**

508.1 In any district in which it is permitted, a recreation area may be developed only upon the issuance of a special permit by the Planning Board.

508.2 The application shall state the location of the recreation area, the owner of the land involved, the name and address of the developer of the recreation area. If the owner and the developer are two separate persons the written consent of the owner for the proposed development of the recreation area must accompany the application.

508.3 A map prepared to scale no less than 1 in. = 20 ft. shall be submitted with the application to the Planning Board to show the location and extent of all proposed activities and facilities.

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508.4 The application shall indicate the maximum number of people to be accommodated by the recreation area at any time.

508.5 Permits for activities will not be granted for locations where, in the opinion of the Planning Board, such activities would be detrimental to the neighborhood, considering among other things, the type of activity and the hours of operation.

508.6 The facilities and services to be provided by the operation of the recreation area shall be fully delineated and shall include proper provisions for toilet facilities, water supply, parking and traffic control, food service, clean up and other support services as required.

508.7 Facilities and services permitted must be directly pertinent to the stated recreational use which the special permit is granted. Deviation is cause for revocation of permit.

508.8 Access to, from and within the area shall be such that no traffic hazards shall be created. The developer or operator of the recreation area shall furnish, at his expense, adequate traffic control and parking personnel. The adequacy of the traffic control and the competence of the personnel shall be approved, in writing, by the Madison County Sheriff before a permit is granted.

508.9 No building shall be located within 200 ft. of any lot line if the area is in a residential district or within 100 ft. of any lot line in any other district.

508.10 Before issuing a permit for a recreation area, the Planning Board may require the developer or operator of the recreation area to furnish a performance bond in an amount determined by the Town Board. The bond shall cover (but not be limited to) all of the conditions and stipulations covered in the permit and shall also cover any damage, repair or clean up of public or private property resulting from crowds attending functions at the recreation area.

508.11 Temporary permits may be issued for periods of time from one day to one year. Such permits may be renewed upon reapplication.

508.12 All permits are non-transferable.

### **Section 509 Sawmills**

Where permitted as a Home Occupation, Major, sawmills on residential lots shall be operated only upon the prior issuance of a Special Permit by the Planning Board and in compliance with the following conditions:

- A. A sufficient length (40 ft. minimum) of driveway, or parking lot area, (40' x 40' minimum) immediately off the road must be paved with gravel to avoid regularly tracking mud onto the public road.
- B. Building and lumber piles shall be located within the buildable lot area defined by the front, side and rear yard set back distances.
- C. Vehicles related to the sawmill shall not be parked in the setback areas.
- D. Sawmill operations shall not be permitted before 7:00 AM, nor after 7:00 PM.

### **Section 510 Storage Facilities**

Storage facilities, where permitted, shall comply with the following restrictions:

- A. Lighting levels are limited to 20 foot candles at the ground surface and lighting standards are limited to twelve feet in height, fixtures shall not emit light above the horizon and may not create a traffic hazard or objectionable lighting nuisance in any other way.
- B. Perimeter security fences may not exceed six feet in height, except three single strands of barbed wire may be used above the six feet height limit when angled inward at 45 degrees with an 18" maximum length. Coiled wire shall not be used for any purpose,
- C. Audible alarm systems shall be connected to an automatic notification system by which the owner or owner's representative is automatically notified of the alarm activation.
- D. Landscaped buffers are required, per this local law.

## Section 511 Temporary Use

511.1 Temporary permits may be issued by the Zoning Officer for a period not exceeding one year, for the temporary placement of an otherwise nonconforming mobile home for use as a temporary residence incidental to the construction of a new conforming residence upon the prior issuance of a Special Permit by the Planning Board, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for only one additional period not exceeding one year. AU such temporary uses of mobile homes shall be in accordance with the following standards:

- A The land upon which such manufactured home is to be placed shall be not less than 2 acres and owned by a person or persons living on said land. Only one manufactured home permit shall be issued per lot.
- B The issuance of such a permit shall be limited to the immediate family of the owner of the premises
- C Such manufactured home shall not be placed on a permanent foundation nor shall it have the character of permanency.
- O The home on such parcel of land shall have its own Town approved electric, water, and sewage disposal system.
- E Any permit issued hereunder shall expire one year from the date of issuance.
- F The holder of such a permit may, within two months prior to its expiration, apply to the Planning Board for a renewal thereof which may be renewed once for a period of one year, with a public hearing.
- G The said permit is not transferable.
- H In the event that ownership of the land or any part thereof is deeded or transferred, said permit shall be automatically revoked.
- I The Planning Board shall act to ensure that notice is given to adjacent land owners of the public hearing to be held in connection with any application hereunder.
- J) Lots in agricultural use permit manufactured homes as housing for farm employees employed by the land owner.
- K A hardship exists warranting approval of temporary usage.

## Section 512 Wind Energy Facilities

512.1 The following lot size, dimension and construction standards apply to commercial wind energy facilities only:

- A. Minimum lot size shall be five (5) acres.
- B. Minimum road frontage shall be four hundred fifty (450) feet.
- C. Minimum lot depth shall be four hundred fifty (450) feet.
- D. Maximum structure height shall be as determined by the Planning Board in the course of its special permit review.
- E. 1. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding street and property lines, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds that the following circumstances apply: the property line in question a) separates two properties that are both part of a commercial wind powered electricity generation facility, and b) either, i) both properties on each side of the boundary line in question will have electricity generation or transmission facilities constructed on them as part of the project under review, or ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

2. No experimental, homebuilt, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure, and a determination by the Planning Board of appropriate setback distances on the basis of that documentation.

512.2 **No special use** permit shall be granted for commercial wind power electricity generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria, in addition to those criteria generally applicable to special uses:

- A. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- B. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- C. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval as it applies to existing residential uses within 2000' of each tower for which such strobe lighting is proposed.
- D. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Nelson, or that extends beyond the border of the Town of Nelson.
- E. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.
- F. No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- G. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- H. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.
- I. Procedures acceptable to the Planning Board for emergency shut-down of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- J. Prior to issuance of a Building Permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.
- K. A form of security, acceptable to and approved by the Planning Board and the attorney for the Town, shall be provided to ensure that the towers and related facilities will be removed in accordance with the provisions of this local law upon the cessation of their use.

512.3 In addition to the site plan materials otherwise listed in this local law, the following material shall be submitted to the Planning Board for the Board's special permit review of applications for commercial wind power electricity generation and/or transmission facilities:

- A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used

shall depict 3-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing cultural features.

- B. No fewer than four and no more than the number of proposed individual wind turbines plus three, color photos, no smaller than 3"x5", taken from locations within a 3-mile radius from it and to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.

512.4 The following lot size, dimension and construction standards apply to private wind energy facilities only:

- A. Private wind energy systems may only be placed only in the Rural zoning district.
- B. The height of the private wind energy system, measured from the lowest level of the system in contact with the ground to the highest point of the structure, including the rotating blades, shall not exceed the total minimum height established by the New York State Energy Research and Development Authority ("NYSERDA") for grant funding at a wind speed of ten miles per hour.
- C. The wind energy system tower must be set back from all property lines and public highways, all driveways and buildings, and all overhead utility and communications lines, a distance equal to 1.5 times its total height. The area around the facility shall be designed to prevent unauthorized access.
- D. The wind energy system shall:
  - 1. display appropriate warning signs (e.g., electrical hazard)
  - 2. be designed and installed so that no ladder or step bolts are readily accessible to the public for a minimum height of 15 feet above the ground
  - 3. have ground clearance of no less than 15 feet to the lowest point of any rotating blade
  - 4. utilize electrical panel access doors that are lockable
  - 5. utilize an automatic braking system to prevent uncontrolled rotation
  - 6. utilize only underground power lines leading to and from the wind energy structure, which lines shall be installed in accordance with applicable codes.
- E. Unless otherwise specified by FAA requirements, the wind energy system shall be painted a non-reflective, non-obtrusive color that conforms to the environment. The system may not be artificially lit.
- F. The wind energy system shall not exceed audible sound levels of 50dBA, as measured at the nearest property line.
- G. If a wind energy system is inoperable for 12 months, the Town shall request, via certified mail, that the owner remove or repair the tower within 30-120 days. If owner fails to remove or repair the system within the designated time period, the Town may remove the facility at the cost of the system owner.
- H. The construction of a wind energy system shall only remove the natural vegetation necessary for the construction, operation, and maintenance of the system.
- I. No more than one private wind energy system shall be permitted per lot.
- J. The private wind energy system may not interfere with utility or electromagnetic communication fines.
- K. No experimental, homebuilt, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure, and a determination by the Planning Board of appropriate setback distances on the basis of that documentation.
- L. No advertising may be included on any portion of the wind energy system.
- M. All facilities shall be sited in the location that will have the least off-site visual impact. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Nelson.

# Article VI

## Development Standards Applicable in All Districts

### **Section 600 General Development Environmental Standards**

All development in the Town of Nelson shall be planned, designed, constructed and managed to:

- (a) minimize site disturbance and the construction of impervious surfaces;
- (b) avoid disturbance of significant natural resources and environmentally sensitive areas;
- (c) minimize visual impacts
- (d) minimize erosion and storm water impacts
- (e) provide appropriate buffers to natural resources and environmentally sensitive areas.

### **Section 601 Regulation of Surface Modification and Soil Disturbance**

Surface Modification includes any earth work or grading activity which alters the existing topography and/or removes the natural vegetative ground cover such that the ground and soil materials are left exposed to erosion by wind and/or rain. The term specifically excludes agricultural and planned horticultural activities.

601.1 No surface modification shall be carried out in any district that leaves soil exposed without vegetative or other cover for more than 60 days. All such surface modifications shall be performed with erosion and sedimentation controls in place in accordance with standards and practices approved by the New York State Department of Environmental Conservation.

601.2 All areas of disturbed soil shall be temporarily or permanently stabilized with seed and mulch or other soil stabilization practices within 14 days of final grading or temporary cessation of site activities.

601.3 Any removal or addition of soil for non-agricultural purposes which results in the disturbance of the ground surface over an area of one acre or more shall require prior site plan approval from the Planning Board and permit coverage under the New York State Department of Environmental Conservation Special Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activities.

601.4 A topographic survey, grading plan and erosion and sedimentation control plan are required for any surface modification or soil disturbance subject to site plan approval. No disturbance of drainage ways that affect other properties, protected wetlands, regulated water bodies, or designated floodplains shall be permitted without the prior approval of the relevant regulatory agency having jurisdiction over the site.

### **Section 602 Stormwater Management**

602.1 In an effort to protect the Town's water resources, stormwater management shall be provided on all development sites in the Town of Nelson. This includes providing erosion and sedimentation control measures during construction to minimize soil erosion and sediment pollution and also includes post-construction practices that provide stable storm water conveyance, runoff water quantity reduction and stormwater pollutant treatment.

602.2 Any project that will involve a cumulative land disturbance of one acre or greater, is subject to the conditions of the NYSDEC SPDES, General Permit for Storm Water Discharges from Construction Activities. This requires the filing of a Notice of intent (N01), the preparation of a stormwater Pollution Prevention Plan (SWPPP), and on-going construction inspections.

602.3 All erosion and sedimentation control for a site must be designed and constructed in accordance with the NYSDEC Standards and Specifications for Erosion and Sediment Control. Emphasis is placed on planning practices that minimize soil exposure and disturbance, on site runoff management and on soil stabilization measures.

602.4 All post-construction storm water conveyance and treatment practices shall be designed and constructed in accordance with the New York State Stormwater Management Design Manual. Emphasis is placed on planning practices that minimize development footprints and impervious surfaces and on practices that reduce and treat runoff at the source. A legal mechanism for ensuring the future maintenance of all permanent stormwater facilities must be established and approved at the time of project approval by the Town.

### **Section 603 Extraction of Natural Products - Quarries**

603.1 In any district where quarry use is permitted, the removal of soil, sand, gravel, or quarried stone in quantities exceeding 1000 tons per year, except when incidental to construction of a building on the same premises, shall be permitted only upon issuance of a mined land reclamation permit from the New York State Department of Environmental Conservation and after review by, and issuance of a Special Permit by the Planning Board.

603.2 Before Planning Board approval of any new or expanded quarrying operation, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations, the abandoned quarry will be left in a safe, attractive and useful condition in the interest of public safety and general welfare at least equal to existing undisturbed natural conditions. The owner shall submit a plan of proposed improvements to accomplish this end.

603.3 The removal of any material shall be conducted so as to result in the improvement of the land, having due regard to the existing grade and natural conditions occurring in the vicinity. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit.

603.4 The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched, and reseeded so as to establish a firm cover of grass or other naturally occurring vegetation sufficient to prevent erosion to the satisfaction of the Zoning Officer.

603.5 All surface drainage existing or developing by or through the excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, or detrimentally discharging onto any adjacent property. All provisions to control and/or contain any discharge from an excavated site shall meet with the approval of the Zoning Officer.

603.6 No excavation, blasting or stockpiling of materials shall be located within 200 ft. of any street or other property line.

603.7 No power activated processing machinery or equipment shall be located within 300 feet of any street or other property line and all such machinery shall be equipped with satisfactory dust and noise elimination devices.

603.8 All excavation slopes in excess of (1:2) one vertical to two horizontal shall be adequately protected and fenced to provide a secure barrier against unwanted access and secure the public's safety.

603.9 Extension of an existing nonconforming operation shall not be permitted.

### **Section 604 Protection of Excavations, Construction Sites, Abandoned and Derelict Facilities**

604.1 Hazardous Sites. Fencing or similar safety measures must be provided around excavations, derelict buildings, damaged structures, construction sites, and other hazardous sites, immediately upon the determination by the Zoning Officer that it is necessary in the interest of public safety.

604.2 Derelict Facilities. Any damaged, abandoned or neglected facility determined by the Zoning Officer to be a hazard to the health, safety, and general welfare of the community must be remedied within thirty (30) days of the date on which the owner is notified by official correspondence that the facility is a hazard, unless a Zoning Permit and/or Building Permit has been issued and the Zoning Officer finds that reconstruction has begun.

604.3 Excavations. No construction excavations shall remain open, uncovered or unprotected after the date on which the construction work ceased.

604.4 Destroyed Facilities. Any excavation or exposed cellar hole remaining or any damaged structure standing after the destruction of a facility from any cause must be covered, filled or removed within four (4) months, except that in the case of a facility being deliberately demolished, any excavation or exposed cellar hole must be filled or covered at the time of demolition work.

### **Section 605 Landscaping - Planting, Buffers and Screening**

605.1 Where any non-residential land use abuts any land use in a residential district, or residential property in a non-residential district, a strip of land, at least 10 ft. in depth, shall be maintained as a landscape buffer and screen area in the front, side and/or rear yards which adjoin these uses.

605.2 Landscaping required under this Section includes indigenous ground cover, grass, flowers, shrubs, and trees, installed and maintained in a manner suitable for providing an attractive year round natural visual screen from ground up.

605.3 Commercial establishments shall be landscaped in such manner as to provide cover for all exposed soil areas, be attractive to the area and consistent with adjacent properties.

605.4 All such landscaping shall be maintained in a healthy growing condition.

605.5 Landscaping comprises the planting and maintenance of shrubs, trees, ground covers, and grasses, fences, walls, pools, and fountains for the purpose of enhancing the value, appearance and livability of buildings and other facilities.

605.6 The Planning Board may stipulate that certain landscaping features are necessary to protect neighboring lots from potential negative impacts of a proposed development, and require such landscaping as it considers necessary as a requirement for the permit.

### **Section 606 Lighting**

For purposes of facilitating nighttime use of properties in the Town and preserving the area's "dark skies", all site lighting should be designed and installed to minimize glare, reflection and off-site "spillage". All lighting fixtures shall be downward directed, with a full cutoff cover, and be certified by the International Dark Sky Association (IDA). The amount of illumination projected onto an adjoining property shall not exceed 0.1 vertical foot candles at the ground level along the property line. A lighting plan showing all ground, building and pole mounted fixtures and their foot candle "contours" may be required as part of site plan review.

### **Section 607 Parking Facilities**

607.1 Off-Street Parking Space Requirements. For every building hereafter erected, altered, moved, extended or changed in use, there shall be provided off-street parking facility at least as set forth below. A required parking space shall be at least 9 ft. wide by 20 ft. long.

607.2 Size, Location, and Maintenance. Off street parking shall be provided on site according to site use and provided for in quantities not less than those defined by the parking facility schedule contained herein. No parking shall be permitted within any easement or right of way areas and must be located outside of all parking setback distances. Off street parking space must be paved or graveled, drained, maintained, and provided with necessary access driveways.

607.3 Modification of Requirements. The Planning Board may permit a fewer number of off-street parking spaces than otherwise required under this Chapter (but not less than 50% of the otherwise required spaces) if it determines that the number of spaces required under this chapter is excessive, and provided that the approved site plan includes designated area(s) for the installation of additional on-site parking spaces to provide the number of spaces required by this chapter should the intensity of the use change, or if the Planning Board determines that the number of spaces as originally constructed is insufficient.

## **Section 608 Basis for Required Parking Spaces**

608.1 The requirements for off street parking are based on the type and use of a building. The parking requirements for a combination of two or more uses or building types on one lot are determined by establishing the requirements for each component activity or facility from the schedules and adding them together.

608.2 **Handicapped Parking:** shall be configured to provide unobstructed handicapped parking and vehicular access to all buildings in accordance with Public Law 110-336 known as the Americans with Disabilities Act of 1990 (ADA). A minimum of 5% of the required public accommodation parking spaces shall be designed and constructed for handicapped use.

## **Section 609 Parking Schedule**

609.1 Residential Uses:

- A. One-family and two-family dwelling units: Two (2) parking spaces for every dwelling unit.
- B. Multiple-family dwelling units: One and one-half (1 1/2) parking spaces for every dwelling unit.
- C. Home Occupation Special: One (1) parking space, plus one (1) additional parking space for every 125 square foot of business space, or for each 25 square foot of waiting room, whichever is greater, and one (1) additional space if there is an employee.

609.2 Hotel, Motel, Bed and Breakfast, Tourist Home, Boarding House: One (1) parking space, plus one (1) parking space for each guest room, plus two (2) employee spaces for hotel and motel full-time employee.

609.3 Places of Assembly: Every structure used as a place of assembly which provides facilities for seating people—one (1) space per five (5) seats. Where there are no seats provided in the place of assembly, one (1) space per 125 square foot of floor area.

609.4 Business, Professional and Medical Offices: One (1) space per 200 square foot of office space, or for each 25 square foot per waiting room area whichever is greater.

609.5 Commercial, Business and Unspecified Uses: One (1) parking space for every motor vehicle used directly in the business, plus one (1) space per 250 square foot of floor area.

609.6 Industrial Uses: One (1) parking space for every motor vehicle used directly in the business, plus one (1) space per 400 square foot of floor space. Parking and maneuvering space for delivery vehicles shall be adequate for handling the largest and most frequent vehicles without negative impact on the neighborhood or traffic congestion. The regular use of semi-trailers over forty feet in length is allowed only in support of other industry. Warehouse and transfer facilities for these vehicles is prohibited in all districts.

