

# Local Law Filing

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County  City  Town  Village  
*(Select one.)*

of WEST UNION

STATE OF NEW YORK  
DEPARTMENT OF STATE  
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NOV 29 2012

MISCELLANEOUS  
& STATE RECORDS

Local Law No. 1 of the year 2012

A local law for LAND USE (SITE PLANNING)  
*(Insert Title)*

Be it enacted by the TOWN BOARD of the  
*(Name of Legislative Body)*

County  City  Town  Village  
*(Select one.)*

of WEST UNION as follows:

SEE ATTACHED.

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



## LOCAL LAW #1 - 2012

### LAND USE (SITE PLANNING) LAW

#### FOR THE TOWN OF WEST UNION, NEW YORK

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#### CHAPTER 1: INTRODUCTION AND PURPOSE

- 1.1** The Town of West Union has determined that it is necessary to regulate certain aspects of land use in order to manage future development. The Town, respectful of the individual rights of its citizens, seeks to minimize any burden such regulations might impose.
- 1.2** The purpose of these regulations is to maintain not only the rural appearance and physical character of the Town, but also its rural way of life and social environment. This rural tradition is one in which landowners are free to use their property in any manner that does not harm their neighbors or the Town or region as a whole. The people of West Union desire to allow their town to evolve based upon the changing needs and circumstances they face, rather than upon a predetermined plan of development.
- 1.3** The Town of West Union recognizes that almost any “use” of land can be made compatible with any other use and can be integrated into its surroundings if the size, scale, design, siting and operation of the use are appropriate. The Town wishes to encourage the growth of small-scale businesses that provide employment without adversely impacting environmental and community resources. The Town is concerned more with integrating development into the landscape than with comprehensively designating specific future uses of land.
- 1.4** The following goals are intended to guide the application of the specific regulations contained in this document:
- 1.4-1** Strengthen the sense of community and improve communication within the Town.
  - 1.4-2** Where possible, keep agriculture economically healthy.
  - 1.4-3** Preserve open space.
  - 1.4-4** Allow flexibility of uses without harming neighbors.
  - 1.4-5** Encourage non-polluting small business and industry growth that provides year-round employment.
  - 1.4-6** Maintain an economically diverse community with affordable housing.

- 1.4-7** Protect the water quality of “The Marsh” and other important environmental resources.
- 1.4-8** Balance the property rights of individuals with community interests, maintaining rural traditions of freedom of land use.
- 1.4-9** Increase citizen involvement in local government.
- 1.4-10** Keep the Town rural, with moderate growth.
- 1.4-11** Establish a flexible system to regulate development.
- 1.4-12** Improve the appearance of the Town.
- 1.5** The Town has considered and rejected the idea of adopting a conventional zoning law to implement a physical plan of development. The Town finds that a zoning law based on use districts creates expectations of development and a static vision of the future that are not appropriate for a rural community. Zoning arbitrarily limits flexibility of land use without protecting a town’s most important resources and character. The Town of West Union is a dynamic community and desires to create a system that effectively manages change as it occurs.
- 1.6** The purpose of this land use law is to provide a flexible framework for decision making that enables different land uses to coexist productively within the community. Unlike zoning, which seeks uniformity and separation of land use by districts, this land use law fosters and embraces integration and diversity. The economic and social vitality that results from the harmonious mixing of different activities and uses is at the core of the quality of life the Town seeks to preserve.
- 1.7** This land use law therefore establishes a case-by-case site plan and special permit decision process to regulate land use changes. This decision process is governed by criteria applied by the Town Board to specific applications of any construction or land uses regulated by this land use law, enabling an applicant, surrounding landowners and other interested citizens to work together cooperatively to resolve potential conflicts. The Town Board’s function is to oversee this cooperative process, resolve conflicts when parties are unable to do so and assure that the criteria established in this land use law is satisfied.
- 1.8** This land use local law is enacted under the powers granted to towns under Article 2 of the Municipal Home Rule Law (MHRL). This land use law is not intended to be a zoning law as provided for in Sections 261 through 269 of the Town Law of New York State, although some of its provisions may govern matters similar to those covered by zoning. To the extent that any provisions in this land use law may be inconsistent with Sections 261 through 269 of the Town

Law, it is the intent of the Towns to supersede such provisions of the Town Law under the supersession provisions of Article 2 of the MHRL.

- 1.9** Because this land use law is not a zoning ordinance, has built-in flexibility and does not restrict land use in a manner likely to cause unnecessary hardship or practical difficulties, it contains a provision for a separate Board of Appeals. Under the standards and purposes of this land use law, the Board of Appeals is empowered and shall be required to grant relief wherever necessary to avoid any unconstitutional intrusion upon the property rights of landowners. (See Section 8.3 for appeal procedure.)
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## **CHAPTER 2: APPLICABILITY**

**This land use law is designed to have minimal impact on single-family or small-scale business uses.** These activities are covered for the most part by the Building Code. Only those areas identified in Section 2.1 will be reviewed in addition to Building Code requirements and approved by discretion of the Town Code Enforcement Officer.

This law, however, requires Town Board review of those uses, activities and construction listed in Sections 2.2 and 2.3, which could have harmful impacts on neighbors or the Town. In addition to the requirements of this land use law, all requirements of the New York State Department of Environmental Conservation, the New York State Uniform Fire Prevention and Building Code as administered through the Town's Code Enforcement Officer, and other Town, County, State and Federal laws and regulations must also be satisfied. This law does not relieve the need for possible additional permits and/or requirements of the Building Code or any other laws or regulations.

### **2.1 Low Impact Uses**

These uses include single-family dwellings, small-scale business uses that fall below the thresholds identified in Section 2.2 and commercial timber harvesting operations that will utilize public roads for removal of forest products.

**2.1-1** Review may be conducted and approved by the Town's Building Inspector in conjunction with Building Code review and will include but not be limited to such things as lot slope and drainage, distance from highway, distance from adjoining lands, driveway slope and access to highway, soil suitability for construction and erosion control.

