

Town of Conesville

Schoharie County, NY

COMPREHENSIVE PLAN



August 2007

Prepared by:

**Town of Conesville Comprehensive Plan Committee
Town of Conesville Town Board**

With assistance from:

**Schoharie County Planning & Development Department
and Shepstone Management Company**

Town of Conesville, Schoharie County, New York Comprehensive Plan - 2007

Foreword

This *Comprehensive Plan* was prepared by the Town of Conesville Comprehensive Plan Committee with support from the Town of Conesville Planning Board and Town Board as well as the Schoharie County Planning and Development Agency. We also received tremendous help from the hundreds individuals who took the time to return our planning survey.

Funding for this project was made available through the New York State Department of State Master Planning and Zoning Incentive Award Program.

It is recommended this *Comprehensive Plan* be reviewed and updated by the Town Planning Board and Town Board every five years, starting in 2013.

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1.0 Introduction

This *Comprehensive Plan* lays out strategies for dealing with the growth and development of the Town of Conesville. Needs are based in part upon a *Town of Conesville Planning Survey* conducted in 2006. The survey was distributed to 1,076 Conesville residents and taxpayers. It was answered by 380 persons for a 35% response rate - an excellent return. The detailed results are attached as Appendix A of this *Comprehensive Plan*.

Question No. 1

How many years in total have you in the Town of Conesville?

29	7.7%	Less than 5 years
30	7.9%	5 to 9 years
23	6.1%	10 to 14 years
10	2.6%	15 to 19 years
18	4.8%	20 to 24 years
87	23.0%	More than 25 years
181	47.9%	None, I am a 2nd-home owner
378	100.0%	Total

The *Planning Survey*, completed by a mix of old, new and second-home residents (see Question No. 1 results tabulated above), indicated much about how Town of Conesville residents and taxpayers perceive the Town and the land development challenges and opportunities it faces:

- Second-home owners have become a major force within the Town. They represented nearly half the *Planning Survey* responses. Their opinions are not markedly different from those of permanent residents, although second-home owners are somewhat more likely to favor certain land use regulations.
- Some 47% of respondents felt the Town hadn't changed noticeably in desirability as a place to live. Some 18% thought it had become more desirable, but 13% said it had become less desirable. The results reflect a high level of contentment with the Town's current direction.

- A total of 37% of permanent residents and 48% of second home owners said they were influenced to come to or stay in the area by its rural nature and farmland.
- Some 37% of those surveyed said the costs of services and taxes were what they liked least about the Town of Conesville, followed by 30% who stated it was the lack of shopping in the area that concerned them and 20% who cited the impact of New York City regulations on the Town and its landowners.
- Some 60% of permanent residents and 72% of second home owners stated that reviewing junkyard and property maintenance aspects of development were important. Some 60% of residents (66% of second home owners) felt the same about scenic impacts and 56% of residents (74% of second home owners) said it was impacts on streams that mattered.
- *Planning Survey* respondents indicated they supported adding, expanding or improving special property cleanup day programs and Town roads with their tax money. They were not inclined, as a general principle, to increase investment of tax money adding, expanding or improving a Town Hall, Town Park or recreational facilities and programs.



Moreover, when asked about spending tax money on a specific array of recreational facilities at the Town Park in Conesville, respondents indicated in every case that spending should stay the same. Senior activities, trail

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systems and the Historical Society received the most support, reflecting the large number of retirees who participated in the Town's *Planning Survey*.



- Some 49% of all respondents stated that they had come from the New York City/Westchester/Rockland/Long Island area (that geography being one of their last two addresses). Almost 30% of all principal householders surveyed were executives, managers or professionals. Another 35% were retirees, accounting for some of the very low interest in recreational facilities.
- Ambulance and fire protection were the highest rated services by residents and taxpayers, followed by State highway maintenance and the performance of utility companies providing services such as electric. Cellular and broadband service, trash collection and youth services received the lowest number of “high” and “good-quality” ratings, as well as the highest number of “poor-quality” ratings among 14 categories of services offered in the Town.
- Respondents favored establishing or improve local control with respect to the following (in order of priority for respondents):
 - Regulating junk vehicle storage.
 - Protecting rights to farm and timber.
 - Regulating mobile home parks.
 - Site plan review of commercial uses.
 - Regulating cellular towers.
 - Regulating wind power facilities.

- There were strong feelings for protecting private property rights as compared to managing the impact of development. Those feelings were strongest in the case of permanent residents, but second home owners took the same position. The bulk of respondents also rated preservation of rural residential character more important than economic development and preserving scenic character more highly than harvesting resources. Permanent residents were, in the last case, less inclined to feel this way but still gave the preference to scenic character.
- Some 48% of permanent residents responding to the *Planning Survey* favored some zoning regulations, while 56% of second home owners felt this way. It can be assumed some individuals responding to the *Planning Survey*, because of its very nature, may have been motivated to complete it with the specific purpose of advancing zoning as an idea, while others did the opposite. Therefore, one should not assume a majority of voters favor zoning. There is, nonetheless, considerable interest in the subject and some of the concepts involved.



- When asked to describe their vision for Conesville over the next 10-20 years, the three elements that came out on top were a “clean and green environment,” preservation of remaining farms and a strong natural resources industry.

The survey results taken as a whole suggest the the Town needs very basic land use controls that help sustain rural character without intruding greatly on the property rights of its residents and landowners.

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2.0 Background Studies

2.1 Regional Location and History

2.1.1 Regional Setting

The Town of Conesville is located at a latitude of 42.38 degrees North and a longitude of 74.377 degrees West (coordinates for the hamlet of Conesville) in the southeastern portion of Schoharie County, New York, east of the Schoharie Reservoir on which it fronts. Directly adjoining communities include the Towns of Ashland, Durham, Prattsville and Windham in Greene County, Rensselaerville in Albany County and Broome and Gilboa in Schoharie County.



NYS Route 990V and its extension, County Road No. 3, bisect the Town, connecting the Town to the Gilboa area and Albany County. The bulk of the Town drains into the Schoharie Reservoir, which is part of the New York City water supply system. It is a mountainous area that represents one the northernmost portions of the Catskill Mountains. The Town consists of approximately 25,250 acres or 39.5 square miles of land.

2.1.2 Early History

Conesville's history has been assembled by Town Historian Beatrice Mattice. The following material is provided by her and details some of the early Conesville history.

The Town of Conesville was formed from the Towns of Broome, Schoharie County, and Durham,

Greene County, on March 3, 1836. It was named Conesville in honor of Rev. Jonathan Cone, a minister dear to the hearts of the people living in this part of the county.

The story of Conesville, however, actually begins in 1753 when John Dies was appointed to survey the lands between the Van Bergen Patent and Breakabeen on the Schoharie Kill. The land was a heavily wooded wilderness in the foothills of the Catskills with high mountains on the eastern border. The Manorkill stream flowed west through the valley, leading to the Schoharie Creek.

John Dies then became connected with Ury Richtmyer in the purchase of the land. Two patents were granted to Ury Richtmyer and others on May 6, 1754,. The first tract included land now known as the hamlet of West Conesville and the area around the hamlet of Gilboa. The second tract was long known as Dies' Manor and covered an area of what is now the hamlet of Conesville, including the land running up to the hamlet of Manorkill.

The first settlement in what is now the Town of Conesville was made by Ury Richtmyer and a few other families in 1764 on the land of Dies' Manor, during the period between the close of the French and Indian War and the start of the Revolution. These early settlers lived at peace with the few Native Americans who occasionally passed through the valley. A popular story is that the old Richtmyer homestead was purchased from these Indians for a pound of butter per acre.



Richtmyer Inn and Tavern

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During the Revolution the Indians became hostile to the settlers. Peter Richtmyer had cleared quite a farm by the time the war began. While working upon the flat below the cabin one afternoon, he was surprised by a squad of Indians and a Tory and was taken prisoner. He later escaped and returned to his family. They hastily packed up and moved to one of the forts along the Schoharie Creek where the family remained until the war was over. Not long after this, Richtmyer's buildings were all burned as were those of his Patriot neighbors.

Following the war the settlers returned. A number of families from the eastern states and the older settled portions of Schoharie County located in the Town of Conesville, the Yankees climbing upon the hills while the Dutch and Germans settled in the valleys. Peter Richtmyer build the first inn in this part of the county in 1789. The fine old building is still standing (see picture on preceding page).

The Susquehanna Turnpike was commenced in 1800 from Catskill to Unadilla. This turnpike went through the Town of Conesville, closely following the John Dies Road, which originally was an Indian trail over the mountain from Durham to Manorkill. Emigrants bound westward poured over the turnpike by the thousands bringing much activity and prosperity to this area during the next century.

