

Town of Jefferson Rural Land Development Law 2015

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§ 1 GENERAL PROVISIONS

A. Enactment.

The Town Board of the Town of Jefferson, Schoharie County, New York, does hereby ordain and enact the Town of Jefferson Rural Land Development Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of Town Law.

B. Short title.

This local law shall be known as the "Town of Jefferson Rural Land Development Law." The Town of Jefferson is hereinafter referred to as the "Town."

C. Purpose and Intent.

The purpose of this local law is to ensure the agricultural heritage of the Town of Jefferson is maintained, The historical hamlet is preserved and the water supply from the town's springs is protected. Land use activity which will not conflict with the purpose of this local law will be allowed, however all land use activities will be expected to meet the requirements set forth in this local law for land development. It is the intent of this local law to ensure optimum overall conservation and use of the natural and man-related resources of the Town by regulating land use activity through review and approval of land development/site plans. Furthermore, it is the intent of this local law to establish standards for subdivisions that will promote the orderly growth of the Town of Jefferson that is in keeping with the aforementioned purpose of this law.

D. Jefferson Rural Development Districts.

The Town of Jefferson shall be divided into the following districts, the locations and boundaries are shown on the map on file in the Town Clerk's Office entitled "Town of Jefferson, NY District Map".

- 1) **H** - The Hamlet District shall encompass all the land within the Jefferson Light District.
- 2) **GR** - The General Rural District shall include all the land in the Town not in the Hamlet.
- 3) **WP** - The Source Water Protection District is an overlay district that includes the area where ground water is reasonably likely to move toward and reach the springs and wells that are the source of the Town's water supply. This area, referred to as the **Jefferson Water District's Source Water Protection Area**, was mapped by the New York Rural Water Association in a 2011 document entitled " *Source Water Protection Plan for the Jefferson Water District, Schoharie County New York.*" A copy of this document is on file with the Town Clerk.

E. Authorization of Planning Board to review land development/site plans.

The Planning Board is hereby authorized to review and approve or disapprove land development/site plans for land uses within the Town of Jefferson in accordance with the standards and procedures set forth in this local law.

F. Applicability of review requirements.

All new land development activities, significant expansions and change of use within the Town of Jefferson shall require land development/site plan review and approval before being undertaken, except for the following:

- 1) Construction of one or two-family dwellings (adjoined) and ordinary accessory structures, and related land use activities. However, lot development standards contained herein shall apply to land developments regulated by the Town of Jefferson Subdivision Law.
- 2) Landscaping or grading not connected with a land use reviewable under the provisions of this law.
- 3) Ordinary repair or maintenance or interior alterations to existing structures that do not significantly add to or change the use.

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- 4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25% or change the use.
- 5) Signs under 32 square feet.
- 6) All agriculture, timbering and mining activities, excepting permanently constructed processing facilities.
- 7) Temporary agricultural uses such as farm stands and other temporary uses such as garage sales, porch sales and the like.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination. These exceptions apply everywhere except the Source Water Protection District (see 4 D.)

G. Relationship of this law to other laws and regulations.

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive provisions and requirements shall apply. The Town Board hereby supersedes the New York State Town Law pursuant to the Municipal Home Rule Law to establish a \$350 per day fine for violations of this local law and establish a Board of Appeals for granting area variances.

H. Further regulations by Planning Board.

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

I. Severability.

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

J. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

§ 2. DEFINITIONS

A. Word Usage.

Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary.

B. Definitions.

FAMILY – A person or persons related to each other by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

JOINT ACCESS DRIVEWAY – A common driveway connecting two or more contiguous sites to the public street system.

LAND DEVELOPMENT – Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land development" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

LOT COVERAGE – The proportion of a lot area covered by impervious surface including buildings and off-street parking areas.

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LOT FRONTAGE – The minimum lot frontage of any lot shall be measured along the street line as required pursuant to this Law.

NONCONFORMING STRUCTURE – Any structure which is in existence within the Town on the effective date of this law which is not in conformance with the dimensional regulations herein.

ONE FAMILY DWELLING – A complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

PERVIOUS SURFACE – A surface that allows storm water to be absorbed by the land.

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

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

TRIP-ENDS – Represent the total number of vehicular trips entering and leaving a specific land use or site for a designated period of time.