**2.1-2** The Town of West Union is concerned about the impact on public roads of timber harvesting operations. A Land Use Permit application for each separate timber harvesting that will utilize a public road for removal of forest products shall include the location and timing of the operation and be subject to review and approval by the Town Highway Superintendent.

### **2.2 Uses Allowed by "Site Plan Only" Approval**

The following activities and construction are subject to review of a Site Plan to assure that they are appropriately planned. (See Chapter 5 for Site Plan Only review requirements and procedure.)

**2.2-1** Construction or enlargement of any structure for business or institutional purposes, containing 2,000 to 6,000 square feet of enclosed floor space. This shall include enlargement of an existing structure so that it exceeds

the 2,000 square foot threshold.

- 2.2-2** The use or occupancy of 5,000 to 15,000 square feet of land, whether or not within structures, for any business or institutional use. For purposes of this Chapter 2, “occupancy of land” shall refer to land that is being actively used or is being cleared, graded or otherwise altered for site preparation, operations, parking or other business or institutional purposes, and shall not refer to portions of a parcel left in a natural or undeveloped condition.
- 2.2-3** Multi-family dwellings in new buildings, up to a total of 5 dwelling units per project, at an overall density no greater than one unit per acre.

### **2.3 Special Permit**

The following uses and activities, because of their potential for disruption to neighbors, the environment or others in the community and region are permitted only upon the granting of a Special Permit. Any use or combination of uses covered by both Sections 2.2 and 2.3 shall require a Special Permit. (See Chapter 6 for Special Permit requirements and procedures.)

- 2.3-1** Solid Waste Management Facilities, as defined in NYCRR Part 360, Subparts 360-2 through 360-14, shall require a Land Use Permit. They shall be reviewed under 6 NYCRR Part 617 (State Environmental Quality Review) and shall be screened with opaque fences, mature evergreen buffers, earthen berms or other barriers or enclosures which will render the materials and activities in the facilities invisible from public roads and adjacent properties. All Solid Waste Management Facilities require a special permit, which permit shall stipulate that the facilities shall be open for inspection at any time by the person or persons designated by the Town to monitor the facilities.
- 2.3-2** Any business or institution that collects or recycles refuse or hazardous substances is subject to Special Permit requirements.
- 2.3-3** Construction or enlargement of any structure for business or institutional purposes containing over 6,000 square feet of enclosed floor space. This shall include enlargement of an existing structure so that it exceeds the 6,000 square foot threshold.
- 2.3-4** The use or occupancy of more than 15,000 square feet of land, whether or not within structures, for any business or institutional use.
- 2.3-5** Construction of more than 5 units of multi-family housing, or of less than 10 units at a density greater than one unit per acre.

## **CHAPTER 3: DIMENSIONAL STANDARDS**

### **3.1 By-right Dimensional Standards**

(Note: These standards may all be varied by the Town Board pursuant to Section 3.2). The Town wishes to provide for separation between adjoining buildings and uses to avoid disturbance and encroachment, and to protect public health and safety. In seeking to balance individual property rights with the need for individual privacy, it has established the following flexible dimensional standards. For protection from road noise, fumes and dust, there shall be a minimum setback of 20 feet from the right-of-way of the road. For privacy, the minimum setback from side lot lines shall be 15 feet and from rear lot lines, 25 feet. The minimum width of the lot at the front of the principal building shall be 80 feet. To assure road access, the minimum road frontage shall be 20 feet. In order to protect groundwater in the surrounding area, the minimum lot size with on-site well and septic systems shall be 2 acres.

### **3.2 Modification of Dimensional Standards**

**3.2-1** Any applicant for a Site Plan Only approval, Special Permit or Subdivision approval may request a modification of the Section 3.1 dimensional standards. Such a modification shall be approved if it satisfies applicable review criteria in Chapters 5 or 6 of this land use law or the Land Subdivision Regulations, as appropriate.

**3.2-2** Any applicant for a Building Permit or Land Use Permit for a use that is allowed by right may file a Site Plan Only review application requesting a modification of the Section 3.1 dimensional standards. Such a modification shall be approved if it satisfies applicable review criteria in Chapter 5.

## **CHAPTER 4: SUPPLEMENTAL PROVISIONS**

### **4.1 Minimum Lot Sizes and Buildable Land Area on a Lot**

Notwithstanding any other provisions of this land use law, any building lot that requires a site plan or special use permit by this local law must contain a minimum area of buildable land. Such buildable land must be contiguous, with a minimum dimension of 50 feet on all sides, and must be accessible by emergency vehicles from a public or private road. The minimum buildable area for lots containing on-site septic disposal systems or wells shall be 15,000 square feet; for lots connected to off-site septic or sewage disposal and water systems, the minimum shall be 2,500 square feet. Areas covered by the setbacks specified in Chapter 3 may be included in the buildable area of a lot.



## **4.2 Steep Slope Regulations**

The Town finds that the alteration of steep slope areas pose potential risks of erosion, sedimentation and landslides. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding fifteen percent (15%):

- 4.2-1** No approval of a Site Plan or Special Permit that involves the disturbance of slopes greater than fifteen percent (15%) shall be granted unless conditions are attached to ensure that:
- a. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction (see Section 4.9).
  - b. Cutting of trees, shrubs and other vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
  - c. Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding or avalanches.
  - d. Proper engineering review of plans and construction activities will be conducted by the Town, at the applicant's expense, to ensure compliance with this Section.
  - e. No Certificate of Occupancy will be granted until all erosion control and drainage measures required pursuant to this Section have been satisfactorily completed.
- 4.2-2** No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of thirty percent (30%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
- 4.2-3** Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as the Town Board shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, an engineer retained by the Town, at the applicant's expense, shall determine the location of regulated slopes. For purposes of establishing steep slope areas, only contiguous sloped areas owned by the applicant containing at least 5,000 square feet of slopes over 15% or 30% shall be considered.