609.7 Restaurant, Eating and Drinking Establishments: One (1) space per 3 seats provided, plus one (1) per staff person.

609.8 Outdoor Recreation: As required by the Planning Board.

## **Section 610 Special Parking, Circulation and Loading Space Requirements**

The Planning Board may require additional off-street parking facilities and loading spaces for any use if they find that for any particular use the above required minimum spaces are not sufficient for the safety and general welfare of the public.

## **Section 611 Off-Site Parking**

All parking spaces and loading spaces shall be on the same lot as the building, except that with the approval and upon issuance of a Special Permit by the Planning Board, parking spaces may be provided by the applicant on other property, provided such land lies within 400 ft. of an entrance to the principal building. Such parking space shall not thereafter be reduced or encroached upon in any manner.

## **Section 612 Required Loading Facility**

A loading facility is a paved area or structure providing vehicular access to the buildings or structures on the lot for the purpose of transporting, loading, and unloading goods. The Planning Board, in its review of permit applications, may stipulate that a loading facility be installed as a requirement for the permit.

## **Section 613 Required Access Facilities**

The Planning Board may stipulate that a special access facility must be installed as a requirement for the permit. Such facilities are in general, for safe and convenient pedestrian and vehicular access and for access by handicapped persons. As a minimum standard, comply with State and Federal requirements.

## **Section 614 Access Driveway Standards**

614.1 Residential driveways servicing a private home or other single or multiple family residence, shall have a gravel or paved surface not less than ten (10) feet. in width over a gravel base of not less than six (6) inches in depth. Maximum grade shall be 12%.

614.2. Commercial driveways servicing a commercial establishment, industry, governmental or educational institution, private utility, hospital, church, apartment building or other comparable traffic generating facility, shall have a gravel or paved surface not less than twelve (12) feet. in width over a gravel base of not less than nine (9) inches in depth. Maximum grade shall be 10%.

614.3. No driveway, commercial or residential, shall have a grade in excess of 3% within twenty (20) feet of the edge of pavement of the public road or the entrance to a garage. All driveways, commercial and residential, shall provide adequate turning radii for vehicles entering and exiting the public road.

614.4 All driveways shall be located on the property road frontage at a place that provides the maximum visibility at the intersecting highway. The location should meet the minimum stopping sight distance criteria (NYSDOT) for the highway's posted speed limit. All driveways should intersect the highway at right angles. All driveway locations are subject to approval by the highway superintendent for the jurisdiction with control over the highway (NYSDOT, Madison County Highway, Town of Nelson)

614.5 Driveway drainage should not flow directly onto the adjacent highway surface. All driveway drainage ditches shall be designed and protected against erosion in accordance with New York Standards and Specification for Erosion and Sediment Control. The need for and the sizing of driveway culverts for roadside drainage ditches shall be determined by the highway superintendent for the jurisdiction with control over the highway. Driveways shall not be located closer than five feet to the side property line.

## **Section 615 Clear Vision Area**

615.1 Purpose. For reasons of traffic safety no structure, sign or vegetation is allowed to obstruct the view of motorists, and pedestrians in the clear vision areas indicated below. Efforts should be made to achieve the objectives of this Section through pruning and other management techniques rather than cutting trees.

615.2 Clear Vision Area Corner Lots. On every corner lot the clear vision area shall be the triangular area formed by the intersection of the two right-of-way lines and a third line joining them at a point on each right-of-way line that is fifty (50) feet from the intersection of the two right-of-way lines. This requirement shall be applicable to each corner of intersecting streets.

## **Section 616 Utilities**

The applicant for a Zoning Permit must first establish that the lot to be developed has been, or can be, approved for water and septic if the development is to include a habitable or occupied structure. Review is by the Zoning Officer. In the case of alternative septic systems, approval by the County Health Department is required.

## **Section 617 Sign Regulations: Development and Maintenance Requirements**

617.1 Purpose. The purpose of this section is to establish specifications for the installation of signs in the Town of Nelson which will permit proper identification, preserve and enhance the visual character and quality of the area, and prevent installations which are particularly distracting and hazardous to traffic.

617.2 Measurement. In all cases, the area of a sign is measured as the smallest rectangle that will contain all of the graphics of the sign and all of its frame, if any. If signs are elevated, the supports may be counted as part of the sign area if they add more than one (1) foot, height or width to the sign dimension. If the sign is painted on the surface of a building, the area of the sign includes the area of any background color or border used to define the sign provided it is different from the general color of the building.

617.3 Sign Area. The permitted area noted herein is the total for each sign face. No sign shall be permitted to have more than two faces.

617.4 Location. Signs must be located on the premises of the business they advertise. One sign structure is permitted per lot. In the event that more than one business use is approved on any one lot, the size of the sign may be modified by Special Permit from the Planning Board.

617.5 Sign Setbacks. No freestanding sign may be located closer than 15 ft to any public right-of-way nor may any sign overhang any sidewalk or public road, except that permitted signs in residential areas may be directly adjacent to the road right of way,

617.6 Height. No sign may be higher than the overall height of the facility it serves, or a maximum of 25 ft from the ground, whichever is lower.

617.7 Illumination. No illuminated sign shall be permitted or installed or allowed to continue which, by its design, would be distracting or hazardous to vehicular traffic. Signs illuminated by or incorporating flashing lights are not permitted. Motorized and animated signs and signs emitting sound are prohibited. Business signs in Commercial and Industrial Districts may be illuminated with non-glaring lights.

617.8 Maintenance. All signs must be properly repaired and painted as necessary to maintain their appearance. If such repairs or painting are not provided by the owner, the Town Board may order removal of the sign after the owner has received written notice.

617.9 Residential Signs. No advertising, display, sign, billboard, or occupation sign shall be erected or used on a lot used for one or two family residential use except as follows:

- (a) A non-illuminated temporary advertising sign for the sale or rental of the property on which it is located, and which is not more than 9 sq. ft. in area.
- (b) A non-illuminated, Home Occupation Major sign not more than 9 sq. ft. The sign shall only be display during periods when the permit is in effect and a drawing of the proposed sign shall be included in the Special Permit review proceeding.
- (c) A name plate, house number, keep out notice, or similar sign incidental to Residential Occupancy not to exceed 2 sq. ft. in area.

617.10 Commercial Signs. No detached display sign shall be erected or used for commercial unless such sign or billboard advertises goods or services for sale on the premises, is not over 25 sq. ft. in area, and is located at least 15 ft. from the nearest property boundary and 15 ft. from street right-of-way line. Signs located directly on Route 20 shall not exceed 48 sq. ft. in area.

617.11 Ownership. All commercial shall bear the name and address of the owner.

617.12 Short Term Signs for temporary political campaigns and charity-drives, and notice and warning signs related to an event or condition of known duration are permitted, but may not be erected more than sixty days prior to the event, and shall be removed immediately upon the conclusion of the event.

617.13 Development Signs are permitted only during periods of active construction and must be removed before a certificate of occupancy is issued. When the development includes more than one lot, the development sign may be in place not to exceed a two year period. It is limited to 25 sq. ft. in area, and is located at least 15 ft. from the nearest property boundary and 15 ft. from street right-of-way line.

617.14 Off Premises Signs. Commercial signs located off the premises of a business are not permitted.

617.15 Non-Conforming Signs. Signs which are made non-conforming by passage of this local law, or any previous local law, may not be replaced by other non-conforming signs.

## **Article VII**

### **Maintenance and Performance Standards Applicable in All Districts**

#### **Section 700 All Districts Performance Standards**

In all districts, uses are not permitted which exceed any of the following standards measured at the individual property line:

- A. Emit noise in excess of 70 decibels.
- B. Emit any dust or dirty or noxious gases or odors which endanger the health, comfort, safety or welfare of any person, or which would have a tendency to cause injury or damage to property, business, or vegetation.
- C. Emit any smoke, in excess of Ringlemann Chart No. 2.
- D. Cause, as a result of normal operations, a vibration which creates displacement of 0.003 of one inch.
- E. Lighting or signs which create glare, which could impair the vision of a driver of any motor vehicle, or spill light onto any adjoining property.
- F. Cause a fire, explosion or safety hazard.
- G. Cause harmful wastes to be discharged into the sewer system, streams, or other bodies of water. Efficient disposal shall comply with the Town Local laws and State Health Standards.

#### **Section 701 Non-Residential Performance Standards**

701.1 The owner, tenant, or other responsible parties should note that these performance standards noted herein are continuing obligations and that all facilities and activities will be expected to be maintained and operated in compliance with these standards.

701.2 Inspections of a facility or activity for purposes of enforcing compliance with these standards are to be conducted on the initiative of the Zoning Officer, or upon direction by the Town Board.

266.3 Landscaping and Yard Maintenance. All disturbed yard and other exposed soil or open areas must be recovered with natural indigenous ground or vegetation cover in an environmentally responsible manner to control erosion and water discharge and provide for an attractive yard area. All yard areas must be properly maintained in a sightly and well-kept condition.

701.4 Noise. Noise is to be observed on any property line of the tract on which the operation is located. Noise must be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness, or intensity.

701.5 Odors. Odors from any activity must not be discernible at the lot line to a degree that interferes with the use and enjoyment of the adjoining property. Odors are considered in these regulations as a form of air pollution such as regulated in industrial areas. The values given in Table III: Odor Thresholds, Chapter 5, "Physiological Effects", in the Air Pollution Abatement Manual, by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, are to be used as standards in case of doubt concerning the character of odors emitted. In such case the smallest value given in Table III is to be the maximum odor permitted. Detailed plans for the prevention of odors crossing lot lines will be required by the Town in an effort to resolve this issue.

701.6 Light. Any lights used to illuminate exteriors of buildings, signs, other structures, or landscaping must be in compliance with Section 606 of this local law. Flashing lights are not permitted,

701.7 Vibration. Vibration must not be discernible at any lot line to the human sense of feeling for three minutes or more duration in any one hour. Vibration at any time must not produce an acceleration of more than 0.1 gravities or result in any combination of amplitudes and frequencies beyond the "safe range" of United States Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting, Table 7, on any structure. The methods and equations of Bulletin No. 442 are to be used to compute all values for the enforcement of this provision.

701.8 Smoke. Measurements are to be at the point of emission. The Ringelmann Smoke Chart published by the United States Bureau of Mines is to be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 of the Chart may be emitted except that smoke not darker or more opaque than No. 2 of the Chart may be emitted for periods not longer than 4 minutes in any 30 minutes.

701.9 Dust. Solid or liquid particles must not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections are to be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.

701.10 Gases. Fumes or gases must not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The Values given in Table I: Industrial Hygiene Standards, Table III: Odor Thresholds, Table IV: Concentrations of Substances Causing Pain in the Eyes, and Table V: Exposures to Substances Causing Injury to Vegetation, in the latest revision of Chapter 5, "Physiological Effects", that contains such tables, in the Air Pollution Abatement Manual, by the Manufacturing Chemists Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentrations and amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a permit under this local law.

701.11 Hazards. All activities must be carried out with reasonable precautions against fire and explosion hazards.

701.12 Radiation. All activities must be carried out so as to cause no dangerous radiation as specified by the regulations of the Nuclear Regulatory Commission, or its successor agency.

701.13 Radioactivity. Operations must cause no radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation", dated January 16, 1957, or any subsequent revision.

## **Section 702 Yard Maintenance Regulations**

702.1 Rubbish and Junk. All lots must be kept free of partially dismantled, abandoned, inoperable, or unregistered vehicles, trailers, machinery, appliances, furniture, and other forms of rubbish and junk.

703.2 This provision does not supersede Section 136 of General Municipal Law regarding regulation of automobile junk yards defined as "two or more unregistered, old, or secondhand motor vehicles no longer intended for legal use on the highway."

702.3 Residential Landscaping. Yards shall be planted or preserved in a natural vegetative condition and kept to provide a sightly condition, preserve property values and prevent the damaging discharge of erosion, water and materials.

702.4 Outdoor Storage. Outdoor storage of any type may not encroach on the minimum required yard areas. There shall be no unsightly, unscreened placement of outdoor storage of materials, rubbish, or refuse on any lot in the Town.

702.5 Vehicular Storage on Residential Lots. On any residential lot in any district, construction equipment and materials, vans and trucks of more than one (1) ton carrying capacity, unregistered motor vehicles, and cars used for drag or stock car racing must be parked or stored in an enclosed garage, except that one registered vehicle over one (1) ton carrying capacity, if used regularly in business or employment, and one unregistered vehicle, may be kept outside of an enclosed building.

### **Section 703 Animals, Care and Housing**

703.1 Large Animals. Animals kept for pleasure or pets, such as horses and goats, may be kept on lots where there are facilities designed for, and adequate in size, for such use. Livestock kept on lots in Agricultural Use are exempt from this Section.

703.2 Dead Animals. Dead animals must be disposed of in accordance with provisions of the New York State Agriculture and Markets Law, Article 26, Section 377.

703.3 Area Requirements. Domestic livestock production must provide for the safe distribution or disposal of animal wastes. The necessity to protect water resources from pollution requires adherence to the following rules and controls:

- A. The first 1.6 acres of every improved lot is reserved for the house, well, and septic system.
- B. Livestock density for the remainder of the lot is limited to levels producing less than 20 tons per acre of manure per year, combined liquid and solid wastes. The following Table applies this rule to various animals:

<u>Animal</u>	<u>Per/Acre</u>
Mature dairy cow	1
Mature beef cow	1
Horses weighing up to 1000 lb	2
Sheep weighing up to 100 lb	25
Pigs weighing up to 200 lb	8
Deer	5

Other large animal species are allowed by Special Permit from *the* Planning Board taking into account their relative weights and manure production, potential for neighborhood disturbance, and related matter of community concern.

703.4 Manure Spreading and Disposal

- A. Manure storage facilities shall be developed with walls and berms to protect from run-off, roofs are useful but not required.
- B. Manure storage facilities and pasture feed points shall not be located closer than 200 feet to any potable water source.

### **Section 704 Restricted Parking of Travel Trailers and Motor Homes**

704.1 Residential Occupancy of a Recreational Vehicle. Maximum time for residential occupancy of a travel trailer or motor home is thirty (30) cumulative days within a calendar year.

704.2 It shall be unlawful for any person to park any travel trailer or motor home on any public road or other public place between the hours of sunset and sunrise.

704.3 The owner of a travel trailer or motor home may park the same on his own property, in the rear or side yards, providing that the travel trailer or motor home is parked behind the front face of the principal building and

no closer than 6 ft. to any lot line. A travel trailer or motor home so parked shall not be used as living quarters except in compliance with the provisions of subsection 704.1.

704.4 Construction office trailers may be temporarily placed on construction sites for periods not to exceed one year upon issuance of a permit by the Zoning Officer.

### **Section 705 Hazardous or Flammable Materials**

705.1 The use or storage of any potentially hazardous or highly flammable material is prohibited except when such use is in accordance with state and federal law and in accordance with a validly issued state and/or federal permit, when required.

705.2 All storage of petroleum or flammable liquids, whether in above-ground or in-ground tanks, shall be in accordance with all applicable New York State regulations, and only in accordance with a validly issued state permit, when required.

## **Article VIII Administration of Regulations**

### **Section 801 Purposes / Fees**

801.1 The provisions of Article 8 are the officially adopted procedures, to be observed in administering this local law. They are intended to ensure that all interested parties can effectively participate in land use and development decisions in the Town.

801.2 Consistent with the provisions of this law, the Town Board is hereby authorized, empowered and directed to establish and approve a schedule of fees for the implementation of this local law.

### **Section 802 Officers and Boards**

The administration of this local law is carried out by officers and boards of the Town as provided under New York State law.

802.1 Zoning Officer. This local law is administered and enforced by the Zoning Officer, who, unless otherwise specified by the Town Board, shall be the Code Enforcement Officer of the Town of Nelson appointed by the Town Board. The Town Board may appoint additional officers or deputies on a temporary or permanent basis. The Zoning Officer is responsible for issuing Building Permits, Zoning Permits, Certificates of Occupancy; interpreting and explaining provisions of these regulations; interpreting the location of zone boundaries on the zoning map; and referring applications to the appropriate bodies for review or appeal.

802.2 Planning Board. In general, the responsibility of the Planning Board with respect to the administration of these regulations is:

1. Review and act on the suitability of proposals referred to it for conformance to the provisions of this local law and the Town of Nelson comprehensive plan.
2. Review and act on subdivision proposals.
3. Review and act on applications for Site Plan Review.
4. Review and act on applications for Special Permits.
5. Review and act on Planned Unit Development proposals, when referred by the Town Board.

8013 Zoning Board of **Appeals**. The Zoning Board of Appeals, is empowered to:

- (a) Render interpretations with respect to interpretation of the provisions of this local law.
- (b) Hear and decide appeals and review any order, decision, requirement, or determination made by the Zoning Officer with regard to interpretation of the Land Use and Development Regulations.

- (c) Hear and decide appeals and review any order, decision, requirement, or determination made by the Zoning Officer with regard to Use Variances and Area Variances.

### **Section 803 Permits and Certificates**

803.1 Building Permit. A permit issued by the Zoning Officer granting approval for the construction of a building or structure regulated by the Building Code of **New** York State.

803.2 **Zoning** Permit. A permit issued by the Zoning Officer granting approval for a development activity regulated under this local law, but which may not necessarily require a building permit.

803.5 Certificate of Conformance and Non-Conformance. Also known as a Certificate of Occupancy; a Certificate issued by the Zoning Officer to an owner establishing as of a certain date, conditions on the premises were, or were not in conformance with the applicable regulations, and listing thereon all non-conforming conditions.

803.6 Relationship to Permits and Certificates Issued Under Other Codes. Permits and Certificates issued under this local law are independent of Permits and Certificates issued under other Codes.

### **Section 804 Zoning Permits**

804.1 **When** Required. A Zoning Permit must be obtained from the Zoning Officer before commencing work on any of the following types of development:

- (a) No regulated surface modification, extraction of natural products or other development activity requiring Planning Board approval may commence without a Zoning Permit issued according to the district regulations.
- (b) No new use may be established or an existing use relocated to a different site without a Zoning Permit first being issued by the Zoning Officer.

804.2 **Application Procedure.** Application for a Zoning Permit must be made in writing by completing and signing a form supplied by the Town for this purpose. Applications must be accompanied by a fee in accordance with the Town Schedule of Fees.

804.3 **Posting.** All Zoning Permits must be posted without delay at the affected site in a conspicuous place visible to the public from the street right-of-way and protected so that the permit will be visible and legible for the duration of the work.

804.4 **Expiration.** Zoning Permits related to construction projects expire one year after the date of issuance.

804.5 **Revocation.** The Zoning Officer is empowered to revoke the Zoning Permit, effective immediately, upon his/her determination that the work being performed has deviated significantly from the plans upon which the Zoning Permit was originally issued.

### **Section 805 Related Administrative Duties of the Zoning Officer**

In addition to the review, approval and documentation of his/her actions as they relate to enforcement of Local law regulations, including site inspections for compliance, the Zoning Officer may, upon request, also render assistance to the Town Board, Planning Board and Board of Appeals on applications and other land use and development issues before the boards.

### **Section 806 Approval by Planning Board**

806.1 **Establishment of Function.** The existence and authority of the Planning Board of the Town of Nelson is hereby confirmed. The Planning Board is charged generally with carrying out the review and approval functions provided for in Article 16 of the Town Law, including the review and issuance of Subdivision Approvals, Site Plan Approvals, and Special Use Permits. The Planning Board shall consist of seven (7) members, all of whom shall be residents of the Town who shall serve staggered terms as provided in Article 16

of the Town Law. The Planning Board shall have all the powers and authority granted under said Article 16 of the Town Law.