TWO FAMILY DWELLING – Two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

VARIANCE, AREA – The authorization by the Board of Appeals for the use of the land in a manner which is not allowed by the dimensional or physical requirements of the applicable regulations.

YARD, FRONT – An open space extending across the entire width of the lot between the building line or front main wall of a building and the front property line, (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, porches, eaves, cornices and similar fixtures.

YARD, REAR – An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches.

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

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

§ 3. PROCEDURES

A. General procedures.

Prior to undertaking any new land development except for a one- or two-family dwelling and other uses specifically excepted in Section §1, F, of this local law, a land development or land development/site plan approval by the Planning Board is required. Applicants for land development/site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

B. Sketch plan.

A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal land development/site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed land development/site plan; and for the Planning Board to review the basic land development/site design concept, advise the applicant as to potential problems and concerns and to

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generally determine the information to be required on the land development/site plan. In order to accomplish these objectives, the applicant shall provide the following:

- 1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- 2) An area map showing the parcel under consideration for land development/site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 500 feet of the boundaries of the parcel; and
- 3) A topographic or contour map of adequate scale and detail to show site topography.

C. Application requirements

An application for land development/site plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

- 1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- 2) North arrow, scale and date;
- 3) Boundaries of the property plotted to scale;
- 4) Existing buildings;
- 5) Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
- 6) Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- 7) Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- 8) Provision for pedestrian access;
- 9) Location of outdoor storage, if any;
- 10) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- 11) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- 12) Description of the method of securing public water and location, design and construction materials of such facilities;
- 13) Location of fire and other emergency zones, including the location of fire hydrants;
- 14) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

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- 15) Location, size and design and type of construction of all proposed signs;
- 16) Location and proposed development of all buffer areas, including existing vegetative cover;
- 17) Location and design of outdoor lighting facilities;
- 18) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- 19) General landscaping plan and planting schedule;
- 20) An estimated project construction schedule;
- 21) Record of application for and status of all necessary permits from other governmental bodies;
- 22) Identification of any permits from other governmental bodies required for the project's execution; and
- 23) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

D. Required fee

An application for land development/site plan review shall be accompanied by a fee that is established by the Town Board and modified by the Town Board by resolution or waived for good cause.

E. Reimbursable costs

- 1) In addition to any other fees required under the Town Code, the Planning Board and the Board of Appeals are authorized to retain engineering, legal, planning and other expert consulting services and clerical costs for: (a) assistance related to the review and processing of applications coming before said bodies and the Town Building Department and (b) the monitoring and inspection of construction of projects by the Building Inspector for projects approved by said Planning Board and/or Board of Appeals.
- 2) Payment for the services of any expert consultant is to be made from funds deposited by the applicant with the Town Supervisor to be placed in an escrow account established for that purpose. The Building Inspector, as agent for the Planning Board and/or Board of Appeals, shall confer with the applicant and compute the amount of the escrow to be posted with the Town. Said amount shall be reasonably related to the costs attendant to the Town's review and processing of the application and/or the monitoring or inspecting of the construction of the project. The Town shall engage any expert at a reasonable rate that is no greater than that customarily charged by said expert and in no event at a rate greater than that paid by the Town to said expert for similar work. If an applicant objects to the amount to be placed in escrow, the applicant may request the Planning Board or the Board of Appeals, as appropriate, to review the projected amount to be placed in escrow.
- 3) Once the expert consulting fees are fixed it shall be the responsibility of the applicant to submit to the Town Supervisor a certified or bank check in an amount equal to the estimated costs of the expert consulting fees for services to be rendered to the Town. The Town retains the right from time to time to re-compute the amount of the escrow deposit, after conferring with the applicant, in the event there will be a shortfall in the escrowed funds to cover the estimated costs of the expert consulting fees for services needed by the Town.
- 4) The Planning Board or Board of Appeals may, in their sole discretion, permit an applicant to pay the expert consulting fees in installments where the total fees are estimated to exceed \$10,000, provided that sufficient funds are always available to pay current obligations related to the project in question. Any applicant that has been permitted to make installment payments shall be required to make full payment or an additional installment within five days of receipt of the written demand of the Town where there are insufficient funds in the escrow account to pay outstanding invoices.