### **4.3 Protection of Agriculture from Potentially Incompatible Uses**

#### **4.3-1 Required Disclosure**

In the case of any proposed residential development that abuts agricultural uses, the Town Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: “This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides and herbicides and to engage in farm practices which may generate dust, odor, smoke, noise and vibration”. This disclosure shall be required as a note on a Subdivision Plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting or letter of notification. This Subsection 4.4-3 may also be applied to any business or institutional development within the jurisdiction of the Town Board which abuts agricultural land, at the discretion of the Town Board.

#### **4.3-2 Agricultural Buffers**

Wherever agricultural uses and other new uses unrelated to the agricultural operations, abut, buffers, if desired, shall be provided by the proponent of the non-agricultural use to reduce the exposure of the non-agricultural uses to odors, noise and other potential nuisances related to the agricultural operation. Provision and maintenance of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms or natural topographic features.

#### **4.3-3 Agricultural Data Statement**

Any Application for a Special Permit, Site Plan approval, or Subdivision approval for a project that would occur on property within an agricultural district containing a farm operation, as defined in Article 25-AA of the Agriculture and Markets Law of New York State, or on property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Section 305-a of the Agriculture and Markets Law. The Town Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

### **4.4 Resource Extraction and Drilling Sites**

- 4.4-1** An applicant for a Special Permit for resource extraction shall submit to the Town Board copies of all applications and other materials submitted to the New York State Department of Environmental Conservation (DEC) in connection with its resource extraction application.

**4.4-2** In considering whether to grant or deny a resource extraction Special Permit, the Town Board shall consider all relevant criteria contained in Section 5.2.

**4.4-3** In issuing a Special Permit for resource extraction, the Town Board shall impose conditions designed to protect the public health, safety and welfare. Such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions:

- a. Ingress from and egress to public thoroughfares controlled by the Town;
- b. Routing of mineral transport vehicles on roads controlled by the Town;
- c. Requirements and conditions specified in the permit issued by the DEC concerning setbacks from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control and hours of operation;
- d. Enforcement of reclamation requirements contained in any DEC permit.

**4.4-4** In issuing a Special Permit for resource extraction uses not subject to regulation by DEC, the Town Board may require additional conditions as it deems necessary.

**4.4-5 Drilling Sites**

Pursuant to Environmental Conservation Law Section 23-0303(2) which declares that New York State's regulatory program for oil, gas and solution mining "supersedes all local laws or ordinances relative to the regulation of the oil, gas or solution mining industries: but shall not supersede the local government jurisdiction over local roads or the rights of the local governments under the real property tax law", the following criteria for drilling sites shall be met:

- a. The operator of the Drilling Site and accessory sites, such as staging areas, shall enter into a Road Use Agreement with the Town to plan routes and to protect and repair road damage caused by high volumes of truck traffic to and from the Drilling Site.

**4.4-6 Dormitory**

- a. Dormitories shall be located a minimum of 150 feet from the edge of the right of way of any public road and shall not be closer than a minimum of 50 feet to any property line or 100 feet from a building on an adjacent property or 150 feet from a residence.

- b. At a minimum, one parking space shall be provided per each occupant plus one parking space for each on-duty employee.
- c. Parking shall be located at the side or rear of the structure and shall not be closer than 20 feet to any property line.
- d. The parking lot must be paved or gravel and in either case must be designed to prevent storm water runoff to adjoining properties or roadways through use of swales, retention ponds, etc. Storm water runoff from structures must also be controlled.
- e. The dormitory must meet all NYS Building Codes and all codes for drinking water and waste disposal.
- f. Trash facilities such as garbage cans or dumpsters shall be screened from public view.
- g. Landscaping materials shall be of appropriate size, quantity, and character to provide an attractive setting for dormitory residents, neighbors, and those passing by.
- h. Contact information for the manager and the owner of the dormitory shall be on file with the Town Code Enforcement Officer.
- i. There shall be in place either a reclamation plan or a transition plan. A reclamation plan will show how the site will be returned to a natural state should the structures be removed. A transition plan will detail how the structures on the site will be put to another use or, if the structures are to be removed, how the site will be changed to another use such as a single-family homes or any other use as allowed by law.

#### **4.4-7 Industrial Storage Yard**

- a. Nothing shall be stored within 150 feet of the edge of the right of way of any public road.
- b. Nothing shall be stored within 50 feet of any property line, 100 feet of any building on an adjacent property or 150 feet of any residence.
- c. Any repairs and maintenance shall be either conducted in an enclosed structure or an impervious surface with an appropriate storm water drainage and detention plan in place so as to minimize

infiltration of chemicals or petroleum product fluids in the ground.

- d. Natural vegetation shall be retained as much as possible and efforts shall be made to control dust.
- e. Any entrance to or exit from the site shall have 250 feet of site distance and shall be no closer than 50 feet to any intersection or any other entrance/exit.
- f. New or proposed roads and driveways shall be suitably located, of sufficient width, and adequately constructed to accommodate expected normal traffic and to allow access for snow removal, road maintenance, and emergency equipment.
- g. Driving surfaces within the site shall be adequate to prevent spreading of mud to public roads and stormwater shall not drain on to public roads or adjoining properties.
- h. Items stored on site shall be kept in a neat, orderly, and safe manner. Any scrap material no longer intended or in condition for use shall be removed from the site.
- i. Contact information for the site shall be on file with public safety officials in case of spills, fires, or other incidents that may occur when no employees are on site.

#### **4.4-8 Commercial Recreational Vehicle (RV) Park**

- a. No recreational vehicles space shall be sited within 150 feet of the right of way of any road.
- b. No recreational vehicle shall be parked within thirty (30) feet of another recreational vehicle or a property line and 100 feet of any building on an adjacent property or 150 feet from any residence on an adjacent property.
- c. No parking or loading, or maneuvering incidental to parking or loading, shall be permitted on a public road.
- d. New or proposed roads and driveways within a commercial recreational vehicle park shall be suitably located, of sufficient width and adequately constructed to accommodate expected normal traffic and to allow access for snow removal, road maintenance, and emergency equipment. Roads within a commercial recreational vehicle park shall afford safe and convenient access to all spaces and facilities, and shall provide

all-weather access to sites. Road surfaces should be adequate to prevent the spread of soil to public roads and dust shall be controlled.