806.2 Procedures. The Planning Board may adopt rules and regulations it deems necessary for carrying out their responsibilities.

806.3 Appeals of Decisions by the Planning Board. Any person aggrieved by any decision of the Planning Board may apply for review by a proceeding under Article 78 of the civil practice law and rules. Such proceedings must be instituted within 30 days after the filing of the decision in question in the office of the Town Clerk.

806.4 Use of Consultants by Planning Board. The Planning Board may advise the applicant that the Planning Board will retain, refer or confer with consultants for review, comment, and advice on any aspect related to the subdivision application. Expenses for these services shall be paid by the Applicant unless the Applicant elects to withdraw the subdivision application prior to the start of consultants work. All such expenses shall be paid by the Applicant directly to the Town as provided in Section 818 of these regulations.

### **Section 807 Site Plan Review**

807.1 **Site Plan Application.** Prior to commencement of any site work on a development subject to site plan review under this local law, an application for a Site Plan Approval must be made in writing by completing and signing a form supplied by the Town for this purpose, and filing same with the Code Enforcement Officer. Planning Board review will commence upon the Town's receipt of a completed application accompanied by a required application fee in accordance with the Town Schedule of Fees.

807.2 Reimbursable Costs. Consultant fees and other costs incurred by the Planning Board in connection with the review of a site plan review application shall be charged to the applicant and reimbursed by the applicant to the Town in addition to the payment of application fees as set forth in the Town schedule of fees.

807.3 Preliminary Discussions. The Planning Board encourages any potential applicant to meet with the Board at any regularly scheduled meeting in order to discuss any matters regarding the site plan review and approval process prior to the submission of a formal application.

807.4 Applicant Responsibility. It is the responsibility of each applicant to thoroughly acquaint themselves with all regulations in order to promote an expeditious review of the site plan application. Failure by the applicant to comply with these regulations may result in delaying the review of the proposed site plan.

807.5 Lot Status. The owner of a lot submitted for site plan review, must first demonstrate proof of lot ownership by submitting a copy of the current legal Property Deed and establishing that the lot is a legal lot of record by submitting documentation confirming compliance with one of the following two items:

- (a) The lot was recorded in the office of the Madison County Clerk prior to the establishment of Town of Nelson Subdivision Regulations on June 1, 1977.
- (b) The lot was recorded in the office of the Madison County Clerk as part of a legal subdivision approved by the Planning Board, subsequent to the establishment of Town of Nelson Subdivision Regulations on June 1, 1977.

Any lot not compliant with either item a or b above will be considered an illegally created lot and will not be considered for site plan review or property development unless the lot is first established as a legal lot of record through the subdivision process set forth in this local law.

807.6 Public Road Access.

A. Existing Lots to be developed must have access to a public road with year round maintenance in accordance with one of the following:

- (1) direct minimum 60 feet wide lot frontage on a public road.
- (2) direct minimum 60 feet wide lot frontage on an acceptable substitute for direct public road access, such as a deeded right-of-way at least 60 feet wide.

- B. New Lots created as part of the subdivision process shall be considered for site plan review provided they have public road access as defined in Section 420, "Initiation of Subdivision Review".

807.7 Attendance. The lot owner or legally authorized representative must attend each Planning Board meeting in which the site plan will be discussed. It is preferred the same person attend all meetings.

807.8 **Compliance with** State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act (Article Eight of the Environmental Conservation Law) and its implementing regulations prior to approving any application before the Board.

807.9 Additional Information. The Planning Board shall have the authority to require the submittal of additional information as may be required to assist the Board in evaluating the site plan review application.

### **Section 808 Site Plan Review Application**

The owner must prepare complete and submit eight copies of the following materials to the Planning Board for their review and evaluation at least ten (10) calendar days prior to the regularly scheduled monthly Planning Board meeting.

- 1) Written request for site plan review and approval.
  - Town of Nelson Site Plan Review Application form signed by lot owner
  - Payment of Town Fees
- 2) Site Plan Drawing
  - Prepared per Section 809 requirements
- 3) SEQR - Environmental Assessment Form (Short or Long Form, as applicable)
  - Complete part I only and sign
- 4) Proof - Lot Ownership
  - Copy of current property deed
- 5) Proof - Lot of Record
  - a) Lots created before adoption of subdivision regulation on June 1, 1977 submit:
    - Copy of deed showing lot existence prior to above date.
  - b) Lots created after adoption of subdivision regulations on June 1, 1977.
    - Review subdivision plat which created lot under consideration & provide:
      - Subdivision tract map number
      - Lot number
      - File drawer number
  - (c) All information requested in items #4 & #5 above is available at the Madison County Clerk's office and the Madison County Real Property Tax Assessment offices.

### **Section 809 Site Plan Drawing**

The applicant must submit site plan prepared at a scale no less than tin. = 20ft. containing the following information:

- (a) Date, north arrow, map scale & name/address of the subdivider.
- (b) Adjoining existing streets with distance to nearest street intersections.
- (c) Boundary survey of lots including
  - bearing location and distances.
- (d) Existing and proposed topographic contours of the lot showing profile and drainage patterns at 1 foot intervals.
- (e) Adjoining and cross road neighboring lots including
  - tax map no., block no., and lot no.
  - deeded owner's name
  - location and size.
- (f) General Location and limits of existing significant natural features
  - fields, wooded areas, streams, ponds, wetlands & water courses etc.
- (g) Flood Plain limits (where applicable)
  - mean high water level - 100 year flood.
- (h) Copy of existing or proposed rights-of-way, covenants or other deed restrictions applicable to this Subdivision.
- (i) Location, proposed use, and height of all buildings;

- (j) Location, design, and construction materials of all parking and loading areas, showing ingress, egress, and onsite vehicular circulation.
- (k) Provision for pedestrian access and circulation;
- (l) Location of accessory buildings (if any);
- (m) Location, design, and construction materials of all existing or proposed site improvements;
- (n) Design and construction details regarding the methods of waste disposal;
- (o) Indicate on the Plat one perc test and one deep hole test location on each lot within the boundary of each required leach field. List on the Plat the test data at each location. Tests are to be certified by a licensed professional.
- (p) Location of fire and other emergency zones, including the location of fire hydrants;
- (q) Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;
- (r) Location, size, and design and construction materials of all proposed signs;
- (s) Location and proposed development of all buffer areas, including existing vegetative cover;
- (t) Location and design of outdoor lighting facilities;
- (u) Designation of the amount and location of building area proposed for each activity type;
- (v) General landscaping plan and planting schedule, and
- (w) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any federal, state, or county permits required for the project's execution;
- (x) Show on the Plat a location map of the site within the Town.
- (y) Provide on each drawing two inch by two inch boxes to be stamped by the Professional Engineer, Architect, and Surveyor responsible for the project. Provide three inch by three inch boxes for sign off by the Planning Board and the County Clerk. Provide a conspicuously located one inch by three inch box for application of the project number by the Planning Board.

## **Section 810 Review of Site Plan Application**

810.1 The Planning Board's review of a complete application for site plan approval shall include, as appropriate, the following general considerations:

- (a) Conformance with the intent of the Comprehensive Plan of the Town of Nelson;
- (b) Adequacy and arrangement of vehicular and pedestrian traffic access and circulation;
- (c) Location, arrangement, appearance, and sufficiency of off-street parking and loading;
- (d) Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;
- (e) Adequacy of storm water 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) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
- (i) Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features;
- (j) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants; and
- (k) Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
- (l) Review and evaluation of the SEQR form to determine whether proposal is an unlisted or Type I action.
- (m) Compliance with other Local law Regulations.
- (n) Review of building floor plan layout regarding public safety.
- (o) Evaluation whether proposal qualifies for expedited review as provided for in Section 320.

810.2 Integration of Procedures. Whenever the particular circumstances of a proposed development require compliance with both this site plan review procedure and the requirements of the subdivision review process, the Planning Board shall attempt to integrate the two procedures so that they are carried out simultaneously.

## **Section 811 Expedited Review of Site Plan Application**

In the case of small, uncomplicated and non-controversial site plan proposals (which shall exclude all plans for Planned Unit Developments, and all actions constituting "Type 1" actions under SEQR), the Planning Board

may, at its discretion, expedite the Site Plan Review procedure and conduct the entire review of the application in a single meeting, providing:

- (a) a Negative Declaration under SEQR has been made.
- (b) no modifications to the proposal are required to comply with the site plan regulations.
- (c) no GML 239-m referral to the County Planning Agency is required.
- (d) no public hearing is required.

## **Section 812 Consultation and Public Hearing on Site Plan Application**

812.1 The Planning Board may consult with County, State or Federal officials or engage private consultants, of which the applicant must be given prior notice if the applicant will be compelled to pay the fees incurred by the Town for the services of such consultants.

812.2 Required Referral to County Planning Agency. Prior to taking final action on the site plan application, the Planning Board must, if applicable, refer the plan to the county planning agency for advisory review and a report in accordance with Section 239-m of the New York General Municipal Law.

812.3 The Planning Board may conduct a public hearing on the application for Site Plan Approval that constitutes a "Type II Action" or "Unlisted Action" under SEQR. The Planning Board must conduct a public hearing with respect to any application for Site Plan Approval that constitutes a "Type 1 Action" under SEQR. The public hearing shall be advertised in the official newspaper of the Town at least five (5) days before the public hearing.

## **Section 813 Action on Site Plan Application**

813.1 The Planning Board's action on a complete site plan application shall be in the form of a resolution contained in the minutes of the Planning Board proceedings. A written Notice of Determination may also be given to the applicant stating whether or not the application has been approved, disapproved, or approved with modifications.

813.2 The Planning Board's determination may include required or recommended modifications to be incorporated in the final construction design, and conformance with such required modifications shall be considered a condition of approval. If the application is disapproved, the Planning Board's statement shall contain the reason(s) for such disapproval. In such a case, the Planning Board may recommend further study of the proposal and resubmission to the Planning Board after it has been revised or redesigned.

813.3 Upon approval of the final proposal and payment by the applicant of all fees and reimbursable costs due to the Town for consultation fees and other expense incurred by the Town directly in connection with the review of a site plan proposal, the Planning Board shall endorse its approval on a copy of the final site plan proposal, and shall forward it to the Zoning Officer. A copy of the Planning Board resolution of approval shall be filed with the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

813.4 Upon disapproval of a final proposal, the Planning Board shall so inform the Zoning Officer and the Zoning Officer shall deny a Zoning Permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

## **Section 814 Occupancy of Approved and Constructed Improvements**

814.1 Performance Guarantee. No certificate of occupancy shall be issued until all improvements shown on the approved site plan are installed in accordance with the plan, or a sufficient performance guarantee has been posted to ensure the completion of improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Zoning Officer and Attorney for the Town.

814.2 Inspection of Improvements. The Zoning Officer shall be responsible for the overall inspection of site improvements, including coordination with other officials as appropriate, to ensure their conformance with the approved plan.

## Section 815 Special Use Permits

**815.1 Approval of Special Use Permits.** The Planning Board shall review and approve special use permits as set forth herein. Except as otherwise specifically provided herein, all provisions of sections 808, 809, 810, 812, 813 and 814 shall be applicable to the review of special use permit applications to the same extent as applicable to site plan review applications.

**815.2 Submission Requirements and Procedure.** The application for special permit shall comply with all site plan review and approval requirements and procedures as previously defined except as hereafter modified:

- 1) Submit a special permit application in lieu of site plan review application.
- 2) Prepare and submit a completed preliminary sketch plan of the proposed building and site modifications necessary to accommodate a special permit use or activity on the site. Locate and thoroughly describe the following conditions thereon:
  - a) Location of lot relative to adjoining lots & streets
  - b) Existing natural site features, limits of vegetation, topography and drainage
  - c) Vehicular and pedestrian site access and circulation
  - d) Existing & proposed building and site conditions and modifications
  - e) Proposed signage and lighting.
- 3) Prepare and submit a detailed written narrative regarding a description of the proposed special permit use and activity together with the impact these uses or activities will have on the existing lot and neighborhood conditions. Describe why this proposal should be considered and approved by the Board.
- 4) After the initial review of the special permit sketch plan, additional information is required and shall be incorporated in the submittal of a more detailed site plan drawing as required by the site plan review process.

**815.3 Required Findings.** The Planning Board may approve an application for a special use permit only upon findings that the proposed structure and/or use, together with such conditions and safeguards as the Board may impose, is:

- 1) Appropriate for the particular lot and location.
- 2) Not unreasonably detrimental to neighboring properties, areas and districts.
- 3) Consistent with an orderly and appropriate development of neighboring properties, areas and districts.
- 4) Where adjoined by existing or permitted uses, a suitable transition between neighboring uses and districts.
- 5) In harmony with the objectives of the Comprehensive Plan for the Town of Nelson.

**815.4 Public Hearing and Decision.** The Planning Board shall conduct a public hearing on every application for a special use permit. The decision of the Planning Board on the application shall be filled in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

## Section 816 Planned Unit Development (PUD) District

**816.1 Procedure for Establishment of a Planned Unit Development District.**

(a) Planned Unit Developments are considered and adopted individually by preparing and adopting an amendment to the text of this local law and the official zoning map. An amendment to the zoning regulations to provide for a PUD is subject to the same procedural requirements as any other amendment, including a public hearing. Except to the extent specifically modified by the local law establishing the PUD, all Land Use & Development Regulations contained in this local law shall apply within the PUD. The regulations imposed within a given PUD may also include provisions which are not found elsewhere in these zoning regulations, but which are legitimate exercises of the Town Board's zoning power.

(b) If within one year after approval no progress is being made on the PUD by the developer the Town Board may choose to consider amending the zoning regulations to delete the PUD. Should the Town Board institute such an action the applicant for the PUD shall be notified in writing at least 20 days prior to the public hearing on the amendment to delete the PUD.

**816.2 Application.** An applicant for a Planned Unit Development must initially submit a PUD Proposal to the Town Board. The application must include:

- (a) The name, address, and phone number of the applicant, and the project title.
- (b) A sketch development plan showing existing and proposed development and the approximate location of proposed facilities and activities, existing vegetative, soil drainage and topographic characteristics, approximate location of streets and easements, and existing development immediately adjacent to the proposed PUD.
- (c) A written explanation of the character and purpose of the Planned Unit Development including the type and density of any housing proposed, *the* water and sewage system proposed, a general statement of proposed financing, and the expected timetable for development.
- (d) An Environmental Assessment Form with Part 1 completed: Full EAF if a Type I Action, Short Form EAF if an Unlisted Action. See Article 5 Environmental Review.
- (e) A request to rezone a specific site to a PUD in accordance with Amendment procedures.
- (f) A legal description of the site boundary.

**816.3 Town Board Review and Referral.** Once the PUD application is deemed complete and the Town Board makes a decision to consider the proposal, the Town Board shall refer the application to the Planning Board for review and recommendation.

**816.4 Planning Board Review.** The Planning Board shall review the materials and information presented in the applicant's PUD proposal, and shall hold a public hearing to receive further information on the proposal. The Planning Board may request the applicant to provide additional information and attend additional meetings. The applicant may request that the 90-day period of Planning Board review be extended for the purpose of submitting additional information.

**816.5 Planning Board Action.** Within 90 days of receiving a complete PUD proposal, the Planning Board shall forward to the Town Board the following:

- (a) A report of the Planning Board's evaluation of the proposal, including its recommendation on what action the Town Board should take.
- (b) If the recommendation of the Planning Board is for approval or approval with modification, a draft amendment to the Zoning Law establishing the PUD, revisions to the zoning map showing the PUD, and establishment of the regulations governing the development of the PUD. The draft amendment to the zoning regulations must, as a minimum, cover the following points:
  - (1) Facilities and activities to be allowed: mix, magnitude, and location;
  - (2) Minimum lot area and frontage;
  - (3) Minimum yard depths,
  - (4) Maximum facility dimensions.
- (c) A report of the Planning Board's evaluation of the proposal, including its recommendation on what action the Town Board should take.

**816.6 Site Plan and Subdivision Review.** Following an amendment of the zoning regulations and zoning map to establish a new PUD, the Town Board shall refer the application back to the Planning Board to conduct site plan review and approval of the PUD in accordance with the requirements of this local law. In the event a PUD includes subdivision of land, subdivision review shall be conducted concurrently with site plan review.

## **Section 817 Zoning Board of Appeals**

**817.1 Establishment.** The existence and authority of the Zoning Board of Appeals of the Town of Nelson is hereby confirmed and continued, with all the authority and jurisdiction to render interpretations and approve variances as provided in Article 16 of the Town Law.

817.2 Board Members. The members of the Zoning Board of Appeals must be residents of the Town. The five (5) members are appointed by the Town Board to serve for staggered, 5-year terms as prescribed by Article 16 of the Town Law.

817.3 Officers. The Town Board may annually designate the Chair of the Zoning Board of Appeals. The Zoning Board of Appeals may designate a Vice Chair, who shall preside in the absence of the Chair. In the absence of both the Chair and the Vice Chair, the Zoning Board of Appeals shall choose one of its members as Acting Chair. The Chair, or Acting Chair, may administer oaths and compel the attendance of witnesses. The Zoning Board of Appeals shall appoint a Secretary to take minutes of all its meetings and keep its records. The Secretary may, but need not be a member of the Board.

817.4 Rules and Regulations. The Zoning Board of Appeals may adopt rules governing its procedures and orders for carrying out the provisions of this local law.

817.5 Appeals to the Board. Any public body or official of the Town, person, firm, corporation, or other party aggrieved by any decision of any Zoning Officer of the Town may appeal to the Zoning Board of Appeals. The Zoning Board of Appeals is empowered to:

- (a) Hear and determine appeals from any refusal of the Zoning Officer to issue a permit or certificate;
- (b) Hear and determine appeals from any party aggrieved by the issuance of a permit or certificate by the Zoning Officer;
- (c) Hear and decide any appeals as to the interpretations of the Zoning Regulations made by the Zoning Officer; or
- (d) Hear and grant or deny any appeal for a variance of the provisions of the Zoning Regulations.
- (e) Convene to provide interpretations of the Land Use Local law, at the request of the Zoning Officer, an official of the Town, or any bona fide applicant.

817.6 Variances. An appeal may be for a Use Variance and/or an Area Variance in the regulations as they apply to a specific site, which, if granted, runs with the site irrespective of future changes in ownership.

a. "Use variance" shall mean the authorization by the Zoning Board of Appeals the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

b. "Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional requirements of the applicable zoning regulations.

817.7 Interpretations. An appeal may also be for an interpretation of the language of the development regulations when the appellant disputes a decision made by the Zoning Officer. The determination of the Zoning Board of Appeals establishes the interpretation of the disputed language wherever it may apply.