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E. Escrow Funds

The escrow funds so deposited with the Town shall be paid to its expert consultant upon submission of an invoice and approved voucher and subject to audit in accordance with the provisions of Town Law §§ 118 and 119. Any applicant may request to inspect said invoices and vouchers submitted by any expert retained by the Town.

F. Referrals to other agencies and boards

- 1) The Planning Board may refer the land development/site plan for review and comment to local, and County officials or their designated consultants, and to representatives of federal, state, and County agencies, including but not limited to, the New York State Department of Transportation, the State Department of Environmental Conservation, and the County Department of Public Works, whichever has jurisdiction.
- 2) Whenever any land development/site plan involves real property in an area described in Section 239-m of the General Municipal Law, said land development/site plan shall be referred to the Schoharie County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law.

G. SEQR compliance

The applicant shall demonstrate compliance for any actions subject to the New York State Environmental Quality Review Act (SEQR) prior to land development/site plan approval. The Planning Board shall, after the land development/site plan has been accepted as complete, classify the application according to SEQR, review the Environmental Assessment Form (EAF) and take one of the following actions:

- 1) If additional information is needed to render a determination of significance, the Planning Board shall specify exactly what the applicant needs to supply, or
- 2) If the information is provided and the project is determined to have only small to moderate impacts with little significance on the environment, then a negative declaration may be given, or
- 3) If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full Environmental Impact Statement (EIS) will be provided.

H. Public hearing.

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted land development/site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. The Planning Board may also, at its discretion in conjunction with major projects, provide notice of such hearing to adjacent or nearby landowners by regular mail or the posting of the property on which the action is proposed. Failure to provide or receive such notice shall not, however, be cause to delay a hearing or action on an application before the Planning Board.

I. Planning Board Decision.

Within 62 days of receipt of the application for land development/site plan approval or, if a public hearing is held, within 62 days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the land development/site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- 1) Approval. Upon approval of the land development/site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the land development/site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

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- 2) Approval with modifications. The Planning Board may conditionally approve the final land development/site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the land development/site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- 3) Disapproval. Upon disapproval of the land development/site plan the decision of the Planning Board shall immediately be filed with the Town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

J. Waivers

The Planning Board may waive any procedural requirements for the approval, approval with modifications or disapproval of land development/site plans submitted for approval. Any such waiver, which may be subject to appropriate conditions, may be exercised in the event any such procedural requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular land development/site plan.

K. Guarantee of Site Improvements

The Planning Board may apply the Town of Jefferson Subdivision Law performance guarantee procedures in the event of any project where the construction of site improvements will be phased.

L. Considerations

The Planning Board's review of the land development/site plan shall include, as appropriate, the following considerations:

- 1) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- 2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- 3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- 4) Adequacy of storm water and drainage facilities.
- 5) Adequacy of water supply and sewage disposal facilities.
- 6) 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. The Planning Board shall be authorized to require such buffers where ever required to accomplish these purposes.
- 7) Adequacy of fire lanes and the provision of fire hydrants.
- 8) Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- 9) Overall impact of the proposed design on the character of the surrounding neighborhood.

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- 10) Overall impact of the use on the neighborhood including compatibility with sensitive uses such as houses of worship, schools, libraries and public buildings.
- 11) Impacts on agriculture and forestry, which are important industries to the Town of Jefferson that need to be protected.

§4 STANDARDS

A. Performance standards

- 1) Applicability. This section is established to help protect the health and property of Jefferson residents from dangerous or undesirable effects that might result from the construction and operation of land use activities. This section applies to all land uses in all districts, including those that do not require specific approval of the Planning Board. In many cases the relation of a prospective use to the established performance standards cannot be judged properly during a permit- processing period or prior to operation. In such cases, the recipient of Planning Board and building permits should note that these performance standards are continuing obligations and that all land uses in Town are expected to operate in compliance with these standards. Any existing use which does not comply with these performance standards shall not be varied or changed in such a way as to increase the degree of such violation. All land use activities must comply with Local Law NO.1 of the year 2006 of the Town of Jefferson entitled "A Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code" and all other applicable sections of these regulations as well as the permit requirements of other local, state or federal agencies having permit jurisdiction.

