

FORWARD

The Town of Arietta was among the first Adirondack communities to develop a Town Plan and Land-Use Code back in 1976. After a trial period of several years, this plan was submitted to and approved by the APA in 1982. We are one of only 16 towns (out of 103) inside the park with an approved plan.

WHY HAVE AN APPROVED TOWN PLAN? After the APA act was signed in 1971, local officials decided that planning, zoning and code enforcement issues should be decided within the community. That means you have a Zoning Board and a Planning Board comprised of your neighbors. They must abide by the same laws and regulations as the APA, but typically the process is faster and with a greater understanding of your needs.

WHEN DO THESE BOARDS MEET? The Planning Board meets at 7:30pm on the third Monday of each month. They will not meet if there is no business before the board, so call and make an appointment with the Code Enforcement Officer. The Zoning Board meets only to decide a variance and they require a \$250 fee with your application.

WHO DO I CONTACT? All inquiries regarding zoning, codes, variances, class A or B projects, subdivisions or building permits should be directed to the Code Enforcement Officer. This person must be involved in ALL decisions, so you should begin there. Remember that an opinion from any member of the Zoning, Planning or Town Boards is not necessarily an opinion of the respective board, which is what counts. You should get the right answer from your Code Enforcement Officer.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

TABLE OF CONTENTS

ARTICLE 1 INTRODUCTORY PROVISIONS

- 1.010 Short Title
- 1.020 General Object and Legal Context
- 1.030 Specific Purposes
- 1.040 Area of Jurisdiction
- 1.050 Application of Regulations
- 1.060 Governing Provisions
- 1.070 Severability
- 1.080 Effective Date

ARTICLE 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

- 2.010 Construction of Language
- 2.020 Definitions

ARTICLE 3 DISTRICT REGULATIONS ON USE AND INTENSITY

- 3.010 Establishment of Districts, Zoning Map
- 3.020 Interpretation of District Boundaries
- 3.030 Establishment of Use Designations
- 3.040 Establishment of Intensity Designations
- 3.050 Intensity Designation: Minimum Lot Size, Split Lot
- 3.060 Use/Intensity Chart

ARTICLE 4 SPECIFIC USE CONTROLS

- 4.010 SR1- Single Family Residence
- 4.020 SR2- Single Family Residence/Mobile Home/Home Occupation
- 4.030 MR1- Multi-Family Residence 1
- 4.040 MR2- Multi-Family Residence 2
- 4.050 TAC- Tourist Accommodation
- 4.060 MHP- Mobile Home Park
- 4.070 Existing MHP- Existing Mobile Home Park
- 4.080 CGD- Campground
- 4.090 CTR- Commercial/Commercial Factory/Manufacturing
- 4.100 EXT- Extraction Industry
- 4.110 RSM- Forestry/Camps/Open Space Recreation
- 4.120 MFG- Manufacturing
- 4.130 EQP- Heavy Equipment Facility
- 4.140 MAR- Marine Base

ARTICLE 5 SHORELINE REGULATIONS

- 5.010 Purpose
- 5.020 Shore Frontage
- 5.030 Building Setback
- 5.040 On Site Disposal System Setback
- 5.050 Removal of Vegetation

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

ARTICLE 6 SIGNS

- 6.010 Advertising Signs
- 6.020 General Signs
- 6.030 Non-complying Signs
- 6.040 Abandoned or Illegal Signs

ARTICLE 7 SANITATION

- 7.010 General
- 7.020 Approval of Plans
- 7.030 Final Inspection
- 7.040 Sewage Disposal System Standard
- 7.050 Operation and Maintenance
- 7.060 Periodic Inspection
- 7.070 Non-Leaching Systems

ARTICLE 8 USES ALLOWABLE BY SPECIAL PERMIT

- 8.010 Purpose
- 8.020 When Permit Required
- 8.030 Approval with Conditions
- 8.040 Application
- 8.050 Required Findings

ARTICLE 9 SUBDIVISION

- 9.010 Permits for Subdivision
- 9.020 Subdivision, Minimum Lot Size and Intensity Designation
- 9.030 Subdivision of Shoreline Land
- 9.040 Site Plan
- 9.050 Protection of Common Open Space
- 9.060 Large Scale Residential Development

ARTICLE 10 NONCONFORMITY, NONCOMPLIANCE

- 10.010 Nonconformity

ARTICLE 11 ADMINISTRATION

- 11.010 Project Permit
- 11.020 Site Inspection
- 11.030 Certificate of Occupancy
- 11.040 Records
- 11.050 Conflict of Interest
- 11.060 Notice of Public Hearing
- 11.070 Fees

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

ARTICLE 12 REGIONAL PROJECTS

- 12.010 General
- 12.020 Requirement of Regional Project Approval
- 12.030 Planning Board Review of Class B Regional Projects
- 12.040 Required Findings for Class B Reg. Project Approval
- 12.050 Application for Class B Regional Project Approval
- 12.060 Hearing and Decision for Class B Regional Projects
- 12.070 Review of Class A Regional Projects (APA)
- 12.080 Planning Board Role in Class A Reg. Project Review
- 12.090 Project Permits for Regional Projects

ARTICLE 13 VARIANCE

- 13.010 General
- 13.020 Application
- 13.030 Required Findings
- 13.040 Hearing and Decision
- 13.050 Grant of Variance

ARTICLE 14 APPEAL FROM RULING OF LAND USE OFFICER

- 14.010 General
- 14.020 Notice of Appeal
- 14.030 Land Use Officer
- 14.040 Hearing and Decision
- 14.050 Stay of Proceedings

ARTICLE 15 AMENDMENT

- 15.010 Initiation
- 15.020 Referrals and Public Hearing
- 15.030 Decision
- 15.040 Protest
- 15.050 Right to Complete Project Inconsistent with Amendment
- 15.060 Conflict of Interest

ARTICLE 16 ENFORCEMENT

- 16.010 Land Use Officer
- 16.020 Complaints of Violations
- 16.030 Penalty
- 16.040 Injunctive Relief
- 16.050 Misrepresentation

ARTICLE 17 SPECIAL DISTRICTS

- 17.010 Special Town Center Development District
- 17.020 Special Scenic Open Space Preservation District
- 17.030 National Flood Insurance Program Areas
- 17.040 Town Scenic Highway District

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

ZONING MAP 1 of 2

ZONING MAP 2 of 2

ADIRONDACK PARK AGENCY LAND USE SUMMARY

APA COMPLETE LIST OF CLASS B PROJECTS

TOWN OF ARIETTA

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 1

INTRODUCTORY PROVISIONS

1.010 Short Title

This ordinance shall be known as the Land Use Ordinance of the Town of Arietta. The Town of Arietta is hereinafter referred to as the "Town".

1.020 General Object and Legal Context

The general object of this ordinance is to establish comprehensive controls for the use and development of land within the Town of Arietta, in order to promote and protect public health, safety and the general welfare.

This ordinance is adopted pursuant to Article 16 of the Town Law. The regulations herein adopted are made in accordance with a comprehensive plan, are designed to serve the purposes set forth in Section 263 of the Town Law and are made with reasonable consideration to the character of each district into which the Town is divided and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town. In addition, this ordinance is adopted pursuant to the Adirondack Park Agency Act and, consistent with the purposes of said act, in order to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park, within which the Town is located.

1.030 Specific Purposes

In addition to the general object and the purposes enumerated in Section 1.020, this ordinance is adopted for the following related and more specific purposes:

- (a) to preserve the essential character of the Town while providing for new development.
- (b) to serve as a component of an approved local land use program under the Adirondack Park Agency Act.
- (c) to recognize the limitations upon development posed by natural conditions such as soils, slopes and hydrology and to limit development to the capability of natural systems to absorb it without adverse environmental impact.
- (d) to enable the sound economic growth of the Town through a commitment both to development and to a preservation of the Adirondack character and natural amenity of the Town, on which development of the Town importantly depends.
- (e) to preserve the visual attractiveness of the Town through the protection of attractive open spaces and scenic vistas, the screening of objectionable views and the control of signs.
- (f) to minimize water pollution.
- (g) to concentrate commercial and community facility development within the Town in one location in the interests of sound locational planning and in order to avoid the visual disruption of scattered or strip development along traditionally forest-lined highways of the Town.
- (h) to promote and enhance property values throughout the Town.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

(i) to provide for the orderly, sanitary and visually satisfactory maintenance and development of mobile home parks within the Town.

(j) to promote sound and economical residential development and to minimize the visual impact thereof through encouraging the clustering of development and the preservation of open space.

(k) to preserve and enhance the unique Adirondack character of the Town by encouraging the preservation of historic buildings and, with respect to new construction, visual compatibility with the natural surroundings.

1.040 Area of Jurisdiction

This ordinance regulates the use of land throughout the Town of Arietta.

1.050 Application of Regulations

After the effective date of this ordinance, in all the districts into which the Town is divided, no project shall be undertaken, and no use shall be maintained, except in accordance with all the applicable provisions of this ordinance.

1.060 Governing Provisions

Where the regulations imposed by any provision of this ordinance are less restrictive than regulations imposed by any other applicable provision of this ordinance, the more restrictive provision shall govern.

1.070 Severability

The provisions of this ordinance are severable. If a court of competent jurisdiction finds any provision of this ordinance to be invalid, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of this ordinance shall continue to be fully and separately effective. If a court of competent jurisdiction finds the application of any provision of this ordinance to any project or use to be invalid, then, to the extent consistent with the decision, the effect of such decision shall be limited to the project or use immediately involved, and the application of any such provision to other projects or uses shall not be affected.

1.080 Effective Date

This ordinance shall take effect 10 days after its publication pursuant to Section 264 of the Town Law, except that it shall take effect as against any landowner upon personal service upon him of a certified copy hereof in accordance with such section.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 2

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

2.010 Construction of Language

The following rules of construction apply to the text of this ordinance:

(a) The particular shall control the general.

(b) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(c) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(d) A "building" or "structure" includes any part thereof.

(e) The word "used," when employed in the phrases "used to," "used for" or "used as" includes the following words when employed in similar phrases: "designed," "intended," "maintained," "occupied".

(f) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either or," the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

3. "Either... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in any combination.

(g) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

2.020 Definitions

When used in this ordinance, the following words shall have the following meanings:

ACCESSORY STRUCTURE: Any structure or portion of a main structure located on the same premises and incidental and subordinate to the main structure or principal use and that customarily accompanies or is associated with such main structure or principal use, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single family dwelling. In no case shall kitchen facilities be allowed in an accessory structure. Plumbing must meet New York State Department of Health requirements. (Amended 12/00)

ACCESSORY USE: Means any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including, in the case of residential structures, professional, commercial and artisan activities carried on by the residents of such structures. (Amended 6/04)

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

ADIRONDACK PARK: Land lying within the area described in subdivision one of Section 9.0101 of the Environmental Conservation Law, including any amendment thereto.

ADIRONDACK PARK AGENCY (APA): the Adirondack Park Agency created by Section 803 of the Adirondack Park Agency Act.

ADIRONDACK PARK AGENCY ACT: Article 27 of the Executive Law, Section 800 et. seq.

ADVERTISING SIGN: See sign, advertising.

BOARD OF APPEALS: The Board of Appeals of the Town, appointed by the Town Board pursuant to Section 267 of the Town Law, having such powers and duties as are set out in the Town Law, in this ordinance and as lawfully may be further provided by the Town Board.

BUILDING: a permanent, fixed structure intended for the shelter, housing, or enclosure of persons, animals or other property.

CAMPGROUND: an area of land used to provide sites for transient occupancy by tents, camp trailers, travel trailers, campers, motor homes or similar equipment or vehicles providing transient shelter.

CLASS A REGIONAL PROJECT: See regional project, Class A.

CLASS B REGIONAL PROJECT: See regional project, Class B.

CLEARCUTTING: the cutting of all or substantially all trees over 6 inches in diameter at breast height over any ten-year cutting cycle.

COMMERCIAL USE: (a) a use principally involving the sale or rental of goods or (b) an eating or drinking place or (c) a business or professional office. The term shall not include intensive outdoor amusement or entertainment facilities such as drive-in movie, amusement park or miniature golf and shall not include a junkyard.

COMMUNITY FACILITY: a school, church, cemetery, hospital, police station, fire station, nursing home, municipal office, family meeting hall, athletic field, park or post office.

COUNTY: Hamilton County

DOCK: Means a floating or fixed structure that (1) extends into or over a lake, pond, or navigable river or stream from only that portion of the immediate shoreline or boathouse necessary to attach the floating or fixed structure to the shoreline or boathouse, (2) is no more than eight feet in width; or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which is no more than eight feet in width; and (3) is built or used for the purposes of securing and/or loading or unloading watercraft and/or for swimming or water recreation. (Amended 6/04)

EXTRACTION INDUSTRY: the extraction for sale or other commercial purposes (e.g. the use by the extractor in a commercial enterprise of his own) of earth, sand, gravel, clay, shale, rock or other natural deposits.

FAMILY: either (a) a single person occupying a dwelling and maintaining a household, or (b) two or more persons related by blood or marriage, occupying a dwelling, living together and maintaining a common household including not more than one boarder, roomer or lodger, or (c) not more than four non-related persons occupying a dwelling, living together and maintaining a common household.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

FORESTRY: the management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of (a) wood roads, skidways, landings, fences and forest drainage systems and (b) sheds, garages, cabins and other structures directly related to and customarily associated with forestry uses.

FREESTANDING SIGN: See sign, freestanding.

GENERAL SIGN: See sign, general.

GENERAL STORE: See store, general.

HEAVY EQUIPMENT FACILITY: a facility for the repair, maintenance and storage of heavy equipment or trucks, including the storage of material, except refuse, hauled or distributed by such trucks.

HIGHWAY, PUBLIC: See public highway.