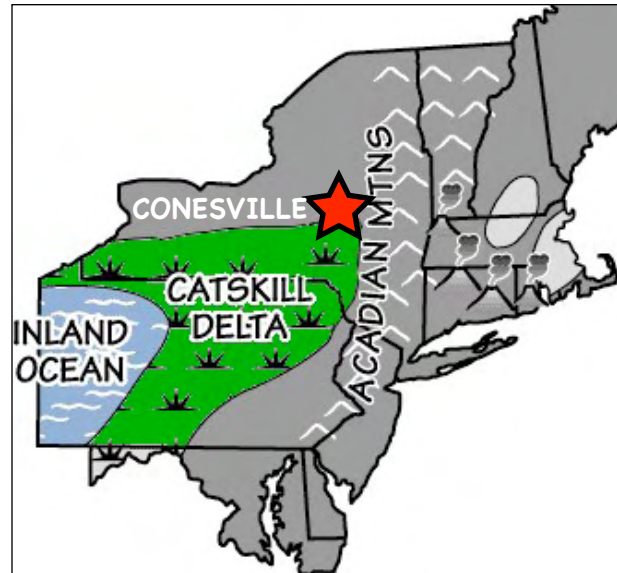
2.2 Natural Features

2.2.1 Geology

The Town of Conesville is located in the northeast corner of the Allegheny Plateau. This plateau was formed from sedimentary deposits due to the erosion of the Acadian Mountains to the east. They washed into what was an ancient inland ocean, resulting in the formation of the "Catskill Delta."

Bedrock found in the Town of Conesville is part of the Giboa formation created during the Middle Devonian period (approximately 385 million years ago). It consists of conglomerate and sandstone interspersed with shale. The coarse-grained layers of bedrock have proved to be very erosion resistant, leaving in place many of the ridges that define the character of the area. This bedrock has also been uplifted over the eons by tectonic forces and

shaped by glaciers and erosion to produce the current mountainous landscape. It tends to yield good supplies of water, but is often found near the surface, thereby limiting building development and agricultural potential.



The Catskill Center for Conservation and Development describes area surface geology as follows:

"The majority of the surficial geology of the Catskills was determined during the last 1.6 million years. Four ice ages inundated this area, most recently the Wisconsin advance. The Wisconsin glaciers finished retreating from this area only approximately 14,000 years ago. The majority of the region is composed of glacial till. Till (material deposited by a glacier) is unstratified, unsorted, and is made up of a wide range of sizes. For this reason, glacial till generally acts as an aquifer, holding large amounts of groundwater. The high peak regions are entirely comprised of bedrock. These sandstone and conglomerate mountaintops were scoured and scraped by glaciers moving around and over their summits, leaving virtually no loose material."

2.2.2 Water Resources

The Town of Conesville is located almost entirely within the Hudson River Basin, although the bulk of it feeds into the Bear and Manor Kills to the

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Schoharie Reservoir and into the Mohawk River before entering the Hudson, much of the water being diverted into the Catskill-Delaware section of the New York City Water Supply system.

The Town is generally a bowl-shaped area, characterized by a rim of Catskill mountains with narrow valleys characterized by some floodplains and wetlands. There are scattered Federal wetland and hydric soil areas along throughout the Town. The *Suitability Map* illustrates their locations.

It also depicts a more serious problem – substantial areas of the Town where the soil depth to the seasonal high water table is less than 20” making it quite difficult to install functioning on-lot sewage disposal systems that are essential for development in this rural area. Much of the Town falls into this category.

2.2.3 Topography

A *Slope Map* has also been developed for the Town. It indicates slope is a major development limitation for the Town of Conesville. The steepest slopes are found along the southern and eastern borders of the Town and include areas such as South Mountain and High Knob. There are several high points along these rim areas from which the grades slope steeply down into the Town of Conesville, limiting development potential. Nevertheless, there are substantial areas along Route 990V that do not have serious slope restrictions. Generally, the central and northern portions of the Town exhibit fewer limitations in this regard.

2.2.4 Agriculture and Forest Resources

The Town of Conesville includes includes several important farms and niche agricultural enterprises as well as major timber resources. Among these are dairies, beef operations, a deer farm and other specialized farm activities (e.g., fingerling potatoes).

The area’s relatively high elevation and cooler climate is well-suited to grass production and grazing. Some former dairies are still in use as hay farms and provide valuable open spaces that both sustain tourism and create second-home residential appeal.

The Town’s hardwood forests provide similar benefits and support an active regional timber industry. The Town includes a significant sawmill operation demonstrating the importance of the area’s hardwoods and the potential to develop niche industries around this resource.

2.3 Existing Land Use

An *Existing Land Use Map* has been prepared using data from real property tax records. This map reveals a large proportion of the Town consists of Rural Residential (Code 240) land uses.

Table 2-1
Parcels by Land Use, 2005

Broad Use Category	Land Use Description	Parcel Count
100	Agricultural Properties	22
200	Residential Properties	684
300	Vacant Land	496
400	Commercial Properties	5
500	Recreation and Entertainment	2
600	Community Service Properties	16
700	Industrial Properties	5
800	Public Service Properties	16
900	Public Parks and Conservation	39
Total Parcels in All Broad Use Categories		1,285

Source: NYS Office of Real Property Services

Vacant land and agricultural acreage are also large, indicating major potential for further development if the demand for second homes continues to be strong and New York metro area professionals continue to be attracted to the area. Residential uses, moreover, already represent the largest share of the parcels in the Town of Conesville. Vacant land also accounts for a large share of the parcels. Commercial properties are very limited, but there are also numerous home occupations throughout the Town.

2.4 Population and Economic Base

2.4.1 Population Trends

The following table illustrates the growth of Conesville compared to the County and the State:

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Table 2-2
Population Changes, 1990 - 2005

Year	New York State	Schoharie County	Town of Conesville
1990	17,990,778	31,840	684
2000	18,976,457	31,582	726
Change	985,679	-258	42
% Change	5.5%	-0.8%	6.1%
Persons Per Square Mile	402	51	18
2005*	19,254,630	32,277	723
Change	278,173	695	-3
% Change	1.5%	2.2%	-0.4%

* Bureau of Census estimates

The 2000 Census indicates the Town of Conesville grew by a 6.1% between 1990 and 2000. New York State as a whole grew by only 5.5% during this same period with much of that growth occurring in the Metropolitan New York City area. Moreover, Schoharie County experienced a decrease in population of -0.8% between 1990 and 2000, so the Town increase demonstrates some vitality. Nevertheless, this rate of growth was still well below the U.S. average of 13.2% for the decade. Also, the Bureau of Census estimates Conesville's population declined slightly to 723 persons in 2005. While there has been growth, it is certainly not overtaking the Town at this point.

Notwithstanding the modest population growth, there has been much growth in housing (up 39.2% for the decade) and particularly in second homes (up 78.9%). The increase in second home ownership during the 1990's, has led to large numbers of second home conversions to permanent residences, the number of occupied housing units having risen by 43 or 16.5% despite the low level of population increase. This indicates that much of Conesville's growth is being masked by shrinkage in household sizes due to aging in place and in-migration of smaller households of retirees and professionals.

The increase in second home ownership will likely lead to steady, though modest, growth in the Town's population over the next decade. This will occur as second homeowners choose to make the Town of Conesville their permanent residence for

retirement or other purposes, a process already begun.

2.4.2 Age of Household Members

The Town of Conesville's population by age group differs somewhat from that of Schoharie County. Those persons 19 years or younger comprised 28.2% of the Town of Conesville compared to 28.9% for Schoharie County in the 2000 Census. Persons 65 years of age or older accounted for 18.9% of the Town but only 14.9% of the County.

Table 2-3
Population by Age, 2000

Year	Town	%	County	%
Under 5 years	33	4.5%	1,757	5.6%
5 to 9 years	46	6.3%	2,075	6.6%
10 to 14 years	44	6.1%	2,262	7.2%
15 to 19 years	53	7.3%	3,014	9.5%
20 to 24 years	29	4.0%	1,794	5.7%
25 to 34 years	67	9.2%	3,480	11.0%
35 to 44 years	110	15.2%	4,800	15.2%
45 to 54 years	100	13.8%	4,608	14.6%
55 to 59 years	61	8.4%	1,724	5.5%
60 to 64 years	46	6.3%	1,371	4.3%
65 to 74 years	76	10.5%	2,485	7.9%
75 to 84 years	49	6.7%	1,625	5.1%
85 years+	12	1.7%	587	1.9%
TOTAL	726	100%	31,582	100%

Those persons of 20-64 years of age, accounted for only 56.9% of Conesville's residents, and 56.3% of the County's, indicating very similar work forces. The 65-74 age cohort, however, accounted for 10.5% of Town residents, compared to only 7.9% for the County, indicating a somewhat more dependent population in regard to care of the elderly within the Town versus the County.