817.8 Procedure for Appeals. An action of the Zoning Officer may be appealed according to the following procedure:

- (a) An appeal must be made to the Board of Appeals within 30 days of the Zoning Officer's action.
- (b) The appeal must be filed with the Zoning Officer on the form provided for that purpose. The Zoning Officer is responsible, at the direction of the Board of Appeals, for providing any appellant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing the forms.
- (c) The appeal must show what relief is sought or what type of variance, if any, is being sought
- (d) All information required on the forms must be complete and the fee paid (see Town Schedule of Fees) before an appeal is considered filed.
- (e) Six copies of the completed appeal forms must be forwarded to the Board of Appeals by the Zoning Officer.
- (f) Appeals may be amended 15 days prior to the public hearing thereon.
- (g) The appellant must be notified by letter at least five days prior to the hearing that the appeal is scheduled for the hearing or that the appeal is incomplete and cannot be scheduled.
- (h) The Zoning Board of Appeals may refer any application before it to the Planning Board for an advisory recommendation, but the Board of Appeals shall not be required to do so.

#### 817.9 Basis for Decisions.

(a) Use Variances. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this local law shall have the power to grant use variances, as defined herein. No such use variances shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(b) Area Variances. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances, as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Zoning Board of Appeals shall also consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.;
- (c) Whether the requested area variance is substantial;
- (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.; and
- (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(c) Minimum Variance Necessary. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(d) Imposition of Conditions. The Zoning Board of Appeals shall, in the granting of a use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact use variance may have on the neighborhood or community.

#### Section 818. Reimbursement of Town Expenses Related to Planning and Zoning Applications

##### 818.1 Legislative findings, intent and purpose.

- (a) The Town Board hereby finds and determines that in order to protect and safeguard the Town of Nelson, its residents and their property with respect to certain land developments and projects within the Town, all buildings and related improvements, highways, drainage facilities, utilities and parks within developments and projects should be designed and constructed in a competent

and workmanlike manner and in conformity with all applicable governmental laws, codes, rules and regulations and should be dedicated and conveyed to the Town in a legally sufficient manner. To assure the foregoing, it is essential for the Town to have and to retain competent engineers and other professional consultants to review and approve plans and designs, make recommendations to the Town Board, Planning Board and Zoning Board of Appeals, inspect the construction of highways, drainage facilities, utilities and parks to be dedicated to the Town and to recommend their acceptance by the Town and for the Town to have and retain competent attorneys to assist in the application review process, to negotiate and draft appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed deeds and easements to assure that the Town is obtaining good and proper title, to render legal opinions and to generally represent the Town with respect to any legal disputes and issues which may arise regarding such developments and projects. The cost of retaining such competent engineers, attorneys and other professional consultants should ultimately be paid by those who seek to benefit from such developments and projects, including variances, subdivision approvals, site plan approvals, special permits or uses rather than by general Town funds which are raised by assessments and/or general taxes paid by taxpayers of the Town.

- (b) This local law is enacted under the authority of Municipal Home Rule Law § 10, Subdivision 1 (ii)(a)(12) and (d)(3), and the Municipal Home Rule Law § 22. To the extent that Town Law §§ 274-a, 274-b, 276 and 277 do not authorize the Town Board, Town Planning Board and/or the Town Zoning Board of Appeals to require reimbursement to the Town of legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of applications for subdivision approval, for the approval, amendment or extension of a district and/or for the review and consideration of applications for approval of variances, site plans and/or special permits under the Town's zoning code, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, to the extent that such statutes do not authorize the deferral or withholding of such consideration, review, acceptance or approvals in the event that such fees, expenses and costs are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law §§ 274-a, 274-b, 276 and 277 to empower the Town to require such payment as a condition to such consideration, review, acceptance or approvals.

#### **818.2 Reimbursement of fees and expenses.**

(a) Subdivisions.

- (1) An applicant for approval of a subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such subdivision.
- (2) A developer who constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.

(b) Districts.

- (1) An applicant for approval, amendment or extension of a district in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of said application.
- (2) A developer who constructs or proposes to construct one or more buildings, highways, drainage facilities, utilities or parks within or in conjunction with a district in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees and expenses incurred by the Town in connection with the

granting of any building permit and in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.

- (c) Variances, site plan approvals and special permits. An applicant or developer making application for the approval of a site plan or a special permit or seeking approval of an application for a variance shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such application.

### **818.3 Deposit of funds; payment of fees.**

- (a) Simultaneously with the filing of an application for approval of a development or the filing of an application for approval of a variance, site plan approval or a special permit, the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in accordance with the schedule of deposits fixed by the Town Board pursuant to this local law, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Town for legal, engineering and other professional consulting services as described this local law,
- (b) Upon receipt of such sums, the Supervisor shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the applicant or developer and the application and development for which such sums were deposited.
- (c) Upon receipt and approval by the Supervisor of itemized vouchers from an attorney, engineer and/or other professional consultant for services rendered on behalf of the Town pertaining to the development or the application for a variance, site plan approval or special permit, the Supervisor shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. The Supervisor shall furnish copies of such vouchers to the applicant or developer immediately after such vouchers are submitted to the Town.
- (d) The Supervisor, on behalf of the Town and subject to audit and review by the Town Board, shall review and audit all such vouchers and shall approve payment of only such legal, engineering, and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments, the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments, and the review, consideration and approval of applications for variances, site plan approval and special permits. For purposes of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town for services performed in connection with approval or construction of a similar development of project, and in this regard the Town may take into consideration the size, type, value and number of buildings to be constructed, the amount of time to complete the development or project, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations the Town may deem relevant. For purposes of the foregoing, a fee, expense or cost, or part thereof is necessarily incurred if it was charged by the attorney, engineer or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other factors, to assure the proper and timely construction of highways, drainage facilities, utilities and parks and otherwise to protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities and the avoidance of claims and liability and such other interests as the Town may deem relevant or to assure the proper and timely review and consideration of an application for a variance, site plan approval or a special permit.
- (e) If at any time during or after the processing of such application or the construction, inspection or acceptance of buildings, highways, drainage facilities, utilities or parks or during or after the processing of an application for a variance, site plan approval, or special permit there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved

vouchers in full, or if it shall reasonably appear to the Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

- (f) In the event that the applicant or developer fails to deposit such funds or such additional funds, the Supervisor shall notify the Town Board and, as applicable, the Chair of the Planning Board, the Chair of the Zoning Appeals Board, and the Town's Codes Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy shall be withheld by the appropriate board, officer or employee of the Town until such monies are deposited.
- (g) After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific development, or any requested variance, site plan approval or special permit and after payment of all approved vouchers submitted regarding such development or application, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

#### **818.4 Deposit amounts.**

The amount of the initial deposit for the various developments and/or applications covered by this covered by this local law shall be as set forth in a schedule of deposits established from time to time by resolution of the Town Board. The schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution of the Town Board.

#### **818.5 Application fees.**

The deposits required by this local law shall be in addition to any application fees as may be required by other laws, rules, regulations or local laws of the Town of Nelson, the County of Madison, the State of New York or of any other body having jurisdiction with respect to a development, drainage facility, highway, utility or park or to an application for a variance, site plan approval or a special permit and shall not be used to defray either the Town's general expenses for legal, engineering or other professional consulting fees, expenses or costs for the several boards of the Town or its general administration expenses.

### **Section 819 Nonconformance**

There exist lots, facilities, and activities in the Town which were lawful before these regulations were passed or amended, but which would be prohibited under the terms of these regulations or future amendment. These are nonconforming lots, nonconforming facilities, and nonconforming activities.

It is the intent of this code to permit these nonconformities to continue under most circumstances, but not to encourage their continuance. It is the further intent of this code that nonconformities are not to be enlarged upon, expanded, or extended, nor be used as grounds for adding or creating other non conforming lots facilities and activities located elsewhere.

To avoid undue hardship, nothing in this code requires a change in the plans, construction, or designated use of any facility on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing facility has been substantially begun preparatory to rebuilding, the demolition is to be considered actual construction, provided that the resultant construction work is diligently carried on within one year of such demolition, a valid Zoning Permit until completion of the facility.

## **Section 820 Nonconforming Vacant Lots of Record**

819.1 A nonconforming lot is an existing lot of record which *has* one or more dimensions (width, depth, or area) which is less than the minimum lot dimensions prescribed in the regulations for the zone where it is located.

819.2 In any zone in which one-unit residential buildings are permitted, notwithstanding limitations imposed by other provisions of these regulations, a one-unit residential building and customary accessory facilities may be erected on any single existing vacant non-conforming lot of record if the following conditions are *met*:

- (a) The lot must not have continuous minimum 60 ft. frontage
- (b) The lot requirements other than area and frontage conform to the regulations; (Variance of yard requirements may be obtained only through appeal to the Zoning Board of Appeals.) and
- (c) The Health Department approves the development of the nonconforming lot, with non conforming sewage or water facilities.

If two or more vacant lots of record are in single ownership and have continuous frontage or lot lines in common at the time of passage or amendment of these regulations, and if all or part of the lots are nonconforming, the land involved is to be considered one lot for the purposes of these regulations, and no part of the land may be developed as a building lot which does not meet minimum frontage and area requirements, and no division of the land shall be made which leaves remaining any lot with frontage or area below the requirements stated in these regulations. Legally subdivided lots existing before this Local law are exempt from the new lot width requirements established herein if they meet the new area requirements.

## **Section 821 Nonconforming Building Activities (Uses)**

A nonconforming activity is an existing activity that is not allowed or permitted in the zone where it is located.

820.1 Nonconforming Activities (Uses) in Buildings. Activities in buildings which are nonconforming may be continued, subject to the following provisions:

- (a) The nonconforming activity may be extended throughout parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of these regulations, but the activity may not be extended to occupy any land outside the building,
- (b) No building devoted to a nonconforming activity may be enlarged, extended, or moved so long as the nonconforming activity remains.
- (c) When the nonconforming activity is superseded by a permitted activity, the nonconforming activity may not thereafter be resumed.
- (d) When a nonconforming activity is abandoned for 12 consecutive months, the facility and lot may not thereafter be used except in conformance with these regulations. Interruption of a nonconforming activity due to the facility housing it being rendered unusable by fire, natural disaster, or any cause not within control of the enterprise conducting the activity does not in itself constitute abandonment of the activity.
- (e) Where the nonconforming activity occupies a building and lot in combination, termination of the nonconforming activity in the building, for whatever reason, must be accompanied by termination of the nonconforming activity on the lot and to the contrary as well.

820.2 Nonconforming **Site Activities (Uses)**. Site activities which are nonconforming may be continued, subject to the following provisions:

- (a) The nonconforming activity may not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations.
- (b) The nonconforming activity may not be moved in whole or in part to any other portion of the lot.
- (c) If the nonconforming activity ceases for any reason for a period of more than six months, any subsequent activity on the lot must be a permitted activity.

## **Section 822 Nonconforming Facilities**

A nonconforming facility is an existing facility (building or other structure) that is not now allowed or permitted in the zone where it is located, or does not now conform to the regulations in the zone where it is located.

**821.1 Facilities Nonconforming as to Facility Type.** Where a facility is nonconforming as to type, it may be continued subject to the following provisions:

- (a) The facility may not be enlarged.
- (b) The facility may not be moved, altered or replaced except by Site Plan Review and approval by the Planning Board.

**821.2 Facilities Nonconforming as to Dimension or Area Regulations.** Where a facility is nonconforming by reason of area, or dimension it may be continued subject to the following provisions:

- (a) The facility may not be enlarged or altered in a way which increases its nonconformity.
- (b) Should the facility be destroyed by any means and if it was conforming as to facility type, it may be reconstructed so that the nonconformity as to dimension regulations is not increased.
- (c) Should the facility be moved for any reason for any distance whatever, it must thereafter conform to the regulations for the zone in which it is located after it is moved.

**821.3 Repairs and Maintenance of Nonconforming Facilities.** Work may be done on ordinary repairs, provided the extent or cubic content of the facility is not increased.

Note: Nothing in these regulations prevents the strengthening or restoring to a safe condition of any facility declared to be unsafe by any official charged with protecting the public safety, upon order of that official; except that if the nonconforming facility is a sign it may be declared a derelict facility by the Zoning Officer and ordered removed in accordance with the provisions of Article 2.

## **Section 823 Amendments**

**822.1 Authority.** The regulations, restrictions, and boundaries set forth in the zoning regulations may from time to time be amended, supplemented, changed, or repealed by the Town Board in accordance with Town Law. The decision to consider an amendment is made by the Town Board.

**822.2 Referral to Planning Board.** If the proposed amendment includes any revision to the Zoning Map or revision as to the list of allowed or permitted facilities and/or activities in any zone the proposed amendment must be referred by the Town Board to the Planning Board for its study and recommendation regarding the amendment's conformance with the comprehensive plan. When referring the proposal the Town Board may stipulate that the Planning Board's recommendation must be received by a certain time, after which the Town Board will act without the Planning Board's recommendation.

A proposed amendment not involving revision of the Zoning Map or revision as to the list of allowed or permitted facilities and/or activities may also be referred to the Planning Board for study and recommendation.

**822.3 Hearing.** Final action to amend, supplement, change, or repeal provisions of the zoning regulations may be taken only after a public hearing in relation thereto, at which parties in interest and other persons have an opportunity to be heard.

**822.4 Notice.** A notice of the time and place of the hearing and a brief description of the proposed amendment is to be published in the official newspaper at least 15 days prior to the public hearing.

Also, written notice at least 10 days prior to the hearing must be given to the following agencies, if the land affected by the amendment lies within 500 feet of land in the following jurisdictions.

- (a) Any state park or parkway: the State Regional Park Commission;
- (b) Any housing authority project area: the housing authority;
- (c) Any other town: the clerk of the city, village, or town;
- (d) Any other county: the clerk of the legislative board of that county;
- (e) Any of the above: the county planning agency; and
- (f) Any state or county highway: the county planning agency.

**822.5 Voting.** The Town Board may pass an amendment by a simple majority. However, when a proposed amendment includes a change in the zoning classification of land from one zone to another the following rule applies: in case a protest against the amendment is signed by

- (a) the owners of 20 percent of the land included in the proposed change, or

- (b) the owners of 20 percent of the land adjoining or across a public right-of-way from the land included in the proposed change for a distance of 100 feet, then the amendment requires a four-fifths vote of the Town Board to pass.

822.6 Effective Date of Amendment. Amendments take effect according to requirements for adoption of a Local Law.

### **Section 824 Violations: Procedures and Penalties**

823.1 Jurisdiction. For purpose of conferring jurisdiction upon courts and offices generally, any violation of these zoning regulations shall be deemed to *be a* violation as defined in the Criminal Procedure Law, and for such jurisdictional purpose only, all provisions of law relating to the prosecution of violations shall apply to all such violations.

823.2 Enforcement by Zoning Officer. The Zoning Officer, whether he holds the title of Code Enforcement Officer or such other title as may be given by the Town Board, is empowered to enforce these regulations and to issue and serve appearance tickets and such other process as may be required and/or authorized by these regulations or the Criminal Procedure Law in the course of such enforcement proceedings. Any enforcement action or proceeding may be commenced upon the personal knowledge of the Zoning Officer or upon the sworn statement of another individual.

823.3 Complaint to Zoning Officer. Whenever it appears that a violation of these zoning regulations has occurred, any resident or landowner in the Town may file a written complaint setting forth the alleged violation and the basis for complainant's knowledge of it with the Zoning Officer. The Zoning Officer will investigate the complaint as soon as practicable after receipt of such a written complaint.

Within 30 days of receipt of the complaint, the Zoning Officer must either:

- (a) Initiate enforcement activities, or
- (b) Reply to the complainant with a written explanation of why the Zoning Officer has not taken action.

823.4 Initiation of Action by Other Than Zoning Officer. If the Zoning Officer has taken no action upon the complaint within the 30 day period as herein provided, or has issued no written answer to the complainant pursuant to the provisions of the preceding section, the complainant, together with two other resident landowners of the district where the alleged violation occurred, may institute such court proceeding(s) as may be otherwise provided by law to enforce these regulations.

823.5 Action by Town Board. Upon determination by the court that work must be done to remedy the violation, the owner shall have 10 days to do so. Thereafter, the Town Board may order or contract for the work to be done, with the expense so incurred assessed by the Town Board against the real property of the owner; the expense so assessed constitutes a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as in the case of any other Town tax or special assessment.

823.6 Penalties. Any person, firm, corporation, or other party or entity, whether owner, tenant, builder, or contractor working on a subject lot or facility, who violates any provision of the zoning regulations shall be considered guilty jointly and/or severally of an offense against the health, safety, and welfare of the residents of the town and, upon conviction, shall be subject to a fine not to exceed \$250.00 plus costs or imprisonment not to exceed 15 days or both, for each violation and for each week that each violation continues. The owner(s) of property upon which a violation of these regulations has occurred or is occurring shall be deemed vicariously liable for any such violation.

823.7 Additional Remedies by Town Board. In addition to any other procedures herein provided and/or any penalties herein provided, the Town Board may seek injunctive relief or other judicial relief to prevent the unlawful erection, construction, alteration, use, or continued use of any facility or lot, or to prevent the establishment of any activity in violation of the zoning regulations.

# Article IX

## Subdivision Regulations

### Section 900 Declaration of Policy

900.1 The Planning Board shall consider Subdivision Submissions as part of a plan for the orderly, efficient, and economic development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, peril from fire, flood, or other menace; that proper provision shall be made for incorporation of needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of this subdivision and all neighboring properties; that proposed streets shall conform to the Official Map and shall be of such design, construction and location as to safely accommodate the prospective traffic, and facilitate fire protection.

900.2 **Legal Effect Land Use Regulations.** Whenever any subdivision of land is proposed to be made, and before any site modifications are made and before any permit for erection of a structure in such proposed subdivision is granted, the Land Owner must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

900.4 **Legal Effect: Lot Sale or Lease.** No lot may be considered for subdivision by the Planning Board, offered or executed for sale or lease unless that lot is a lot of record.

900.5 **Legal Effect: Filing of Subdivision Plat.** Before any Plat of land in the Town of Nelson is filed with the County Clerk, the Plat must first be approved by the Town Planning Board in accordance with the procedures of this Article.

900.6 **Void Plats.** No additions or deletions to a certified subdivision plat shall be made unless the Plat is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

900.7 **Legal Effect: Subdivisions.** All five Articles of these Land Use and Development Regulations have bearing on subdivision proposals.

### Section 901 Definitions

Article II contains an extensive list of definitions of terms used in this Local Law. For convenience, the definitions of several relevant terms are included in this Article.

**Subdivision.** Division of one or more legal lots of record into two or more newly configured lots for the purpose of sale, transfer of ownership, lease, or development. All subdivisions must obtain Town of Nelson Planning Board approval. A lot line change and a lot consolidation are not considered subdivisions.

**Lot Consolidation.** The elimination of one or more existing lot line(s) so as to consolidate one or more lots into a lesser number. Lot consolidations shall require Planning Board approval, and applications and maps shall comply with the applicable portions of these subdivision regulations, but no public hearing shall be required, and generally attendance at only one Planning Board meeting will be necessary. The application fee for a lot consolidation shall be in such amount as may be set from time to time by the Town Board.

**Lot Line Change.** A reconfiguration the area of two or more lots involving the adjustment of one or more existing lot line(s) without the creation of a new (additional) lot, nor an extended street(s), new curb cut(s), or other infrastructure, provided that, as reconfigured, all the affected lots meet the dimensional and area requirements for a lot in the zoning district within which the lots are located. Lot line changes shall require Planning Board approval, and applications and maps shall comply with the applicable portions of these subdivision regulations, but no public hearing shall be required, and generally attendance at only one Planning

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Board meeting will be necessary. The application fee for a lot line change shall be in such amount as may be set from time to time by the Town Board.