HOME OCCUPATION: a commercial use or manufacturing conducted entirely within a dwelling or its accessory buildings and carried on only by the inhabitants thereof and not more than one other person, which use is clearly incidental to the use of the dwelling as a place of residence and which occupies no more than 35% of the total floor area of the dwelling and its accessory buildings. A home occupation may, for example, include the office of a physician, dentist, lawyer, engineer, architect or similar professional; a craftsman's, artist's or photographer's studio or shop; a dressmaker's or seamstress' shop; a barber; a beauty shop or a vegetable stand. However, a home occupation shall not include a garage or body shop, commercial stable or kennel, restaurant, tourist home, animal hospital, convalescent home, mortuary or marina.

HUNTING AND FISHING CAMP: a primitive cabin, camp, lean-to or tent platform with a maximum of floor area not to exceed 500 sq. ft. (inclusive of porches and loft areas) designed for occasional and limited occupancy for hunting, fishing, hiking or similar purposes. The structure shall be appropriately screened from state and local highways. This classification is exempt from the concrete vault provisions for privies. Mobile homes and travel trailers are not to be included in this definition. (Amended 12/00)

JUNK VEHICLE: means any unregistered motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, Motor Vehicle, shall mean all vehicles, propelled or drawn by power other than muscular power originally intended for use on public highways.

JUNKYARD: means any open lot or area for dismantling, storage or sale as parts, scrap or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded materials. Unless the junkyard is properly screened with the permit approval of the zoning board, there shall be no junkyards in the Town of Arietta.

JUNKYARD, VEHICLE: means any open lot or area containing two or more junk vehicles (as previously defined).

LAND USE OFFICER: The Land Use Officer of the Town, appointed by the Town Board and principally charged with the administration and enforcement of this ordinance, having the powers and duties set out in this ordinance and others as may be provided by the Town Board.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

LIVESTOCK RAISING: is a conditional use (see definition of use, conditional) in any residential district involving the raising and keeping of farm animals provided that the lot area and connecting buildings are approved by the Zoning Board and reviewed by the Arietta Planning Board.

MANUFACTURING: a use consisting of the fabricating, processing, production or assembly of goods or materials including any on-site waste disposal associated with such use; provided that no such use shall have a significant adverse environmental effect.

MANUFACTURING, SMALL SCALE: manufacturing occupying not more than 800 square feet of floor area.

MARINE BASE: a waterfront commercial facility for the servicing, storage, rental or sale of boats or water-based aircraft.

MOBILE HOME: a portable dwelling unit suitable for long term habitation which is fabricated off-site and designed to be transported to its site or from site to site by wheel and to be installed on or removed from its site with a minimum of effort. A modular home or other dwelling unit that is fabricated off-site in two or more main sections and transported to and permanently assembled on its site is not considered a mobile home.

MULTIFAMILY RESIDENCE: a building, including an apartment house, town house, condominium or conversion of a single family residence, used for residence in separate living quarters with separate cooking facilities by two or more families.

MOBILE HOME PARK: an area of land used to provide sites, generally on a year round basis, for two or more mobile homes used as dwellings, whether occupied as permanent residences or as vacation homes. An area conforming to the definition of, and complying with the regulations governing, a campground shall not be deemed to be a mobile home park.

NONCOMPLYING USE: a use which does not comply with one or more of the regulations of this ordinance, other than a regulation governing the type of use permitted, either on the effective date of this ordinance or as the result of an amendment hereto.

NONCONFORMING USE: a use, lawful when established, whether of a building or other structure or of a tract of land, which is not included among the uses indicated by a use designation applying to the district in which the use is located, or which is not otherwise permitted under this ordinance. A nonconforming use must have been established prior to the effective date of an amendment hereto, which rendered such use nonconforming.

OPEN SPACE RECREATION: a recreation use oriented to, and utilizing, the essentially unimproved forest or open space character of an area, including a snowmobile trail, jeep or all-terrain vehicle trail or cross-country skiing, hiking or backpacking trail, or isolated and primitive camping facility or accommodation for fishing, trapping or hunting.

PERSON: any individual, corporation, partnership, association, trustee or any other legal entity.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

PLANNING BOARD: the Planning Board of the Town, appointed by the Town Board pursuant to Section 271 of the Town Law, having such powers and duties as, in conformance with the Town Law and the Adirondack Park Agency Act, are set out in this ordinance and as may be further provided by the Town Board.

PRINCIPAL BUILDING: means anyone of the following:

- a. a single family dwelling constitutes one principal building;
- b. a tourist cabin or similar structure for rent or hire involving three hundred square feet or more of floor space constitutes one principal building;
- c. a mobile home constitutes one principal building;
- d. each dwelling unit of a multiple family dwelling constitutes one principal building;
- e. each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than three hundred square feet of floor space, constitutes one-tenth of a principal building;
- f. each commercial use structure and each industrial use structure in excess of three hundred square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structures constitutes one principal building;
- g. all agricultural use structures and single family dwelling or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building;
- h. any other structure which exceeds twelve hundred fifty square feet of floor space constitutes one principal building;
- i. a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

PROJECT: the construction, enlargement or change of use of any structure; the installation on a lot of a single mobile home; undertaking or expansion of a subdivision by size or the number of lots; the commencement or expansion of any land use or development, not including the cutting of timber, except clear cutting; the establishment of a well; any extraction industry; the alteration and/or filling of a wetland; the dumping or discharging on any land or in any water body or water course of any soil, waste, sewage, effluent, or any garbage; the undertaking of a Class A or Class B regional project. The term shall not apply to any structure as to

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

PROJECT: (continued)

which foundations have been completed prior to the effective date of this ordinance or to a subdivision other than a mobile home park as to which a plat was filed and State Department of Health approval obtained prior to the effective date of this ordinance. The term does not include the erection or maintenance of a sign. (Amended 10/00)

PUBLIC HIGHWAY: an improved (graded, graveled or paved) highway, street or road maintained by the State, County or Town.

REGIONAL PROJECT: a Class A or Class B Regional Project, as defined in Section 810 of the Adirondack Park Agency Act and in the Rules and Regulations of the Adirondack Park Agency.

REGIONAL PROJECT, CLASS A: a Class A regional project as defined in Section 810 of the Adirondack Park Agency Act and in the Rules and Regulations of the Adirondack Park Agency.

REGIONAL PROJECT, CLASS B: a Class B regional project as defined in Section 810 of the Adirondack Park Agency Act and in the Rules and Regulations of the Adirondack Park Agency.

RESIDENCE, SINGLE FAMILY: see Single family residence.

RESIDENCE, MULTIFAMILY: see Multifamily residence.

ROAD BED: the trafficked or trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends furthest. Where there is no shoulder or guardrail, there shall be deemed to be a shoulder extending four feet from the outer edge of the pavement or unpaved traffic lanes.

SANITARY LANDFILL: a sanitary landfill meeting the requirements of the State Department of Health.

SHORE FRONTAGE: continuous land along a shoreline, having a length measured by straight line distances following the general contour of the shoreline.

SHORELINE: Means that line at which land adjoins the waters of lakes, ponds, rivers and streams within the Adirondack Park at mean high water. (Amended 6/04)

SHORELINE LOT: a lot including or wholly or partially bounded by shoreline.

SIGN: any writing (including letter, word or numeral), pictorial representation (including illustration or decoration), emblem (including device, symbol or trademark), flag (including banner and pennant), statue or three dimensional figure, symbolic or representational building or any other figure of similar character which:

- a. is a structure or any part thereof or is attached to, painted on, or in any other manner is represented on a building or other structure and;
- b. is used to announce, direct attention to or advertise and;
- c. is visible from a public highway or a water body or water course trafficked by the public.

The term sign shall not include:

- a. signs of a duly constituted governmental body, including traffic or similar regulatory devices, street identification signs and legal notices;
- b. flags or emblems of a political, civic, philanthropic,

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

SIGN: (continued)

- educational or religious organization;
- c. temporary signs, banners or posters relating to a political campaign, or a fund drive, parade, fair, firemen's field day or other civic or public event or undertaking conducted by a political, civic, philanthropic, educational or religious organization;
 - d. signs specified or required to be maintained by law or governmental order, rule or regulation.

SIGN, ADVERTISING: a sign which directs attention to a business, profession, commodity, service or entertainment.

SIGN, FREESTANDING: a sign which stands without support of any building or other structure whose primary purpose is other than to support the sign.

SIGN, GENERAL: a sign which is not an advertising sign.

SINGLE FAMILY RESIDENCE: A detached building, not including a mobile home, used as the living quarters for one family. The term shall include a seasonal cottage.

SMALL SCALE MANUFACTURING: see manufacturing, small scale.

STATE: the State of New York.

STORE, GENERAL: a retail facility carrying food and convenience merchandise with a floor area not exceeding 1500 square feet and may include boat rental.

STRUCTURE: Means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto. (Amended 6/04)

SUBDIVISION: any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or any other substantial site work preparatory or incidental to any such division). The term specifically shall include the development or expansion of a mobile home park, campground or a tourist accommodation or a multifamily residence project involving two or more principal buildings. The term shall not include the lease or license of land for hunting and fishing or other open space recreation.

TEMPORARY STRUCTURE: Means any structure that (i) is not permanent by nature (tents, portable carports, etc.), (ii) is limited to 300 square feet in size, (iii) is not in place for more than eight consecutive months nor more than eight months in any twelve month period, (iv) is of a color that blends with the surrounding area, (v) does not involve any excavation, grading, piping or foundation construction as part of its placement and (vi) complies with setback requirements. (Amended 6/04)

TOURIST ACCOMMODATION: any hotel, motel, resort, tourist cabin or similar transient facility used to house the general public, including an accessory restaurant.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

2.020 Definitions (continued)

USE: a) any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied or

- b) any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land or
- c) the improvements, including buildings or other structures, associated with a use.

USE, CONDITIONAL: is a use or lot size which, because of public convenience and necessity and its effects upon the neighborhood, shall be permitted only upon the approval of the Zoning Board of Appeals after due notice and public hearing, and a finding that it will not be detrimental to the general land use plan or to adjacent surrounding property. Also required is a review and recommendation by the Arietta Planning Board.

WETLAND: any land, which is subject to continual or periodic inundation by water and commonly referred to as a bog, swamp or marsh.

ZONING LOT: either a) a lot of record or

- b) two or more contiguous lots of record in single ownership. In computing the area of a zoning lot, the area shall be taken from the deed.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76
ARTICLE 3

DISTRICT REGULATIONS ON USE AND INTENSITY

3.010 Establishment of Districts, Zoning Map

The Town is hereby divided into numbered districts identified and bounded as shown on the maps collectively entitled "Zoning Map of the Town of Arietta," and hereinafter collectively referred to as the "Zoning Map". The Zoning Map, which shall be dated the date hereof, is hereby incorporated into the provisions of this ordinance and, with all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein. The Zoning Map shall be kept on file in the office of the Town Clerk and currently accurate copies thereof, bearing the date of the most recent amendment, shall be kept in the office of the Land Use Officer. Amendments to the Zoning Map, together with the effective date thereof, shall be permanently inscribed on, or affixed to, the Zoning Map by the Town Clerk promptly upon adoption. Should the Zoning Map become damaged, destroyed, lost or difficult to interpret because of the changes and additions, the Town Board may by resolution restate the Zoning Map as amended on the date of such resolution, which restated Zoning Map shall thereafter constitute the Zoning Map. The restated Zoning Map shall bear a statement which explains that it supersedes the prior Zoning Map and gives the dates of adoption of both the prior Zoning Map and the restated Zoning Map. The available records of the adoption and amendment of the prior Zoning Map shall be preserved.

3.020 Interpretation of District Boundaries

Where the location of the Boundaries of a district is unclear, the following rules shall apply:

a) Where the indicated district boundaries approximately follow the center lines of streets or highways, street lines, or highway right-of-way lines, then such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

b) Where the indicated district boundaries approximately follow lot lines, then such lot lines shall be construed to be said boundaries.

c) Where the indicated boundary of a district approximately follows a stream, then said boundary line shall be deemed to be the center line of such stream.

d) Where the indicated district boundaries approximately follow shorelines, then such boundary shall be construed as following shorelines; and in the event of change in the shoreline such boundary shall be construed as moving with the actual shoreline.

e) In unsubdivided land where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the Zoning Map, shall be determined by the use of the scale appearing thereon.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

3.030 Establishment of Use Designations

Use designations, and the uses to which they refer, are hereby established as set out below. Each use designation is a summary term or abbreviation referring to a use or group of uses which is permitted or is allowable by special permit in districts within the Town. Beside each use designation below appears the use or uses to which the designation refers. The use or uses referred to by each use designation are subject to specific controls set out in particular sections of Article 4. The section(s) of Article 4 applying to each use of a particular use designation appear(s) beside each use designation and associated use or uses.

<u>Use Designation</u>	<u>Use</u>	<u>Section Containing Applicable Specific Controls</u>
SR 1	Single Family Residence Accessory Use	4.010
SR 2	Single Family Residence Mobile Home Home Occupation Accessory Use	4.020
MR 1	Multifamily Residence Accessory Use	4.030
MR 2	Multifamily Residence Accessory Use	4.040
TAC	Tourist Accommodation	4.050
MHP	Mobile Home Park Accessory Use	4.060, 4.070
CGD	Campground	4.080
CTR	Commercial, Community Facility Small-scale Manufacturing	4.090
EXT	Extraction Industry	4.100
RSM	Resource Management Forestry Hunting and Fishing Camp Open Space Recreation	4.110
MFG	Manufacturing	4.120
SAN	Sanitary Landfill	
EQP	Heavy Equipment Facility	4.130
AIR	Airport	
CEM	Cemetery	
MAR	Marine Base	4.140
SP	Special Permit	8.010
STR	General Store	9.066
SD	Special District	17.010

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

3.040 Establishment of Intensity Designations

Intensity designations and the intensities of development to which they refer are hereby established as set out below. Each intensity designation is a number referring to a given intensity of development expressed in acres per dwelling unit which attaches to permitted uses or uses allowable by special permit in districts within the Town. For purposes of calculating intensity, a single family residence, one unit of a multifamily residence, a mobile home (whether located in a mobile home park or not), a commercial use structure in excess of 300 square feet and a tourist accommodation unit are each valued as one dwelling unit, except that a tourist accommodation unit of less than 300 square feet of floor area is valued at one-tenth of a dwelling unit.