- e. Natural vegetation should be retained to the maximum extent practicable.
- f. Drinking water supplies, waste disposal, and electrical supply shall meet all New York State codes. Appropriate hookups shall be provided at each site.
- g. Dumpsters or trash receptacles shall be screened from view of park guests and the general public.
- h. The park shall be maintained in a neat and orderly manner.
- i. Contact information for the park manager or owner shall be on file with the Town Code Enforcement Officer.

#### **4.5 Signs**

Signs shall require a Land Use Permit from the Code Enforcement Officer (CEO) unless exempted by Section 4.5-1 or 4.5-3. Where a sign is erected in conjunction with a project that is subject to Site Plan or Special Permit review, the proposed sign shall be reviewed by the Town Board as part of the approval process, and shall not require a separate Land Use Permit.

**4.5-1** Non-illuminated signs less than 16 square feet per side shall not require a Land Use Permit. However, no more than two such signs per building shall be permitted without a Land Use Permit.

**4.5-2** Commercial signs 16 square feet per side or larger shall require a Land Use Permit in accordance with the following standards:

- a. Signs shall not project into a public way.
- b. Free-standing signs shall not interfere with visibility of pedestrians or vehicles.
- c. No free-standing sign may be larger than one hundred (100) square feet per side.
- d. Signs shall not interfere with street and traffic lighting nor cause off-premises glare.
- e. No signs shall be placed in the highway right of way without a permit from the Highway Superintendent.

**4.5-3** Non-commercial signs shall be permitted in any location and be in any media without a Land Use Permit, subject to the restrictions in Section 4.5-2.

## **4.6 Storm Water and Erosion Control**

The Storm Water and Erosion Control Guidelines of the New York State Department of Environmental Conservation shall apply to the following activities:

- 4.6-1** Excavation within 50 feet of any stream, lake or pond.
- 4.6-2** Excavation, grading or construction on slopes over 8% or in any area in excess of 20,000 square feet.
- 4.6-3** Any project subject to Site Plan Only, Subdivision or Special Permit approval.
- 4.6-4** Agriculture, unless conducted pursuant to an approved current US Department of Agriculture Natural Resources Conservation Service Conservation Plan.

## **4.7 Driveways**

All driveway entrances shall comply with regulations of the New York State Department of Transportation or the Steuben County Department of Public Works or the Town of West Union, whichever applies. The applicant shall obtain a permit that is required in order to establish an entrance to a State, County or Town of West Union road.

## **CHAPTER 5: "SITE PLAN ONLY" REVIEW**

The Town has established in Chapter 2 a three-tiered system of reviewing land use and development. Most small-scale uses require a Land Use and/or Building Permit, with site plan review issued by the Code Enforcement Officer. The Code Enforcement Officer may use the Town Board as an advisory board for this review. Larger-scale projects (listed in Section 2.2) require Town Board review of a site plan only, to assure that such projects will be compatible with their surroundings. Very large projects (listed in Section 2.3) must follow the Special Permit requirements in Chapter 6.

### **5.1 Contents of a "Site Plan Only" Application**

An applicant for a Site Plan Only approval shall submit:

- 5.1-1** A Site Plan application form
- 5.1-2** A site plan drawn to scale with accurate dimensions providing information sufficient to enable the Town Board to make an informed decision, an



agricultural data statement as defined in Chapter 10; and a vicinity map of appropriate scale showing adjacent lots and annotated with the names of adjacent lot owners. The Town Board may require additional information as appropriate to the specific application.

**5.1-3** A brief narrative describing the proposed use.

**5.1-4** A short-form Environmental Assessment Form (EAF) (unless the Town Board determines that the proposed Site Plan approval is a Type I action under the State Environmental Quality Review Act (SEQRA), in which case a long-form EAF shall be required).

**5.1-5** The Site Plan Only application fee as established by the Town Board, and an escrow deposit if required to cover reasonable professional review costs.

## **5.2 Procedure**

### **5.2-1 Application**

- a. Application for a Site Plan Only approval shall be made to the Town Board on forms prescribed by the Town Board
- b. If an application is for a parcel or parcels on which more than one use requiring Site Plan Only approval is proposed, the applicant may submit a single application for all such uses. The Town Board may grant the application with respect to some proposed uses and not others. For purposes of determining whether the application requires Site Plan Only or Special Permit approval (and for SEQRA compliance), all proposed uses on a single parcel or related uses on nearby or contiguous parcels shall be considered together.

### **5.2-2 Informal Meeting**

Before filing an application, an informal meeting with the Town Board is recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

### **5.2-3 Mediation**

At any point in a project review process the Town Board may, if it deems appropriate and the applicant consents, appoint a mediator to work informally with the applicant, neighboring property owners, and other interested parties to address concerns raised about the proposed use. Any party may request mediation. Such mediation may be conducted by a



member of another municipal board, by the Town Board's consultant, or any other qualified and impartial person acceptable to the parties and the Town Board. The mediator shall have no power to impose a settlement or bind the parties or the Town Board, and any settlement reached shall require Town Board approval to assure compliance with all provisions of this land use law. The cost of such mediation will be charged to the applicant as part of the cost of project review. Such cost may also be shared by other interested parties with their written consent.

#### **5.2-4 SEQRA Compliance**

Upon receipt of application materials it deems completed, the Town Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within twenty (20) days. Where proposed action may have a significant effect on the environment, the Town Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this land use law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYCRR Section 617.8(b)(1) or the issuance of a negative declaration. The Town Board may prepare the DEIS at the applicant's expense, with the applicant's consent.