Notwithstanding the foregoing, the Planning Board may in the reasonable exercise of its discretion, determine that an alleged violation of this subsection will be suitably addressed by other government agencies with enforcement jurisdiction; or determine that a complaint made pursuant to this section involves a private nuisance, the resolution of which does not significantly affect the health, safety or welfare of the Town of Jefferson. In these situations, the Planning Board need not receive or act upon such alleged violation or complaint.

- 2) Measurement Criteria. Compliance with the established performance standards shall be based on criteria contained or referenced within each regulatory section. Where compliance is unclear, the standards and criteria of pertinent State and Federal agencies shall be applied.
- 3) Certification of Performance Standards. To determine compliance with the established performance standards the Planning Board may require a property owner-developer to provide a written certification from a licensed engineer, architect or qualified professional that all applicable standards have been met. Certifications may be required during the permit review process, prior to the issuance of a Certificate of Compliance and occupancy permits, or after the subject use has begun.
- 4) Performance Standards.
 - a. **Odor** - With the exception of permitted agricultural use, no land use shall create or cause to be created offensive odors which are readily discernible or detectable beyond the subject property lines. Detailed plans for the prevention of odors crossing property lines may be required of a property owner or developer.
 - b. **Noise** - With the exception of temporary construction projects and short term noises, such as lawn mowers, chainsaws and associated forestry equipment and other agricultural or horticultural machinery and equipment which are accessory to the primary use, no land use shall transmit beyond its subject property lines excessive noise. The commercial or political use of loud speakers at a fixed location is permitted only within the confines of buildings. The rules, regulations and standards of the State Department of Environmental Conservation shall be utilized in

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determining acceptable noise levels along with the provisions of Local Law NO.1 of the year 1992 of the Town of Jefferson entitled "A local Law to prevent disturbance of the peace by regulating excessive, unnecessary or unusually loud noise".

c. **Vibration - Electrical -Communication Disturbances** - With the exception of temporary construction projects, no land use shall create or cause to be created objectionable vibrations or electrical disturbances which are readily discernible or detectable beyond the subject property lines. No machinery, tools, communication equipment, microwave generating gear, wind turbines or other devices or appliances may be operated if they interfere with television, radio, telephone, internet connections, communication equipment or medical equipment of surrounding properties.

d. **Radiation/Radioactivity** - No activity, operation or use shall create or cause to be created levels of radiation or radio activity which are in violation of state or federal standards.

e. **Fire or Explosive Hazard** - All land uses, particularly those involving the storage, use or manufacture of flammable or explosive substances shall be conducted with reasonable precautions against fire and explosion hazards. All federal, state and local fire safety standards shall be met.

f. **Glare/Heat/Lighting** - Land use activities shall not produce glare, heat or illumination which extends beyond a site's property lines and creates a hazard or nuisance to neighboring property owners or on adjacent roadways. External lighting sources, except for overhead street lighting and warning emergency or traffic signals, shall be screened or shielded from neighboring properties and adjacent roadways.

g. **Hazardous Materials** - All land uses which produce, utilize or store hazardous materials as identified by state and federal sources, must safely transport, store, handle and dispose of all hazardous materials in accordance with current state and federal standards. All land uses subject to Planning Board approval must detail in application submissions the nature of all hazardous materials involved and the safeguards that will be utilized to prevent health and safety problems.

i. **Liquid or Solid Discharges** - No land use shall discharge into the ground, into a wet-land or surface water body or into a storm drainage or waste disposal system, any liquid or solid matter which endangers the public's health and safety, or is likely to cause detrimental effects on surface and ground water quality or personal property values.

j. **Waste Disposal, Junk Storage and Junk Yards** - All wastes created in conjunction with any land use activity shall be properly stored in a screened area in the rear yard and expediently removed to prevent health or safety hazards, visual nuisances or conditions conducive to the attraction of insects, rodents or other pests. All land uses shall be subject to the provisions of Chapter 3 of New York State Property Maintenance Code and Local Law NO.2 of the year 2000 of the Town of Jefferson entitled "A Local Law to Regulate Junk Yards, Automobile Junk Yards, Salvage Yards, Storage/Disposal Yards for Personal property and Dismantling Yards within the Town of Jefferson".

k. **Vacant Structures** - All land uses shall be subject to the provisions of Local Law NO.1 of the year 2003 of the Town of Jefferson entitled "A Local Law Providing for the Repair or Removal of Unsafe Buildings and Collapsed Structures".