<u>Intensity</u>	<u>Intensity In Acres/Dwelling Unit</u>
1	42.0
2	8.0
3	3.0
4	1.3
5	.5

3.050 Intensity Designation: Minimum Lot Size, Split Lot

An intensity designation refers to a mandatory average gross lot size over the whole or a portion of a project. That mandatory average is the minimum gross lot size only when all the lots in a project are to comprise the whole of a project and be of equal size, or when the project involves but one lot. However, where a vacant lot on record on June 1, 1974 is smaller than the mandatory average, then a permitted use, or, upon permit, a use allowable by special permit involving not more than one principal building may nonetheless be developed on such lot, subject to compliance with all other applicable requirements. In a case where a project lies in two or more districts with differing intensity designations, each portion of the project shall be treated separately for intensity purposes.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

3.060 Use/Intensity Chart

The chart below sets out the uses and, where appropriate, the associated intensities of uses which are permitted or allowable by special permit in each of the districts within the Town. Opposite each district appears one or more use/intensity designations, each consisting of a use designation and, where appropriate, an intensity designation, the two being separated by a slash (/). In the case of uses allowable by special permit, the notation (SP) is added to the use/intensity designation. In the case of districts which are designated as Special Districts in connection with Article 17, the designation "SD#" is added. The number component of the designation refers to the section of Article 17 pertaining to the appropriate Special District. *(revised 2/5/2007)*

<u>District</u>	<u>Use/Intensity Designation</u>	<u>District</u>	<u>Use/Intensity Designation</u>
1	SR 2/4 MR 2/5 (SP) TAC/4	35A	SR 2/5
2	SR 2/5 MR 2/5 TAC/4	36	RSM (SD)
3	RSM	37	AIR
4	SR 2/4 MR 2/5 (SP)	38	SR 2/5 MHP EXT
5	SR 2/4 MR 2/5 (SP) TAC/4	39	STR SR 2/4
6	SR 2/4 MR 2/5 (SP)	40	SR 2/4
7	RSM	41	SR 2/4
8	CTR MR 2/5 (SP) SD 1	42	SR 2/4
9	CTR SD 1	43	RSM
10	CTR MR 2/5 (SP) SD 1	44	SR 2/5 EXT
11	CTR SD 1	45	SR 2/5 TAC/4
12	CTR MR 2/5 SD 1	46	SR 2/5
13	SD 1 MR 2/4 TAC/4	47	SR 2/2 RSM
14	SR 2/3 MR 2/5 (SP) RSM	48	RSM
15	SR 1/4 MAR	49	SR 1/4 CGD
16	RSM	50	SR 1/4 MR 1/4 TAC/4 CGD
17	SR 1/4	51	CGD
18	RSM	52	SR 1/4
19	SR 2/5	53	SR 1/4
20	RSM	53A	STR SR 1/4
21	SR 1/4	54	SR 1/1 RSM
22	SR 1/4 MR 1/4 TAC/4	54A	SR 1/4 CGD TAC/4
23	SR 2/5	54B	SR 1/2 RSM
24	SR 2/5	55	SR 1/4
25	SR 1/4 MR 1/4 TAC/4	56	STR TAC (SP) MHP (SP) MAR
26	SR 2/5 SD 2	57	RSM
27	SR 1/4 MR 1/4 TAC/4 MHP	58	SR 1/3 EXT RSM
28	SR 1/5 MR 1/4 (SP)	59	SR 1/3
29	SR 2/4 MR 2/5 (SP)	60	SR 1/4 MR 1/4 (SP) TAC/4 (SP) MHP CGD (SP)
30	SR 2/4 MR 2/5 (SP)	61	RSM
31	RSM	62	SR 1/4 TAC 3 (SP) RSM(10/00)
32	SR 2/4	63	RSM
33	RSM	64	SR 1/4 MR 1/4
34	EXT	65	SR 1/4 MR 1/4
35	SR 1/4	66	SR 1/4 MR 1/4 (SP)

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

<u>District</u>	<u>Use/Intensity Designation</u>	<u>District</u>	<u>Use/Intensity Designation</u>
		98	SR 1/4
		99	SR 1/4
67	SR 1/3 MR 1/3 (SP)	100	SR1/2MR1/4 (SP) TAC/4 (SP) RSM
68	RSM	101	RSM
69	SR 1/1 CGD (SP) RSM	102	SR 1/3 RSM
70	SR 1/2 CGD (SP) RSM	103	SR 1/4 RSM
71	SR 1/2 CGD (SP) RSM	104	RSM
72	SR 1/4	105	SR 1/3 MR 1/3 (SP) CGD RSM
73	SR 1/3 RSM	106	RSM
74	SR 1/3 RSM	107	SR 1/3 MR 1/4 (SP) CGD RSM
75	SR 1/2 RSM	108	RSM
76	RSM	109	SR 1/1 RSM
77	SR 1/3 MR 1/4 (SP) RSM	110	SR 1/1 RSM
78	SR 1/3	111	SR 2/2 SR 1/2 TAC/2 RSM
79	SR 2/3	112	SR2/4 SR1/4MR1/4 (SP) TAC/4
80	SR 1/4 MR 1/4	113	SR 1/1 RSM
81	SR 1/1 RSM	114	SR 1/1 RSM
82	SR 1/3 MR 1/4 (SP) RSM	115	SR 1/1 RSM
83	SR 1/3 MHP RSM	116	SR 2/2 SR 1/2 TAC/2 RSM
84	SR 1/4 MR 1/4 MHP	117	SR 2/4 SR 1/4 MR 1/4 (SP)
85	SR 1/3 MHP RSM		TAC/4 EXT
86	CEM	118	SR 2/2 SR 1/2 TAC/2 RSM
87	SR 1/4 MR 1/4	118A	SR 2/2 SR 1/2 MR 2/2
88	SR 1/3 RSM SD 2		MR 1/2 TAC/2 RSM
89	SR 2/3	119	RSM
90	SR 1/4	120	RSM
91	RSM	121	SR 1/2 RSM
92	SR 2/3 RSM	122	SR 2/4 SR 1/4 TAC/4
93	SR 1/4 MR 1/4 TAC/4		MHP (SP)
94	SR 1/4 MR 1/4 TAC/4 SD 2	123	MFG RSM
95	SR 1/4	124	SR 2/4 SR 1/4 TAC/4
96	SR 1/4 MR 1/4 MHP	125	RSM
97	STR SR 1/4	126	RSM (Raquette Lake area)
		127	SR1/3(Piseco Lake Islands)

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

ARTICLE 4

SPECIFIC USE CONTROLS

Uses included within the following use designations shall be governed by the following regulations.

4.010 SR 1 SINGLE FAMILY RESIDENCE

4.011 Lot Size

There shall be a minimum zoning lot size of 55,000 square feet. Provided, however, that such minimum shall not apply to any lot smaller than such minimum which was on record June 1, 1974.

4.012 Setback from Lot Line

No building shall be closer than 15 feet from the line.

4.013 Separation Between Buildings

Within a single lot, no principal building shall be closer than 30 feet to any other principal building.

4.014 Setback from Road

A building shall at a minimum be set back 75 feet from near edge of the pavement of a state highway and 50 feet from near edge of the pavement of a public highway other than a state highway, provided that no building shall be within a public highway right of way.

4.015 Facade

Each building shall be encouraged to have a facade painted in white or painted or stained in a shade of brown, gray, green, dark barn red or a subdued natural shade or covered with native stone. Unpainted aluminum roofing shall be discouraged.

4.016 Screening

Each building visible from a public highway shall be attractively landscaped in relation to such highway or substantially screened from such highway. Such landscaping or screening shall be by preservation of natural cover or planting of native species of vegetation.

4.017 Parking

There shall be off street parking convenient to each dwelling unit at a rate of two or more spaces per dwelling unit.

4.018 Access

Each building shall have access to a public highway sufficient to comply with Section 280-a of the Town Law.

4.019 Floor Area

Each single family residence shall have a minimum ground floor area of 350 square feet.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

4.020 SR 2 SINGLE FAMILY RESIDENCE/MOBILE HOME/HOME OCCUPATION

4.021 Lot Size

There shall be a minimum zoning lot size of 20,000 square feet. Provided, however, that such minimum shall not apply to any lot smaller than such minimum which was on record on June 1, 1974.

4.022 Setback from Lot Line

No building or mobile home shall be closer than 15 feet to any lot line.

4.023 Separation Between Buildings

Within a single lot no principal building shall be within 30 feet of any other principal building.

4.024 Setback from Road

Every building or mobile home shall be at a minimum set back of 75 feet from the near edge of the pavement of a state highway and 50 feet from the near edge of the pavement of a public highway other than a state highway, provided that no building shall be within a public highway.

4.025 Parking

There shall be off street parking convenient to each dwelling unit at the rate of two or more spaces per dwelling unit.

4.026 Mobile Home

A mobile home shall be mounted either on a permanent masonry-wall foundation or on permanent piers, in which case the mobile home shall be fully and attractively skirted. On each lot on which a mobile home is installed there shall be one or more accessory buildings adequate to store the miscellaneous equipment and belongings of the family living in the mobile home. A mobile home visible from a public highway shall be attractively landscaped in relation to such highway and shall be substantially screened from such highway during all seasons of the year. Such landscaping and screening shall be by preservation of natural cover or by planting of native species of vegetation.

4.027 Access

Each building or mobile home shall have access to public highway sufficient to comply with Section 280-a of the Town Law.

4.028 Floor Area

Each principal building or mobile home shall have a minimum ground floor area of 350 square feet.

4.030 MR 1 MULTI-FAMILY RESIDENCE 1

4.031 Setback from Lot Line

No building shall be closer than 15 feet to any lot line.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

4.032 Separation Between Buildings

Within a single lot no principal building shall be closer than 30 feet to any other principal building.

4.033 Access

Each building shall have access to a public highway sufficient to comply with Section 280-a of the Town Law.

4.034 Setback from Road

Each building shall at a minimum be set back 75 feet from the near edge of the pavement of a state highway and 50 feet from the near edge of the pavement of a public highway other than a state highway, provided that no building shall be within a public highway right of way.

4.035 Facade

Each building shall be encouraged to have a facade painted in white or painted or stained in a shade of brown, gray, green, dark barn red or a subdued natural shade or covered with native stone. Unpainted aluminum roofing shall be discouraged.

4.036 Building Height

No building shall be of a height above natural grade greater than 30 feet, excluding cupolas, chimneys or other projections above the roof line.

4.037 Screening

Each building and all parking shall be substantially screened from any public highway by preservation of natural cover or by planting of native species of vegetation.

4.038 Parking

There shall be graveled or paved off-street parking convenient to each building at the rate of not less than one and one-half spaces per dwelling unit, such parking to be located on not more than two sides of a building.

4.039 Open Space

Each project shall have not less than 30% of the site in common open space of such a character as to be attractive and useful for active or passive recreation or as to provide a significant visual amenity. Such space shall not be used for parking or other service uses.

4.040 MR 2 MULTI-FAMILY RESIDENCE 2

4.041 Setback from Lot Line

No building shall be closer than 15 feet to any lot line.

4.042 Separation Between Buildings

Within a single lot, no principal building shall be closer than 30 feet to any other principal building.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

4.043 Access

Each building shall have access to a public highway sufficient to comply with Section 280-a of the Town Law.

4.044 Setback from Road

Every building shall at a minimum be set back 75 feet from the near edge of the pavement of a state highway and 50 feet from the near edge of the pavement of a public highway other than a state highway, provided that no building shall be within a public highway right of way.

4.045 Building Height

No building shall be of a height above natural grade greater than 30 feet, excluding cupolas, chimneys or other projections above the roof line.

4.046 Screening

Each building and all parking shall be substantially screened from any public highway by preservation of natural cover or by planting of native species of vegetation.

4.047 Parking

There shall be graveled or paved off street parking convenient to each building at the rate of not less than one and one-half spaces per dwelling unit in such building.

4.050 TAC TOURIST ACCOMMODATION

4.051 Setback from Lot Line

No building shall be closer than 25 feet to any lot line.

4.052 Separation Between Buildings

Within a single lot no principal building shall be closer than 30 feet to any other principal building.

4.053 Setback From Road

Each building shall at a minimum be set back 50 feet from the near edge of the pavement of a public highway, provided that no building shall be within a public highway right of way.

4.054 Building Height

No building shall be of a height above natural grade greater than 30 feet, excluding cupolas, chimneys or other projections above the roof line.

4.055 Parking

There shall be graveled or paved off street parking convenient to each building at a rate of one space per unit.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

4.056 Facade

Each building shall be encouraged to have a facade painted in white or painted or stained in a shade of brown, gray, green, dark barn red or a subdued natural shade or covered with native stone. Unpainted aluminum roofing shall be discouraged.

4.057 Screening

Each building and all parking shall be attractively landscaped in relation to or substantially screened from any public highway by retention of natural cover or planting of native species of vegetation.

4.060 MHP MOBILE HOME PARK

4.061 Components

A mobile home park shall consist of and be divided into:

- (a) designated mobile home sites,
- (b) common service areas, including streets, common parking spaces and service buildings and facilities and
- (c) common open space, including usable common open space.

4.062 Mobile Home Sites

Each mobile home within a mobile home park shall be installed on a mobile home site suitable for one mobile home. Each mobile home site shall have a total area of not less than 5,000 square feet, with a minimum dimension of 50 feet, shall be arranged such that no mobile home shall be closer than

- (a) 25 feet in any direction from another mobile home
- (b) 75 feet from the near edge of the pavement of a public highway or 100 feet from any shoreline,
- (c) 20 feet from the centerline of any street within the mobile home park,
- (d) 15 feet from any lot line.