#### **5.2-5 Referral to County Town Board and Adjacent Municipalities**

Upon receipt of application materials it deems to be complete, the Town Board shall refer to the Steuben County Planning Department any application for Site Plan approval or Special Use approval affecting real property within five hundred (500) feet of the boundary of the Town of West Union, the boundary of any existing or proposed County, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

In addition, the Town Board shall give notice to any adjacent municipality, as required by Section 239-nn of the NYS General Municipal Law or amendments thereto.

### **5.2-6 Notice and Hearing**

- a. The Town Board may hold a public hearing on a complete Site Plan Only application within 62 days. At least seven (7) calendar days prior to the date thereof, the applicant shall notify all of the following of the hearing by registered mail, return receipt requested and shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper:
  1. Owners of all real property as shown on the current tax map, located within 200 feet in all directions of the property which is the subject of the hearing.
  2. The clerks of all adjoining municipalities whose boundaries are located within 200 feet of the property which is the subject of the hearing.
  3. The County Planning Department where the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land or situated within 500 feet of a municipal boundary.
  4. The State Commissioner of Transportation where the hearing concerns an application for development of property adjacent to a state highway.
- b. The cost of mailing the notices shall be borne by the applicant.

### **5.2-7 Action**

- a. The Town Board by a majority vote of the full Board, shall grant, deny or grant subject to conditions the application for a Site Plan Only approval within sixty-two (62) days of its first meeting after receipt of the completed application or sixty-two (62) days after the hearing. Any decision shall contain written findings explaining the rationale for the decision in light of the standards contained in this land use law.
- b. A copy of the decision shall be immediately filed in the Town Clerk's office and mailed to the applicant. A resolution of either approval or approval with modifications shall include authorization to the Town Supervisor to stamp and sign the site plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.

- c. If the Town Board's resolution includes a requirement that modifications be incorporated in the Site Plan, conformance with these modifications shall be considered a condition of approval. If the Site Plan is disapproved, the Town Board may recommend further study of the Site Plan and resubmission to the Town Board after it has been revised or redesigned.
- d. Within six (6) months after receiving Site Plan approval, with or without modifications, the applicant shall submit four copies of the Site Plan to the Town Board for stamping and signing. The Site Plan submitted for stamping shall conform strictly to the required revisions or other modifications and shall be accompanied by the following additional information:
  - 1. Record of application for an approval status of all necessary permits from Local, County, State, and Federal officials.
  - 2. Detailed sizing and final material specification of all required improvements.
  - 3. An estimated project construction schedule. If a performance guaranty pursuant to Subsection 5.2-8 is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.
  - 4. Proof of payment of the Town Board's reasonable review costs.
- e. Upon stamping and signing the Site Plan, the Town Board shall forward a copy of the approved Site Plan to the Code Enforcement Officer and the applicant. The Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

#### **5.2-8 Performance Guaranty**

No Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified in Section 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guaranty shall be determined by the Town Board after consultation with the Town Attorney, the Town Supervisor, and other local officials or its designated consultants.

#### **5.2-8.1 Request for Specialized Services**

The town may require the cost of expert or specialized services in the event it is decided by the Town Board that advice or expertise is required in order to supplement analysis, inspections, or other matters in determining or deciding certain aspects or portions of an application for land use meet required standards. In such case an estimate of costs shall be provided to the applicant together with explanation of such services to be provided, and the applicant shall deposit with the Town such amounts toward such costs as shall be determined by such Board. Failure to provide such services may result in a rejection of an application at any stage.

#### **5.2-9 Inspection of Improvements**

The Code Enforcement Officer shall be responsible for the inspection of site improvements including coordination with the Town's consultants and other local officials and agencies, as may be appropriate.

#### **5.2-10 Expiration, Change of Use, Revocation and Enforcement**

A Site Plan approval shall expire if the approved use or uses cease for more than twenty-four (24) consecutive months for any reason, if the applicant fails to obtain the necessary Building Permit or Land Use or to comply with the conditions of the Site Plan approval within twelve (12) months of its issuance, or if its time limit expires without renewal.

- a. A Site Plan approval shall apply to the use for which it has been granted, as well as to any subsequent use of the property which complies with all terms and conditions of the Site Plan approval (as determined by the Code Enforcement Officer in issuing a Building or Land Use Permit) and which does not involve any new construction, enlargement, exterior alteration of existing structures or changes use of outdoor areas. Any other change to a use allowed by Site Plan approval shall require the granting of a new Site Plan approval or a Site Plan amendment.
- b. A Site Plan approval may be revoked by the Town Board if the permittee violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.
- c. Any violation of the conditions of a Site Plan approval shall be deemed

a violation of this land use law and shall be subject to enforcement action as provided herein.

### **5.2-11 Amendments**

The terms and conditions of any Site Plan Only approval may be amended in the same manner as required for the issuance of a Site Plan Only approval, following the criteria and procedures in this Chapter. Any enlargement, alteration or construction of accessory structures not previously approved shall require a Site Plan amendment.

### **5.3 Findings Required**

In order to grant a Site Plan Only approval, the Town Board must find that the proposal:

- 5.3-1** Will not cause undue traffic congestion, unduly impair pedestrian or vehicular safety or overload existing roads, considering their current width, surfacing and condition, and will have appropriate parking and be accessible to fire, police and other emergency vehicles. Road access points will have sufficient sight distances to assure visibility of vehicles.
- 5.3-2** Will not overload any public water, drainage, or sewer system, or any other municipal facility or degrade any natural resource or ecosystem.
- 5.3-3** Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- 5.3-4** Will not result in excessive noise, dust, odors, liquid or solid waste, or glare, or create any other nuisances.

## **CHAPTER 6: SPECIAL PERMITS**

### **SPECIAL PERMIT REVIEW PROCEDURES**

The application requirements, Town board review, SEQR review, referral, notice and hearing procedures as described in Chapter 5 ("Site Plan Only" Review) are hereby incorporated in Chapter 6 for Special Permit Review and shall apply for the issuance, modification, denial or enforcement of Special Permits, with the exception that a hearing shall be required for the special permit review process.