### **Section 902 Subdivision Types**

902.1 These regulations recognize three types of subdivisions, each subject to review and approval procedures by the Planning Board.

902.2 Type I: Minor Subdivision. An approved subdivision of land located in a Rural or Neighborhood District resulting in the creation of one new lot and one reconfigured lot of record, the new lot shall be used exclusively for residential purposes and have frontage a minimum of 200 ft on an existing public road. No reconfigured lot may be part of subsequent Type I subdivision actions unless so waived by the Planning Board.

902.3 Type II - Minor Subdivision. An approved subdivision of land resulting in the creation or reconfiguration of 1 to 4 lots of record all fronting a minimum 60 ft. on an existing public street.

902.4 Type III - Major Subdivision. An approved subdivision of land resulting in the creation or reconfiguration of 5 or more lots of record or otherwise not qualifying for a minor subdivision of any type.

902.5 The Subdivision procedure for any lot being subdivided within three years of a previous subdivision action involving that lot is considered a Major Subdivision action if the action is to result in any one lot still large enough for further subdivision. This applies regardless of the number of lots and regardless of any change in lot ownership.

902.6 Reference Plats may be required by the Planning Board to assist in their evaluation of any subdivision proposal.

### **Section 903 Coordination with County Health Department**

Subdivisions of five or more lots may require approval by the Madison County Health Department before Final Plat approval is given by the Planning Board. This provision does not apply to agricultural lots subdivided for agricultural purposes involving only Subdividers who are recognized under the New York State Department of Agriculture and Markets as engaged in agriculture.

### **Section 904 General Requirements and Design Standards**

904.1 In considering applications for subdivision of land, the Planning Board shall be guided by standards set forth in the following sections. The standards shall be considered minimum requirements. Where the Planning Board finds that because of exceptional and unique conditions the minimum standards specified herein would not reasonably protect or provide for public health, safety or welfare, a higher standard shall be required.

904.2 All subdivisions shall be planned, designed, constructed and managed to:

- (a) minimize site disturbance and the construction of impervious surfaces;
- (b) avoid disturbance of significant natural resources and environmentally sensitive areas;
- (c) minimize visual impacts;
- (d) minimize erosion and storm water impacts
- (e) provide appropriate buffers to natural resources and environmentally sensitive areas.

### **Section 905 General Considerations**

905.1 Specifications for Required Improvements. All required improvements shall be constructed or installed to conform to the Town Specifications.

905.2 Acceptance. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements, and/or rights of way. A written statement of acceptance must be filed by the Highway Superintendent, the Town Engineer, and the Town Attorney before any road shall be accepted by the Town Board.

## Section 906 Street Names

906.1 Type of Name. All street names shown on a Subdivision Plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.

906.2 Names to be Substantially Different. The subdivider shall confer with the County Fire Coordinator to assure that proposed street names are substantially different and are not confused in sound or spelling with present names in this or nearby municipalities. Generally, no street should change direction sharply or at a corner without a change in street name.

## Section 907 Lots

907.1 Lots shall be configured to provide sufficient area of developable land to meet all zoning and Health Department requirements. Soil percolation tests are required on any newly created lot to establish future septic system feasibility. Any lot created that does not meet the above criteria shall be designated "non-buildable" by the Planning Board and be incorporated on the deed.

907.2 Side Lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless the Planning Board determines deviation from this rule will result in a better plat plan.

907.3 Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback for each street frontage, provide a desirable building site, and to avoid obstruction of free visibility at roadway intersections.

## Section 908 Flag Lots

908.1 In order to allow the efficient use of otherwise landlocked areas, the creation of flag lots may be approved subject to the following conditions:

- (a) Minimum front, side and rear yard requirements in the district where located shall be met exclusive of the driveway property strip connecting the flag lot with the street. but in no case shall any yard setback be less than 50 feet from any adjoining lot line.
  - i. The driveway property strip shall have a width no less than 60 feet at all points along its length and the driveway shall be centered in the property strip.
  - ii. No more than one flag lot shall be approved for each driveway property strip.
  - iii. Driveway property strips may not be combined and shall be at least as far away from each other as the as the minimum lot width for the district where located, measured at the street line.
  - iv. The maximum length of the driveway property strip measured from the street line shall be no greater than 500 feet nor less than 100 feet. The flag lot shall have an area, exclusive of the driveway strip, of not less than the minimum lot area specified in Appendix A for the district in which the lot is located. The lot, exclusive of driveway property strips, shall not be deeper than three times its width.
  - v. Subdivision of an existing flag lot into more than one lot will result in the creation of a new street to access each lot in lieu of a driveway property strip.

## Section 909 Drainage Improvements

909.1 Removal of Spring and Surface Water. The Subdivider may be required by the Planning Board to carry away by pipe or watercourse any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

909.2 Drainage Structure to Accommodate Potential Development Upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the subdivision. The Town Planning Board shall review and if appropriate, accept the design and size of the facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Land Use Local law or less provided appropriate deed restrictions are imposed on the extent and impact of future lot(s) development.

909.3 Responsibility for Drainage Downstream. The Subdivider's engineer shall study the effect of the proposed subdivision on the existing downstream drainage facilities outside the area of the subdivision: this

study shall be reviewed by the Planning Board and/or their consultant. Where it is determined that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of such condition. The cost of these studies and their reviews shall be borne by the Subdivider.

909.4 Land Subject to Flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for any occupancy, or uses which may increase danger to health, life, or property, or aggravate the flood hazard, Such land within the Plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation of water, or improved in a manner satisfactory to the Planning Board and Article 5 requirements to remedy the hazardous conditions. (See Nelson Local Law covering, Flood Damage Prevention Local Law, concerning regulation of development in Flood Hazard Areas.)

## **Section 910 Recreation Areas & Fees**

910.1 Regulations. Recreation space shall be provided within all proposed subdivisions. However, in no case shall the amount required be less than two (2) nor more than ten (10) percent of the total area of the subdivision. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication.

910.2 Submittals. The Subdivider shall submit to the Board, as part of his subdivision application, a reproducible site map of the recreation area at a scale not smaller than lin. = 50 ft., with the following features shown thereon:

- a) The boundaries of the area, giving lengths and bearing of all straight lines, radii, lengths, central angles, and tangent distances of all curves.
- b) Existing features such as brooks, ponds, clusters of trees, rock outcrops, and structures.
- c) Existing, and, if applicable, proposed changes in grade and contours of the area and of areas immediately adjacent.
- d) Functional relationship to proposed subdivision.

910.3 Waivers and Fees. In cases where the Planning Board determines that the land for recreation purposes, cannot be properly located within the subdivision, the Planning Board may waive the requirement for such purposes.

Whereupon the Board does waive this requirement for a recreation area, it shall then require as a condition for approval of the Plat a payment to the Town of Nelson determined by the Nelson Town Board per each unimproved lot shown on the approved Plat. Such payment shall be made to the Town at the time of Plat approval, and no Plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town in a special Town Recreation Fund to be used for the acquisition or improvement of land that is suitable for a public park, playground, or other recreational purposes.

## **Section 911 Street Requirements:**

911.1 Street Access. Proposed streets & driveways connecting to Town, County, or State streets require prior approval from authority having jurisdiction when such authority requires a permit for new or modified street access.

911.2 Access to Public Road. Any lot to be developed must have access to a public road with year round maintenance in accordance with one of the following:

- (a) Direct minimum 60 ft. wide lot frontage on a public road with year round maintenance.
- (b) Direct minimum 60 ft. wide lot frontage on an acceptable substitute for direct public road access, such as a deeded right-of-way at least 60 feet wide.

911.3 Design and Construction. Streets shall be designed and constructed to meet Town Standards, to accommodate the prospective traffic and afford access for fire fighting, snow removal, and other road maintenance equipment.

911.4 Arrangement. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient circulation system. The arrangement of public streets within the subdivision shall provide for the continuation of public streets of adjoining subdivisions, and for the proper projection of these streets into adjoining properties which are not yet subdivided. Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

911.5 Minor Streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.

911.6 Widths. Streets shall have the following widths as measured between street lines.

Right-of-Way Pavement

Major Street	66 feet	40 feet
Collector Street	60 feet	38 feet
Minor Street	60 feet	30 feet

911.7 Grades. Grades of all streets shall conform in general to the terrain, and shall not be less than 0.5 percent nor more than 6 percent for major or collector streets, or 10 percent for minor streets, but in no case more than 3 percent within 100 feet of any intersection.

911.8 Street Vertical Curves. Longitudinal profile grades shall be connected by vertical curves of a minimum length equivalent to 10 times the algebraic difference between the rates of grade expressed in feet per hundred.

911.9 Street Horizontal Curves. Where any street deflects at an angle of 10 degrees or more, the minimum radii of the centerline curvature and the minimum length of reverse curves shall be as follows:

	Radius	<u>Tangent</u>
Collector street	120	100
Minor street	85	100
Cul-de-sac	200	100

911.10 Provision for Future Subdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to provide for future subdivision in accordance with the requirements contained in these regulations.

911.11 Reserve Strips Prohibited. Reserve strips of land, which might be used to privately control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall be prohibited.

911.12 Cul-de-sac and Loop Streets. The creation of cul-de-sac or loop residential streets will be encouraged wherever the Board finds that such types of streets are needed or desirable. The Board may require the reservation of a 20 foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Cul-de-sac streets shall terminate in a circular turn-around having a minimum outside right-of-way radius of 200 feet, a minimum right-of-way width of 60 feet, and serve no more than 20 lots throughout its length. Maximum length to turn around from the closest street intersection shall not exceed 2500 ft.

911.13 Block Size. Blocks generally shall be arranged to suitably accommodate the number of lots and vehicular circulation proposed for the subdivision. Easements may be required within blocks to accommodate crossing of utilities or pedestrian traffic.

911.14 Intersections with Collector or Major Roads. Minor street openings into such roads shall be at least 500 feet from any other street.

911.15 Street Jogs. Street jogs with centerline offsets of less than 125 feet shall not be permitted.

911.16 Angle and Slope of Intersection. All streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins, and at a slope of 3 percent or less.

911.17 Relation to Topography. The street plan of a proposed subdivision shall bear a logical relationship to the natural topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets.

911.18 Monuments and Lot Corner Markers. Permanent monuments meeting specifications approved by the Town as to size, type, and installation, shall be set at such block corners, angle points, points of curves in streets, and other points as the Town Engineer may require and their location shall be shown on the Subdivision Plat.

## **Section 912 Street Design**

912.1 Improvements. Streets shall be graded and improved with pavements, storm drainage facilities, signs, and pavement striping except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety, and general welfare. Pedestrian easements shall be improved as required by the Planning Board. Such grading and improvements shall be approved as to design and specifications by the Planning Board and the Town Highway Superintendent

912.2 Utilities in Streets. The Planning Board shall require that all utilities be placed underground in the street right-of-way between the paved roadway and street line. The Subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

912.3 Utility Easements. Where topography is such to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least 10 feet in width shall be otherwise provided with satisfactory intermittent access to the street. Easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

912.4 Changes in Grade. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Planning Board or Highway Superintendent so that clear visibility shall be provided for a safe distance.

912.5 **Watercourses.** Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Planning Board and Highway Superintendent. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream there shall be provided a storm water easement or drainage right-of-way as required by the Planning Board and in no case less than 20 feet in width.

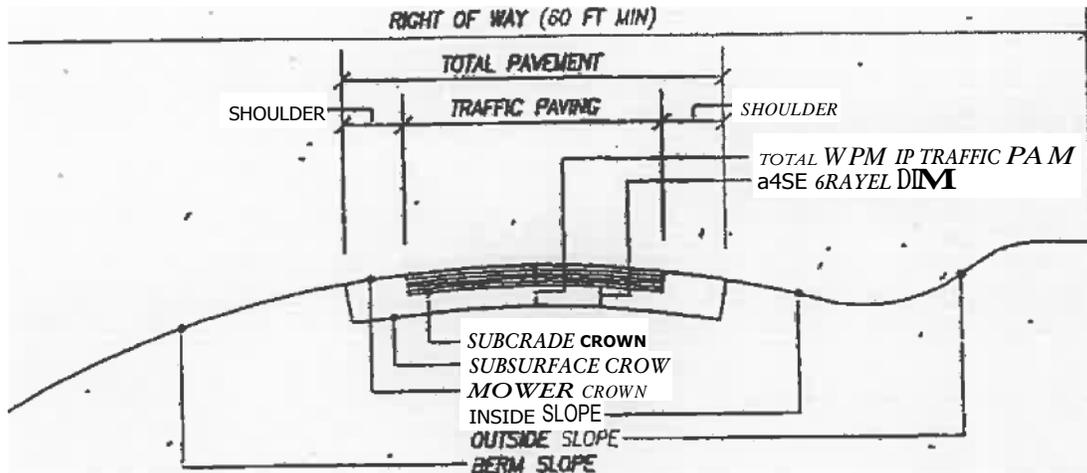
912.6 Curve Radii at Street Intersections. All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.

912.7 **Steep** Grades and Curves: Visibility at Intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety Article 2 Requirements for Clear Vision Area shall be applicable for street design in all proposed subdivisions.

## **Section 913 Street Cross Section and Specification**

913.1 Applicability. All required improvements shall be designed, constructed, and until dedicated to the Town, maintained in accordance with Town specifications as defined herein. Further clarification may be obtained from the Highway Superintendent and the Town Engineer. Depth measurements refer to 95% compacted depths. Specify all street construction materials on the drawings using NYS Department of Transportation specification numbers. Specifications must be approved in writing by the Highway Superintendent and the Town Engineer before Final Subdivision Approval.

913.2 Cross Section. All Town roads shall be constructed to meet the following standards for road type and section:



Collector Street		Major or Minor Street
(a) Right of way (collector)	60 feet minimum	66 feet (major) 60 feet
(b) Total pavement (collector)	30 feet minimum	40 feet (major) 38 feet
(c) Traffic paving	20 feet minimum	28 feet minimum
(d) Shoulder: (binder only)	5 feet 4 inches	6 feet 4 inches
(e) Sub-grade crown	5 %	5 %
(f) Subsurface crown	3 %	3 %
(g) Shoulder crown	6 %	6 %
(h) Berm slope	65 % maximum	65 % maximum
(i) Inside slope	50 % maximum	50 % maximum
(j) Outside slope	65 % maximum	65 % maximum
(k) Base gravel depth	18 inches	18 inches
(l) Total Depth at Traffic Paving	24 inches	24 inches
* (m) Pavement (gravel) Or	2 coat oil & stone or	3 coat oil & stone or
* (n) Pavement (asphalt) (DOT Standards)	3" type III binder 1.5" type VI topping	3" type 11 base 2" type III binder 1.5" type VI topping

\* Town pavement standard shall be "asphalt" item (N) unless "gravel" item (M) pavement is specifically approved by the Planning Board and Town Highway Superintendent. Specifications for each are as noted above.

913.3 Before placing any gravel, crown the sub-grade, if it is filled, compact it to 95%, have a roller stand-by for roll proofing, and ask for an inspection by the Highway Superintendent and the Town Engineer.

913.4 Place gravel base continuously from ditch to ditch in 6" lift with full 95% compaction between lifts. Proof rolling and Proctor testing may be required at the Subdivider's expense.

913.5 Construct ditches meeting the demands set in any studies and the cross sections specified by the Highway Superintendent and the Town Engineer.

913.6 Place culverts in natural waterways, at low spots in the grade, and as specified by the Highway Superintendent and the Town Engineer. The Subdivider shall purchase and install culverts and head walls, except that the Town will install, but not purchase, driveway culverts.

## **Section 914 Subdivision Application**

914.1 Preliminary Discussions. The Planning Board encourages any potential subdivider to formally or informally meet with the Board at any regularly scheduled meeting in order to discuss any matters regarding the subdivision review and approval process.

914.2 Subdivider Responsibility. The Planning Board requests each subdivider to thoroughly acquaint themselves with all subdivision regulations in order to promote an expeditious review of the subdivision request. Failure by the subdivider to comply with these regulations may result in delaying the review of the proposed subdivision.

914.3 Lot Status. The owner of a lot, proposed to be subdivided, must first demonstrate proof of lot ownership by submitting a copy of the current legal Property Deed and establishing that the lot is a legal lot of record by submitting documentation confirming compliance with one of the following two items:

- a) The lot was recorded in the office of the Madison County Clerk prior to the establishment of Town of Nelson Subdivision Regulations on June 1, 1977.
- b) The lot was recorded in the office of the Madison County Clerk as part of a legal subdivision approved by the Planning Board, subsequent to the establishment of Town of Nelson subdivision regulations on June 1, 1977.

Any lot not compliant with either item a or b above will be considered an illegally created lot and will not be considered for subdivision review or properly development unless the lot is first established as a legal lot of record through the subdivision process defined in this article.

914.4 Public Road Access. The lot to be considered for subdivision and all resultantly created lots shall have unobstructed legal access to a public road with year round maintenance as follows:

- a) Direct minimum 200 ft wide lot frontage on an existing road with year round maintenance (Type 1- Minor Subdivision lots only)
- b) Direct minimum 60 ft wide road access with minimum 200 ft. lot width at the front setback line and frontage on an existing road with year round maintenance (Type II Minor or Type III Major Subdivision lots only) - or -
- c) Direct minimum 60 ft wide road access with minimum 200 ft. lot width at the front setback line and frontage on an existing or new road approved by the Planning Board, constructed to meet town road design standards (Type III Major Subdivision lots only).

Roads shall be centered on a 60 ft wide deeded Right-of-Way leading from the most distant bordering lot with minimum 60 ft frontage, to a public road with year round maintenance. All lots fronting on a private Right-of-Way accessing public roads shall have deeded private road access, maintenance, repair and improvement agreements with each other including applicable fees and town Performance Bond Requirements insuring the continued road upkeep and condition meets Town standards.

914.5 Attendance. The Subdivider, or a representative, must attend each Planning Board meeting in which the subdivision will be discussed. It is preferred the same person attend all meetings.

914.6 Additional Information. The Planning Board reserves the right to request the submittal of additional information as may be required to assist the Board in evaluating the subdivision application.

## **Section 915 Application Process**

To initiate review and approval of any subdivision, the owner or Subdivider of the land must first prepare and submit to the Planning Board completed documents as required by this Local law. Applications considered complete shall be reviewed and classified as to subdivision type by the Planning Board thereby initiating the subdivision review and approval process. Subsequent compliance with Planning Board requests may be required in order to continue the review process.

**915.1 Subdivision Application.** The owner or Subdivider must prepare complete and submit the following materials to the Planning Board for their review and evaluation at least ten (10) calendar days prior to the regularly scheduled monthly Planning Board meeting.

- (a) Written request for subdivision review and approval.
  - Town of Nelson Subdivision Application form
  - Signed by lot owner
  - Town Fees
- (b) Sketch Plat Drawing
  - Prepared per Section 916 requirements
- (c) SEAR - Environmental Assessment Form
  - Complete part I only and sign
- (d) Proof - Lot Ownership
  - Copy of current property deed
- (e) Proof - Lot of Record
  - a) Lots created before adoption of subdivision regulation on June 1, 1977 submit:
    - Copy of deed showing lot existence prior to above date.
  - b) Lots created after adoption of subdivision regulations on June 1, 1977.
    - Review subdivision plat which created lot under consideration & provide:
      - 1) Subdivision tract map number
      - 2) Lot number
      - 3) File drawer number
  - c) All information requested in items (d) and (e) above is available at the Madison County Clerk and Tax Assessment offices.