2.4.3 Years of Education

The 2000 Census indicated that 381 persons or 78.9% of the population age 25 years or more had a high school diploma. This is comparable to the 79.1% of New York State population as a whole that had a high school diploma in 2000. Some 18.6% of Town residents possessed a college degree (Associates or higher), compared to 27.8% for the County and 34.6% for the State.

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Table 2-4
Education Levels, 2000

Education Level	Town of Conesville	Town %	County %
< 12 Yrs Education	102	21.1%	18.3%
12+ Years	291	60.2%	53.8%
Associate Degree	39	8.1%	10.6%
Bachelor's Degree	21	4.3%	8.9%
Graduate Degree	30	6.2%	8.4%
TOTAL	483	100%	100%

Source: U.S. Census - 2000, Persons 25+ Years Old

for the discrepancy is the higher percentage of households in the Town with Social Security income, some 38.9% versus 32.6% for the County and the overall trend toward smaller households and families within the Town.

Interestingly, the County is economically gaining on the State as a whole in every income category, and inflation adjusted median household income in the Town grew by 11.4% over the decade compared to 4.8% Countywide and a loss of 1.7% Statewide.

2.4.4 Incomes

Data gathered during the 2000 Census indicates per capita income for the Town of Conesville was, at \$16,236, well below that of the County as a whole (\$17,778). Per capita income Statewide, moreover, was \$23,389, indicating the great need for economic development within the Town, County and this region of New York State as a whole. The State's tax burden, based on higher incomes downstate, cannot be borne without economic growth.

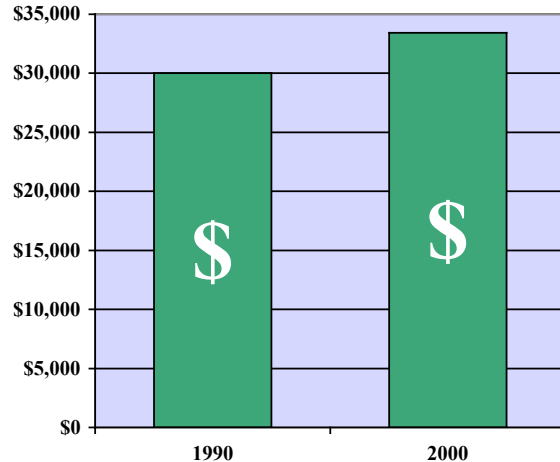
Table 2-5
Incomes, 1990 - 2000

Incomes	Town 1990*	Town 2000	County	NY State
Per Capita	\$15,794	\$16,236	\$17,778	\$23,389
Gain 90-00	-	\$442	\$2,600	\$1,289
% Gain	-	2.8%	17.1%	5.8%
Median Household	\$30,010	\$33,417	\$36,585	\$43,393
Gain 90-00	-	\$3,407	\$1,660	-\$757
% Gain	-	11.4%	4.8%	-1.7%
Median Family	\$37,668	\$37,334	\$43,118	\$51,691
Gain 90-00	-	-\$334	\$2,651	-\$1,534
% Gain	-	-0.9%	6.6%	-2.9%

* Adjusted for inflation to 2000 dollars.

Median family income in the Town was, at \$37,334, also well below the County figure of \$43,118. Finally, the Town median household income was, at \$33,417, also significantly lower than the County median of \$36,585. One explanation

Figure 2-1
Median Household Income, 1990-2000



While this is very positive news there are two important countervailing trends. First, it is a case of the State falling behind more than the Town and County gaining. This is especially true in the median family income category, where New York actually lost 2.9% while the nation was gaining 6.1%. While Schoharie County beat the national average, Conesville fell behind. Secondly, much the growth can probably be attributed to the in-migration of some wealthier households who converted second homes to permanent residences.

2.4.5 Employment Status

The Town of Conesville had a workforce of 312 employed persons over 16 years of age in 2000, of which 132 or 42.3% were female. Employment

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dropped from 297 persons in 1990 to 287 in 2000. The percentage of government workers decreased from 26.3% in 1990 to 26.1% in 2000. However, this compares to a Statewide average of only 17% of employees. Self-employment dropped from 10.1% to 7.0%.

**Table 2-6
Workers by Job Class, 2000**

Class	1990	%	2000	%
Private wage/salary	181	60.9%	192	66.9%
Self-employed	30	10.1%	20	7.0%
Unpaid family	8	2.7%	-	0.0%
Total Private	219	73.7%	212	73.9%
Government	78	26.3%	75	26.1%
TOTAL	297	100%	287	100%

Continued high employment in government places a major burden on the local tax base to support municipal and State government. There is a major need within the Town for more private industry employment, whether those jobs are located inside or outside the Town itself.

2.4.6 Employment by Industry

Table 2-7 breaks down the employed Town population aged 16 years or more in 2000 by industry. The largest single industry in which Town residents are employed is education, health and social services, comprising 24.7% share of the employment base. Many are the government (county, public school, etc.) employees discussed above.

Those persons involved in arts, entertainment, recreation, lodging and food service made up another 12.9% of the local labor force, indicating a rather strong tourism market. Construction at 11.1%, manufacturing at 9.4%, retail trade at 8.4% and transportation and utilities at 7.3% rounded out the 2000 employment base of the Town of Conesville. Together, these industries comprised 73.9% of jobs held by Town residents.

The agricultural, forestry and mining sector employed only 6 individuals, down from 16 in 1990 and only 2.1% of the Town labor force. This does not include all self-employed individuals, however,

many of whom work at non-employer enterprises (e.g. as independent logging contractors).

Data on employment by occupation from the 2000 Census is summarized in Table 2-8. The data indicates 77 or 26.8% of residents were employed in management, professional or related occupations. An additional 55 persons, or 19.2%, were employed in sales and office occupations, and 48 or 16.7% were employed in other service industries.

**Table 2-7
Employment by Industry, 2000**

Industry	Persons 16+ Years Employed	
	Employed	%
Educational, health, social services	71	24.7%
Arts, recreation, lodging & food	37	12.9%
Construction	32	11.1%
Manufacturing	27	9.4%
Retail trade	24	8.4%
Transportation, warehousing, utilities	21	7.3%
Finance, insurance, real estate	19	6.6%
Professional, management, admin.	18	6.3%
Public administration	17	5.9%
Other services (except public admin.)	7	2.4%
Agriculture, forestry, hunting, mining	6	2.1%
Wholesale trade	6	2.1%
Information	2	0.7%
TOTAL	287	100%

Source: U.S. Census, 2000

**Table 2-8
Employment by Occupation, 2000**

Occupation	Persons 16+ Years Employed	
	Employed	%
Management, professional	77	26.8%
Sales, office	55	19.2%
Service	48	16.7%
Construction, mining, maintenance	51	17.8%
Production, transportation	54	18.8%
Farming, forestry	2	0.7%
TOTAL	287	100%

Source: U.S. Census, 2000

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2.4.7 Travel to Work

Some 15 persons, or 5.2% of workers within the Town worked from home in 2000. This was somewhat higher than the County. The commute time was significantly higher than the County, State or U.S. as a whole, reflecting the relative isolation of the Town. Once again, this demonstrates the need for more local and regional jobs in the vicinity of Conesville and Schoharie County.

Unsurprisingly, Town of Conesville residents used very little public transportation in 2000, with only 0.7% having used that mode in the Town, compared to 1.2% Countywide. Even this is probably due to workers who simply use public transportation for a part of their commute. It may also reflect some answers from residents of the Town with employment in the metropolitan area.

Table 2-9
Travel to Work, 2000

Geography	Mean Travel Time to Work	% Worked at Home	% Public Transit
Town of Conesville	36.7 Minutes	5.2%	0.7%
Schoharie County	28.5 Minutes	4.3%	1.2%
New York State	31.7 Minutes	3.0%	24.4%
United States	25.5 Minutes	3.3%	4.7%

Source: U.S. Census, 2000

2.5 Housing

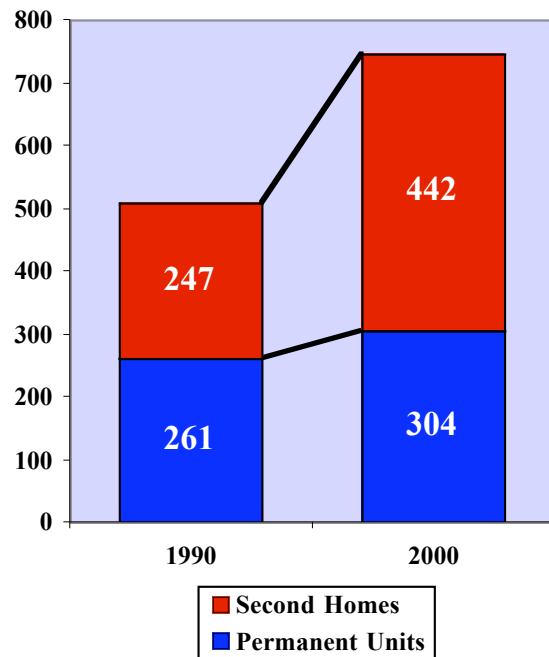
2.5.1 Housing Stock

The 2000 U.S. Census indicated the Town of Conesville had 777 housing units, of which 478 were occupied. Some 425 of these units were owner occupied and 53 were renter occupied.