All time period requirements, notice, filings, findings and other requirements for “Site Plan Only” Review shall apply to Special Permit Review as well as Findings Required as contained in Section 6.1.

In recognition that large-scale uses tend to have the greatest impacts on the Town and its environment, such uses shall be allowed only upon the granting of a Special Permit as described below:

## **6.1 Findings Required**

- 6.1-1** Will comply with all provisions and requirements of this and other local laws and regulations, and will fulfill the purposes of this land use law as stated in Chapter 1.
- 6.1-2** Will not result in excessive noise, dust, odors, solid waste or glare or create any other nuisances, and will satisfy the General Land Use Performance Standards in Section 4.1.
- 6.1-3** Will be suitable for the property on which it is proposed, considering the property’s size, location, topography, vegetation, soils, natural habitat and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- 6.1-4** Will not cause undue traffic congestion, unduly impair pedestrian or vehicular safety or overload existing roads, considering their current width, surfacing and condition and will have appropriate parking and be accessible to fire, police and other emergency vehicles. Road access points will have sufficient sight distances to assure visibility of vehicle.
- 6.1-5** Will not overload any public water, drainage or sewer system or any other municipal facility or degrade any natural resource of “ecosystem”.
- 6.1-6** Will be subject to such conditions on design and layout of structures, provision of buffer areas and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town. Where water and sewer services are available, the Town Board may require development to be clustered in the pattern of a traditional village or hamlet with visually or environmentally important open space preserved by a deed restriction or conservation easement. Where water and sewer utilities are not available, the Town Board shall encourage such a pattern to the extent feasible.
- 6.1-7** Will be consistent with the goals of concentrating retail uses in hamlets and incorporated villages, avoiding strip commercial development and

residential sprawl development and locating non-residential uses that are incompatible with residential use in well-buffered rural locations.

## **CHAPTER 7: NON-CONFORMING USES, STRUCTURE AND LOTS**

### **7.1 Continuation of Non-Conforming Uses and Structures**

Any lawful structure or use existing at the time of the enactment or amendment of this land use law (pre-existing use or structure) which becomes non-conforming as a result of such enactment or amendment may be continued.

### **7.2 Structures and Uses**

A non-conforming structure, use or characteristic of use shall be treated as follows:

- (a) Expansion – A non-conforming structure or use shall not be expanded in any way.
- (b) Unsafe Structures - A non-conforming structure declared unsafe by a proper authority may be restored to a safe condition.
- (c) Restoration – A non-conforming building destroyed or damaged may be rebuilt on the same location to the same dimensions.
- (d) Discontinuance – When a non-conforming use or characteristic of use has been discontinued for a period of one (1) year, it shall not thereafter be re-established; use of such premises shall be in conformity with the provisions of this law.
- (e) Changes – When non-conforming premises are brought into conformity with this law, they shall not be allowed again to become non-conforming.
- (f) Moving – A structure that is moved from one lot to another shall conform with the laws for the district in which it is located after such move.

### **7.3 Lots**

A non-conforming lot of record shall be treated as follows:

- (a) In a district where dwellings are allowed, a non-conforming undeveloped lot of record having a lesser area or width than the



minimum required, may be used for not more than one (1) single family dwelling, for which no variance need to be obtained, providing that:

- (1) such lot does not adjoin any other lot held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required; and,
  - (2) the area of such lot is not less than five thousand (5,000) square feet; and,
  - (3) such dwelling shall be built with side yards not less than five (5) feet deep and with the set back not less than the average of the adjoining front yards.
- (b) Any undersize lot of record may be subdivided only if each and every subdivision of such lot shall be acquired by the owner of adjoining lots and added to their lot becoming one parcel, thereby increasing the size of such adjoining lots.

#### **7.4 Construction Started Prior to This Land Use Law**

Any non-conforming structure for which construction has begun prior to the effective date of this land use law, or of any amendment thereto, may be completed and used in accordance with the approved plans and specifications for such structure. Any non-conforming structure for which construction has not begun pursuant to approval plans shall be subject to the provisions of this land use law and any amendments thereto, even if all approvals previously required have been granted.

Prior Permits given for the commercial construction and operation of Wind Power Facilities may be completed without application of this law.

### **CHAPTER 8: ADMINISTRATION AND ENFORCEMENT**

#### **8.1 The Land Use Permit**

In order to assure compliance with this land use law, it is necessary for the Town to be aware of proposed development activities. A Land Use Permit designates that the proposed development complies with these Regulations. All work shall be consistent with the permit. During the course of the work, the Code Enforcement Officer (CEO) shall inspect the site to ensure compliance with the Permit. Most such activities already require a Building Permit under the New York State Uniform Fire Prevention and Building Code (“Building Code”), administered by the Code Enforcement Officer.



**8.1-1** This Law shall be enforced by the Code Enforcement Officer (CEO) who shall be appointed by the Town Board. No Building Permit or Certificate of Occupancy shall be issued by the CEO unless all provisions of this law have been complied with.

**8.1-2** Land Use Permit Types

Under the terms of this law the following classes of Permits may be issued by the CEO:

- a. Permitted Use No Land Use permit is needed for a “By Right” use as defined in Section 2.1.
- b. Site Plan Only A Land Use Permit for a Site Plan Only Land Use may be issued by the CEO after review and approval by the Town Board following procedures defined in Chapter 5 of this law.
- c. Special Permit A Land Use Permit for projects requiring Special Permits may be issued by the CEO after review and approval by the Town Board following procedures defined in Chapter 6 of this law.
- d. Permits After Appeal Building and/or Land Use Permits may be issued by the CEO upon the order of the Town Board and after a public hearing held by the Town Board for the purpose of deciding upon the appeal.

**8.1-3** No building or structure, including accessory buildings and signs, shall be erected, moved, enlarged or extended, nor shall any new commercial use of land be initiated or excavation of land be begun until a Building Permit and/or Land Use Permit as required has been issued by the Code Enforcement Officer.