In computing such distances, only the livable portion of the mobile home (the trailer proper, together with any porches or other added elements) shall be counted. The hitching apparatus shall not be counted.

4.063 Mobile Home Additions

The square footage of any addition shall not exceed the square footage of the mobile home to which it is attached. The total area of the mobile home and addition shall not exceed 1,000 square feet, unless located on a designated site of no less than 10,000 square feet. Additions shall not exceed 240 square feet for an enclosed room and 240 square feet of roofed porch. A roofed porch shall not be screened or enclosed. Any such addition shall not include a bathroom, kitchen or bedroom. All roofed additions shall be freestanding from the mobile home so that the mobile home can be easily moved. No additions shall exceed one story in height.

(Amended 10/00)

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

4.064 Parking

A mobile home park shall include designated off-street parking at the rate of one space per site located on such site and not less than one-half space per site located in common parking areas convenient to the served sites. Each parking space shall have a minimum dimension of 8 x 20 feet.

4.065 Open Space

A mobile home park shall include usable common open space in an amount not less than 2,000 square feet per mobile home site. Such usable common open space may be in one or more locations, but the number of locations shall not exceed one for each five mobile home sites. All usable common open space shall be accessible from all mobile home sites and shall be of such a character as to be attractive and useful for active or passive recreation. Not more than 20% of such open space shall be within 100 feet of a public highway. Streets or common parking area within a mobile home park shall not be counted as usable common open space.

4.066 Mobile Home Stand

Each mobile home site shall have an improved mobile home stand of sufficient size to fit the dimensions of the anticipated mobile homes and their appurtenant structures or appendages. The stand shall be constructed of an appropriate material, which is durable and adequate for the stable support of the maximum anticipated loads. The stand shall be suitably graded to permit rapid surface drainage.

4.067 Access and Circulation

- (a) Each mobile home park shall have graveled or paved access from a public highway.
- (b) Where a mobile home park has more than 20 mobile homes, two points of entry and exit shall be provided where possible, but in no instance shall the number of entry and exit points exceed 4. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize obstruction of traffic flow on the adjacent public highway. All entrances and exits shall be at right angles to the adjacent public highway. All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.
- (c) Each mobile home park shall have graveled or paved streets to provide for the convenient access to all mobile home sites and other important facilities within the park. The street system shall be so designed to permit safe and convenient vehicular circulation within the park. Streets shall be adapted to the topography and shall have suitable alignments and gradient for traffic safety. All streets shall intersect at right angles. All streets shall have the following minimum widths:
 - One-way traffic movement - 12 feet
 - Two-way traffic movement - 20 feet
- (d) A driveway shall be provided for each mobile home site.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

4.068 Utilities and Service Facilities

The following utilities and service facilities shall be provided in each mobile home park, which shall be in accordance with all applicable requirements of the Town, County and the State Departments of Health and Environmental Conservation:

- (a) Each mobile home site shall be provided with water.
- (b) Each mobile home site shall be provided with a sewer, which shall receive all liquid waste from the mobile home on the site. The sewer shall be connected to a sewage disposal system meeting the standards of Article 7 hereof.

4.069 Landscaping and screening

- (a) Field grass or native ground cover shall be provided or retained on those areas not used for the placement of mobile homes and other buildings, walkways, roads, and parking areas.
- (b) Landscaping, by preservation of existing ground cover or by planting of native species of vegetation shall be provided to ameliorate or screen objectionable views of and within the park during all seasons of the year. Facilities within the park which shall be screened include laundry facilities, parking and garbage storage and collection areas. In addition, the park itself shall be substantially screened with native vegetation during all seasons of the year from any public highway or body of water or water course regularly trafficked by the public or adjacent property zoned for residential purposes.

4.070 MHP EXISTING MOBILE HOME PARK

4.071 Certificate of Occupancy

After the date 6 months following the effective date of this ordinance, no mobile home park in existence on the effective date of this ordinance shall be operated except pursuant to a certificate of occupancy or temporary certificate of occupancy issued by the Land Use Officer. On or before the date 3 months after the effective date of this ordinance, the operator of a mobile home park who desires to continue operation shall file with the Land Use Officer an application for a certificate of occupancy.

4.072 Application

Such application shall use forms provided by the Land Use Officer and shall be filed in duplicate. An application shall include maps and shall contain such information as is required by the Planning Board to make the findings provided for in this section. Specifically, the application shall provide the following information:

- (a) The name and address of the applicant.
- (b) The location and description of the mobile home park, including information on the character of the site, including elevation and slope, soils, vegetation, water table and the character and approximate dimensions and location of all improvements to and installations on the park site, including vacant and occupied mobile home sites, which shall be identified by number, and roads, usable open space, parking and other facilities.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

- (c) A detailed description of the sanitary sewage treatment system employed, including size, character and condition of facilities, date of installation, and a statement of any action taken or advice given by Town, County, State health officials with respect to such system.
- (d) A detailed description of the water supply system employed.

4.073 Planning Board Review, Schedule for Compliance, Certificate of Occupancy

The application shall be reviewed by the Planning Board, in consultation with the Land Use Officer. If under a proper application, the Planning Board finds that the mobile home park is in compliance with all the applicable provisions of this ordinance, including section 4.060 and Article 7 (relating to sanitation) and all other applicable Town laws and regulations, then the Land Use Officer shall issue a Certificate of Occupancy.

If the Planning Board finds that the mobile home park is not so in compliance, then the applicant must propose to the Planning Board a program for the achievement of such compliance within a reasonable period after the effective date of this ordinance. Such program shall include a set of plans for the mobile home park when in compliance specifying a phased schedule of the steps to be taken for the achievement of compliance and the date by which each of such steps shall be taken. Such schedule shall set out a general course leading to full compliance within a reasonable period of time (not more than 96 months) after the effective date of this ordinance.

If the Planning Board finds that the proposed program meets the requirements of this subsection, then the Land Use Officer shall issue to the applicant a one year temporary Certificate of Occupancy. Such temporary Certificate of Occupancy shall, upon application, be renewed annually for a one year period, provided that, each year the Planning Board finds that the applicant is meeting the schedule for compliance. No temporary Certificate of Occupancy for a mobile home park shall be effective after the expiration of the period specified in the original application for temporary Certificate of Occupancy. A temporary Certificate of Occupancy is not transferable. When upon application, the Planning Board shall find that a mobile home park is in compliance with all the applicable provisions of this ordinance and all other applicable town laws and regulations, the Land Use Officer shall issue a Certificate of Occupancy.

When, upon application, the Planning Board shall find that a mobile home park is not in compliance with all the applicable provisions of this ordinance and all other applicable town laws and regulations, the land use officer shall issue a Certificate of Occupancy only after a finding of specific unnecessary hardship to the applicant to be determined by the Planning Board as provided in Section 13.032 of this ordinance.

The Certificate of Occupancy issued pursuant to this section for a mobile home park not in compliance with all applicable provisions under this ordinance and all other town laws, must be renewed upon

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

the death of the owner or transfer of ownership of the property for which such certificate is issued. Any renewal or re-issuance of Certificate of Occupancy shall be made only after a finding of specific unnecessary hardship as provided in the preceding paragraph. The new owner shall be required to bring the mobile home park to a state which is more in compliance with this law and other applicable town laws in order to obtain a renewal certificate. The intention herein being to ultimately have all mobile home parks in compliance with this law, however, the intent is also not to penalize unnecessarily the existing owners.

Mobile homes or trailers in a mobile home park, not in compliance with this ordinance which are removed or destroyed by fire or other casualty may not be replaced unless such mobile home site is brought into full compliance with all applicable provisions of this town ordinance and other town laws together with the approval of the Board of Appeals.

4.080 CGD CAMPGROUND

4.081 Components

A campground shall consist of and be divided into

- (a) designated camping sites,
- (b) common service areas and
- (c) common open space, including usable common open space.

4.082 Density

The overall density of a campground shall not exceed one camping site per 5,000 sq. ft. of gross area of the campground.

4.083 Camping Sites

Each camping site shall have total area of not less than 2,500 square feet with a minimum dimension of 35 feet. No camping site shall accommodate more than one self-propelled four-wheeled vehicle. No camping site shall be located closer than 100 feet from the near edge of the road bed of a public highway or from any shoreline or closer than 15 feet from any lot line.

4.084 Open Space

A campground shall include usable common open space in an amount not less than 1,000 square feet per camping site. Such usable common open space may be in one or more locations, but the number of locations shall not exceed one for each 10 camping sites. All usable common open space shall be accessible from all camping sites and shall be of such a character as to be attractive and useful for active or passive recreation. No more than 40% of such open space shall be within 100 feet of the near edge of the road bed of a public highway. Streets within the campground shall not be counted as usable open space.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

4.085 Camping Sites

Each camping site shall have a level, well-drained cleared area which will provide for the practical placement on and removal from the site of a standard size passenger automobile and travel trailer or tent.

4.086 Utilities and Service Facilities

- (a) A campground shall be provided with cold water taps at the rate of not less than 1 tap per 10 camping sites, each tap located conveniently to the served sites. The waste from such taps shall be emptied into an appropriate disposal system, such as a dry well.
- (b) Toilet facilities for males and females shall be provided not nearer than 50 feet nor further than 200 feet from any camping site.
- (c) Waste from all buildings and campsites shall be discharged into a sewage disposal system meeting the standards of Article 7 hereof.

4.087 Access and Circulation Plan

- (a) Each campground shall have graveled or paved access to a public highway.
- (b) Where a campground has more than 30 camping sites, 2 points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed 4. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the campground, and to minimize interference with the free movement or traffic on the adjacent public highway. All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with travel trailers attached.
- (c) Each campground shall have graveled or paved streets to provide for the convenient access to all camping sites and other facilities within the campground. The street system shall be so designed to permit safe and convenient vehicular circulation within the campground. Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety. All streets shall intersect at right angles. All streets shall have the following minimum widths:
 - one-way traffic movement -12 feet
 - two-way traffic movement -20 feet

4.088 Landscaping and Screening

- (a) Field grass or other native ground cover shall be provided or retained on those areas not used for camping sites and other buildings, walkways, roads and parking areas.
- (b) Landscaping, by preservation of existing vegetation or by planting of native species of vegetation shall be provided to ameliorate or screen objectionable views of and within the campground at all seasons of the year. Views which shall be

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

screened include sanitary facilities and garbage storage and collection areas. In addition, the campground itself shall be substantially screened with native vegetation at all seasons of the year from any public or highway or water body or water course regularly trafficked by the public or adjacent property zoned for residential purposes.

4.089 Length of Occupancy

No person, travel trailer, camper, motor home or other similar vehicle or equipment shall occupy a site or a succession of sites within a campground for a period or periods aggregating more than 240 days within any calendar year.

4.090 CTR COMMERCIAL / COMMERCIAL FACTORY / MANUFACTURING

4.091 Setback

No building shall be closer than 25 feet to any lot line or closer than 75 feet to the near edge of the pavement of any public highway, provided that no building shall be within a public highway right of way.

4.092 Landscaping

The periphery of any building visible from a public highway shall be attractively landscaped with native species of vegetation with respect to such highway.

4.093 Facade

Each building shall be encouraged to have a facade painted in white or painted or stained in a shade of brown, gray, green, dark barn red or a subdued natural shade or covered with native stone. Unpainted, aluminum roofing shall be discouraged.

4.094 Roof

Each building, except a building with a roof span exceeding 50 feet shall have a ridged or shed roof or some combination of the above types.

4.095 Parking

Graveled or paved off street parking shall be provided on each lot at the rate of one space for every 150 square feet of floor area of building developed on such lot.

4.100 EXT EXTRACTION INDUSTRY

4.101 Setback and Screening

No extraction industry use, including excavation and stockpiling but excluding any means of access thereto, shall be conducted closer than 50 feet from any property line, nor closer than 100 feet from any public highway or water body or water course regularly trafficked by the public. Any excavation or stockpiling shall be substantially screened from adjacent property used for residential purposes, any public highway or any water body or water course regularly trafficked

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

by the public by preservation of existing natural cover or planting of native species of vegetation.

4.102 Pollution

No extraction industry use shall pollute or otherwise disrupt any natural water body or water course. No excavation or stockpile shall be within 150 feet of any natural body or water course.

4.103 Slope Stabilization

Refer to DEC Reclamation Plan (MLRL) NYS Mined Land Reclamation Law effective April 1, 1975. Exemption for less than 1,000 yards for commercial operations, provided, however, that any extraction from the land of more than 50 cubic yards in any two-year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality shall be a regional project, subject to review by the Town or the Adirondack Park Agency. (Amended 12/02)

4.104 Restoration

Refer to DEC Reclamation Plan (MLRL). Exemption for less than 1,000 yards for commercial operations, provided, however, that any extraction from the land of more than 50 cubic yards in any two-year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality shall be a regional project, subject to review by the Town or the Adirondack Park Agency. (Amended 12/02)

4.110 RSM FORESTRY / CAMPS / OPEN SPACE RECREATION

4.111 Cutting Practices

Within 100 feet of any public highway, not more than 50% of the greatest number of trees in excess of six inches in diameter at breast height existing during the 10 year period beginning with the effective date of this ordinance, and succeeding 10 year periods, shall be removed during any such period. Provided further, however, within 100 feet of any shoreline, not more than 30% of the greatest number of trees in excess of six inches in diameter at breast height existing during the 10 year period beginning with the effective date of this ordinance, and succeeding 10 year periods, shall be removed during any such period. (Amended 12/02)

4.112 Roads

There shall be no construction of roads with slopes greater than 35%.

4.120 MFG MANUFACTURING

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

4.121 Setback

No building or other structure or stockpile shall be closer than 30 feet from any lot line or 100 feet from the near edge of the pavement of any public highway, provided that no building shall be within the right of way of a public highway.

4.122 Screening

All buildings or other structures and stockpiles shall be substantially screened from any public highway by preservation of existing cover or planting of native species of vegetation.