There was a total increase of 219 housing units between 1990 and 2000. This 39.2% gain, while the population expanded by only 6.1% illustrates the growing importance of second homes in the Town. There were 442 second homes in the Town in 2000, representing 56.9% of the housing stock. This compared to 247 second homes in 1990, when they

accounted for 44.3% of the stock. Not only are second homes growing in number, but they account for a large and increasing share of housing units in the Town, even as primary residences also increase.

Figure 2-1
Conesville Housing Growth



Short-term, this is a positive trend since there are a greater number of tax payers who do not place as much demand on services, particularly in regards to public schools. Over time, however, as these homes become primary residences, there is the potential for major impacts on local services, as second home owners, who once paid taxes without demanding much in services, become part of the services consuming local population. These impacts are likely to be gradual but the cumulative impact could be quite large.

It is important the Town anticipate the future conversions to first homes in its budgeting and planning. Keeping the costs of government low now while second home revenue is coming in will help tremendously in preserving the tax capacity required in the future to support needed services.

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2.5.2 Number of Persons per Household

The number of people living in each household was 2.39 persons in 2000. This was significantly lower than the County average of 2.49 persons and far less than the New York average of 2.61 persons per household. These numbers are all quite low and probably close to bottoming out.

When this happens, the impact on population growth can be large. Growth in households is then no longer absorbed by declines in household sizes. If the household size had stayed at the 2.60 persons it was in 1990, the 28 new occupied units gained would have added 73 persons to Conesville's population. As it was, only 42 individuals were added, but the impact on schools and services can be great if household sizes stop declining, as they almost surely will in the future.

2.5.3 Housing Values

The 2000 Census revealed a median housing value of \$65,000 for the Town, which is very low compared to Schoharie County (\$82,500) and the Statewide median of \$148,700. Nationally, the figure was \$119,600. The large number of manufactured homes in the Town is a factor. These low values also reflect a discount connected with Upstate New York's relatively high taxes. Nonetheless, the area offers good housing values, a fact likely to encourage more in-migration of metropolitan area residents seeking such values.

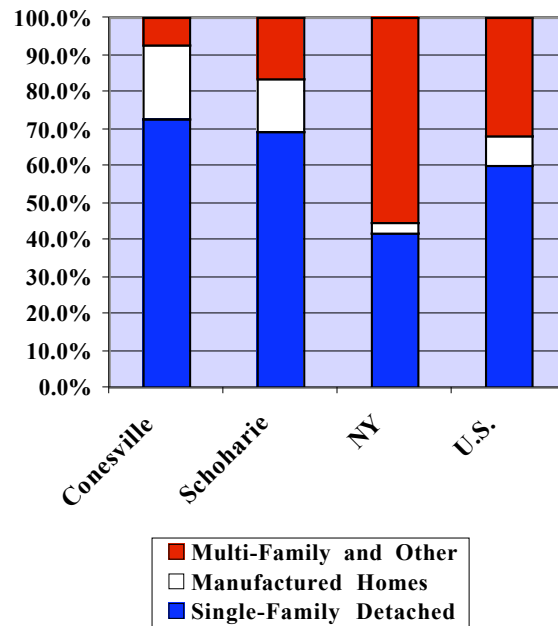
2.5.4 Housing Type

Single-family detached homes, including manufactured (mobile) homes, accounted for 554 units or 72.4% of the Town of Conesville's housing stock in 2000, according to the U.S. Census.

Manufactured homes accounted for 152 units or 19.9% of housing units in the Town (RV's represented another 48 units), well above the County's 14.3%. This trend continues today with most of the new housing erected since 2000 consisting of manufactured homes. Both the Town and County have higher proportions of manufactured homes than the State or U.S. because the latter includes urban areas where such housing is not typical.

Multi-family housing, by contrast, is very common in those more urbanized areas, but represents only 1.2% of Conesville's housing units. Multi-family housing accounts for a majority of the stock Statewide, a third of the national stock and 16.5% of Schoharie County's housing.

Figure 2-2
Housing Types, 2000



2.5.5 Contract Rents

Town of Conesville rents were similar to the County according to the 2000 Census, the median being \$513. The median rent Countywide was slightly lower at \$506.

2.5.6 Owner vs. Renter Occupancy

Between 1990 and 2000, the percentage of owner occupied units in the Town decreased very slightly from 86.2% of all occupied units to 88.9% in 2000. Countywide, only 75.3% of the housing units were owner occupied. These numbers were all significantly higher than New York State where only 53% of all occupied housing units were owner occupied in 2000.

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2.5.7 Housing Needs

The Town needs to ensure its land use regulations do not unnecessarily raise the cost of moderate income housing by requiring arbitrarily large lot sizes or adding too many regulatory costs in the way of unnecessary requirements. A very practical approach to land use regulation that limits oversight to essential matters of health and safety is warranted in the case of the Town of Conesville.

There is also a need to upgrade the quality of a portion of the existing housing stock. A very high 28.6% of 2000 Census surveyed owner-occupied housing stock was valued at less than \$50,000. Much of this stock, undoubtedly, consists of manufactured homes. However, overcrowded units (more than 1 person per room) accounted for only 2.0% of the total housing stock. Moreover, although the data is lacking for many households, only 13.5% of surveyed renters and 15.0% of surveyed homeowners paid out more than 30% of their income as gross rent or monthly owner housing costs, confirming much of the housing stock is very affordable to residents, one of the attractions of the Town from a growth perspective.

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3.0 Goals and Objectives

The following are the goals and objectives on which this Plan is based:

3.1 Base all land use regulations on a foundation of protecting private property rights.

3.1.1 Preserve and respect the rights to use of private property within the Town by limiting land use regulations to those essential for health, safety and welfare of the community and for addressing land use conflicts.



Town of Conesville View

3.1.2 Provide for traditional mixed-use development, applying subdivision standards to the quality of development, rather than its location.

3.1.3 Incorporate as much flexibility as possible into land use standards to fit individual circumstances and offer bonuses for developers who provide additional open spaces, protect important environmental features or otherwise contribute to quality forms of development.

3.1.4 Encourage home occupations and limit oversight to features having a direct bearing upon adjacent land uses (e.g. noise, lighting, storage).

3.1.5 Avoid redundant regulation by allowing the State primacy to regulate such matters as it desires.

3.2 Provide for orderly growth and development of the Town of Conesville.

3.2.1 Create incentives for use of land development techniques that preserve valuable open spaces and working landscapes.

3.2.2 Establish development performance standards applicable to steep slopes, wetlands and other areas of the Town with natural resource limitations.

3.2.3 Address the need for affordable housing by maintaining reasonable minimum lot sizes.

3.2.4 Ensure a high quality housing stock at various price ranges by allowing for manufactured (mobile) homes, but regulating placement under a set of manufactured home and park standards.

3.3 Make the Town secure from the dangers of flooding, fire and other dangers.

3.3.1 Maintain firefighting equipment needed to address emergencies and institute recruitment incentives for volunteer providers of services.



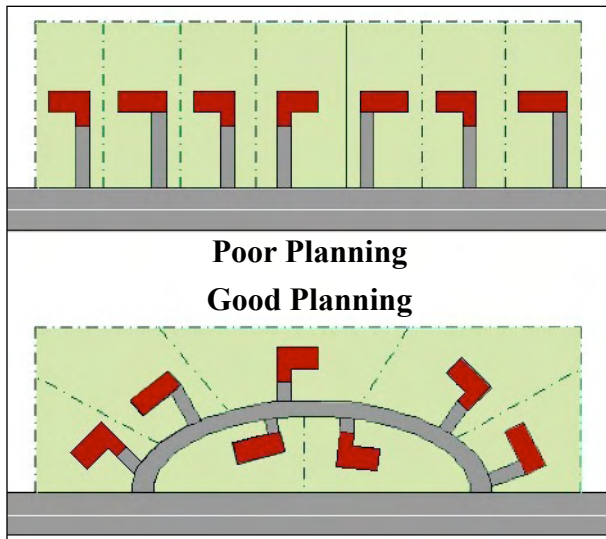
Conesville Fire District

3.3.2 Use the Town's floodplain regulations to steer development away from flood locations.

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3.4 Preserve, where practical, the character of existing highways and promote efficient and safe circulation of traffic.

3.4.1 Require use of joint highway accesses onto Town, County and State roads and use of marginal access roads to minimize potential traffic conflicts.



Marginal Access Road Example

3.4.2 When reviewing site plans, require new roads to be designed to preserve natural topography and tree cover, minimize cuts and fills and preserve important views and features such as stone walls.