l. **Health Requirements** - All land use activities including food preparation operations and the installation and operation of water supply and waste disposal systems shall conform to the requirements of the State Health Department, the State Department of Environmental Conservation and the Schoharie County Health Department. Onsite testing must be coordinated with the Schoharie County Health Department. Land which the Health Officer certifies as unfit for human habitation for health reasons shall not be built upon, but repairs may be made to buildings existing on the effective date of these Regulations.

m. **Flood Hazard** - No land use activity shall reduce the flood carrying capacity of a floodway or create a condition where a building may be subject to flood damage. All uses shall be subject to Local Law NO.1 of the year 2004 of the Town of Jefferson entitled "A Local Law for Flood Damage Prevention".

n. **Aquifer Areas** - To prevent or minimize detrimental effects on the groundwater quality within aquifer areas, which are existing or potential sources of large quantities of potable water, land use activities within identified aquifer areas must be carefully reviewed and appropriately regulated. Identified aquifer areas include those areas of the Town of Jefferson indicated as aquifers or aquifers of unknown potential on United States Geological Survey (USGS) Water Resources Investigation Report 87-4275. A map that the New York Rural Water Association has prepared showing identified aquifer areas digitized from USGS Water Resources Investigation Report 87-4275 is included in the Appendix B of the "*Source Water Protection Plan for the Jefferson Water District, Schoharie County, New York*". This document is on file with the Town Clerk. Accordingly the following requirements shall apply to all land use activities within identified aquifer areas.

I. No commercial or industrial land use and no residential land use involving three or more dwelling units, which utilizes an on-site waste disposal system, shall be permitted unless it can be demonstrated to the satisfaction of the Planning Board that the waste disposal system discharges will not increase any contaminant concentration in the ground water to more than one-half of drinking water standards at the project boundary. As deemed necessary, the proposed land use shall be referred to the Schoharie County Health Department and the State Departments of Health and Environmental Conservation for review comments. A written report from the owner-developer's sanitary engineer and/or Hydrogeologist, detailing the system design, the physical characteristics of the area, existing land uses in the area, and potential short-term and cumulative impacts on identified aquifer areas, shall be submitted to the Planning Board. Also to be submitted is a hydrogeologic assessment that will include a projection of post development nitrate-nitrogen ground water concentration at the project boundaries. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

II. All new facilities for the storage of petroleum, hazardous substances, hazardous waste, or fertilizer products shall have secondary containment structures. No underground storage is permitted except for the replacement of existing residential petroleum storage facilities.

III. The agricultural application of manure, other waste materials, and/or fertilizers shall be at or below agronomic rates. This is the rate of nitrogen addition designed to provide the amount of nitrogen needed by the crop or vegetation grown on the land, and to minimize the amount of nitrogen that passes below the root zone of the crop or vegetation grown on the land to ground water. All facilities for nutrient management shall be designed, constructed and operated in accordance with applicable National Resource Conservation Services (NRCS) Conservation Practice Standards.

IV. No road salt storage and loading facilities shall be permitted except after review and approval of the State Department of Environmental Conservation, where authorized, adequate measures must be taken to prevent contact with precipitation, prevent groundwater contamination and to detect potential contamination problems.

V. All commercial, industrial or multi-family developments and other land uses with cumulatively more than 1/2 acre of impervious surface shall incorporate storm water management controls, such as oil/water separators and infiltration structures and shall prohibit or restrict the use of salts and chemicals for ice removal in order to minimize the risks of ground water contamination. A storm water management plan detailing proposed provisions shall be submitted to the Planning Board for approval.

VI. All land uses involving the maintenance of lawns, fields and landscaped areas shall incorporate landscape management plans regarding the use of fertilizers, pesticides,

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and other organic or chemical applications to minimize the risks of groundwater contamination. A landscape management plan detailing proposed provisions shall be submitted for Planning Board approval.