### **Section 916 Sketch Plat Drawing**

The Sketch Plat is a scaled drawing of the proposed subdivision plan including surrounding areas within 200 ft of the lot, submitted by the subdivider and reviewed by the Planning Board. The Sketch Plat shall be prepared at a scale no less than 1 in. = 100ft. containing the following information for the original lot, all subdivided lots, as well as all adjoining and cross road lots:

- (a) North arrow.
- (b) Tax map page, block and log numbers.
- (c) Deeded Owner(s) name.
- (d) Lot size, dimension and location.
- (e) Location and name of adjacent streets and distance to closest street intersection from lot location.
- (f) Easements, rights-of-way, zoning district lines or other similar encumbrances on or adjacent to the site.

Additionally the lot proposed for subdivision shall also contain the following information.

- (g) Identification, location and extent of significant natural features such as fields, wooded areas, streams, ponds, wetlands, water courses, etc.
- (h) General site topography and drainage patterns.

### **Section 917 Subdivision Classification**

917.1 Based upon a completed subdivision application, the subdivision shall be evaluated and classified as to subdivision type and reviewed subject to Local law requirements..

917.2 To determine which type of subdivision review is required, the Planning Board shall ask each of the following questions:

- (a) Will any new streets be created?
- (b) Will there be any changes to the use or classification of any town roads?
- (c) Are any Town utility extensions needed?
- (d) Are there any significant conflicts with the Master Plan, or Land Use and Development Local law?
- (e) Is the proposal for a Cluster Subdivision?
- (f) Will the subdivision result in five or more lots?

- (g) Has there been a subdivision of this parcel or the parcel from which this lot was derived within the last 3 years resulting in a lot still large enough to subdivide?

Answering "yes" to any of the above questions will automatically classify the subdivision as Type III Major.

### **Section 918 Minor Subdivision Review Process and Fees**

**918.1 Review Procedure.** For subdivisions classified as a Type I or Type II minor subdivisions, the following process shall be applicable:

- (a) Preliminary Minor Subdivision Plat submission
  - Submit within 180 days of Subdivision Application acceptance
  - Complete plat per requirements defined herein
- (b) Planning Board evaluates submission
  - Determines Environmental impact
- (c) Planning Board acts on submission
  - Accepts as compliant with Local law Requirements with or without modifications/additional information
  - Rejects as non-compliant with Local law Requirements
  - Resubmits.
  - Determines when submission is complete
  - Schedules Public Hearing
- (d) Public Hearing
  - Held within 45 days of completed submission
- (e) Planning Board Action
  - Within 45 days of public hearing
  - Accept/Accept with modifications/Disapprove/No decision
- (f) Final Minor Subdivision Plat
  - Signed by Planning Board chair upon compliance with approval conditions or not signed if rejected
  - File with Town Clerk upon signing
  - Subdivider to File signed plat with Town & County within 60 days of signing
- (g) Development Action sale or lease of lots may commence

918.2 Eight copies of the Submission materials shall be presented to the Planning Board, Applications for Plat approval shall be accompanied by a non-refundable fee according to the Town of Nelson Schedule of Fees. All required submittal materials shall be issued to the Town ten (10) calendar days prior to the meeting date.

### **Section 919 Minor Subdivision Plat Submission**

The subdivider must submit a legal survey of the newly created and reconfigured lots proposed by this subdivision. The survey shall be prepared by a surveyor at a scale no less than 1"=100' containing the following information:

- (a) Date, north arrow, map scale & name/address of the subdivider.
- (b) Adjoining existing streets with distance to nearest street intersections
- (c) Proposed new streets
- (d) Boundary survey of all lots created by the subdivision including
  - bearing location and distances
  - corner monuments
- (e) Topographic contours of lots created by the subdivision showing profile and drainage patterns (10 ft intervals unless otherwise requested)
- (f) Adjoining and cross road neighboring lots including
  - tax map no., block no. & lot no.
  - deeded owner's name
  - location and size
- (g) General Location and limits of existing significant natural features
  - fields, wooded areas, streams, ponds, wetlands & water courses etc.

- (h) Flood Plane limits (where applicable)
  - mean high water level -100 yr. flood
- (i) Copy of existing or proposed roads, rights-of-way, covenants or other deed restrictions applicable to this subdivision.
- (j) Provide on each drawings two inch by two inch boxes to be stamped by the Professional Engineer, Architect, and Surveyor responsible for the project. Provide three inch by three inch boxes for sign off by the Planning Board and the County Clerk. Provide a conspicuously located one inch by three inch box for application of the project number by the Planning Board.
- (k) indicate on the Plat one perc test and one deep hole test location on each lot within the boundary of each required leach field. List on the Plat the test data at each location. Tests are to be certified by a licensed professional.
- (l) Show on the Plat a location map of the proposed subdivision within the Town.

## **Section 920 Study of Preliminary Submission**

The Planning Board shall study the practicability of the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the location of existing trees and other natural features, the presence of historic buildings and sites, the future development of adjoining lands as yet un-subdivided, and the requirements of the Master Plan, the Official Map, if such exists, and Land Use Local law.

## **Section 921 Public Hearing**

921.1 A public hearing shall be held by the Planning Board within 45 days from the time the submission is accepted as complete. The hearing shall be advertised in a newspaper of general circulation in the Town at least 5 days before such hearing.

921.2 The Subdivider shall notify all adjoining or cross road property owners of the pending public hearing by mailing to each the notification form provided by the Town Clerk. The Subdivider shall give the Planning Board an affidavit to that effect, listing the adjacent property owners, and date of the mailing. The Subdivider shall pay all costs related to this mailing.

## **Section 922 Expedited Review**

Type I Minor subdivisions may upon review and classification, be determined by the Planning Board to pose no apparent threat to the general welfare of the community or environment and be afforded the option of expedited review by the Board. This option combines the Preliminary Plat Submission and Review with the Public Hearing resulting in the Planning Board to first meet with the subdivider to determine whether the application is completed as submitted and to secondly open the meeting for public comment prior to final Board action.

Should the submission be judged incomplete, unacceptable or requiring additional information or review time by the Planning Board at any time during the review process, the expedited review process will be terminated and full compliance with normal subdivision requirements will **be required**.

## **Section 923 Action on Subdivision Plat**

The Planning Board shall take the following actions:

- a) The Planning Board shall, within 45 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove, or grant final approval and authorize the signing of the Minor Subdivision Plat. This time may be extended by mutual consent of the Subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the Submission. All actions of the Planning Board, and the reasons therefore, shall be in written form and made a part of the record of the subdivision.
- b) Upon granting conditional approval with or without modification to the Plat, the Planning Board shall empower the Planning Board Chairperson to sign the Plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval.

- c) Within 5 days of the resolution granting conditional approval, the Plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed with the Town Clerk, and a copy issued to the Subdivider. The copy given to the Subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the final cloth Plat.
- d) Upon completion of the requirements in the resolution of approval, two copies of the final cloth Plat submitted by the subdivider shall be signed by Planning Board Chairperson. Conditional approval of a Plat shall expire 180 days after the date of the resolution granting such approval. The Planning Board may, however, extend the time within which a conditionally approved Plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

### **Section 924 Filing of the Signed Plat**

A signed cloth Minor Subdivision Plat shall be filed or recorded by the applicant in the office of the County Clerk. Any Plat not so filed or recorded within 60 days from the date of endorsement of such Plat shall become null and void.

### **Section 925 Subdivision Review Process and Fee**

925.1 Review Procedure. For subdivisions classified as a Type III major subdivisions, the following process shall be applicable:

- A) Preliminary Type III Major Subdivision Plat submission
  - Submit within 180 days of Subdivision Application acceptance
  - Complete plat per requirements defined herein
- B) Planning Board evaluates submission
  - Determines Environmental impact
- C) Department of Health reviews submission
- D) Planning Board acts on submission
  - Accepts as compliant with Local law Requirements with or without modifications/additional information
  - Rejects as non-compliant with Local law Requirements
  - Resubmits.
  - Determines when submission is complete
  - Schedules Public Hearing
- E) Public Hearing
  - Held within 45 days of completed submission
- F) Planning Board Action
  - Within 45 days of public hearing
  - Accept/Accept with modifications/Disapprove/No decision
- G) Preliminary Major Subdivision Plat
  - Signed by Planning Board chair upon compliance with approval conditions or not signed if rejected
  - File with Town Clerk upon signing
- H) Final Type III Major Subdivision Plat submission
  - Submit within 180 days of Preliminary Plat approval
  - Complete plat per requirements defined herein
- I) Planning Board evaluates submission
  - Determines compliance with Preliminary submission conditions of approval
- J) Department of Health reviews submission
- K) Planning Board reviews total submission
  - Accepts as compliant with Local law Requirements with or without modifications/additional information
  - Rejects as non-compliant with Local law Requirements
  - Resubmit
  - Determines when submission is complete
  - Schedules Public Hearing
- L) Public Hearing (Planning Board option)
  - Held within 45 days of completed submission

- M) Planning Board Action
  - Within 45 days of public hearing or complete final submission
  - Accept/Accept with modifications/Disapprove/No decision
- N) Final Major Subdivision Plat
  - Signed by Planning Board chair upon compliance with approval conditions or not signed if rejected
  - File with Town Clerk upon signing/issue to subdivider
  - Subdivider to File signed plat with Town & County within 60 days of signing
- O) Development Action, sale or lease of lots may commence

## Section 926 Preliminary Submission Requirements

926.1 Pursuant to a Type III Major subdivision classification by the Planning Board, the subdivider shall submit the following information in addition to documents submitted as part of the "Initiation of Subdivision Review" previously defined in this Article:

- 1) A Full Environmental Assessment long form with Part I completed.
- 2) Any fees as may be required by the Town of Nelson Schedule of Fees.
- 3) Engineering studies or reports as may be required or requested by the Planning Board to enable a complete review of the proposed subdivision. These reports may include but are not limited to the following: geotechnical, traffic, storm water, sewage disposal, water, wetland or other studies as may be required.
- 4) Preliminary Subdivision Plat shall be prepared in accordance with the requirements defined below:

926.2 **Preliminary Submission Plat.** The subdivider must submit a legal survey of the newly created and reconfigured lots proposed by this subdivision. The survey shall be prepared by a surveyor at a scale no less than 1" = 100ft. containing the following information:

- (a) Date, north arrow, map scale & name/address of the subdivider.
- (b) Adjoining existing streets with distance to nearest street intersections
- (c) Proposed new streets
- (d) Boundary survey of all lots created by the subdivision including
  - bearing location and distances
  - corner monuments
- (e) Topographic contours of lots created by the subdivision showing profile and drainage patterns (10 ft intervals unless otherwise requested)
- (f) Adjoining and cross road neighboring lots including
  - tax map no., block no. & lot no.
  - deeded owner's name
  - location and size
- (g) General Location and limits of existing significant natural features
  - fields, wooded areas, streams, ponds, wetlands & water courses etc.
- (h) Flood Plane limits (where applicable)
  - mean high water level - 100 yr. flood
- (i) Copy of existing or proposed roads, rights-of-way, covenants or other deed restrictions applicable to this subdivision.
- (j) Provide on each drawings two inch by two inch boxes to be stamped by the Professional Engineer, Architect, and Surveyor responsible for the project. Provide three inch by three inch boxes for sign off by the Planning Board and the County Clerk. Provide a conspicuously located one inch by three inch box for application of the project number by the Planning Board.
- (k) Indicate on the Plat one perc test and one deep hole test location on each lot within the boundary of each required leach field. List on the Plat the test data at each location. Tests are to be certified by a licensed professional.
- (l) Show on the Plat a location map of the proposed subdivision within the Town
- (m) All on-site sanitation and water supply facilities (if any) shall be designed to meet the minimum specifications of the Madison County Sanitary Code, and a note to this effect shall be stated on the approved preliminary Plat and signed by an officer of the County Health Department.

### **Section 927 Reference Plat**

The Planning Board may request the Subdivider to prepare and submit a specified Reference Plat in order to assist the Board in their evaluation of the proposal.

### **Section 928 Planning Board Attendance**

The Subdivider shall attend the meeting of the Planning Board to discuss the Preliminary Submission.

### **Section 929 Study of Preliminary Submission**

The Planning Board shall study the practicability of the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the location of existing trees and other natural features, the presence of historic buildings and sites, the future development of adjoining lands as yet un-subdivided, and the requirements of the Comprehensive Plan, and Land Use Local law.

### **Section 930 Public Hearing**

930.1 A public hearing shall be held by the Planning Board within 45 days from the time the submission is accepted as complete. The hearing shall be advertised in the official newspaper of the Town in the Town at least 5 days before such hearing.

930.2 The Subdivider shall notify all adjoining or cross road property owners of the pending public hearing by mailing to each the notification form provided by the Town Clerk. The Subdivider shall give the Planning Board an affidavit to that effect, listing the adjacent property owners, and date of the mailing. The Subdivider shall pay all costs related to this mailing.

### **Section 931 Action on Preliminary Plat**

The Planning Board shall take the following actions:

- (a) The Planning Board shall, within 45 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove, or grant final approval and authorize the signing of the Preliminary Subdivision Plat. This time may be extended by mutual consent of the Subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the Submission. All actions of the Planning Board, and the reasons therefore, shall be in written form and made a part of the record of the subdivision.
- (b) Upon granting conditional approval with or without modification to the Plat, the Planning Board shall empower the Planning Board Chairperson to sign the Plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval.
- (c) Within 5 days of the resolution granting conditional approval, the Preliminary Plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed with the Town Clerk, and a copy issued to the Subdivider. The copy given to the Subdivider shall include a statement of such requirements which, when completed, will permit the subdivider to submit the Final Plat for Planning Board review and action.

### **Section 932 Approval of Preliminary Submission**

Approval of a Preliminary Plat shall not constitute current or future approval of the Final Subdivision Plat. It is only an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat.

### **Section 933 Final Plat Submission**

933.1 Time Limitations. The Subdivider shall, within six months after the approval of the Preliminary Plat, file with the Planning Board a Submission for approval of the Final Subdivision Plat in final form as required here and agreed during the Preliminary Plat review. If the Final Subdivision Plat is not submitted for approval within

six months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Subdivision Plat and require re-submission of the Preliminary Plat.

933.2 Plats and Drawings. A Subdivider intending to submit a Final Subdivision Submission for the approval of the Planning Board shall provide the Clerk of the Planning Board with eight copies of all required documents. All drawings as required shall be stamped and signed by licensed design professional of the appropriate discipline.

### **Section 934 Final Submission Requirements**

Based upon the review and approval of the Preliminary Submission Documents, a Final Subdivision Plat shall be prepared and submitted at a scale no less than tin. = 100 ft. incorporating the preliminary submission comments, studies and conditions of approval.

934.1 In addition to the above requirements the following applicable information shall be prepared and submitted at a proper scale for the review of work as required by the scope of the proposed subdivision. The Plat shall show:

- a) Proposed subdivision name.
- b) Street lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use.
- c) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing, and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referred to as reference points previously established by a public authority.
- d) The length and bearing of all straight lines, radii, length of curves, central angles of curves, and tangent bearings shall be given for each street. All dimensions shall be shown in feet and decimals of a foot. The Plat shall show the boundaries of the property, location, graphic scale, and true north point.
- e) The Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the Subdivider. For any of the latter there shall be submitted with the Final Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
- f) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- g) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
- h) Permanent reference monuments shall be located and referred to upon the Final Plat and shall be set:
  - at all corners and angle points of the boundaries of the original tract to be subdivided;
  - at all street intersections, angle points in street lines, points of curve, and
  - at such intermediate points and additional points as shall be required by the Town Engineer.Monuments shall be constructed in accordance with specifications of the Town Engineer. When the permanent reference monuments refer to the State system of plane coordinates they shall also conform to the requirements of the State Department of Public Works.
- i) All lot corner markers shall be permanently located satisfactorily to the Town.
- j) Construction drawings including plans, profiles, and typical cross-sections as required, showing the proposed location, size, design and type of streets, sidewalks, street lighting, curbs, pavements, landscaping, utilities and manholes, catch basins, and other facilities.
- k) Water and sewer facility proposals contained in the Final Subdivision Plat shall be properly endorsed and approved by the Madison County Department of Health. Applications for approval on plans for sewer or water facilities will be filed by the Subdivider with all necessary Village, County, and State agencies.
- l) Deed description, abstract of title, and survey of tract boundary are made and certified by a land surveyor, tied to established boundary monuments, and submitted in duplicate for review by the Town Attorney.
- m) Required easements, deed restrictions or release agreements shall be recorded on the Final Plat.
- n) Schedule of work document as defined herein often in this document.

934.2 All required plans, sketches, and specifications shall be provided at the Subdivider's expense.

### **Section 935 Public Hearing and Review of the Final Plat**

Within 45 days of the acceptance of a Major Subdivision Final Submission as complete and ready for review, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the Town at least 5 days before the hearing. However, when the Planning Board deems the final plat to be in substantial agreement with the approved Preliminary Plat, the Planning Board may waive the requirement for such public hearing.

### **Section 936 Action on Proposed Final Subdivision Plat**

936.1 Actions by Planning Board, The Planning Board action shall be by resolution to conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of the Plat by the Chair of the Planning Board. The action is to be taken within 45 days after the public hearing, if one was held, and if no public hearing was held, within 45 days of receipt of the entirely complete Application for Subdivision by the Clerk of the Planning Board. This time may be extended by mutual consent of the Subdivider and the Planning Board. Failure to take action on a complete final Plat within the time prescribed therefore shall be deemed approval of the Subdivision.

936.2 Conditional Approval. Upon resolution of conditional approval of the Final Plat the Planning Board shall empower the Chair to sign the Plat upon completion of such requirements as may be stated in the resolution. Within 5 days of such resolution the Plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in their office and a copy given to the Subdivider. The copy given to the Subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved final Plat. At minimum this statement will require the signature of the Health Department Official.

936.3 Certification by Chair of Planning Board. Upon completion of such requirements and submittal of 2 Final Cloth Plats, each plat shall be signed by the Chair of the Planning Board. One plat shall be retained by the Town Clerk and one plat returned to the subdivider for filing with the Madison County Clerk,

*Every Final Plat shall carry the following endorsement:*

Approved by Resolution of The Town of Nelson Planning Board on the \_\_\_\_\_ Day of \_\_\_\_\_  
20\_\_\_\_. Subject to all Requirements and Conditions of Said Resolution, Signed This \_\_\_\_\_ Day;  
of \_\_\_\_\_, 20\_\_\_\_\_

By: \_\_\_\_\_  
Planning Board Chair

936.4 **Expiration of Approval.** Conditional approval of a final Plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved Plat may be submitted for signature, if in its opinion such extension is warranted. These extensions shall not exceed two additional 45-day periods.

### **Section 937 Prompt Filing**

Any Subdivision Plat not so filed by the subdivider with the County Clerk within sixty days of the date upon which the Plat is approved and signed shall become null and void.