3.4.3 Require developers to provide for walking as well as vehicular connections to adjacent land uses and open spaces wherever practical.

3.4.4 Where practical, scale road widths and alignments to usage while meeting Town Highway and Driveway Law specifications.

3.4.6 Require land developers to mitigate existing traffic safety issues, wherever possible, with offsite improvements.

3.4.7 Update standards for highway dedications in the Town Highway and Driveway Law, distinguishing them from private roads and drives.



Typical Road in Town of Conesville

3.5 Protect surface and ground water quality, maintain high-quality physical environments and preserve wildlife habitats through effective design.

3.5.1 Incorporate stormwater management and erosion control planning requirements in both site plan and subdivision reviews so as to reduce phosphorous loads to streams.



Example of Grass Swale for Stormwater Control

3.5.2 Allow for conservation subdivision designs where lots are clustered to provide open space buffers that can trap stormwater run-off.

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Illustration of Conservation Subdivision Design

3.5.3 Develop site plan review regulations for specific uses such as multi-family dwellings so as to create design and review standards comparable to subdivision regulations for these uses.

3.5.4 Develop additional junkyard and property maintenance regulations and create incentives to donate junk cars for charitable purposes.

3.6 Provide for those agricultural, forestry, tourism and similar businesses with potential to improve local incomes and preserve working landscapes.

3.6.1 Continue to reinforce the State Agricultural District program through local law, offering farmers additional protection of their rights to farm and extending this to rights to practice forestry.

3.6.2 Work with landowners, the Schoharie County Agricultural and Farmland Protection Board, the Watershed Agricultural Council, the Schoharie Land Trust, the New York State Department of Agriculture and Markets, the New York City Department of Environmental Protection and others to promote agricultural conservation easements as a public/private tool to preserve valuable farmland.



Example of Agricultural and Forestry Business

3.6.3 Work with the Chamber of Commerce and others to promote the Town as a location for new farm, forestry and tourism enterprises.



One of Conesville's Historic Structures

3.6.4 Promote the Town's several historical assets as a tourism resource.

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4.0 Plans

4.1 Land Use

4.1.1 Existing Land Use Regulations

The Town of Conesville enacted a basic set of Land Subdivision Regulations in 2006 to guide development. There are also New York City Water Supply Watershed Regulations in effect. The details of these regulations as they impact upon future land use are as follows:

SUBDIVISION REGULATIONS

The Town Board has authorized its Planning Board to regulate land subdivisions. It has also approved Subdivision Regulations prepared by the Planning Board, as provided under New York State Town Law. These regulations include a number of general design standards including a minimum of 200 feet frontage and a lot depth of no more than four times lot width for all lots.

The following are several other observations regarding the Town of Conesville Subdivision Regulations:

- A detailed table of contents would be useful in navigating the regulations.
- An exemption for natural subdivisions already divided by roads, would be useful in streamlining the regulations.
- Design standards are needed with respect to some additional items. It would be useful to provide for such items as mailbox stops and school bus pulloffs, for example.
- Provisions to encourage conservation subdivisions (where lots are clustered to preserve open space buffers) should be considered.
- There are no standards for soils testing for subsurface sewage treatment capacity in the case of lots not regulated by the County or under the terms of the New York City Watershed Agreement. The County encourages testing of all

lots but does not formally require it, leaving that up to the local municipalities to decide. There also are no cross-references to Department of Health or the New York City Watershed regulations.

- Additional standards are needed for common open space and recreational facilities in larger subdivisions. There are also no requirements regarding management of common facilities such as storm water improvements or the operation of homeowner associations. This is becoming a much more important issue as the Town is beginning to get more attention from larger land developers.
- The street design standards and general approach to regulating street construction somewhat encourage applications for dedication of roads to the Town, which is not desirable. Currently, the Subdivision Regulations state that "access to private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations."

Another provision, however, states that "all streets must meet the present specifications of the Town of Conesville Highway Regulations." Those specifications regulate dedications of streets to the Town.

Therefore, all subdividers are effectively required to put their streets into dedication-ready condition before approval, giving the subdivider every incentive to dedicate sooner rather than later. This is not a good policy unless the Town wants the roads. Separate standards for private streets are needed to complement the Town's existing local law establishing higher standards for road takeovers by the Town.

- The regulations specify a maximum road grade of 10%, which is rather severe for a hilly community of Conesville's nature. A 12% standard is more realistic.
- More detailed topography (2 foot contours) is needed if roads are to be constructed.

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NEW YORK CITY WATERSHED REGULATIONS

The regulations adopted for the New York City water supply watershed are comprehensive in scope. The Memorandum of Agreement between local and City authorities defines many of the relationships between the parties but there is still a difficulties that result from the procedurally top-heavy approaches employed by City agencies to make decisions. This often results in excessive delay and added costs from a local perspective.

Nevertheless, the Watershed Regulations themselves are not nearly as much an obstacle to development as the procedures used to apply them. The standards, in fact, are not substantially different from those imposed by many communities on their own initiative. They include the following requirements:

- New petroleum storage facilities (including those used for home heating fuel storage) must be located at least 100 feet from a stream and 500 feet from a reservoir.
- All new subsurface sewage disposal systems must be approved by the City's Department of Environmental Protection and be located at least 100 feet from a stream or wetland and 300 feet from a reservoir (increased to 250' and 500', respectively, for "raised systems").
- Impervious surfaces constructed in connection with new commercial uses are prohibited within 100 feet of a stream or wetland or 300 feet of a reservoir (not prohibited within designated hamlets, but subject to review and permit).
- New residences are generally prohibited within 100 feet of a stream or wetland or 300 feet of a reservoir.
- Stormwater pollution prevention plans for review by the City are required in connection with new subdivisions, earth disturbances of 5 or more acres and new impervious surfaces of 40,000 or more square feet within commercial zones.

New Federal EPA stormwater pollution control permitting requirements for disturbances of as little as one acre have been working their way down through State regulations. These regulations now require a Storm Water Pollution Prevention Plan (SWPPP) for most new projects of any substance, rendering the impact of City requirements much smaller on a relative basis.

The Town may wish to assume more control of these matters for itself by developing compatible local standards that serve to resolve the major issues before they reach the New York City Department of Environmental Protection for decision. The Town will, more importantly, have to be involved in dealing with the installation, financial guarantee and maintenance of the required storm water improvements.

OTHER REGULATIONS

The Town has also enacted a Town Highway Law setting out criteria applicable to dedication of streets to the Town. These regulations are cross-referenced in the Subdivision Regulations as the baseline standard for all new roads, a policy that could have the unintended consequence of encouraging road dedications (see additional discussion under *Subdivision Regulations*). The highway specifications have, however, been incorporated into local law which is the proper approach.

4.1.2 Future Land Use

The Town's most serious land use challenges are likely to come from continued residential growth, particularly second home growth and conversions of these units to permanent residences.

There is relatively little commercial or industrial activity and not likely to be much in the near future given the relative isolation of the Town. This is not to suggest the Town doesn't need more of these uses. It does need them, but one must be realistic in assessing the potential and knowing where growth will arise.

Accordingly, land use controls must continue to provide the flexibility to accommodate development in all areas of the Town but in a manner that

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allows the Town to exercise reasonable control to deal with the impacts of the development. The existing Subdivision Regulations provide for most of what's needed, although these will demand upgrading at some point.

4.1.3 Land Use Recommendations

Specific recommendations relating to land use policies within the Town of Conesville are provided below:

A. Subdivision Regulations

The *Town of Conesville Subdivision Regulations* should be updated to address the issues identified in Section 4.1.1 and provide for Conservation Design Subdivisions. This type of subdivision is a form of clustering where the emphasis is put on preserving usable open space, not just the lands that cannot be developed. It can also facilitate the continuation of farming and forestry as enterprises on the saved open spaces.

It is recommended these be adopted under Municipal Home Rule authority to allow for some important modifications of *Town Law* (e.g. to provide more than six months to install improvements and file final plans).

B. Site Plan Review Law

The Town of Conesville will eventually need an additional tool to deal with major non-residential development issues and legally establish minimum lot size criteria for both residential and non-residential projects. Accordingly a *Town of Conesville Site Plan Review Law* is proposed. A recommended version is attached hereto as Appendix B.

This proposed *Site Plan Review Law* is intended to provide a procedure, thoroughly grounded in the *New York State Town Law* provisions for site plan review by Planning Boards, while also using the *Municipal Home Rule Law* to tailor an approach to land use regulation suitable for meeting Conesville's particular needs.

The recommended *Site Plan Review Law* includes minimum lot size and other development standards pertaining to certain uses, stormwater management provisions and other general standards for development in the Township that would not be covered by the *Town of Conesville Subdivision Regulations*. It can be expanded as needed to address specific needs such as time-shared multi-family development, cellular towers and other specific issues of interest to the Town.