B. Lot development standards for the Hamlet District

The purpose of the Hamlet District is to preserve the character of the historic hamlet by providing for orderly growth and development on small lots in and around the existing Hamlet of Jefferson. Since no central sewage treatment is available, lot sizes are based on septic system requirements. This district will permit development to occur in a pattern similar to the established patterns. The following development standards shall apply to all new lots hereafter created in the Town of Jefferson Hamlet District for purposes of placing principal structures or uses:

Table 1 - Lot Development Standards

Hamlet District

Development Standards	Residential (Per Unit)	Non-Residential Uses
Minimum Lot Area On-site Sewer and Water Central Water	2 acres 1 acre	2 acres 1 acre
Minimum Road Frontage	150 Feet -100 Feet on turnaround	150 Feet
Maximum Lot Width to Depth Ratio	1 to 5	1 to 5
Maximum Lot Coverage	25%	50%
Minimum Side/Rear Yard	25 Feet	50 Feet
Front Yard	35 Feet	50 Feet
Accessory Structure Setback	10 Feet side/rear yard	10 Feet side/rear yard
Wells and septic fields	50 Feet side/rear yard	50 Feet side/rear yard
Maximum Building Height	35 Feet	45 Feet

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C. Lot development standards for the General Rural District

- 1) The purpose of the General Rural District, in keeping with Jefferson's Comprehensive plan, is to ensure the agricultural heritage of the Town of Jefferson is maintained. It is the intention of the Town of Jefferson to protect agricultural uses from incompatible land uses and more intense development patterns which would deteriorate agricultural viability. It is the specific intent of the Town of Jefferson to create a district that will provide an environment which encourages residents to continue farming investments. The following development standards shall apply to all new lots hereafter created in the Town of Jefferson General Rural District for purposes of placing principal structures or uses:

Table 2- Lot Development Standards

General Rural District

Development Standards	Residential (Per Unit)	Non-Residential Uses
Minimum Lot Area On-site Sewer and Water	2 acres	2 acre
Minimum Road Frontage	150 Feet -100 Feet on turnaround	150 Feet
Maximum Lot Width to Depth Ratio	1 to 5	1 to 5
Maximum Lot Coverage	25%	50%
Minimum Side/Rear Yard	25 Feet	50 Feet
Front Yard Setback to Centerline	75 Feet	75 Feet
Accessory Structure Setback	10 Feet side/rear yard	10 Feet side/rear yard
Wells and septic fields	50 Feet side/rear yard	50 Feet side/rear yard
Maximum Building Height	35 Feet	45 Feet

- 2) Lot size and Density Requirements:
 - a. Average density shall be one building lot for each seven acres (7ac) of gross parcel acreage.
 - b. Minimum lot size shall be two acres (2 ac), provided average density requirements are met.
 - c. Average density shall be one building lot for each five acres (5ac) of remaining parcel acreage if 20% of original parcel is kept as one lot.

D. Lot development standards for the Source Water Protection District

The purpose of the Source Water Protection District is to safeguard the water supply that serves the Hamlet including the Jefferson Central School. All lots hereafter created in the Town of Jefferson Source Water Protection District for purposes of placing principal structures or uses shall be subject to the following development standards:

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1) Maximum Impervious Coverage Requirements

- a. Except as hereinafter provided, within the Source Water Protection District, no more than ten percent (10%) of a building lot may be rendered impervious to infiltration. Maximum site impervious coverage calculations shall include all impervious surfaces with a minimum area of over one hundred (100) square feet.
- b. Impervious coverage may only exceed ten percent (10%) of a building lot if a system of storm water management and treatment is developed that results in the site's post development annual storm water recharge volume to ground water approximating the site's pre-development annual ground water recharge volume. Such a system should also: preserve hydrologic conditions that closely resemble pre-development conditions, maintain or replicate the pre-development hydrologic functions of storage, infiltration and ground water recharge; prevent untreated discharges and volumes of runoff; minimize erosion and sedimentation; prevent degradation of water by reducing suspended solids and other pollutants; and provide increased protection of sensitive natural resources.