4.130 EQP MANUFACTURING

4.131 Setback

No building or other structure or stockpile shall be closer than 30 feet from any lot line or 100 feet from the near edge of the pavement of any public highway, provided that no building shall be within the right of way of a public highway.

4.132 Screening

All buildings or other structures, stockpiles shall be substantially screened from any public highway by preservation of existing cover or planting of native species of vegetation.

4.140 MAR MARINE BASE

4.141 Docks

In conformance with Section 15-0503 of the Environmental Conservation Law, no docks or floats shall exceed more than 40 feet from a shoreline or extend into water exceeding four feet in depth except pursuant to a permit from the Department of Environmental Conservation.

4.142 Gasoline Pumps

No gasoline pumps shall be located on a dock or raft or otherwise above a water body.

4.143 Mooring

No mooring for a boat or aircraft shall be located so that boats or aircraft extend beyond 25 feet of the perpendicular projection of a property line from a shoreline.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 5

SHORELINE REGULATIONS

5.010 Purpose

In order to provide adequate protection of the quality of the lakes, ponds, rivers and streams of the Town and the visual quality of their shorelines, the following regulations apply in all districts.

5.020 Shore Frontage

5.021 Standard Residential Lots

Where the following intensity designations apply, the minimum shore frontage of a shoreline lot accommodating one principal building shall be the following:

<u>Intensity Designation</u>	<u>Minimum Shore Frontage</u>
1	200 feet
2	150 feet
3	125 feet
4	100 feet
5	100 feet

5.022 Clustered Residential Development

In the case of a project including two or more shoreline lots where each lot accommodates one single family residence, the Planning Board may authorize such lots, or a portion of such lots, to have less shore frontage than that required in Subsection 5.021, provided that for the shoreline development as a whole the ratio of shore frontage to dwelling units complies with that specified below for each intensity designation.

<u>Intensity Designation</u>	<u>Dwelling Units per Mile of Shore Frontage</u>
1	26
2	36
3	42
4	53
5	106

As a condition of permitting such clustering of shoreline development, the Planning Board must find that the applicant will insure, through restrictive covenant or declaration or other appropriate means, that the undeveloped portions of shoreline, with the land upland of such shoreline to a depth of 150 feet, will be retained unimproved and in its natural state.

5.023 Common Shoreline

In the case of a project, including a mobile home park or private campground, where residential lots, sites or units are afforded deeded or contractual access to shoreline, the following minimum amounts of shore frontage are required in the following cases:

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

- a) where fewer than 5 residential lots, sites or units are involved, 50 feet.
- b) where 5 or more but not more than 20 residential lots, sites or units are involved, 100 feet.
- c) where more than 20 but not more than 100 residential lots, sites or units are involved, 100 feet plus three feet for each such lot, site or unit in excess of 20.
- d) where more than 100 but not more than 150 residential lots, sites or units are involved, 340 feet plus two feet for each such lot, site or unit in excess of 100.
- e) where more than 150 residential lots, sites or units are involved, 440 feet plus 1 foot for each such lot, site or unit in excess of 150.

5.024 Double Counting of Shore Frontage

In the case of a project including both (a) shoreline lots accommodating single family residences and (b) residential lots, sites or units having deeded or contractual access to shoreline, no shore frontage counted to satisfy the requirements of Subsections 5.021 or 5.022 shall also be counted to satisfy the requirements of Subsection 5.023.

5.025 Non-Residential Shoreline Uses

In the case of any non-residential use involving shoreline, there shall be a minimum of 50 feet of underdeveloped shoreline between each edge of the non-residential use and the property line on the corresponding side.

5.030 Building Setback

A minimum setback of 100 feet from the shoreline is required for all buildings in excess of 100 square feet of floor area, except docks. One accessory structure of less than 100 square feet of floor area and within 100 feet of the shoreline is allowable per lot.

5.040 On-Site Disposal System Setback

See Section 7.040.

5.050 Removal of Vegetation

- (a) Within 35 feet of any shoreline, not more than 30% of the greatest number of trees in excess of 6 inches diameter at breast height existing at any time during the ten year period beginning with the effective date of this ordinance, and succeeding ten year periods, may be cut during any such period.
- (b) Within 6 feet of any shoreline, no more than 30% of the shore frontage of any lot may be cleared of vegetation.
- (c) Subdivisions (a) and (b) of this section shall not be deemed to prohibit the removal of diseased vegetation or of rotten or damaged trees or of vegetation that presents a safety or health hazard.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 6

SIGNS

Signs are accessory uses, which may be erected and maintained without a project permit in accordance with the following regulations:

6.010 ADVERTISING SIGNS

6.011 Location

No advertising sign shall be erected or maintained at a location other than on the same parcel of land where the enterprise advertised is located, nor at a distance greater than 300 feet from the principal location of such enterprise or the principal access point thereto from a public highway.

6.012 Free-Standing Advertising Sign

There shall be no more than 1 free standing advertising sign on any parcel of land, provided that when 2 or more enterprises are located on a single parcel of land, a structurally and graphically integral free standing sign relating to more than one enterprise shall be deemed to be a single sign.

6.013 Area

No advertising sign shall have an area of greater than 20 square-feet, except that a graphically and structurally integral free standing advertising sign relating to 2 or more enterprises may have an area not exceeding 30 square feet.

6.014 Highway Setback

No advertising sign shall be closer than 25 feet from the near edge of the pavement of a State Highway, nor closer than 15 feet from the near edge of the pavement of a County or Town Highway, provided that no advertising sign shall be within a public highway right of way.

6.015 Height

No advertising sign shall extend more than 15 feet above natural ground elevation.

6.016 Moving Element

No advertising sign shall embody a mechanically powered moving element.

6.017 Illumination

(a) No advertising sign shall be illuminated by or contain a flashing, intermittent, rotating or moving light.

(b) No advertising sign shall be illuminated during hours other than those during which the enterprise to which it relates is open for business.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

(c) No marine base shall maintain an illuminated advertising sign on a dock or raft or otherwise over a water body or water course.

6.018 Good Repair

All advertising signs shall be constructed of durable materials and maintained at all times in good repair.

6.019 Obsolete Sign

No advertising sign shall be maintained with respect to an enterprise which, for a period of one year, conducts no business or with respect to a product or service which is not offered by the enterprise maintaining the sign.

6.020 GENERAL SIGNS

6.021 Height

No free standing general sign shall extend more than 4 feet above natural ground elevation.

6.022 Area

No general sign shall have an area greater than 6 square feet.

6.023 Highway Setback

No general sign shall be located closer than 25 feet from the near edge of the pavement of a State Highway nor closer than 15 feet from the near edge of the pavement of a County or Town highway or road, provided that no general sign shall be within a public highway right of way.

6.024 Illumination

No general sign shall be internally illuminated, and no general sign shall be externally illuminated, where the source of illumination serves only or chiefly to illuminate the sign.

6.030 Non-Complying Signs

A sign in existence on the effective date of this ordinance which does not comply with the regulations of Sections 6.010 and 6.020 shall be brought into compliance or removed by its owner at his own cost and expense not later than June 30, 1976 in the case of a general sign or, in the case of advertising signs, not later than the later of (a) June 30, 1976 or (b) the date upon which such sign has been fully depreciated for income tax purposes, which shall in no case be later than 5 years after the date, prior to the effective date of this ordinance, that such sign was first erected or last substantially reconstructed.

Any advertising sign owner claiming the right to maintain an advertising sign after June 30, 1976 shall file with the Land Use Officer appropriate proof of his depreciation basis for income tax

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

purposes on or before said date. Failure to so file shall be deemed a waiver of such advertising sign owner's right to maintain the advertising sign beyond said date.

6.040 Abandoned or Illegal Signs

In the event the erecting or maintenance of a sign is in violation of the provisions of this ordinance, the Land Use Officer shall mail to the owner of said sign, if known, at his last known mailing address, an order that the violation be cured within 30 days following the date of mailing of said order. If after 30 days following the date of the mailing of said order such violation is not cured, the Land Use Officer or other agent of the Town may remove and discard the sign, without liability to the Town or its agents.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 7

SANITATION

Note*** REFER TO ON-SITE SEWAGE DISPOSAL ORDINANCE FOR SPECIFIC STANDARDS AND PROCEDURES.

7.010 General

No person shall discharge any matter into the waters of the Town and no person shall discharge any sewage or polluted waters into the lands or waters of the Town except in accordance with the provisions of this article.

7.020 Approval of Plans

No project permit shall be issued by the Land Use Officer for any project until he has approved plans for a sewage disposal system which, under the terms of this article, is adequate for the project. The applicant for the permit shall file with the Land Use Officer such data concerning the site and such plans and specifications for the disposal system as the Land Use Officer shall require.

7.030 Final Inspection

No certificate of occupancy shall be issued by the Land Use Officer for any project until its sanitary disposal system has been finally inspected by him and found to comply with the approved plans and to be otherwise satisfactory. The Land Use Officer shall have the right to inspect the work at any stage of construction, and the project sponsor shall notify him in writing when the work is ready for final inspection. The Land Use Officer shall inspect the work within 3 working days of his receiving notice.

7.040 Sewage Disposal System Standard

The type, capacities, location and layout of a sewage disposal system shall comply with all the guidelines of the State Department of Health and State Department of Environmental Conservation and the Town of Arietta. In addition, an approved individual sewage disposal system shall meet the following criteria:

- (a) No part of any leaching field or seepage pit shall be within 100 feet of the mean high water mark of any water body or water course.
- (b) The bottom of all the field trenches and seepage pits or water course must be at least two feet above the seasonal high groundwater or bedrock.
- (c) No construction of a tile field system on a slope exceeding 15% without approval by the Land Use Officer.
- (d) Drainage fields or seepage pits may not be placed in fill areas where fill would be placed on exposed bedrock or a wetland.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

The edge of any such fill will extend at least as far as dimensions specified below.

No such fill shall be located in natural drainage courses or swales. Fill used should meet the following specifications:

- (1) Percolation rates in the fill after compaction or settlement shall be at least 5 minutes and shall not exceed 30 minutes per inch.
- (2) Fill should be compacted or allowed to settle for 6 months.
- (3) Percolation tests shall be taken after compaction of fill, after 6 months settling time or at the source of the fill.

(e) There shall be a minimum distance of 50 feet from the edge of a tile field or pit to the top of any slope greater than 3:1.

7.050 Operation and Maintenance

The owner shall operate and maintain the individual sewage disposal facilities in a sanitary manner at all times. Each septic tank shall be periodically pumped out and maintained in proper working condition by a certified septic tank pump operator.

7.060 Periodic Inspection

The Land Use Officer shall have the right to make periodic inspections of the operation of sewage disposal systems, including the right to make such tests as he may deem appropriate. Where, based upon such test, the Land Use Officer determines that a sewage treatment system is inadequate, he may make such orders as are necessary and proper to protect health, including an order that the deficiency be cured within 15 days or that use of the system cease. A violation of such order shall be a violation of this ordinance.

7.070 Non-Leaching Systems

With respect to an application for a project permit where the Land Use Officer determines the site is unsuitable for a leaching cesspool or that a leaching cesspool could not be installed consistent with the requirements of this article or would be inadequate, the Land Use Officer shall have the authority to condition a project permit upon the installation of a sanitary holding tank or chemical sanitary disposal system.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 8

USES ALLOWABLE BY SPECIAL PERMIT

8.010 Purpose

The purpose of this article is to provide for the development within the Town of particular uses, identified as uses allowable by special permit by the notation "(SP)" in Section 3.060 which may be suitable within a particular district only on certain conditions and only at appropriate locations. Because of their characteristics, or the special characteristics of the district in which they are to be located, uses allowable by special permit require special consideration with respect to:

- (a) the objectives of this ordinance,
- (b) their effect on surrounding properties and
- (c) the ability to the Town to accommodate the proposed use without undue adverse effect.

8.020 When Permit Required

A use allowable by special permit may be developed, undertaken, enlarged, or altered only upon a special use permit granted by the Board of Appeals in accordance with the standards and procedures set forth in this article, except where such use is a regional project, in which case regional project review under Article II hereof shall supersede the procedures of this article.

8.030 Approval With Conditions

In permitting the development, undertaking, enlargement or modification of a use allowable by special permit, the Board of Appeals may impose, in addition to those standards and requirements expressly specified by this ordinance any additional conditions which the Board of Appeals considers necessary to protect the health, safety and welfare of the Town and its present and future citizens and the best interests of the surrounding property, the neighborhood, or the Town as a whole. These conditions may include increasing dimensional or area requirements specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and requiring action by the applicant, including the posting of performance bonds and furnishing of guarantees to insure the completion of the project in accordance with the terms and conditions applicable thereto.

8.040 Application

One or more property owners may initiate a request for a special use permit by filing 3 copies of an application with the Land Use Officer using forms supplied by him which shall include information sufficient for the Board of Appeals to make its findings under Section 8.050. Each application shall include a legal description of

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

the property, a map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed development, and other drawings or information that the Board of Appeals considers necessary to an understanding of the proposed use and its relationship to surrounding properties. When required by Section 239(m) of the General Municipal Law the Board shall promptly refer an application to the County Planning Board for its report and recommendation.

The Board of Appeals shall promptly file a copy of such complete application with the Planning Board and the Planning Board shall be given the opportunity to file its comment or recommendations on the application in writing to the Board of Appeals prior to any hearing thereof and the opportunity to present the same at the hearing.

8.050 Required Findings

In order to grant a special use permit, the Board of Appeals shall find

(a) that the proposed use will be in compliance with all the applicable provisions of this ordinance and all other applicable Town laws and regulations. (b) that the request is in harmony with the general purpose and intent of this ordinance specifically taking into account the location, character, and size of the proposed use and the character of the district in which such use is proposed, the foreseeable environmental impact of such use, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase in the burden on supporting public services and facilities which will follow the approval of the proposed use,

(c) that the establishment, maintenance or operation of the use applied for will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town. In considering the above findings, the Board of Appeals shall employ the list of areas of impact set out in Section 12.040.