The *Site Plan Review Law* can also be modified to include additional detail on parking, signs or other special aspects of development should they become problems for the Town.

Important features of the recommended *Site Plan Review Law* are those pertaining to due process. There is a non-conforming buildings provision that grandfathers existing development, for example. There is a clear procedure for processing site plans, much in the same way subdivision plans are now processed. A Board of Appeals would be established to deal with variances.

C. Wind Energy Facility Law

Some forms of development are sufficiently complex to warrant separate local laws, building not only on site plan review authority discussed above but also specific authority that exists elsewhere in the Town Law or New York State law generally. Among these is wind power generation. A *Wind Energy Facility Law* is recommended for the Town of Conesville and is attached as Appendix C.

The proposed *Wind Energy Facility Law* distinguishes between industrial size and small on-farm type windmills and establishes standards for each. These include location and building standards, site safety measures, traffic rout and access road criteria, setbacks, noise standards and numerous other specific regulations intended to allow for both types of wind energy generation facilities with protections for adjoining property owners.

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consider enacting a *Manufactured Home Law* (see Appendix E) for this purpose that would address density, sewer and water requirements and require the provision of a recreation area.

F. *Right to Farm and Practice Forestry*

Farming and timbering are important industries within the region. They builds on the Town's competitive natural resource advantages. These industries directly and indirectly employ significant numbers of Town and County residents. The community survey revealed strong support (90% in favor) for protecting the right to both farm and timber using sound management practices.

Local laws modeled on the County's recommended Right to Farm Law and the Right to Practice Forestry provisions of the Environmental Conservation Law are, therefore, being adopted concurrently with the preparation of this *Comprehensive Plan*.

4.2 Community Facilities

D. *Junkyard Law*

The Town should also consider adopting a *Junkyard Law* to establish some additional specific standards for such enterprises and an effective enforcement program. The screening standards now contained in the *New York State General Municipal Law* are inadequate, requiring only a fence that can be as ugly as the junkyard. Moreover, there is no effective mechanism to ensure the cleanup of existing junkyards that do not conform to the Law. Such regulations got strong support in the community survey. A *Model Junkyard Law* is attached as Appendix D.

E. *Manufactured Home Law*

The Town has no significant standards with respect to manufactured (mobile) home park development. Specific authority to regulate manufactured homes is provided under the *Town Law* and is also inherent in site plan review authority. The Town of Conesville should

Conesville's housing expanded some 39% between 1990 and 2000. If this pace continues and second home conversions to permanent residences ensue, there could be some new demands for community facilities and services. Nonetheless, many households moving to the Town are of a second-home nature. These households tend not to make major demands on community facilities. This was reflected in the community survey (see Appendix A) where respondents favored continuing most services at their current level, with major support only for improving roads and providing special cleanup days. Notwithstanding this fact, planning and budgeting now for such community facilities and public services as will be required in the future is important, even if the needs are not now pressing. The following is a discussion of the major needs.

4.2.1 Parks and Recreation

The Town should continue to rely upon the existing Town Park over the next 5-10 years. Few improvements are required other than possibly some additional low cost passive recreational facilities

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of any new facilities should rely on volunteer support and contributions more than public expenditures. Consideration should also be given to working with the School District to share its Gilboa facilities and thereby minimize costs. There are several models around the country for these types of shared facilities.

4.2.2 Town Hall

The Conesville Town Hall is an older facility that has recently been upgraded to extend its life and provide some additional space. A new facility is not warranted at this time. The new Conesville Fire Hall also provides excellent meeting space for occasional large group events and helps to alleviate pressure on the Town Hall. The Town Highway Department facilities are also adequate for the short-term. Therefore, there are currently no unmet needs in regard these facilities.

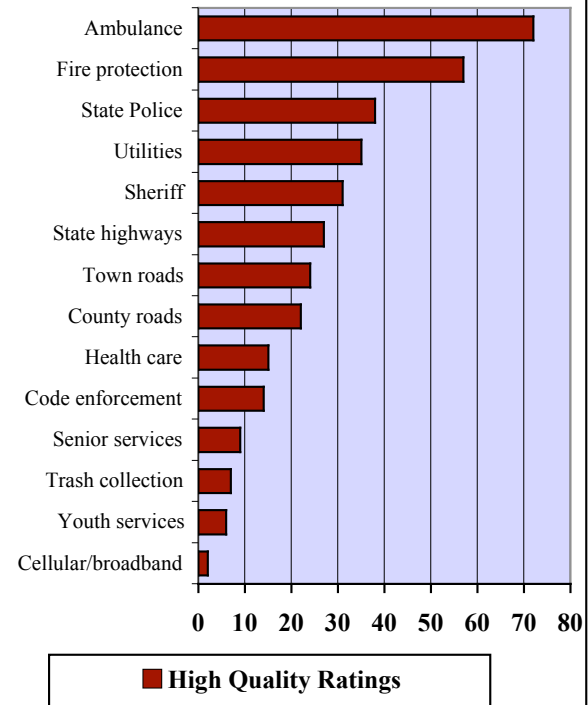
4.2.3 Fire and Ambulance

The Town is well-served by existing ambulance and volunteer fire protection services. Residents and taxpayers who responded to the community survey rated these two services, respectively, as the highest quality services among all public and semi-public services provided within the Town of Conesville.

No other services enjoy such deep support among the existing resident population, although second home owners did rate State Police protection slightly higher. Nonetheless, ambulance and fire protection service providers enjoy very broad support from both groups for the work they've accomplished on a strictly volunteer basis.

This volunteer support is increasingly difficult everywhere to obtain during the daytime, indicating the very high value of those volunteers who do serve the community in this fashion. Volunteer incentives, including awards and other recognition, the best equipment and other support services need to be provided on a continuing basis to maintain the high levels of commitment demanded of volunteers. The Town should participate with its neighbors in supporting emergency providers through these types of incentives.

Figure 4-1
Community Services Ratings



4.2.4 Sewage Facilities

Given the scattered development within the Town and increased sophistication of design with respect to on-lot sewage disposal systems, continued use of such systems is warranted. Subsurface disposal is also the preferred option for reducing impacts on both ground and surface water from excess nutrients.

Nevertheless, there are, as discussed earlier, serious soils limitations throughout the Town for subsurface sewage disposal, indicating the importance of soil and percolation testing, requirements for engineered system designs and review of such information in the course of processing development plans.

The Town's *Subdivision Regulations* and proposed *Site Plan Review Law* should be used to reinforce County Department of Health requirements for soil testing and sewage system design.

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The hamlet of West Conesville may be an appropriate candidate for either an on-lot sewage maintenance program or installation of a community subsurface sewage treatment system, given its density. Either approach will take much investigation and funding from outside sources, which the Town should begin to search out by working with its Town Engineer, recognizing this requires a long-term effort to assess need, determine feasibility and secure funds and permits for the work itself. The hamlet has been identified as a community qualifying for this type of program using New York City DEP funding provided under the Memorandum of Agreement governing watershed protection measures in the region. It is rated as the No. 19 priority among 21 such communities within the watershed.

4.2.5 Water Supplies

There is one public water supply system serving the Town of Conesville, that being the one operated by the West Conesville Water Company and encompassing that hamlet. It serves a limited population but has requested a \$35,000 New York State grant to upgrade its facilities.

Other Town of Conesville homes and businesses are supplied by individual wells. The groundwater supply is both high-quality and plentiful. Given the relatively low density nature of development taking place in the Town, water supply should not become a major issue.

4.2.6 Stormwater Management

There are no stormwater collection systems in the Town other than those connected with individual new construction projects. *Watershed Regulations* have required stormwater planning for some time in that portion of the Town. More importantly, however, new State permitting requirements extending regulation to projects disturbing as little as one acre in size are now in effect.

These Federal standards (being implemented through the State) effectively mandate stormwater management throughout the Town of Conesville. The Town, therefore, needs to integrate stormwater management into the provisions of the proposed *Site Plan Review Law* and *Subdivision Regulations* to ensure this issue is not neglected

4.3 Transportation

4.3.1 Functional Road Classifications

Highways support economic development by allowing the efficient movement of people and goods and, thereby, influence the overall direction of Town growth. Every road plays a special function in moving people and goods within and through the Town of Conesville and the surrounding region.

Table 4-1 identifies State, County and Town roads by those functions based on current conditions, nearby development and future traffic growth expectations. Many of these highways are already functioning adequately in their suggested capacities. Nonetheless, increased subdivision activity and economic development needs both suggest some upgrading and other improvements are warranted to bring about a more functional highway system that will serve anticipated needs.