2) Land Development/Site Plan Review and Approval

- a. Except for the uses noted in Section 1, F and Section 3, A of this law, a land development or land development/ site plan approval by the Planning Board is required for any proposed use or activity in the Source Water Protection District that would render impervious to infiltration greater than ten percent (10%) of a single building lot.
- b. In addition to other information required in Section 3, C for a land development/site plan, the following information shall be provided for a proposed use or activity located partially or wholly within the Source Water Protection District.
 - (I) Location of the proposed use or activity in relation to the Source Water Protection District Boundaries.
 - (II) Location of existing pre-development and post-development impervious surfaces.
 - (III) Details regarding the proposed conveyance, storage, distribution, generation, handling, use and/or incidental wastes, petroleum, hazardous substances, hazardous waste, solid waste, radioactive material and/or incidental wastes. Include the estimated types and quantities of such materials to be used, generated or stored on the premises.
 - (IV) A Storm Water Pollution Prevention Plan (SWPPP)
 - (V) A description of all pollution control measures and activities proposed to prevent on-site disposal and potential contamination of ground water or surface water, including spill response activities.
 - (VI) A statement as to the degree of threat to ground water and surface water quality that could result if the control measures failed.
 - (VII) A description of the provisions for the off-site disposal of any solid waste, petroleum, radioactive material, hazardous substances, hazardous waste, process wastes and/or aqueous-carried waste

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- (VIII) If an on-site water supply is to be utilized, provide a description of the proposed means of water supply, including if applicable an estimate of the total daily ground water withdrawal rate.
- (IX) Other information as necessary to fully explain the project and evaluate its potential impact upon the Town of Jefferson's public water supply.
- (X) Copies of any permits and applications made to any other governmental agencies.
- (XI) A completed full SEQR Environmental Assessment form (EAF)

c. In addition to the considerations indicated in Section 3, L, the Planning Board shall consider the following when reviewing and approving land development/site plans within the Source Water Protection Overlay District:

- (I) Adequacy of the Storm Water Pollution Prevention Plan to preserve hydrologic conditions closely resembling pre-development conditions; maintain or replicate the pre-development hydrologic functions of storage, infiltration and ground water recharge; prevent untreated discharges; reduce or prevent flooding; minimize erosion and sedimentation; prevent degradation of water by reducing suspended solids and other pollutants; and provide increased protection of sensitive natural resources.
- (II) Adequacy of the provisions for treatment and disposal of sewage.
- (III) Adequacy of the provisions for off-site disposal of solid waste, hazardous waste, and other wastes generated.
- (IV) The degree of threat to public water supply wells and springs in the event that contamination control measures or devices at the site should fail.
- (V) Adequacy of spill response and containment plans to minimize ground water or surface water contamination.
- (VI) Adequacy of plans and resources to properly construct and regularly maintain contamination control devices.
- (VII) Impact upon the pre-existing quality of ground water or surface water leaving the site's boundaries.
- (VIII) Impact the long term quantity or quality of ground water available to public water supply wells and springs operated by the Town of Jefferson.

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E. General standards

- 1) Corner lots.
 - a) Obstruction of vision at street intersections. The front/side yards at the street intersection shall be kept free of vegetation and other structures that would obstruct the vision of drivers between the heights of 3 ½ feet to 10 feet above the average grade of each street on the center line thereof. The following site distances shall be maintained:

Table 2 – Sight Distance	
Street Right-of-Way	Distance From Intersection
50 Feet or More	90 Feet
40-49 Feet	80 Feet
30-39 Feet	70 Feet

- b) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yard shall be deemed to be a rear yard and the other or others, side yards.
- 2) Yard regulations.
 - a) Side yard width may be varied. Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than 1/2 the otherwise required minimum width.
 - b) Front yard exception. When an unimproved lot is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots but shall be not less than 10 feet.
- 3) Height exceptions. Water towers, chimneys, smokestacks, flagpoles, communication towers, masts and aerals, and heating, ventilation, air-conditioning and other accessory utilities shall be exempted from height restrictions except as specifically regulated herein. Farm buildings and structures on farms, e.g., silos, are also excluded.
- 4) Accessory structures. Accessory structures may be placed in side or rear yards only and shall not be placed within 10 feet of any property line. No accessory structure shall be placed in the required front yard. Accessory structures shall not cover more than 25% of the required rear yard.
- 5) Building placement. Buildings shall be oriented parallel to the public right-of-way and respect the building placement on adjoining properties.

F. Erosion control and storm water management.

- 1) Storm water management. No application for land development/site plan approval shall be reviewed until the Town of Jefferson Planning Board has received Storm water Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this local law and as required by New York State. All proposed storm water management improvements shall be designed and constructed in accordance with the New York State Storm water Management Design Manual and New York Standards and Specifications for Erosion and Sediment Control, provided that such practices shall maximize the use of natural storm water

management methods (e.g., grass swales) and minimize the use of dry above-ground storm water detention facilities.