### **Section 938 Modification of Design of Improvements**

938.1 if at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town that unforeseen conditions make it necessary or preferable to modify the location or design of the required improvements, the Town may, upon approval by the Chair of the Planning Board or a designated representative, authorize modifications, provided that these modifications are in keeping with the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board, The Town shall issue any authorization under this Section in Writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

938.2 The Plat will be void if revised after approval. No changes, erasures, modifications, or revisions shall be made in any Final Subdivision Plat after final approval has been given by the Planning Board and endorsed in writing on the Plat, unless the Plat is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

938.3 Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not requisite in the interest of the public health, safety, and general welfare it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Land Use Local law.

### **Section 939 Surety and Bonds**

Subdividers shall provide Surety for subdivisions containing improvements which are to be dedicated to the Town, and in all other circumstances, when in the opinion of the Planning Board, the Town would be at risk should the Subdivider fail to perform. In such cases, and before the Planning Board grants final approval of the Final Subdivision Plat, the Subdivider shall follow the procedure set forth herein.

- a) In an amount set by the Planning Board the Subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the Subdivider shall file with the Town Clerk a performance bond guarantee to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Town Law and further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.
- b) The Subdivider shall complete all required improvements to the satisfaction of the Town Representative, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the Subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

### **Section 940 Inspection of Improvements**

At least five days prior to commencing construction of required improvements the Subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time when they propose to commence construction of the improvements. The Town Board may cause inspection to be made in order to assure that all Town specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

### **Section 941 Proper Installation of Improvements**

If the Town Representative finds, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Subdivider, he shall so report to the Town Board, Building Inspector, and Planning Board. The Town Board then shall notify the Subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No Subdivision Plat shall be approved by the Planning Board as long as the Subdivider is in default on a previously approved Subdivision Plat. Subdivider shall inform the Administrative Officer at least 48 hours before inspection is required, and shall not cover any part of an improvement until written approval has *been* granted.

### **Section 942 "As Built" Plans**

After construction of the subdivision has been completed, the Subdivider shall file with the Town Superintendent of Public Works or the Town Engineer "as built" plans, prepared and certified by a licensed professional, of all utilities, drainage structures, and services installed underground within the subdivision by

the Subdivider. No building permit shall be issued for construction within the subdivision until a satisfactory agreement for filing "as built" plans has been approved by the Planning Board.

942.1 As built plans shall contain at least the following information:

- (a) Locations, sizes, elevations, lengths, slopes, invert and top elevations of manholes of all sanitary and storm sewers, water mains and appurtenances.
- (b) Locations, including ties, of all valves, curb stops and hydrants.
- (c) Locations at the property line of each lot of sanitary laterals, storm sewer laterals and water service curb boxes.
- (d) The location of all facilities shall be tied to visible and reproducible objects.

### **Section 943 Public Streets and Recreation Areas**

943.1 Public Acceptance of Streets. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on the Subdivision Plat. The Town shall not construct any utility or improvement in any street until it has become a public street.

943.2 Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area has been shown on a Plat, approval of the Plat shall not constitute an acceptance by the Town of the recreation area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

943.3 Waiver of Liens. Prior to public acceptance of any improvements, the Subdivider shall submit an affidavit stating that all bills and accounts for material and labor used in construction have been paid in full.

943.4 Warranty. The Subdivider shall make good without any cost to the Town any defects in any of the improvements constructed by him, and any damage due to faulty workmanship on his part or due to imperfect material or equipment furnished by him which defects or damage may appear within one year after acceptance of the improvements by the Town.

### **Section 944 Schedule of Work**

944.1 The subdivider shall submit to the Planning Board, a schedule of work intended, to be followed, defining the limits of work proposed within each phase of the Project.

944.2 The Planning Board shall review this schedule and modify as required to insure the required extent of infrastructure is installed prior to the commencement of building activity.

944.3 This schedule of work shall be submitted prior to the certification of the final plat as complete.

### **Section 945 Cluster Subdivisions**

945.1 Authority. Whereas pursuant to resolution of the Town Board, the Planning Board is empowered to modify applicable provisions of the Land Use Local law in accordance with the provisions of Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities, and to preserve the natural and scenic qualities of open lands.

945.2 Initiation of Cluster Subdivision Procedure. A Subdivider may request a cluster subdivision simultaneously with or subsequent to the initiation of subdivision review. The Planning Board, upon initial review of a sketch plat, may decide whether a cluster subdivision is appropriate for the site. Regardless of who initiates the cluster subdivision, the procedures of a Major Subdivision are followed.

945.3 Cluster Standards.

- (a) The minimum gross area for any clustered subdivision proposal shall be ten (10) acres.

- (b) Clustered subdivisions are permitted in Residential Districts only.
- (c) The area of the subdivision required by the Town to be reserved for open space shall not be more than fifty per cent of the gross lot area. Larger open percentages are readily possible, especially if shared leach fields are incorporated.
- (d) The number of lots/dwellings permitted in a cluster subdivision shall not exceed the maximum number of lots or dwelling units that could be lawfully constructed on the buildable land in a non-cluster subdivision upon the same premises as regulated by this Local law.

945.4 Types of Housing allowed in clusters include single and multi-family structures. No more than six structures shall be permitted to be clustered in any one grouping. Distances between structures in Clustered Plans shall be no less than thirty (30) feet. Distances between clustered groupings shall be a minimum two hundred (200) feet.

945.5 **Submissions.** A subdivider shall present a written proposal to the Planning Board outlining their intent to initiate a cluster subdivision review process.

945.6 Park, Recreation, Open Space, or Other Municipal Purposes. If the application of this procedure results in a Plat showing land available for park, recreation, open space, or other municipal purposes directly related to the Plat, then necessary conditions as to ownership, use, and maintenance of such lands for their intended purposes shall be set forth by the Planning Board.

945.7 Filing: Notation on Zoning Map. Upon making final approval of a Plat on which Cluster Subdivision provisions have been used, the Town Zoning Map shall be updated with appropriate notations and references thereon.

## Article X

# Administration and Enforcement of NYS Fire Prevention and Building Code

Section 1000 Purpose and Intent

This article provides for the administration and enforcement of the Building Code of New York State (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Nelson. All local laws and/or local laws adopted prior to the adoption of this article which are inconsistent with the provisions of this article are hereby deemed repealed and superseded by this article.

1000.1 Applicability. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this article.

Building Code of New York State 1000.2 Code Enforcement Officer and Inspectors.

(a) The office of Code Enforcement Officer of the Town of Nelson is hereby confirmed and continued. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. In addition to such other duties and authority as may be conferred upon the Code Enforcement Officer by the Town Board, the Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits.

Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy | Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 1000.14 (Violations) of this local law;

(7) to maintain records;

(B) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town.

### 1000.3 Building Permits.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the proposed work;

(2) the tax map number and the street address of the premises where the work is to be performed;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

co Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 6A-16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

#### 1000.4 Construction Inspections.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1000.15 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

#### 1000.5 Stop Work Orders.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail or certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work

affected by the Stop Work Order, personally or by registered mail or certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 1000.14 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

#### 1000.6 Certificates of Occupancy | Certificates of Compliance.

(a) Certificates of Occupancy / Certificates of Compliance required. A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

(b) Issuance of Certificates of Occupancy | Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy | Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy | Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections, and
- (2) flood hazard certifications.

(c) Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 6A-16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

#### 1000.7 Notification Regarding Fire or Explosion.

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

#### 1000.8 Unsafe and/or Abandoned Buildings and Structures

Unsafe and/or Abandoned structures and equipment in this Town shall be identified and addressed in accordance with Section 110 of the Fire Code of New York State and Section 311 of the Fire Code of New York State, and, as applicable, local laws of the Town of Nelson.

#### 1000.9 Operating Permits.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of this Town.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 6A-16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

#### **1000.10 Fire Safety and Property Maintenance Inspections.**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every 24 months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the **New** York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

(d) Buildings Inspected by OFPC. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 6A-16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

#### 1000.11 **Complaints.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 1000.14 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

1000.12 Record Keeping.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) ail Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all other features and activities specified in or contemplated by sections 1000.3 through 1000.11 inclusive, of this local law, including; and
- (9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

1000.13 Program Review and Reporting

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town, a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 1000.12 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

1000.14 Violations.

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be

achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$250 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 1000.5 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 1000.5 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

#### 1000.15 Fees.

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of occupancy / Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

# **APPENDIX A**

Code Requirement	R	B	NC	EH	N
Planned Unit Development - PUD (acres)	5.0	5.0	5.0	5.0	5.0
Minimum Lot Area (acres) (Note 1)					
Basic Districts - Lots	2.0	2.0	1.6	1.5	2.0
Basic Districts - Flag Lots	14.0	3.0	2.5	2.5	3.0
Dimension Regulations: (Minimum Feet)					
Lot frontage at street line					
Traditional Lots	200	200	150	150	200
Flag Lots	60	60	60	60	60
Front yard depth (at setback line)					
Buildings / structures (from street line)	50	50	25	25	50
Side yard depth (at setback line)					
Buildings / structures	30	30	20	20	30
Accessory buildings / structures	20	20	10	10	20
Parking area	20	20	10	10	20
Driveways	5	5	5	5	5
Rear yard depth (at setback line)					
Buildings / structures	50	50	25	26	50
Accessory buildings / structures	20	20	10	10	20
Parking area	20	20	10	10	10
Ratio regulations:					
Maximum depth: width	3:1	3:1	3:1	3:1	3:1
Height regulations: (maximum feet)					
Principal facility	40	40	40	40	40
Accessory facility	35	3	30	30	30
Agricultural use		No limit			
Percentage regulations: (maximum %)					
Lot coverage (% of lot area) (Note 1)					
All impervious buildings/structures	10	26	26	25	10
All other impervious materials	10	25	26	25	10
Total - all improvements	20	60	50	60	20

All lot area calculations shall not include any easements, **rights-of-way**, or any other permanent **encumbrances**.

Code Requirement	WF
Planned Unit Development - PUD (acres)	5.0
Minimum Lot Area (acres) (Note 1)	
Lot size	2.0
Dimension Regulations: (Minimum Feet)	
Street frontage	150
Lake frontage (where applicable)	150
Front yard depth (at setback line)	
Front yard setback from street	25' or 10% of lot depth
Lakeshore setback for structure	30
Lakeshore setback for decks	5
Side yard depth (at setback line)	
Sideyard buildings (principal)	15
Sideyard accessories (includes decks)	10
Sideyard parking	5
Ratio regulations:	0
Height regulations: (maximum feet)	
Principal **	30
Accessory	20
Decks (including rail)	8
Coverage Percentage	
Principal and accessory buildings	10
All other impervious materials	10
Total all improvements with decks	26

impervious and uncovered decks

\*\* Maximum two story exposure on waterfront.

# **APPENDIX B**

grz

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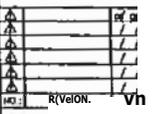


**LEGEND**

- YARD AREA
- LOT WIDTH
- SETBACK LINE
- EXTENT OF ROAD SHOULDER LINE
- STREET CENTERLINE

- STREET/STREET MOTH
- STREET CENTERLINE
- IMPROVED STREET SHOULDER
- STREET PAVEMENT
- STREET LINE (RIGHT OF WAY)/FRONTAGE
- LOT WIDTH (MEASURED AT SETBACK LINE)

**TOWN OF NELSON  
LAND USE RE  
INTERIOR LOT DEVE**



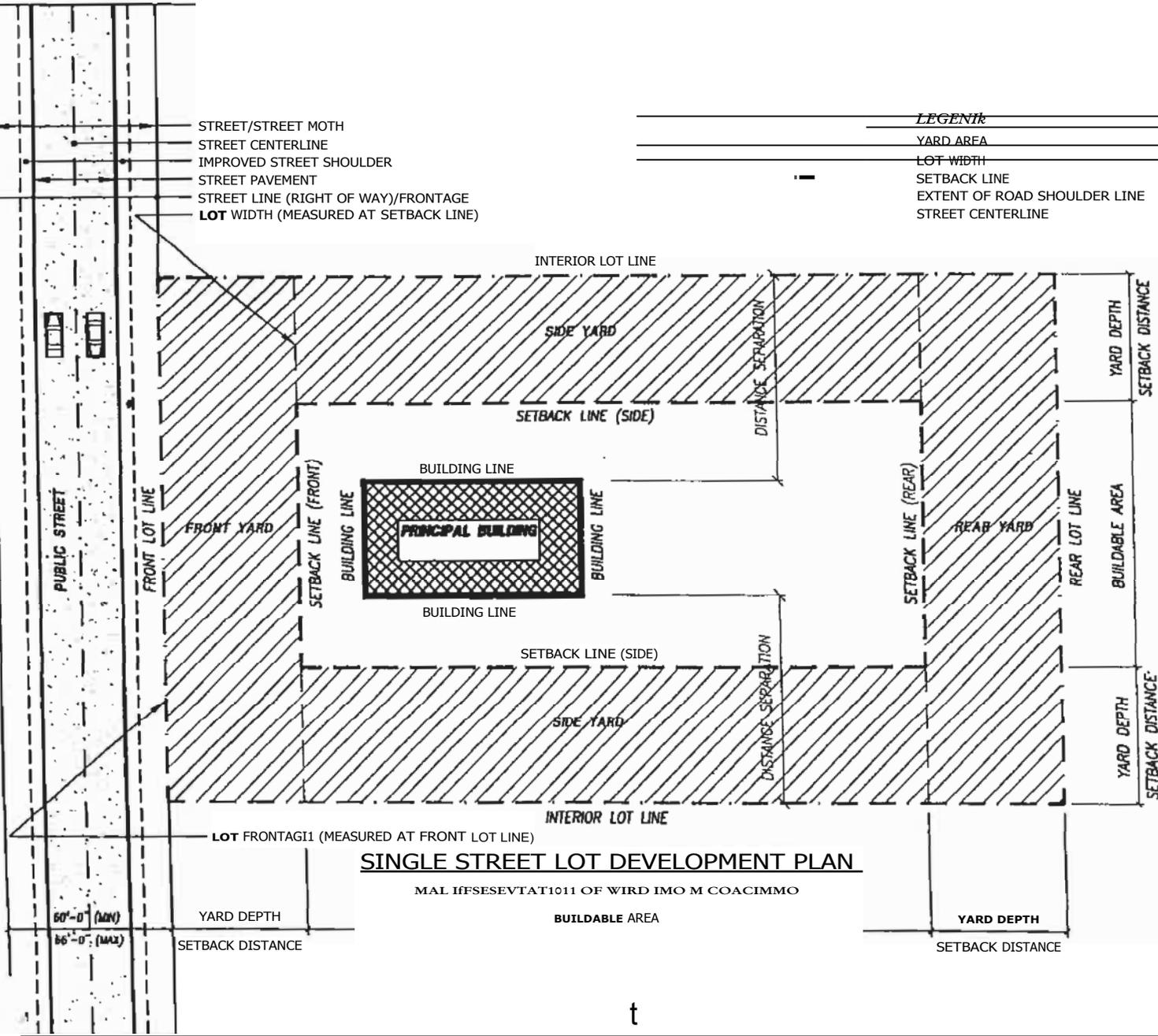
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NP/2111

WEST SIDE  
 = EU  
 STREET  
 FRONTAGE

**TOWN OF NELSON  
MADISON COUNTY**

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rt.



**SINGLE STREET LOT DEVELOPMENT PLAN**

MAL IIFSESEVTAT1011 OF WIRD IMO M COACIMMO

BUILDABLE AREA

60'-0" (MIN)  
 86'-0" (MAX)

# **APPENDIX C**

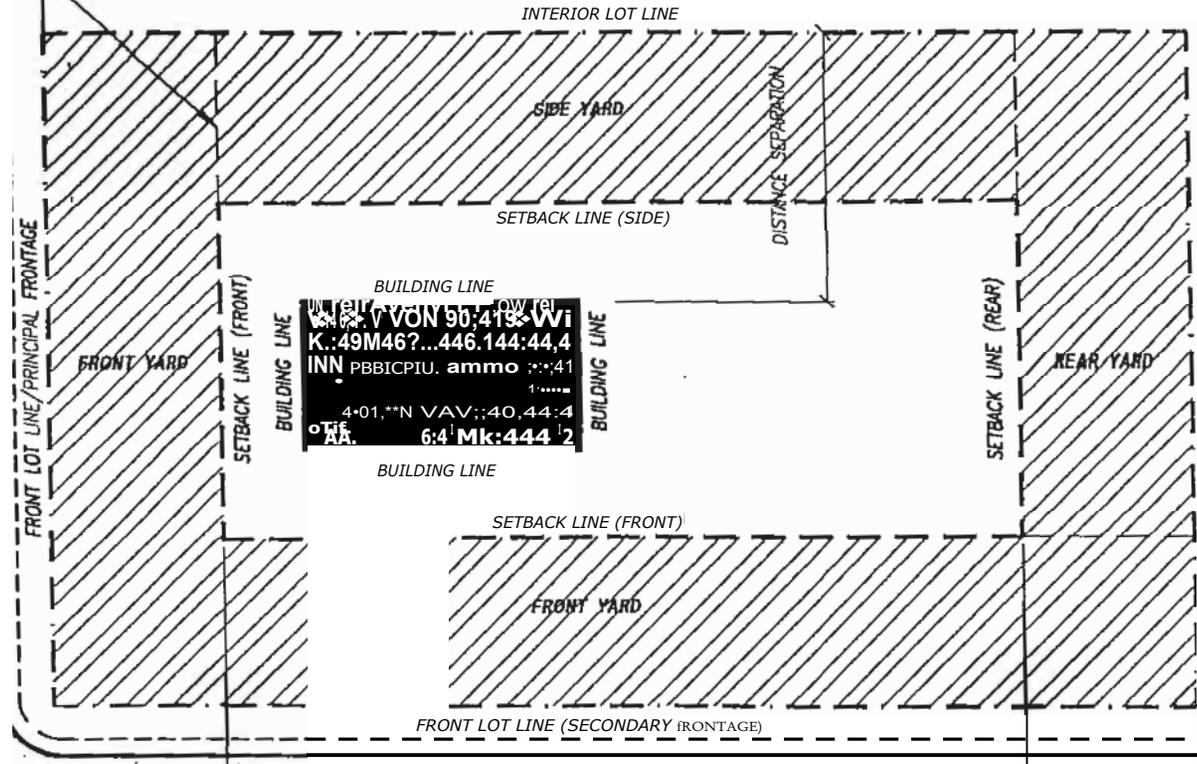
C

- STREET/STREET KITH
- STREET CENTERLINE
- IMPROVED STREET SHOULDER
- STREET PAVEMENT
- STREET LINE (RIGHT OF WAY)/FRONTAGE
- LOT WIDTH MEASURED AT SETBACK LINE



**LEGEND**

- YARD AREA
- LOT LINE
- SETBACK LINE
- EXTENT OF ROAD SHOULDER LINE
- STREET CENTERLINE



49M467...446.144:44,4  
 INN PBBICPIU. ammo :41  
 4-01,\*\*N VAV::40,44:4  
 6:4 Mk:444 2

**TOWN OF NELSON, NEW YORK  
 LAND USE REGULATIONS  
 CORNER LOT DEVELOPMENT PLAN**

NO.	REVISION	DATE

KPER, 7 DOC

MOM  
tor  
FRONTAGE

TOWN OF NUNN  
 MAMSON COUNTY  
 Inson or Mr pani.D.MS  
 1,4 Et.SC, J  
 Mew Teas #34'35