Table 4-1
Town of Conesville
Highway Functional System

ARTERIAL ROADS	
FUNCTION:	Carries medium-to-heavy volumes of traffic at moderately high speeds and provides access to major traffic generators.
ROADS:	<ul style="list-style-type: none">• NYS Route 990V• County Route 3 (Potter Mountain Road)
COLLECTOR ROADS	
FUNCTION:	Provides connections between Arterials and Local Roads at comparatively slower speeds and carries moderate traffic volumes.
ROADS:	<ul style="list-style-type: none">• County Route 18 Bear Kill & Hubbard Roads)• County Route 39 (Prattsville Road)• County Route 59 (Bull Hill Road)• Durham Road• South Mountain Road
LOCAL ROADS	
FUNCTION:	Provides direct access to abutting properties and channels Local Road traffic to Collector
ROADS:	<ul style="list-style-type: none">• All other roads

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A. Collector Road Upgrades

As the Town upgrades its road system, the greatest attention should be given to those highways identified above as existing or potential collector roads that collect and carry traffic from local roads to Route 990V. Durham and South Mountain Roads will become more and more important in the future in this regard. A 10-year capital budget for such road improvements should be developed to address these and other similar issues.

B. Town Road Law

The Town should, for reasons articulated earlier, enact a *Road Law* incorporating its standards for highways being dedicated to the Town. This will address procedural issues and ensure the Town is not burdened with unnecessary new upgrading or maintenance expenses for sub-quality roads. A sample *Road Law* may be found as Appendix F.

C. Stormwater Management

The Town should consider using an engineer to develop a stormwater management plan for highway maintenance activities (e.g. culvert replacements) to reduce nutrient loadings and stormwater flows to all water bodies. Implementation of best management practices used in other regions of the Northeast would simultaneously improve roads, reduce flooding, decrease pollution and help lower the area's burden for phosphorous reduction. Grant funds may well be available through the Environmental Protection Agency, New York City DEP or other sources to develop such a plan.

The Town Planning Board also needs regular access to a Town Engineer (on a consulting basis) to review development plans for their stormwater impacts, especially on the Town of Conesville road system. The costs of such reviews can be charged back to developers so there are minimal impacts on the Town budget. The Town of Conesville includes many large properties with potentially large stormwater impacts if subdivided. The Town needs to pro-

tect its own infrastructure while ensuring all new roads and accompanying stormwater management systems are designed, constructed and operated using best management practices that will avoid these improvements from coming back to the Town or creating unusual future burdens on lot buyers.

4.3.2 Other Recommendations

A. Highway Maintenance Program

Highway maintenance should, employing a highway capital improvement program, be directed towards reducing traffic hazards, cutting back the long-term cost of highway improvements and increasing capacity. New large-scale projects are not required and could even be counterproductive in stimulating additional traffic too quickly.

B. Accident Analysis

Accident-prone areas should be continually documented to justify improvement projects, working cooperatively with the New York State Department of Transportation and the Schoharie County Department of Public Works. There are a number of turns and intersections on sections of County Roads where the sight distance is limited and realignment is justified. These include County Route 18 for most of its length. These need to be examined and considered for safety improvements.

C. Public Transportation

Schoharie County Transportation provides limited service to the Town of Conesville on a demand-responsive basis. It's Route 5 includes designated pick-up points in West Conesville and Manorkill, with service on Monday.

D. Rail and Air Service

Railroad freight service is available in nearby Albany and other locations of similar distance away. Likewise, the reasonable accessibility of the Albany International Airport suggests the Town has no further needs in either category.

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4.4 Economic Development

4.4.1 Economic Strengths, Weaknesses, Opportunities and Threats

Economic development planning always begins with an analysis of basic strengths, weaknesses, opportunities and threats relating to the economy being studied. These include, in the Town of Conesville's case, the following:

STRENGTHS

- Reasonable proximity of the Town of Conesville to both Albany and New York City, combined with relative isolation, which makes the area appealing for second-homes.
- Working landscapes of farmland, with an abundance of attractive views, architecture and scenery that draw visitors to the area for camping, second homes, hunting, fishing, riding and various other outdoor recreational pursuits.



- A small but important agricultural base, including niche agricultural economic development.
- A reservoir of varied talents associated with the economic pursuits of existing residents, combined with access to a number of executives, professionals and managers who have retired or moved to the area as seasonal residents.
- Plentiful natural resources including stone and superior hardwood timber (including an active

sawmill) as well as mountain ridges capable of generating wind power.

- A growing population and second-home market that stands in contrast to much of economically depressed Upstate New York.

WEAKNESSES

- A relatively small population of younger people that will make it difficult to pursue economic development and sustain valuable traditional institutions such as the School.
- A high New York State tax burden combined with relatively low incomes locally that make it difficult to hold onto properties or stay in the area without jobs elsewhere.
- A changing culture with groups of competing interests (e.g., earning a living versus enjoying a vacation) that engenders some conflicts.
- A small labor force that makes it difficult to employ workers for certain enterprises.
- A fairly cold climate that makes year-round occupancy somewhat less appealing.
- Relatively steep roads into the area that inhibit the potential for trucking products in and out.

OPPORTUNITIES

- Further tourism development focused on the scenery and recreational resources of the Town.
- New niche agricultural development that builds on urban and second-home markets.
- Additional natural resources development, including timber industries and related offshoots and wind power generation.
- Home occupations that rely upon proximity to the various centers for business but allow owners to still reside in a vacation area.
- More second-homes, including time-shared seasonal housing near recreational attractions.

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- Additional outdoor recreational facility development (e.g., campgrounds, hunting preserves).



THREATS

- Careless development that depreciates the value of the working landscapes attracting people to the Town of Conesville.
- Continued growth of the Upstate New York tax burden, making it impossible to hold land or use it productively for uses that preserve the open space.
- NIMBY attitudes that make it difficult to pursue new economic development projects within the Town.
- A demographic collapse of younger age cohorts that deprives the Town of needed earners, workers, customers and vibrancy.

Such factors as those listed above do not necessarily limit the Town's potential. The actions of indi-

vidual entrepreneurs and the marketplace will do far more to determine Conesville's future than any government action.

Nevertheless, it is clear Conesville's economy should be directed toward agriculture, tourism and second-home development, natural resource industries and home occupations. There are several ways the Town can marginally assist without unnecessarily interfering with the marketplace. These include the following:

4.4.2 Recommendations

Given the above analysis, the following recommendations are offered for the economic development of the Town of Conesville:

A. Promotion of Southern Schoharie County

Promotion of the southern portion of the County as a unique region connecting that Catskills with the Schoharie Valley is a positive approach to attracting entrepreneurs, visitors and new second-home residents to the area. The Southern Schoharie website is a good tool in this regard. It lists private businesses and promote visitation to the area in the way a government sponsored website often cannot.

The Town, however, can support the Southern Schoharie website by using it as a means to distribute information including more on tourism offerings, agricultural buying opportunities and special attractions within the Town. The site could also be employed to offer self-guided tours of the area.

B. Home-Based Businesses

The Town should promote the development of home occupations through its website and ensure the recommended *Site Plan Review Law*, if and when adopted, affords such businesses broad discretion to locate in the Town of Conesville.

C. Agricultural Marketing Initiative

The Town should consider working with the Schoharie County Planning and Development

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Agency to establish a mini-grant program for marketing assistance to individual farmers in the area, particularly those farmers engaged in niche enterprises with growth potential.

Successful small farms have diversified into or specialized in niche businesses where margins are higher and prices are less subject to the wide swings typical of commodities. The key to a diversification or specialization strategy, however, is marketing. Acquiring those skills, therefore is critical.

A mini-grant program to equip interested farmers with marketing skills or provide them with the outside marketing expertise to pursue new ventures and new markets will go far in addressing this need. It is recommended that \$25,000 to \$50,000 be sought through USDA Rural Development or similar sources for the purpose of funding this program.

Such programs could be administered through the County or other entities experienced in administering mini-grant and loan programs.

as attractions in those areas where wind farms have been established. However, residents and taxpayers who answered the community survey indicated they gave a higher priority to preserving scenic character than harvesting resources. Therefore, a thorough set of regulations is warranted.

Timber resources present similar issues and opportunities. The area offers high-quality hardwoods that provide a potential source of income for owners of open space. The income opportunities also extended to wood processing ventures. The Town should maintain a *Right-to-Practice Forestry Law* (see Appendix G for version recommended and adopted during the preparation of this *Comprehensive Plan*) to protect the rights of forest industries to grow and expand, similar to the Right-to-Farm protections already enacted by the Town.

D. Natural Resource Development

The Town should adopt a *Wind Energy Facilities Law* that establishes reasonable regulations for wind energy development, if the Town wants to both protect residents and develop this resource. Such a *Law* was recommended as part of the *Land Use Plan*, but also has an economic development purpose. The Town cannot hope to accommodate such uses and allow landowners to secure the economic benefits of the leases involved if there are not sound regulations in place that protect the public interest.