**8.1-4** Commercial activities that are not covered by the Building Code require a town “Land Use Permit”, which shall be granted if the proposed use complies with this Land Use Law. Land Use Permits shall be required only in situations where a Building Permit is not required or has not yet been issued, including erection of free-standing signs, land disturbance (including excavation, grading and site clearing) or more than 2,000 square feet of land, or business or institutional uses not involving buildings.

## **8.2 Violations**

### **8.2-1 Penalties**

A violation of this Land Use Law is an offense punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment for a period not to exceed fifteen (15) days, or both for conviction of a first offense.

Conviction of a second offense, committed within five (5) years of the first offense, is deemed a Class B misdemeanor and is punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than five hundred dollars (\$500.00) or imprisonment for a period not to exceed three months, or both.

Conviction of a third or subsequent offense committed within a period of five (5) years is deemed to be a Class A misdemeanor and is punishable by a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six (6) months, or both.

Each week's continued violation shall constitute a separate violation.

### **8.2-2 Complaints of Violations**

Whenever a suspected violation of this land use law occurs, any person may file a signed complaint reporting such violation to the Code Enforcement Officer. All such complaints must be in writing (unless the suspected violation threatens life, health or safety, in which case the Code Enforcement Officer is authorized to act on an oral complaint) and shall be submitted to the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

### **8.2-3 Abatement of Violations**

Whenever a suspected violation of this land use law occurs, the Town Board or, with its approval, the Code Enforcement Officer, may institute an appropriate legal action or proceeding to prevent, restrain, correct or abate such violation, to prevent the occupancy of the premises, or to prevent any legal act, conduct, business or use in or about the premises. The Code Enforcement Officer shall be empowered to issue a "stop work order" upon determining that a violation of this local law has occurred or is in progress.

#### **8.2-4 Accountability**

For every violation of the provisions of this land use law, the owner, agent, contractor, lessee, ground lessee, tenant, licensee or any other person who commits, takes part or assists in such a violation or who maintains any structure or premises in which any such violation exists, shall be punished according to the provisions of this land use law.

### **8.3 Appeal of Action by Code Enforcement Officer or Town Board**

Any person aggrieved by an order, determination, interpretation or other action taken by the Code Enforcement Officer or Town Board in accordance with this Law, may appeal such action to the Board of Appeals following the procedural steps contained in Section 8.3-1. In hearing such appeal, the Board of Appeals shall have the power of the board of appeals as provided in Section 267-b of the Town Law of New York State.

#### **8.3-1 Appeals from Code Enforcement Officer (CEO) or Town Board Decisions**

An appeal may be taken by an applicant who has been denied or desires to have modified a permit issued by the Code Enforcement Officer (CEO) or the Town Board. Said appeal shall be submitted to the Board of Appeals, its Chairperson or the Town Clerk within 30 days of the denial or issuance of a permit by the Code Enforcement Officer (CEO) or Town Board.

The appeal shall be on a form authorized by the Board of Appeals and shall state the reason for the appeal, contain a copy of the denial or permit issued, be signed by the applicant and contain all materials necessary for the Board of Appeals to consider in the appeal process.

The Board of Appeals shall be composed of five members who shall be appointed by the Town Board. The appointment and structure of the Board of Appeals shall be as contained in Section 267 of the Town Law of New York State in similar fashion as set forth for a zoning board of appeals for area variances.

At any proceedings of the Board of Appeals in its duties under this local law, the Town Supervisor of the Town Board, or such Supervisor's designee who is a member of the Town Board, shall be invited to attend such proceedings as representative of the Town Board.

The Board of Appeals shall hear the appeal within 30 days of the filing of the application for appeal upon public notice or at a regular meeting of the

Board of Appeals. A decision shall be made within 62 days of said meeting or hearing, if such is required as set forth in this local law.

The Board of Appeals shall utilize and adhere to the standards of review and considerations as contained in Section 267-b., subsection 3.(b) and (c), and subsection 4. of the Town Law of New York State in similar fashion as set forth for a zoning board of appeals for area variances.

Any decisions to modify or grant an application and permit previously denied by the Code Enforcement Officer (CEO) or the Town Board shall require all steps and procedures necessary for the initial grant of a permit by the Code Enforcement Officer (CEO) or the Town Board.

## **CHAPTER 9: MISCELLANEOUS PROVISIONS**

### **9.1 Interpretation as Minimum Requirements**

In their interpretation and application, the provisions of this land use law shall be deemed minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this land use law differ from the requirements of any other lawfully adopted laws, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **9.2 Severability**

If any provision of this land use law or the application thereof to any person, property or circumstances is held to be invalid, the remainder of this land use law and the application of each provision to other persons, property or circumstances shall not be affected thereby.

### **9.3 Conflict with Other Laws**

This land use law shall not repeal, abrogate, annul or in any way impair or interfere with any provisions of law or rules or regulations previously adopted or issued and still in effect relating to the use of structures or premises, provided that where this land use law imposes a greater restriction upon the use of structures or premises or requires larger lots or yards than are imposed or required by such existing laws, rules or regulations, the provisions of this land use law shall control.

### **9.4 Appeal of Board of Appeals Action**

Any person aggrieved by a decision of the Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

## 9.5 Effective Date

This land use law shall take effect upon the filing in the office of the Secretary of State.

## CHAPTER 10: DEFINITIONS

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

**Access Roads.** Private roads that provide vehicular access to sites or structures from public roads. Access roads do not include lanes customarily used by farmers to access agricultural fields or driveways to private dwellings.

**Accessory Use and Structure.** A use of structure on a lot or portion of a lot customarily incidental and subordinate to the lot or structure and not changing the character of the principal use of the structure or lot.

**Agricultural Data Statement.** An identification of farm operations within an agricultural district located within five hundred feet of the boundary or property upon which a Subdivision is proposed, as provided in Section 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 Subdivision 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 five hundred feet of the boundary of the property upon which the Subdivision is proposed; and a tax map or other map showing the site of the proposed Subdivision relative to the location of farm operations identified in the agricultural data statement.