**CORNER LOT DEVELOPMENT PLAN**

ISSUAL TATION (M/TIND TEM AI) COMM

60'-0" (Y-4)

YARD DEPTH

BUILDABLE AREA

YARD DEPTH

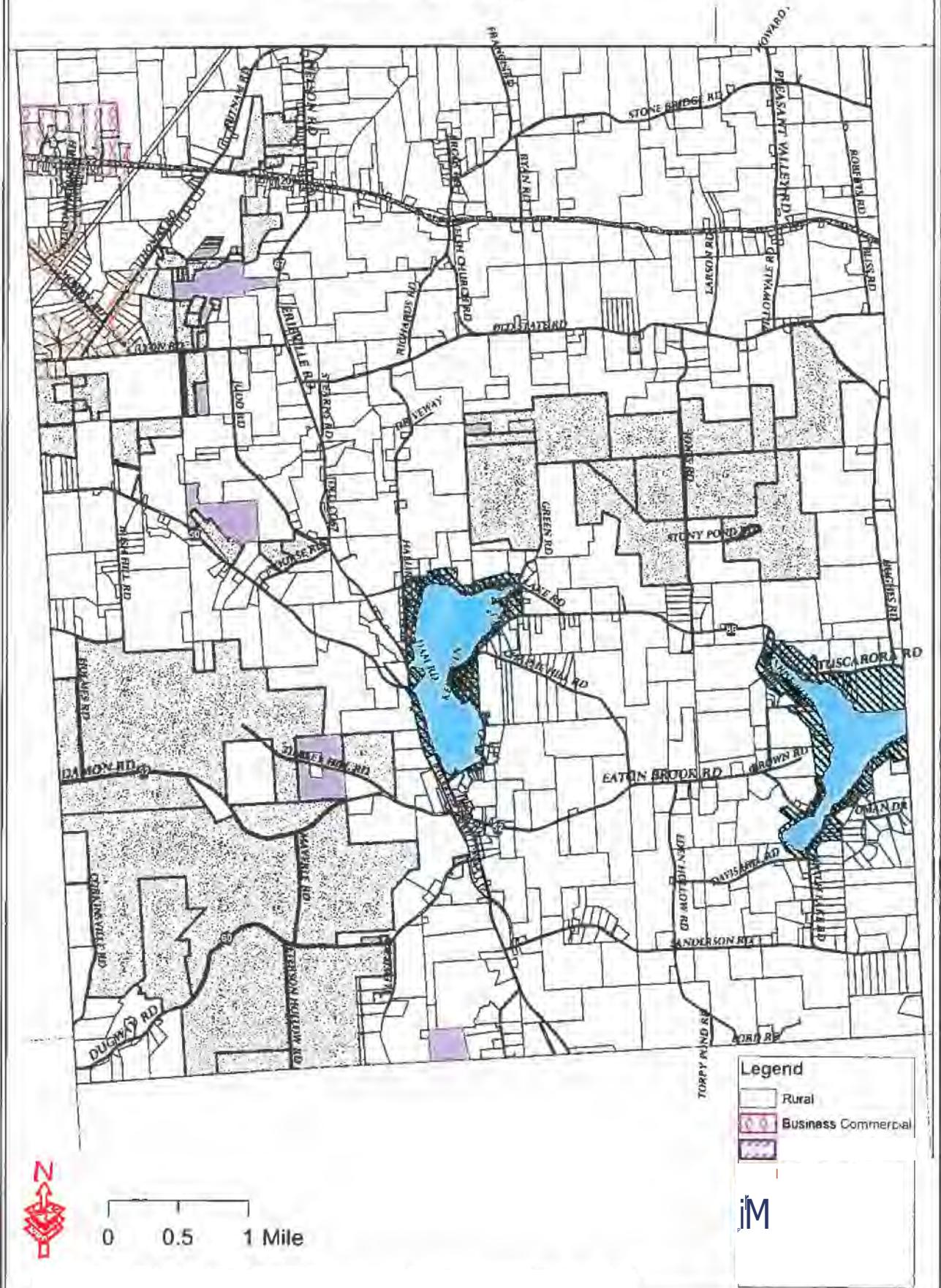
1.65" = 1' (4)

SETBACK DISTANCE

SETBACK DISTANCE\*

# **APPENDIX D**

# Town of Nelson Zoning Map 2011



0 0.5 1 Mile

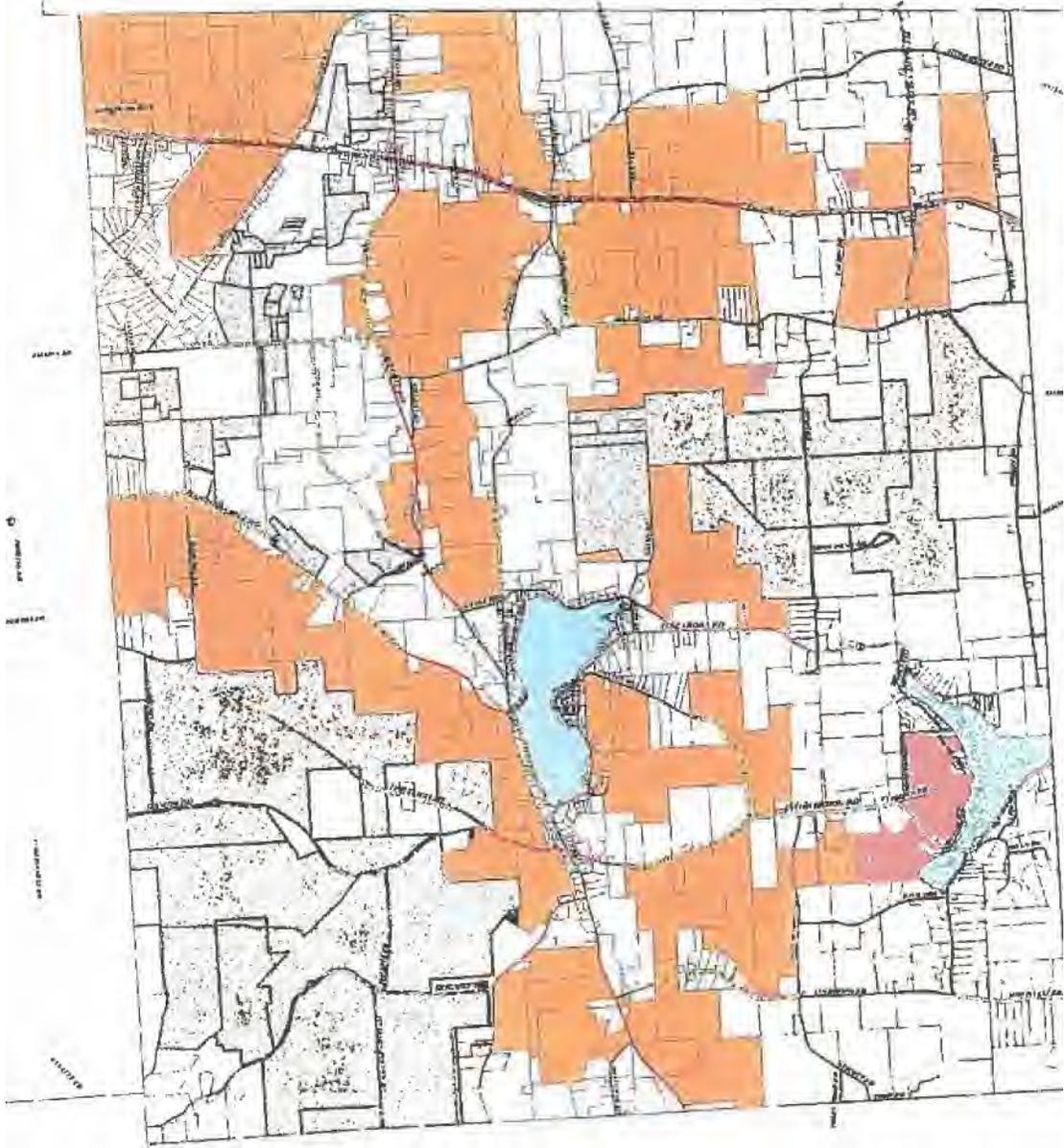
**Legend**

	Rural
	Business Commercial



# **APPENDIX E**

# Town of Nelson Scenic Overlay District and Roads



0 0.5 1 Miles

### Legend

- Parcels
- Scenic Overlay District
- Public Owned Land
- Scenic Roads
- US Route 20 Scenic Highway

Map prepared by the Madison County Planning Department (blw) for planning purposes only June 2011.

# **APPENDIX F**

# Guidelines for Improving Lake Water Quality

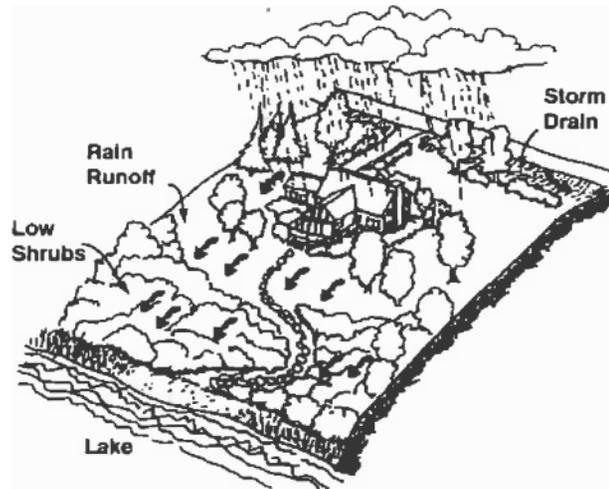
Town of Nelson

Whether you live on Tuscarora or Eatonbrook Lake or within one of the lake's watersheds (the land area that drains into a lake), water or snow that falls on your property affects the lake's water quality. Unless this precipitation evaporates or is soaked up by plants, it eventually reaches *the* lake, bringing with it pet and livestock waste, septic system leakage, fertilizers and chemicals from the yard, road salt, rubber dust from tires, silt and sediment. When land leading down to a lake (or to streams that feed a lake) is covered with lawn grass or hard surfaces like wood or asphalt, these dissolved pollutants wash into the lake nearly unimpeded.

But good landscaping techniques and the right plants can help! Native plants, especially trees and woody shrubs have deeper, denser root systems than lawn grasses. These plants soak up excess storm-water and filter out pollutants, ensuring water leaving your property is as pure as possible before entering the lake. For our lakes this means less algae, fewer noxious weeds and invasive species, safer waters for swimming and boating, and better conditions for native fish. And, a side benefit of less lawn is fewer geese!

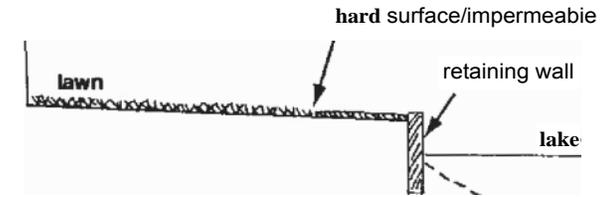
## After

By landscaping this property with water quality in mind, the yard has more aesthetic character and contributes less storm pollution to the lake.

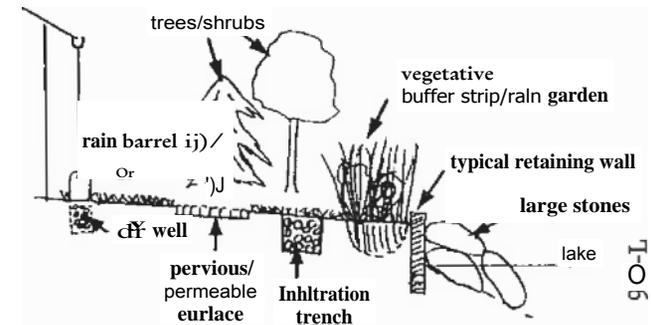


In conjunction with appropriate landscaping, good shoreline development practices are crucial for improving lake water quality. These building practices can prevent shoreline erosion and improve the quality of storm water draining into the lake. Providing a stable shoreline that can absorb the energy from wind and waves helps keep eroded sediment out of the lake. There are also many ways to reduce the amount of runoff reaching the lake from developed areas, simply by creating more opportunities for runoff to get into the ground, or to be absorbed by vegetation. In addition, runoff quality can be improved with measures that provide natural filtration.

## Before

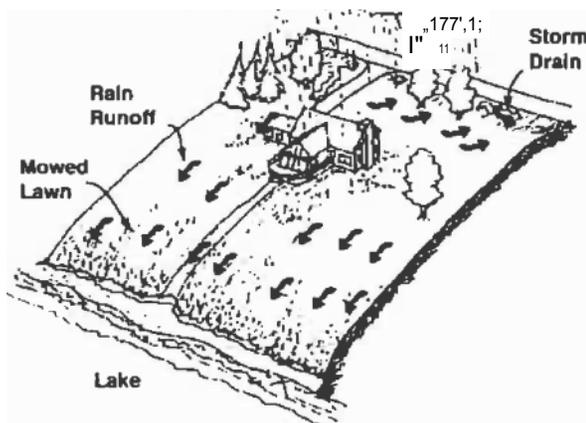


## After



## Before

Lawn is the major component of the yard, providing little protection to the lake.



The bottom line is you don't have to be a horticultural whiz, a large property owner, or even a lakeside resident to help our lakes. The addition of just a few shrubs, trees, or even perennials will reduce the proportion of hard, less pervious surfaces (like lawns) and, therefore, the amount of polluted water eventually entering the lake. Adding a rain barrel, checking your septic system annually, or building a small rain garden are other ways of improving our lakes' water quality.

### References:

1. *Finger Lakes Landscapes: Landscaping for Water Quality in the Finger Lake Region*. Cornell University Extension • Onondaga Co., 21 pp.

Many short brochures are available from the extension resource including "What plants do I choose?" and "Living on the edge: special considerations for shoreline property owners."

## Some Plant Suggestions

Id) 01 these are native species that grow in our climate. For a more comprehensive list, see "Landscaping for Water Quality in the Finger Lakes region" by Cornell University Cooperative Extension, Onondaga County. At: [www.cce.cornell.edu/onondaga](http://www.cce.cornell.edu/onondaga)

### Trees

Botanical Name	Common Name	Height	Growth Rate	Notes
<i>Erasmus mgra</i>	Black ash	40-60		Moist to wet soil, tolerates poor drainage: sun. Yellow fall color, good streamside plantings.
<i>Prunus aaronna</i>	Black cherry	60-70	medium-fast	Moist to dry soil; sun. White flowers, red berries, yellow/red fall color.
<i>Quercus bicolor</i>	Swamp white oak	50-60	medium	Moist to wet soil: tolerates drought and flooding; sun. Grows well in compacted soils.
<i>Salix lucida</i>	Shining willow	15-20	fast	Moist to wet soil; sun to partial shade. Native along streams and wet meadows.
<i>Amelanchier eunadensta</i>	Shadbush, serviceberry	15-30		Wet to moist soil; tolerates drought; sun to shade. White flowers, dark purple fruit

### Shrubs

<i>Alnus serrulata</i>	Smooth alder	8-14		Moist soil: tolerates poor drainage.
<i>Picea canadensis</i>	Eastern ninebark	8-14	fast	Dry to moist soil, partial shade. White flowers, red fruits, yellow fall color. Bank cover/erosion control.
<i>Cornus amomum</i>	Silky dogwood	6-10	fast	Moist to wet soil; partial shade. Yellow/white flowers, bluish fruit. Bank cover/erosion control.
<i>Cornus sericea</i>	Red-osier dogwood	4-8	fast	Moist to wet soil; tolerates poor drainage and wide range soil conditions; sun. White flowers, red twigs, purple fall color. Bank cover/erosion control.
<i>Rhus typhina</i>	Fragrant sumac		fast	Dry soil; sun. Fragrant, mounded shrub. Orange/red/purple leaves in fall. Bank cover/erosion control.
<i>Prunella serotina</i>	Red chokecherry	6-10	fast	Wet soil; tolerates poor drainage. dry soil; sun or partial shade. Vase-shaped shrub. Red fruit, red fall color. Erosion control.
<i>Lindera benzoin</i>	Spice Bush	6-12	slow	Moist soil, sun to partial shade, tolerates dry soil. Red fruits loved by birds, lemon yellow fall color, very fragrant.
<i>Amelanchier stolonifera</i>	Running serviceberry	4-6	medium	Moist to dry soil, sun, partial shade; thicket-forming. White flowers, sweet purple fruit, red fall color. Bank cover.
<i>Melilotus alba</i>	White Meadow sweet	2-6		Moist to wet soil. but tolerates dry; sun. White flowers: yellow fall color, compact shape.
<i>Juniperus horizontalis</i>	Creeping juniper	0.5-1.5		Dry soil: sun. Low growing, mat-forming evergreen. Bank cover/erosion control.

## Some Landscaping Suggestions

Low shrub butler near water's edge

- Flowering plants and ground covers bordering house
- Rain barrel to collect run-off from roof
- Inclusion of hardwood trees which have deeper roots than most evergreens
- Meandering paths of stones (or a pervious system) on inclines instead of a straight path of an impervious material (like concrete)
- Live fascines or "wattles" (bundles of dormant cuttings from species like dogwood or willow that root easily and help stabilize banks)
- Rain gardens to replace part of lawn

### Development Practices for Existing Lots

- Replace impervious surfaces by using permeable materials for decks, patios, and driveways
- Install drywells and infiltration trenches to re-introduce surface runoff into the ground
- Stabilize existing shorelines with vegetation and natural rock
- provide wave energy dissipation for existing retaining walls by adding stone rip-rap at base

### Development Practices for New Lots

- Preserve natural shoreline vegetation
- Minimize tree removal on wooded lots
- Minimize land disturbance and hard surfaces
- Locate all buildings, hard surfaces and septic systems well away from the shoreline
- Provide stabilized drainage conveyance
- Provide proper erosion and sedimentation control during construction
- If shoreline stabilization is required, use natural rocks or live fascines to avoid uniform retaining walls

### Other Measures

- Reduce or eliminate the use of phosphorus-based fertilizers on areas that drain to the lake
- Maintain a properly functioning septic system by regularly inspecting and pumping the septic tank
- Install a vegetative strip along the shoreline to filter runoff

(Complete the certification in the paragraph that applies to the filing of this local law and Strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2011 of the (County)(City)(Town)(Town) of Nelson was duly passed by the Town Boards on June 9, 2011 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Town) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

\_\_\_\_\_ hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Town) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified elector voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Town) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Town, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_ , became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to electors of the General Election of November \_\_\_\_\_ 20\_\_ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in Paragraph \_\_\_\_ above.

(Li7 D) y(-) -;e//)  
Clerk of the county legislative body, City, Town or Town Clerk or officer designated by local legislative body

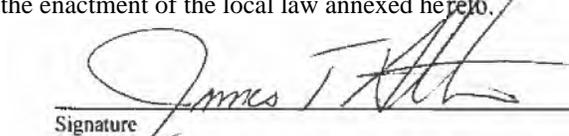
(Seal)

Date: 12-11, 2011

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Town Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF MADISON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature 

Attorney for the Town  
Title

County  
City- of Nelson  
Town  
Village

Date: 12-11/2011