8.061 Application

Within 10 days of receipt of any application, the Land Use Officer shall notify the applicant of any additional information required to make the application final and complete. If no notice is given under this section, the application shall be final and complete as filed.

8.062 Hearing

Within 10 days of receipt of a final and complete application for a special use permit, the Board of Appeals shall give notice of a public hearing to be held on the application not more than 30 days or less than 10 days after the notice.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

8.063 Decision

Within 10 days of the final adjournment of a public hearing called and held under Subsection 8.062 hereof, the Board of Appeals shall approve, approve with conditions, or disapprove the proposed conditional use. The decision of the Board of Appeals shall be in writing, and shall contain the findings made pursuant to Section 8.040 and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board of Appeals.

8.064 Approval

An approval of a special use permit shall serve as authorization to the Land Use Officer to issue a project permit subject to the terms and conditions of such approval. Such project permit, and any certificate of occupancy issued with respect to the project, shall be conditional upon the continued effectiveness of the approval.

8.065 Lapse

An approval of a special use permit shall lapse 36 months, or such greater or lesser time as may be specified in the approval, after being granted, unless the permitted use has received a certificate of occupancy prior to such time. The special use permit shall be void if the use shall cease for more than 12 months for any reason. The Board of Appeals may renew the approval for a period not exceeding 12 months, provided that it finds that the facts upon which the approval was granted have not substantially changed.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 9

SUBDIVISION

9.010 Permits for Subdivision

Any project which is or includes a subdivision shall be referred by the Land Use Officer to the Planning Board which, by resolution of the Town Board adopted pursuant to Section 276 of the Town Law, is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the Office of the County Clerk and to conditionally approve preliminary plats within the Town. The Planning Board shall review subdivisions in accordance with the standards of this ordinance and the standards and procedures set out in subdivision regulations adopted by the Planning Board and approved by the Town Board. The Land Use Officer shall not issue a project permit with respect to a project which is, or includes a subdivision until approval of the Planning Board as to such subdivision has been granted, and shall not issue a Certificate of Occupancy as to such a project until any and all work required to be done by the applicant in connection with said subdivision has been completed or satisfactorily guaranteed and any and all other conditions of such subdivision approval have been satisfied.

9.020 Subdivision, Minimum Lot Size and Intensity Designation

All subdivision shall be in accordance with the intensity designations established in Article 3. Where the intensity designations apply, no subdivision shall be undertaken except where there is contiguous land free for subdivision in an amount equal to the acreage/dwelling unit set out opposite the applicable intensity designation in Section 3.040 for each dwelling unit contemplated. Land free for subdivision is the total parcel of land less any land associated with existing principal buildings on the land. Land associated with existing principal buildings shall be, in the case of an existing single family residence, the minimum size specified in Article 4 for SR1 or SR2, as the case may be. In the case of tourist accommodations or multifamily residences, the land associated with an existing principal building shall be the number of dwelling units included times the acreage/dwelling unit set out opposite the applicable intensity designation in Section 3.040. In calculating land free for subdivision, no land which lies within the road bed of a public highway shall be counted. The sale of a landowner's entire ownership on one side of a public road, railroad or right of way owned in fee, or other intervening ownership will not be considered a subdivision provided such intervening ownership existed prior to August 1, 1973 and provided further that said sale is not part of a larger jurisdictional project presently being proposed by said landowner. For the purpose of counting the number of lots to

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

determine the Planning Boards jurisdiction, the following shall be counted:

- (1) any lot to be retained by the developer, and
- (2) any lots in the same use area which are part of one project and which would otherwise be adjoining, but are located on opposite sides of a public road or right of way owned in fee shall be counted. (Amended 10/00)

9.030 Subdivision of Shoreline Land

Regulations requiring specified amounts of shore frontage in the subdivision of shoreline land appear at Section 5.020.

9.040 Site Plan

As a condition of approving a subdivision, the Planning Board shall find:

- (a) that the site plan is sensitive and responsive to and minimally disruptive of the natural conditions of the site;
- (b) that the site plan provides for and locates well-planned streets directly serving each lot, parcel or site; such streets to be developed at the time of the undertaking of the subdivision;
- (c) the site plan shall be such as to minimize visual impact of the project from a public highway.

9.050 Protection of Common Open Space

Where land within a subdivision is designated as common open space, the Planning Board shall find, as a condition of approval, that such common open space shall be appropriately managed by a property owners' association or other appropriate entity and for the life of the project shall be protected from any improvement inconsistent with its common open space character. The Planning Board shall require that the project sponsor undertake the formation of the management entity where such entity is required, and that in appropriate cases the project sponsor submit a restrictive declaration for filing with the land records covenanting non-development of the common open space.

9.060 Large Scale Residential Development

In the case of a subdivision which, without the intensity bonus provided in Subsection 9.067, would include 8 or more lots intended to accommodate a single SR use, or would include 3 or more multifamily residences, or a combination of the above totaling 5 or more buildings, the following provisions shall apply at the option of the developer. In the case of a subdivision which, without the intensity bonus provided in Subsection 9.067 would include 15 or more lots intended to accommodate a single SR use or would include 4 or more multifamily residences or a combination of the above totaling 10 or more buildings the following provisions shall apply mandatorily.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

9.061 Open Space

Not less than 25% of the total project area shall be useful common open space meeting the standards of this subsection, provided that in no event shall useful common open space be required to exceed 4 acres per dwelling unit. In computing total project area, lakes, ponds, rivers and streams within the project shall be counted. The common open space shall be of three types:

(a) Centrally located major open space serving the entire project, or, in the event the project is divided into segments exceeding 75 units, serving each such segment. Such space shall constitute not less than 40% nor more than 70% of the total useful common open space of the project or allocated to such segment, and shall be predominantly left in its natural state and accessible from all dwelling units served. Not more than 80% of such centrally located major open space shall be a water body or water course.

(b) Satellite open space areas serving groupings of dwellings. Such areas shall in the aggregate constitute not less than 20% nor more than 40% of the total useful common open space of the project segment, and each such area shall be useful and attractive for active and passive recreation and readily accessible from the group of dwellings served.

(c) Linear open space connectors, attractively designed and landscaped, linking the various residential and amenity elements of the project.

9.062 Protection of Useful Common Open Space

Such useful common open space shall, at all times, be accessible to all residents of the project, appropriately improved for common use, and protected against any development inconsistent with its common open space character. As a condition of its approval of a large scale residential development, the Planning Board shall require that the project sponsor submit a restrictive declaration for filing in the land records or other suitable guarantee insuring compliance with the above.

9.063 Setbacks

No building shall be closer than 100 feet from the near edge of the road bed of a State Highway, nor closer than 75 feet from the near edge of the road bed of a public highway other than a State Highway, provided that no building shall be within the right of way of a public highway; and no building shall be closer than 100 feet from the perimeter of the development.

9.064 Site Plan

The project shall be designed and constructed in a manner sensitive to the topography and other natural resource considerations. Existing native vegetation shall be retained to the maximum extent feasible. A detailed landscaping plan shall be required with the sponsor's application. Parking shall be to the extent feasible

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

concentrated in common areas.

9.065 Minimum Lot Size

A lot accommodating one SR use shall at a minimum be a zoning lot of 12,500 square feet.

9.066 General Store

Upon a finding of need and design compatibility, the Planning Board may permit a general store to be located on a suitable site within a large scale residential development.

9.068

All lots, parcels and sites shall have access by graveled or paved streets to a public highway.

9.069 Other Requirements Unaffected

Except as modified in this section, all requirements of this ordinance shall be applicable to large scale residential developments.

9.070

Any subdivision, other than a mobile home park, mapped, filed, and approved by NYS Department of Health prior to the effective date of this ordinance is exempt from these provisions, but should comply where possible. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standard shall govern.

NOTE: Provide notice to the Agency of Class B projects consisting of substandard shoreline lots less than 25,000 square feet in Moderate Intensity Use, 50,000 square feet in Low Intensity Use, and 80,000 square feet in Rural Use areas.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 10

NONCONFORMITY, NONCOMPLIANCE

10.010 Nonconformity

10.011 Continuance

Subject to the provisions of this article, a non-conforming use may be continued and maintained in reasonable repair but may not be altered, enlarged or extended. This article shall not be construed to permit any unsafe use, or to affect any lawful regulation or prohibition of an unsafe use.

10.012 Discontinuance

If a non-conforming use is discontinued for a period in excess of 1 year, further use of the property shall conform to this ordinance.

10.013 Change

If a non-conforming use is replaced by another use, the new use shall conform to this ordinance.

10.014 Damage or Destruction

If a non-conforming use is damaged or destroyed by any cause to an extent exceeding 75% of either its floor area or of its market value, the future use on the site shall conform to this ordinance. However, a single family dwelling damaged or destroyed by any casualty may be rebuilt by the person owning such building at the time of the casualty, provided that construction is begun within 12 months of the casualty. However, a business damaged or destroyed in excess of 75% of either its floor area or market value by any casualty may be rebuilt by the person owning such business at the time of the casualty upon a variance granted after application to the Zoning Board of Appeals showing good cause and economic hardship therefore.

10.020 Noncompliance

10.021 Continuance

A non-complying use may be continued, subject to the provisions of this Article.

10.022 Repair, Alteration, Maintenance, Enlargement, Conversion

A non-complying use may be repaired, altered, maintained, enlarged or converted, provided that no such activity shall create new noncompliance or increase the degree of existing noncompliance.

Expansion of a structure not meeting the shoreline setback requirements of 100 feet must comply with the following standards:

- (a) Expansion of structure cannot increase the present setback non-conformance.
- (b) Expansion does not increase the height of the existing

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

structure.

- (c) Setback will be no less than 25 feet from sideline and finished structure will not exceed 50% of lot width.
- (d) There must be area to upgrade and accommodate septic system expansion.
- (e) Structures built originally with a variance can only expand further with a variance. (Amended 10/00)

10.023 Damage or Destruction

If any non-complying use is damaged or destroyed by any cause to an extent exceeding 75% of either its floor area or its market value, such use may be reestablished only in accordance with all applicable use regulations and shoreline regulations. However, a single family dwelling damaged or destroyed by any casualty may be rebuilt as a non-complying use by the owner of such building at the time of the casualty, provided that the noncompliance is the minimum reasonably necessary under the circumstances and construction is begun within 12 months of the casualty.

10.024 Replacement

Any structure purposefully removed or destroyed for reasons of replacement must be brought into total compliance. In addition, if the use in question (i) constitutes a Class B Regional Project, (ii) is other than a single family dwelling and (iii) has been discontinued for a period exceeding five years (or under circumstances indicating a complete abandonment), then a Class B Regional Permit is also required from the Town prior to recommencement of the use. (Amended 5/02)

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 11

ADMINISTRATION

11.010 Project Permit

11.011 General

No person shall undertake a project within any district within the Town except pursuant to a valid project permit issued by the Land Use Officer. A project permit will be issued only when all requirements of this ordinance and all other applicable Town laws and regulations are met.

11.012 Application Procedure

A person desiring to undertake a project shall file with the Land Use Officer an application for a project permit, together with the appropriate fee, payable to the Town Clerk, Town of Arietta. The application shall be submitted on forms provided for such purpose by the Land Use Officer, and shall be accompanied by 3 copies of a plot plan showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings, or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this ordinance. Within 15 working days following the receipt of the application, the Land Use Officer shall acknowledge the receipt of the application and shall either notify the applicant that the application is complete or specify any additional information required. When any additional information required is received, the Land Use Officer shall acknowledge in writing the completed application. Within 15 working days following the receipt of the application, the Land Use Code Officer shall acknowledge the receipt of the application and shall either notify the applicant that the application is complete or specify any additional information required.

a) the proposed project complies with the requirements of this ordinance and all other applicable Town laws and regulations and requires no special approvals, and accordingly a project permit will be issued, or

b) the proposed project is inconsistent with one or more specified requirements of this ordinance or other applicable Town Law or regulation, and a project permit is denied. This ruling may be appealed to the Board of Appeals, or a variance may be sought from the Board of Appeals, or

c) the proposed project requires one or more specified special approvals before a project permit can be granted. The proposed project may, for example, be for a use allowable in the district by special permit, requiring approval of a special permit by the Board of Appeals; or the project may be a Class A or Class B regional project, requiring regional project approval by the Planning Board or

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

the Adirondack Park Agency; or the project may constitute a subdivision, requiring approval by the Planning Board. The Land Use Officer will advise the applicant of the requirements for the special approvals needed, and, to the extent compatible with his other responsibilities, will provide information, advice and assistance in the preparation of the required application. When the required special approvals have been obtained, and all other requirements of this ordinance are met, the Land Use Officer will issue a project permit. (Amended 5/02)

11.013 Issuance

It shall be the duty of the Land Use Officer to issue a project permit, provided he is satisfied that the project conforms with all requirements of this ordinance, including where applicable, the requirements of regional project review, and all other applicable Town laws and regulations. All project permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. In conjunction with the issuance of a project permit one copy of the approved plans, bearing the notation "Approved", the signature of the Land Use Officer and the date, shall be returned to the applicant. No person shall perform any construction or otherwise undertake a project of any kind unless a project permit covering such project is displayed as required above, nor shall any person perform such activities after notification of the revocation of a project permit.

11.014 Revocation

If it shall appear, at any time, to the Land Use Officer that an application or accompanying plans are in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the project permit, he may forthwith revoke the project permit and it shall then be the duty of the person holding the same to surrender it and all copies thereof to the Land Use Officer. Where a project permit has been revoked, the Land Use Officer may, at his discretion, before issuing a new project permit, require the applicant to file a bond in the favor of the Town securing compliance with this ordinance, other Town Laws and regulations and the Adirondack Park Agency Act and in a sum sufficient to cover the cost of removing the use if it does not so comply.