**Agriculture.** The management of land for agriculture and crops; raising of cows, horses, pigs, poultry and other livestock, and horticulture of orchards; including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds, barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use and production.

**Buildable Land.** That portion of a lot which is suitable for building structures and locating septic disposal facilities, excluding wetlands and watercourses, slopes exceeding fifteen percent (15%) and flood hazard areas as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

**Business or Institutional Use.** A non-agricultural use involving the sale or rental of goods, services or commodities, either on a retail or wholesale basis, or the provision of services or entertainment, whether or not for profit, including without limitation stores, campgrounds, tourist attractions, motels, clinics, offices, restaurants, resorts, service and gas stations and industry. As defined in this land use law, business or institutional use shall generally refer to any non-residential, non-agricultural use of land for commercial, educational, charitable, religious or scientific purposes.

**Commercial Recreational Vehicle (RV) Park.** A recreational vehicle park or site for travel trailers or recreational vehicles used for temporary or permanent living accommodations, operated as a business, for profit, commercially, or for the benefit of a business or commercial enterprise.

**Distances.** Distances shall mean the shortest horizontal linear distance from the nearest point of a regulated activity to the mean high watermark of the nearest watercourse or the edge, margin or top of a precipitous bank adjoining forming the mean high water mark of a watercourse. Additionally distances shall mean the shortest footage between two or more objects.

**Dormitory.** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses. Also to include a building, or part thereof, where lodging, with or without meals, is provided for compensation, direct or indirect, for four or more non-family persons, residing for 30 days or more, when no kitchen or dining facilities are provided in individual rooms. The term dormitory shall include "man camps", temporary facilities commonly set up by oil and gas drilling companies to provide food and shelter for employees near drilling locations. Such dormitories or man camps may include modular or mobile housing units designed to be removed from the site when drilling activity in the area is complete.

**Drilling Site.** A site, and its ancillary areas, used for oil, gas or solution mining, including horizontal drilling for natural gas, as regulated in New York State pursuant to Article 23 of the Environmental Conservation Law and its implementing regulations, 6 N.Y.C.R.R. Part 550.

**Dwelling Unit.** One or more rooms constituting a separate independent house-keeping unit establishment with cooking, living, sanitary and sleeping facilities



for the use of no more than one family.

**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.

**Farm Operation.** Land uses in agricultural production, farm buildings, equipment and farm residential buildings.

**Flood Plain.** Shall mean those areas designated by either the New York State Department of Environmental Conservation or the United States Federal Emergency Management Agency as likely to flood within one hundred years.

**Industrial Storage Yard.** An outside area where heavy equipment, pipes, storage tanks, building materials, fuel, storage trailers, office trailers, or any other items customarily used in construction, mining, gas exploration, or similar industries are stored or stockpiled. Industrial storage yards do not include areas used to store equipment or materials used in agricultural practices.

**Industry.** The manufacture and production or assembly of goods or materials.

**Lot or parcel.** An area or plot of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established either by the filing of a Subdivision Plat or by the recording of a deed.

**Mobile Home Park.** Parcel of land under single ownership which is designed improved for the placement of two or more Mobile Homes upon units thereof. See Local Law #1 – 1992 for regulations and licensing of Mobile Home Park.

**Multi-Family Dwelling.** A residential building containing three (3) or more dwelling units.

**Non-conforming Lot.** A lot of record which does not comply with the dimensional requirements of this land use law (see Chapter 7).

**Non-conforming Structure.** A structure which contains a permitted use, but which does not meet the dimensional requirements of this land use law and which was lawful when constructed (see Chapter 7).

**Non-conforming Use.** Any use lawfully existing prior to and at the time of the adoption or amendment of this land use law or any preceding local law or ordinance, which is not permitted by right or does not conform with the provisions of this land use law. A pre-existing lawful use which is allowed only by Special Permit under this land use law shall be considered a non-conforming

use until such time as a Special Permit is granted for it. (See Chapter 7)

**Recreational Vehicle.** Type of vehicle used as temporary living quarters for recreation, camping, or travel, that either has its own motive power or is mounted on or drawn by a motor vehicle: includes travel trailer, camper trailer, pop-up camper, truck camper, and motor home.

**Resource Extraction.** Use of land for the purpose of quarrying, extracting and selling stone, minerals, oil, gas, sand and/or gravel, not including the process of preparing land for construction of a structure for which a Building Permit has been issued.

**Setback.** The distance in feet from a property line or a street centerline to a structure on a lot.

**Sign.** Any billboard, signboard, inscription, pennant, insignia or other structure or device composed of lettered or pictorial material that is placed for outdoor display (including inside a window), used as a advertisement, announcement or direction.

**Sign, Commercial.** A sign advertising a product, use, service or activity sold or conducted for private financial gain.

**Single-Family Dwelling.** A detached building containing one dwelling unit.

**Solid Waste Management Facilities.** Solid Waste Management Facilities are all those uses specified in 6 NYCRR 360, Subparts 360-2 through 360-14, or as amended.

**Subdivision.** Any division (including re-subdivision) of a parcel of land into two or more lots, parcels or sites or other division of land with or without roads for the purpose of lease, sale, transfer of ownership or development. If a new road or extension of an existing road or any municipal facilities is involved, any division of an original parcel or land constitutes a subdivision. The second lot of an original parcel creates a subdivision.

**Subdivision Regulations.** Any Town of West Union Land Subdivision Regulations that may be in effect now or in the future.

**Town Law.** The Town Law of the State of New York.

**Wetland.** Any land which is subject to periodic or continual inundation by water or which contains hydric soils as defined by the Natural Resources Conservation Service of the U. S. Department of Agriculture.



**(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 2012 of the ~~(County)(City)~~(Town)~~(Village)~~ of WEST UNION was duly passed by the TOWN BOARD on OCTOBER 2012, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**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)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20    , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

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 electors 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)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (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.

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\* 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 village, 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 the electors at 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 the 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 1 above.

  
\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 10/18/2013

(Seal)