2) Storm water management system maintenance.

- a) The storm water management plan for any major residential subdivision or non-residential project shall contain an operation and maintenance plan prepared by the applicant and approved by the Town Engineer. The operation and maintenance plan shall establish responsibilities for the continued operation and maintenance of all common storm water management improvements, which shall include all storm water management improvements designed to serve more than a single lot or dwelling. All such facilities associated with the approved subdivision plan shall be owned and maintained by a home owner's association (HOA) or such other entity as may be approved by the Town Board. The HOA or other approved entity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the requirements of this law. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- b) Prior to approval of any subdivision/site plan where common storm water management improvements are required, the property owner, HOA or other approved entity shall sign and record a maintenance agreement covering all common storm water management facilities. Such maintenance agreement shall be subject to the review and approval of the Planning Board and Town Attorney.
- c) Storm water detention and retention basins or facilities shall be inspected by a registered professional engineer licensed in the State of New York on behalf of the applicant or responsible entity on the following basis:
 - i) Annually for the first five (5) years.
 - ii) Once every three (3) years thereafter.
 - iii) During or immediately after the cessation of a 100-year or greater storm event.

The professional engineer conducting the inspection shall be required to submit a written report to the HOA or other approved entity, with a copy to the Town of Jefferson Building Department, within one (1) month following completion of the inspection. The report will present documentation and include pictures regarding the condition of the facility and recommend necessary repairs, if needed. Any needed repairs shall be implemented by the HOA or other approved entity within three (3) months of the report issuance date.

- d) No person shall allow, or cause to allow, storm water discharges into the Town's separate storm sewer system which are not composed entirely of storm water, discharges from fire fighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources.
- e) The Planning Board may require that a major subdivision/site plan include a set of Best Management Practices (BMP's) from which the owner of any individual lot must choose in implementing storm water management measures in conjunction with property development. Such BMP's shall be fully specified in the subdivision plans and imposed by restrictive deed covenant making reference to such plans. No person shall modify, remove, fill, landscape or alter any such on-lot storm water management improvements or drainage easement, unless it is part of an approved maintenance program, without the written approval of the HOA or other approved entity.
- f) All requirements of the State of New York for Storm Water Pollution Prevention Plans (SWPPP's) are incorporated herein by reference and shall apply in addition to the above standards.

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§ 5 BOARD OF APPEALS

A. Establishment

Pursuant to the provisions of the Town Law, a Board of Appeals is hereby established in the Town of Jefferson. The Board shall consist of three (3) members to be appointed by the Town Board. The terms of the initial appointees shall be for one (1), two (2) and three (3) years from and after the date of appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of three (3) years after the expiration of the terms of their predecessors in office. Appointments to full vacancies shall be for the unexpired term of the members whose term or terms become vacant. Such appointment to fill vacancies shall be made in the same manner as the original appointment. The Board of Appeals may continue to legally operate while vacancies are waiting to be filled provided there are enough members to constitute a quorum. The Board shall perform all the duties and have all the powers prescribed by Section 267-b of The Town Law of the State of New York.

B. Types of Variances

Area variances involve relief from dimensional or other requirements under the terms of this Law. Each of the following findings of fact shall be made in writing by resolution by the Board of Appeals prior to granting such variances. The Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein. In making its determination, the 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 board shall also consider:

- 1) 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;
- 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) whether the requested area variance is substantial;
- 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
- 5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- 6) whether the applicant possesses adjoining property.

The 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.

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§ 7 NON-CONFORMING USES

This law does not apply to uses or structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of one (1) year or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law. A non-conforming structure is any building which does not conform to the dimensional and bulk requirements of this Law with respect to lot area, width, or depth; front, side or rear yards; maximum height; etc. Nonconforming structures may be continued, repaired, structurally altered, moved, reconstructed or enlarged, provided that such action does not increase the degree of or create any new nonconformity with respect to the bulk requirements of this Law.

§ 8 ENFORCEMENT

No permit or certificate of occupancy shall be issued by the Building Inspector, except upon the authorization by and in conformity with an approved land development/site plan where required. The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this local law. Such officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this local law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350.00. Each day an offense is continued shall be deemed a separate violation of this local law. In addition to the penalties provided above, the Building Inspector, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