11.015 Lapse and Renewal

A project permit shall lapse five years following the date it was granted. The Land Use Officer may renew a project permit during its effectiveness for a period terminating not later than one year from the date it would lapse, provided that he finds that the facts upon which the project permit was granted have not substantially changed. (Amended 10/00)

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

11.020 Site Inspection

A person's filing of an application for a project permit, for a special approval or for a variance shall be deemed a granting of approval by such person to the Land Use Officer and to members or designates of the bodies with authority to grant the required special approvals or a variance, including the Adirondack Park Agency, to conduct such examinations, tests and other inspections of the site in question as such persons deem necessary and appropriate for the purposes of this ordinance.

11.030 Certificate of Occupancy

11.031 General

No use for which a project was undertaken after the effective date of this ordinance shall be maintained, except pursuant to a certificate of occupancy issued by the Land Use Officer. Such certificate shall constitute a permit for the maintenance of the use and shall precisely state the authorized use.

11.032 Issuance

Upon the completion of a project primarily involving construction or subdivision, or upon the establishment of operation of a project not primarily involving the construction or subdivision, the Land Use Officer, within 10 days after receipt of a written request for inspection of the project, shall issue a certificate of occupancy authorizing the occupancy or operation of the project, provided that he shall find that the project is in compliance with all the applicable provisions of this ordinance and all other applicable Town Laws and regulations and any conditions imposed in a project permit.

11.040 Records

The original or a certified copy of all decisions, approvals, rulings, project permits and certificates of occupancy of any board under this ordinance, or of the Land Use Officer shall be promptly furnished by the Land Use Officer to the Town Clerk and retained by him as a permanent public record.

11.050 Conflict of Interest

No member of the Board of Appeals or of the Planning Board shall participate in any decision of any such board in which he has a special pecuniary or other personal rather than public interest, whether arising out of the ownership of real property, business or family interests or otherwise. Each member shall file with the Town Clerk and with such Board a statement of his real property holdings and other business or personal interests which might give rise to a conflict of interest. Such statements shall be available for public inspection at all reasonable times.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

11.060 Notice of Public Hearing

Any notice of public hearing which is required to be given under any provision of this ordinance shall be given by publishing a notice in the **Hamilton County News** not less than 10 days prior to such hearing and, during the 10 days prior to such hearing, by conspicuous posting at the offices of the Land Use Officer and the Town Clerk. In addition, at least 10 days prior to the date of the hearing, notices shall be mailed to all owners of property within 500 feet of the exterior boundary of the boundary for which the application is made, ownership to be determined from the latest assessment records of the Town.

11.070 Fees

The Town Board shall, by resolution, establish and amend a schedule of fees for the applications and permits required or contemplated by this ordinance; the current schedule shall be on file with the Land Use Officer and with the Town Clerk. Such fees shall be payable to the Town Clerk at the time of application or, as appropriate, at the time of issuance of a permit.

ARTICLE 12

REGIONAL PROJECTS

12.010 General

This article provides for the review of Class B regional projects by the Planning Board, and sets out the criteria for review of Class A regional projects by the Adirondack Park Agency.

12.020 Requirement of Regional Project Approval

a) No person shall undertake a regional project, unless or until the Planning Board shall have reviewed and approved, or approved subject to conditions, such project.

b) No person shall undertake a Class A Regional project unless or until the Adirondack Park Agency shall have reviewed and approved, or approved subject to conditions, such project, and has issued an Agency permit with respect thereto pursuant to the terms of the Adirondack Park Agency Act and the pertinent agency rules and regulations.

c) The Land Use Officer shall not issue a project permit with respect to a Class B regional project unless it has been approved by the Planning Board, and shall not issue a project permit with respect to a Class A regional project unless it has been approved by the Adirondack Park Agency.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

12.030 Planning Board Review of Class B Regional Project

a) The Planning Board is hereby authorized to approve, approve subject to conditions, or disapprove each Class B regional project proposed to be located within the Town in accordance with the provisions of this article.

b) If a Class B regional project is also a Class A regional project, the project will be deemed to be a Class A regional project in its entirety, and subject to the review authority of the Adirondack Park Agency and not the Planning Board.

12.040 Required Findings for Class B Regional Project Approval

In order to approve a Class B regional project, the Planning Board shall find:

a) The project will comply with all provisions of this ordinance and all other applicable Town laws and regulations.

b) The project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the regional project taking into account the commercial, industrial, residential, recreational, or other benefits which might be derived from the regional project. In making this determination, the Planning Board shall consider and make separate findings concerning the degree of impact, which the regional project will have upon those of the following development considerations, which are pertinent to the proposed regional project:

A. Natural Resources:

1. Water

- a. Existing water quality.
- b. Natural sedimentation or siltation
- c. Eutrophication
- d. Existing drainage and runoff patterns
- e. Existing flow characteristics
- f. Existing water table and rates of aquifer recharge

2. Land

- a. Existing topography.
- b. Erosion and slippage
- c. Flood plain and flood hazard.
- d. Mineral resources.
- e. Viable agricultural soils.
- f. Forest resources.
- g. Open space resources
- h. Vegetative cover
- i. The quality and availability of land for outdoor recreational purposes.

3. Air Quality

4. Noise Levels

5. Critical Resource Areas.

- a. Rivers and corridors of rivers designated to be

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

studied as wild, scenic or recreational in accordance with the Environmental Conservation Law

- b. Rare plant communities.
- c. Habitats of rare and endangered species and key wildlife habitats.
- d. Alpine and sub-alpine life zones
- e. Wetlands
- f. Elevations of 2,500 feet or more.
- g. Unique features, including gorges, waterfalls and geological formations
- 6. Fish and Wildlife
- 7. Aesthetics
 - a. Scenic vistas
 - b. Views from public highways or water bodies and water courses trafficked by the public
- B. Historic site considerations
 - 1. Historic factors
 - a. Historic sites or structures
- C. Site development considerations
 - 1. Natural site factors
 - a. Geology
 - b. Slopes
 - c. Soil characteristics
 - d. Depth to ground water and other hydrological factors
 - 2. Other site factors
 - a. Adjoining and nearby land uses
 - b. Adequacy of site facilities
- D. Governmental Considerations
 - 1. Governmental service and finance factors
 - a. Ability of government to provide facilities and services
 - b. Municipal school or special district taxes or special district user charges.
- E. Governmental review considerations
 - 1. Governmental control factors
 - a. Conformance with other governmental controls

12.050 Application for Class B Regional Project Approval

Application for project approval shall be made to the Land Use Officer, who shall review the application for completeness, and, if he finds it complete, shall refer it to the Planning Board.

All applications shall be made on forms prescribed by the Planning Board and furnished by the Land Use Officer, and shall include such information as may be reasonably necessary to make the determinations set out in Section 12.040.

The Planning Board may require different information for different types of projects, but with each type of project the same information shall be required of every applicant.

The information required may include any or all of the following: a

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

detailed description of the natural features of the project site, a detailed plan of the project and its components, including all proposed roads and accesses, water supply and sewage disposal systems, and their relationship to natural features, an analysis with supporting data of the impact of the project on the environment both during construction and thereafter, an analysis with supporting data of the ability of the public to provide supporting services and facilities which can reasonably be anticipated to be required following the approval of the project, an analysis with supporting data of any benefits that might derive from the project, any plans the applicant may have for future development related to the project and information describing the applicant, his or its financial capacity to complete the project as planned, and any professional advisors or consultants engaged in respect of the project.

12.060 Hearing and Decision for Class B Regional Projects

a) Not later than 10 days after receipt of a final and complete application, the Planning Board shall give notice of a public hearing to be held on the application, not less than 15 days nor more than 60 days after the notice. A copy of said notice of hearing, together with a description of the application, shall be sent by the Planning Board to the Adirondack Park Agency simultaneously with the Board's giving of notice under this section.

b) The Adirondack Park Agency shall be a full party in interest, with standing to participate and appeal as a party, in any and all proceedings under this article, and to enforce any decision given therein, all as provided in Section 808(2) of the Adirondack Park Agency Act.

c) Within 15 days of the final adjournment of a hearing called and held under Section 12.060, the Planning Board shall approve, approve subject to conditions, or disapprove the proposed regional project. The Planning Board may impose such requirements and conditions to its approval of the project as are allowable within the proper exercise of the police power, including the requirement of the restriction of land against further development, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure that intensity regulations shall be respected, and the imposition of reasonable conditions, including the posting of a surety bond, to insure that the project will be adequately supported by services and improvements made necessary by the project and to insure that the project will be completed in accordance with the terms of the application, of any prior permit, and any substantive conditions of the regional project approval. The decision shall be in writing, and shall contain the findings required in Section 12.040, and the factual basis for each finding. The Planning Board shall forward by certified mail to the project sponsor and to the Adirondack Park Agency a copy of its decision on the project.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

12.070 Review of Class A Regional Projects (Adirondack Park Agency)

a) The Adirondack Park Agency has jurisdiction to review and approve, approve subject to conditions or disapprove Class A regional projects proposed to be located within the Town pursuant to and in accordance with Section 809(9) of the Adirondack Park Agency Act and will exercise such jurisdiction in accordance with such act, the applicable Agency rules and regulations and the criteria hereinafter set forth.

b) The Adirondack Park Agency will not approve a Class A regional project unless it first determines after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the project, that the project would comply with all provisions of this ordinance and of such other laws and regulations as shall be components of the Town local land use program.

c) In making the determination required by Section 809(9) of the Adirondack Park Agency Act as to the impact of a proposed Class A regional project upon the resources of the Adirondack Park including the ability of all levels of government to provide supporting facilities and services made necessary by the project, the Agency shall consider those factors pertinent to the project contained in the development considerations set forth in Section 805 of the Adirondack Park Agency Act, and in so doing, shall be guided by the development objectives established by the Agency.

12.080 Planning Board Role in Class A Regional Project Review

a) The Planning Board is hereby designated and appointed as the Town Body which shall consult with the Adirondack Park Agency with regard to Agency review of Class A regional projects.

b) As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A regional project, the Planning Board or one or more designees thereof shall consult with the Agency for the purpose of analyzing the project application and formulating advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the Town local land use program.

c) Not later than 45 days following receipt by the Planning Board from the Agency of notice of application completion with regard to a Class A regional project, the Planning Board shall, by certified mail, provide to the Agency its advice as to whether the project meets all of the pertinent requirements and conditions of the Town local land use program.

12.090 Project Permits for Regional Projects

a) Approval of a Class B or Class A regional project by the Planning Board or the Adirondack Park Agency as appropriate, shall serve as authorization for the Land Use Officer to issue a project permit subject to the terms and conditions of such approval, except

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

that an approval granted on the basis of any material misrepresentations of fact made by, or on behalf of, a project sponsor shall be void.

b) Where a regional project is approved, the Land Use Officer shall grant a project permit to the project sponsor not later than 15 days from the date of approval, provided that all other applicable requirements are met.

c) Where a regional project is approved subject to conditions, the Land Use Officer shall grant a project permit only upon the satisfactory fulfillment of such conditions, or upon the giving of satisfactory assurances, by performance bond or otherwise, that the conditions will be fulfilled.

ARTICLE 13

VARIANCE

13.010 General

Where practical difficulties or unnecessary hardships inconsistent with the general purposes and objectives of this ordinance would result from the strict application of certain provisions hereof, the Board of Appeals may vary the application of this ordinance in accord with the standards and procedures of this article.

13.020 Application

A property owner or his agent may initiate a request for a variance by filing with the Land Use Officer, on forms supplied by him, 3 complete sets of an application. The application shall contain all information considered by the Board of Appeals as necessary to make its findings under Section 13.030, including a legal description of the property, a map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed variance, and other drawings or information needed by the Board for an understanding of the proposed use and its relationship to surrounding properties. The Land Use Officer shall forward one copy of the complete application to the Planning Board.

13.030 Required Findings

13.031 Area Variance

A variance to allow a project to be undertaken on a lot or property which does not comply with the applicable size or dimensional requirements may be granted where the Board of Appeals explicitly makes all of the following findings:

a) That the strict application of the size or dimensional requirement in question would result in a specified practical

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

difficulty to the applicant, and

b) that the variance would not be materially detrimental to the purposes of this ordinance, or to property in the district in which the property is located or otherwise conflict with the objectives for the district or the objectives of any plan or policy of the Town, and that the variance requested is the minimum variance which would alleviate the specific practical difficulty found by the Board of Appeals to affect the applicant.

13.032 Use Variances

A variance to allow within a district a use other than a permitted use or a use allowable by special permit may be granted where the Board of Appeals explicitly makes all of the following findings:

a) That the strict application of the use provisions of this ordinance would result in a specified unnecessary hardship to the applicant

(I) which arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district and

(II) which results from lot size or shape legally existing prior to the date of this ordinance, or topography, or other circumstances over which the applicant has had no control,

b) that the property in question cannot yield a reasonable return if used for any permitted use or use allowable by special permit applicable to the district in which the property is located,

c) that the variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same district or similarly classified districts possess without such a variance, and,

d) that the variance would not materially be detrimental to the purposes of this ordinance, or to property in the district in which the property is located, or otherwise conflict with the purpose of the district or the objectives of the Master Plan of the Town, and that the variance requested is the minimum variance which would alleviate the specific unnecessary hardship found by the Board of Appeals to affect the applicant.

13.040 Hearing and Decision

a) Upon receipt of an application, the Board of Appeals shall refer one copy to the County Planning Board in accordance with Section 239(m) of the General Municipal Law. Within 15 days of receipt of a final and complete application for a variance, the Board of Appeals shall give notice of a public hearing to be held on the application not fewer than 15 days or more than 60 days after the notice. A copy of said notice of hearing, together with a description of the application shall be sent by the Board of Appeals to the Planning Board simultaneously with the giving of notice under this section. Where required by provision of the Executive Law Article 27 notice of said public hearing, together with a description of the application

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

shall be sent to the Adirondack Park Agency simultaneously with the giving of notice under this section.

b) The Adirondack Park Agency shall be a full party in interest, with standing to participate as a party, in any and all proceedings under this article and to enforce any decision given therein, and to reverse the grant of a variance, as provided in Section 807(g) of the Adirondack Park Agency Act.

c) Within 15 days of the final adjournment of a public hearing called and held under subparagraph (a), the Board of Appeals shall grant, grant with conditions, or deny the variance applied for. The decision of the Board of Appeals shall be in writing and shall address each of the findings in Section 13.030, and the factual basis for each finding from the record of the hearing, which shall support the decision. The Board shall notify the Adirondack Park Agency, by certified mail, of such decision. Any variance granted or granted with conditions shall not be effective until thirty (30) days after such notice to the Agency. If, within such 30 day period, the Agency determines that such variance involved the provisions of the land use and development plan as approved in the local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis of practical difficulties or unnecessary hardships, the Agency may reverse the local determination to grant the variance.

13.050 Grant of Variance

The coming into effect of a variance shall serve as authorization for the Land Use Officer to issue a project permit, provided that the project complies with all the provisions of this ordinance and all other applicable regulations.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

ARTICLE 14

APPEAL FROM RULING OF LAND USE OFFICER

14.010 General

14.011

An appeal from any ruling of the Land Use Officer may be taken to the Board of Appeals by any person aggrieved, or by any officer or board of the Town affected thereby. Such appeal shall be taken by filing, within 30 days, or such longer period as the Board of Appeals may fix by general rule, a notice of appeal with the secretary of the Board of Appeals and the Land Use Officer.

14.020 Notice of Appeal

A notice of appeal shall be in writing on forms prescribed by the Board of Appeals. Every appeal shall refer to the specific provision of this ordinance in question, shall specify the ruling appealed from, and shall exactly set forth the interpretation that is claimed and reasons in support thereof, in addition to the following information:

- a) the name and address of the applicant.
- b) the name and address of the owner of the land which was the subject of the ruling from which the appeal is made.
- c) a brief description and location of the subject land, together with a statement of the present use of the land and the improvements thereon. In addition, there shall be attached a plot plan of the subject lot, indicating the location and size of the lot and size of improvements presently thereon and those in question.
- d) a statement of the present zoning regulations governing the subject land.
- e) a full statement of proposed project or other matter in connection with which the ruling appealed from arose.

14.030 Land Use Officer

Promptly upon receipt of a notice of appeal, the Land Use Officer shall transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken, or in lieu thereof certified copies of said papers. It shall be competent for the Land Use Officer to recommend to the Board of Appeals a modification or reversal of his action in cases where he believes substantial justice requires the same but where he has not himself sufficient authority to grant the relief sought.

14.040 Hearing and Decision

Within 15 days after receipt of a sufficient notice of appeal, the Board of Appeals shall give notice of a hearing to be held on the appeal not fewer than 15 days nor more than 60 days after the notice. Upon the hearing, any party may appear in person or be represented by

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

an agent or attorney. The Board of Appeals shall decide each appeal within 30 days after a final hearing. The Board of Appeals' decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals, the Board of Appeals may, in conformity with the provisions of the ordinance, reverse or affirm, wholly or partly, or modify the ruling in question.

14.050 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the ruling appealed from, unless the Land Use Officer certifies for the Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, such stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of competent jurisdiction on application, on notice to the Land Use Officer and on due cause shown.

ARTICLE 15

AMENDMENT

15.010 Initiation

The Town Board may, from time to time, upon initiation by

- (a) its own motion, or
- (b) application by one or more property owners, or
- (c) resolution of the Planning Board or Board of Appeals, amend this ordinance after referral to the Adirondack Park Agency and after public notice and hearing. A property owner or his agent may initiate an amendment to this ordinance by filing with the Town Board, using forms supplied by the Land Use Officer, 3 complete sets of an application. Such application shall be accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and the applicable filing fee.

15.020 Referrals and Public Hearing

If the Town Board desires to proceed with the amendment, then upon direction by the Town Board, the Land Use Officer shall submit a copy of the proposed amendment to the Adirondack Park Agency for a determination whether the proposed amendment is subject to Agency approval under Section 807 of the Adirondack Park Agency Act. Upon receipt from the Adirondack Park Agency of an approval of the proposed amendment or of a determination by the Agency that the proposed amendment is not subject to Agency approval, the Town Board shall by resolution fix the time and place of a public hearing on the

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

proposed amendment and

a) Notice of a public hearing shall be given in accordance with Section 11.060.

b) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any State land, State park or parkway shall be given to the Department of Environmental Conservation at least 10 days prior to the date of such hearing.

c) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any town or county adjacent to the Town, shall be given to the clerk of such adjacent town and to the clerk of the Board of Supervisors of such adjacent county at least 10 days prior to the date of such hearing.

d) Any proposed amendment affecting real property within 500 feet of

- (I) the boundary of the Town, or
- (II) the boundary of any existing or proposed county or state park or other recreational area, or
- (III) from the right of way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right of way of any stream, or drainage channel owned by the county or for which the county has established channel lines, or
- (IV) from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated shall be referred to the County Planning Board, in accordance with Section 239 of the General Municipal Law. If the County Planning Board fails to report within 30 days after receipt of a full statement of such referred material, the Town Board may act without such report. If the County Planning Board disapproves the proposal or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except for a vote of a majority plus 1 of all the members thereof.

e) At least 10 days before public hearing, any proposed amendment shall be referred to the Planning Board, which shall be given the opportunity at, or prior to, such hearing to submit its report or recommendation to the Town Board on the proposed amendment. If the Planning Board disapproves the proposal or recommends modification thereof, the Town Board shall not act contrary to such disapproval or modification except by a vote of a majority plus one of all the members thereof.

15.030 Decision

Within 60 days of the final adjournment of a public hearing called and held under this article, the Town Board shall grant or deny the application to amend this ordinance. The decision of the Town Board shall be in writing and shall contain the factual basis for the decision. A copy of the decision shall be promptly sent to the

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

applicant and to the Adirondack Park Agency.

15.040 Protest

In the case of a protest against any proposed amendment, signed by the owners of 20% or more of the area of land included in such proposed changes or of that immediately adjacent extending 100 feet therefrom or, of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least three-fourths of the members of the Town Board.

15.050 Right to Complete Project Inconsistent with Amendment

Where a project for which a project permit has been lawfully issued but which has not been awarded a certificate of occupancy would be rendered non-complying or non-conforming by an amendment to this ordinance, such project shall have the right to be completed and to be awarded a certificate of occupancy pursuant to the provisions of this ordinance in effect when the project permit was issued only if, in the case of a project primarily involving a building, the foundation has been completed prior to the effective date of the amendment, and, in the case of a project not primarily involving a building, a substantial amount of construction has been completed prior to the effective date of the amendment.

15.060 Conflict of Interest

No member of the Town Board shall participate in any decision of the Town Board pertaining to any amendment of this ordinance in which he has a special pecuniary, family or other personal, rather than public interest, whether arising out of the ownership of real property, business interests or otherwise. Each member of the Town Board shall file with the Town Clerk and with the Town Board a statement of his real property holdings and other business or personal interests, which might give rise to a conflict of interest. Such statements shall be available for public inspection at all reasonable times.

ARTICLE 16

ENFORCEMENT

16.010 Land Use Officer

This ordinance shall be enforced principally by the Land Use Officer.

16.020 Complaints of Violations

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the Land Use Officer, who shall properly record such complaint and immediately investigate and report his

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

findings thereon to the Town Board. The Land Use Officer shall have authority to serve upon any person owning, leasing, controlling or managing any building, structure or land in which a violation of this ordinance exists an order to cease or remove such violation.

16.030 Penalty

Any person owning, leasing, controlling or managing any building, structure or land in which a violation of this ordinance shall exist, and any person who shall assist in the commission of any violation of this ordinance or any conditions imposed in any project permit or certificate of occupancy, or undertake any project contrary to the plans or specifications submitted to the Land Use Officer and on the basis of which a project permit shall be given; any person who shall omit, neglect or refuse to do any act required by this ordinance, and any person who, having been served with an order to cease or remove such violation, shall fail to comply with such order within 15 days after such service, shall be guilty of a misdemeanor and subject to a fine of not less than \$50.00 nor more than \$250.00 or in the alternate, to imprisonment for a period not less than 7 days nor more than 60 days.

Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. For the purposes of this section, where a person is other than an individual, the principal executive officer or partner or agent or manager of such person may be considered to be such person.

16.040 Injunctive Relief

In case of any violation or threatened violation of any of the provisions of this ordinance, or conditions imposed in any project permit or certificate of occupancy, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation.

16.050 Misrepresentation

Any project permit or approval granted under this ordinance which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void.

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

ARTICLE 17

SPECIAL DISTRICTS

17.010 Special Town Center Development District

The purpose of this special district is to promote the development of that area in the Town identified in the Master Plan for the Town and in the provisions of this ordinance as the center of commercial and community facility growth within the town in a coordinated manner using good site planning and building design. This area, which includes districts 8, 9, 10, 11, and 12, centers on an important road junction and is presently the site of several commercial enterprises and numerous municipal facilities. It is hereinafter referred to as the Town Center. Without careful and precise planning for and zoning of the area, there exists the likelihood that the development of the Town Center will occur in an uncoordinated and unattractive fashion. If that occurs, an important opportunity in the shaping of the Town will have been lost.

This section seeks to provide a reasonable period of time in which the Town may develop a coordinated plan for the regulation of growth within the Town Center. Accordingly, districts 8, 9, 10, 11, and 12 are hereby collectively designated as the Special Town Center Development District, in which the following regulations shall apply. These regulations modify those otherwise in effect concerning such districts.

a) Within the Special Town Center Development District, no project shall be undertaken except pursuant to a special permit issued by the Planning Board.

b) The Planning Board shall issue such special permit except when it finds

(I) that the proposed project will not implement or further a well conceived plan for the development of the entire district and

(II) that the Town has undertaken or will undertake a study of such district calculated to produce a well conceived plan for its coordinated development. Where such findings are made, the Board shall deny the special permit. Where a special permit has been thus denied, the Board of Appeals shall grant such permit, subject to and conditional upon the provisions of this ordinance as they then may be, upon reapplication 12 months following the denial.

17.020 Special Scenic Open Space Preservation District

The purpose of this special district is to promote the preservation of designated open spaces of particular scenic value in the Town. Such spaces, being open fields along public highways, are of particular visual significance to the Town in that they vary the dominant forested character of the roadside in the Town. These open

TOWN OF ARIETTA LAND USE CODE
Adopted 1/1/76

spaces are well suited to development, the occurrence of which would be a significant loss to the visual amenity of the Town. In order to provide a reasonable opportunity for actions to insure the preservation of these open spaces to be taken, Districts 26, 88 and 94 are hereby designated as within the Special Scenic Open Space District, in which the following regulations shall apply. These regulations modify those otherwise in effect concerning such districts.

a) within the Special Scenic Open Space Preservation District, no project shall be undertaken except pursuant to a special permit issued by the Board of Appeals.

c) The Board of Appeals shall issue such permit except where it finds

- (I) that the proposed project will significantly impair the visual amenity provided by the open space in question and
- (II) that the Town or private person have undertaken or will undertake an effort to insure the preservation of such visual amenity, and for which effort there is a reasonable chance of success. When such findings are made, the Board shall deny the special permit. Where a special permit has been thus denied, the Board of Appeals shall grant such permit, subject to and conditional upon the provisions of this ordinance as it then may be, upon reapplication 12 months following the denial.

17.030 National Flood Insurance Program Areas

a) No building permit will be issued for new construction or substantial improvements be made in a flood hazard area unless it is determined the site will be reasonably safe from flooding.

b) If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure. There must be used construction materials and utility equipment that are resistant to flood damage, and use construction methods and practices that will minimize flood damage.

c) The Land Use Officer must review subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage. All public utilities and facilities, such as sewer, gas, electrical, and water systems must be located, elevated, and constructed to minimize or eliminate flood damage, and adequate drainage provided so as to reduce exposure to flood hazards; and

d) Require new or replacement water supply systems and sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

TOWN OF ARIETTA LAND USE CODE

Adopted 1/1/76

17.40 Town Scenic Highway District **(adopted 2/5/07)**

Effective February 5, 2007, the Town will allow limited development in zones 69, 70 and 71. Some of this development will come into view from NYS Routes 8 and 10. To preserve the scenic nature of these roadways requires special consideration for the placement, screening, lighting and appearance of any new structure. All new development should blend into the forest setting and not compete with the natural surroundings. These structures should be screened, so as to remain largely unseen on a summer day. Since a building will be more visible at night or in the winter, it is expected that an owner make every effort to include coniferous screening and control exterior lighting. Accordingly, special districts 69, 70 and 71 are hereby designated a Scenic Highway District (SHD), in which the following regulations shall apply. These regulations modify those otherwise in effect concerning such districts.

- a) Within the Scenic Highway District, no project shall be undertaken except pursuant to a special permit issued by the Planning Board.
- b) The Planning Board will issue such a permit except when it finds that the proposed project will not implement or further the following plan for coordinated development.
 - 1) That there shall be a minimum setback for all structures of 100 feet from the edge of pavement.
 - 2) That all structures should be of a color that does not contrast with the forest background and that no reflective surfaces, other than glass, shall be used in construction.
 - 3) That there should be no signs or symbols along the highway other than for mail delivery (See Sign Ordinance).
 - 4) On a summer day, not more than 25% of any side of a structure facing the highway should be viewed by passing traffic. On a winter day, not more than 50% of any side of a structure should be viewed by passing traffic.
 - 5) A screening plan must be approved before construction begins. If the screening proves inadequate or is not properly maintained, then the board may require additional screening with native vegetation.
 - 6) Exterior lighting should be shielded, downcast and kept to a minimum.
 - 7) A bend in the driveway is recommended and may be required should a structure be clearly visible from highway.