Such regulations need to address issues such as noise, electronic interference, shadow flicker, access road construction and aesthetic impacts. Wind turbines can be as high 400 feet or more and have dramatic effects on ridgeline appearances, although opinions vary as to whether such facilities diminish the quality of the landscape or add visual interest. The turbines do create a certain amount of curiosity and tourism, as evidenced by their frequent promotion

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5.0 Appendices

- A - Community Survey Results
- B - Draft *Site Plan Review Law*
- C - Draft *Wind Energy Facilities Law*
- D - Model *Junkyard Law*
- E - Model *Manufactured Home Law*
- F - Model *Road Law*
- G - *Right to Practice Forestry Law*

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

1) How many years in total have you lived in the Town of Conesville?

7.7%	29	Less than 5 years
7.9%	30	5 to 9 years
6.1%	23	10 to 14 years
2.6%	10	15 to 19 years
4.8%	18	20 to 24 years
23.0%	87	More than 25 years
47.9%	181	None, I am a second-home owner. If a 2nd home owner, do you plan to live here full-time?
100.0%	378	Total

Yes	No
79	81

2) What has most influenced your decision to live or stay here? (Please check no more than 3)

41.8%	159	Rural nature and farmland
33.4%	127	Forests, streams & landscapes
31.8%	121	Privacy and seclusion
24.2%	92	Wildlife, fishing and hunting
21.6%	82	Overall quality of life
21.6%	82	Air and water quality
15.8%	60	Close to friends/relatives
14.5%	55	Had 2nd home here
13.7%	52	Born or raised here
10.8%	41	Low taxes
10.3%	39	Low crime rate
8.2%	31	Affordable housing costs
5.3%	20	Close to work
4.7%	18	Inexpensive land
2.6%	10	Quality of schools
2.6%	10	Historic buildings
1.1%	4	New job opportunity
0.3%	1	Quality of local services

3) Which BEST describes how Conesville has changed since you moved here? (Please check ONE.)

47.1%	157	The Town of Conesville has not changed noticeably in its desirability as a place to live.
21.6%	72	I have not lived here long enough to form an opinion.
18.3%	61	The Town of Conesville has become a more desirable place to live.
12.9%	43	The Town of Conesville has become a less desirable place to live.
100.0%	333	Total

4) What do you like LEAST about the Town of Conesville? (Please check no more than 3)

38.4%	146	Lack of shopping
35.5%	135	Impact of New York City regulations
29.7%	113	Cost of services/taxes
15.3%	58	Poor job offerings
13.2%	50	Changing landscape
12.9%	49	Quality of services
11.6%	44	Lack of culture & recreation options
11.3%	43	Property maintenance
11.1%	42	Transportation difficulties
10.5%	40	Lack of business opportunities
6.3%	24	Changing culture
1.1%	4	Housing costs

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

5) How important, if at all, is it for the Town of Conesville to review each of the following aspects of developments?

	Not Important	Somewhat Important	Very Important
Junkyards & property maintenance	26	69	252 66.3%
Impacts on streams	11	74	246 64.7%
Scenic impact	27	87	229 60.3%
Impacts on right to farm	27	83	217 57.1%
Special uses such as cell towers & windmills	41	109	193 50.8%
Proximity of commercial development to homes	39	93	192 50.5%
Density of development	43	102	184 48.4%
Historic character	44	118	169 44.5%
Mobile homes and parks	43	133	153 40.3%
Hillside development	60	109	142 37.4%
Lot sizes and setbacks	41	148	133 35.0%
Site design and layout	52	135	124 32.6%
Landscaping	70	164	89 23.4%
Business signs	128	130	59 15.5%

6) Modern technology and ease of travel has made it possible to conduct more businesses from home.

Do you now have one or more home-based businesses? **18.7%** 67 Yes **81.3%** 291 No

If yes, please check the appropriate boxes that best describe those businesses.

29.3%	24	Trucking business
17.1%	14	Contractor
13.4%	11	Profession (e.g., accountant)
8.5%	7	Other agricultural niche business
6.1%	5	Telecommute type business
3.7%	3	Clerical or similar service
3.7%	3	Home care (adults)
2.4%	2	Craft or gift shop
2.4%	2	Cosmetic sales
2.4%	2	Farm stand
11.0%	9	Other
100.0%	82	Total

7) To what extent would you generally favor spending your tax money ADDING, EXPANDING or IMPROVING any of the following public services and facilities?

	Add or Increase Support	Continue As Is	Decrease Support
Town roads	49.5% 188	140	11
Special property cleanup days (e.g., tire day)	43.7% 166	156	10
Ambulance services	41.1% 156	179	4
Fire protection	37.6% 143	191	5
Recreational facilities or programs	23.7% 90	208	23
Town Hall	15.8% 60	230	23
Town park	14.2% 54	242	21

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

8) Where is the last place you lived prior to moving to your current address? (Please check for last TWO addresses)

48.8%	196	New York City/Westchester/Rockland/Long Island
12.7%	51	Elsewhere in Upstate NY
8.5%	34	Elsewhere in U.S. or outside U.S.
7.7%	31	Always lived where I do now
7.2%	29	Pennsylvania/New Jersey/Connecticut
6.7%	27	Elsewhere in Town of Conesville
4.2%	17	Elsewhere in Schoharie County
4.2%	17	Lower Hudson Valley (Ulster, Dutchess, Orange, Putnam)
100.0%	402	Total

9) Please indicate where you work.

	Principal H'holder	Second H'holder	Totals	
Elsewhere in NY	131	94	225	53.8%
Another state	21	23	44	10.5%
The Town of Conesville	17	23	40	9.6%
Elsewhere in Schoharie County	18	17	35	8.4%
Greene County	15	13	28	6.7%
Delaware County	10	8	18	4.3%
Albany County	15	2	17	4.1%
Schenectady Cty.	5	1	6	1.4%
Ulster County	2	3	5	1.2%
Totals	234	184	418	100.0%

10) Please indicate your age bracket (principal householder only).

0.3%	1	<25 years
1.4%	5	25-29 years
3.0%	11	30-34 years
5.5%	20	35-39 years
7.7%	28	40-44 years
11.0%	40	45-49 years
16.2%	59	50-54 years
11.5%	42	55-59 years
15.3%	56	60-64 years
12.1%	44	65-69 years
6.3%	23	70-74 years
4.7%	17	75-79 years
4.1%	15	80-85 years
1.1%	4	> 85 years
100.0%	365	Total

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

11) How would you describe your present occupation?

	Principal H'holder	Second H'holder	Totals	
Retired	114	64	178	25.5%
Professional occupation	60	43	103	17.1%
Executive/administrative/managerial	37	29	66	11.6%
Homemaker	4	23	27	9.2%
Administration support occupation	6	18	24	7.2%
Service occupation	21	17	38	6.8%
Technician or support occupation	17	10	27	4.0%
Retired but pursuing second career	21	9	30	3.6%
Sales occupation	7	8	15	3.2%
Private household occupation	1	4	5	1.6%
Transportation or material moving	6	4	10	1.6%
Precision production, craft or repair	15	3	18	1.2%
Farming, forestry or mining	9	2	11	0.8%
Handler, cleaner, helper or laborer	3	1	4	0.4%
Machine operator/assembler/inspector	5	0	5	0.0%
Other	26	16	42	6.4%
Totals	352	251	603	100.0%

12) How would you rate the quality of the following public and semi-public services?

	High Quality	Good	Fair	Poor	Not Sure
Ambulance services	21.9% 72	145	51	5	56
Fire protection	17.4% 57	157	64	6	43
State Police protection	11.7% 38	120	81	32	53
Utilities (e.g. electric)	10.9% 35	165	85	18	18
County police (Sheriff) protection	9.5% 31	115	74	35	70
State highway maintenance:	8.2% 27	176	88	22	17
Town road maintenance:	7.1% 24	124	110	64	14
County road maintenance:	6.5% 22	130	112	57	15
Health care services	5.1% 15	79	75	51	76
Overall Town code enforcement	4.5% 14	96	94	36	70
Senior services	2.9% 9	58	70	31	138
Trash collection	2.2% 7	55	55	113	86
Youth services	2.0% 6	59	66	31	137
Cellular/broadband service	0.6% 2	13	28	239	39

13) Should the Town establish or improve local controls with respect to the following:

Protecting rights to farm and timber using sound management practices?	90.2%	295	Yes	32	No
Regulating junk vehicle storage?	86.8%	297	Yes	45	No
Site plan review for proposed commercial uses?	83.8%	264	Yes	51	No
Regulating mobile home parks?	80.9%	266	Yes	63	No
Regulating the construction of cellular communications towers?	79.3%	256	Yes	67	No
Regulating wind power generation facilities?	73.5%	241	Yes	87	No

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

- 14) The Town has land for a park along Route 990V. Is there a need for the Town to provide more recreation, new facilities or additional support for recreation by spending MORE of your tax money on these facilities or programs? Or, should spending stay the SAME or LESS be spent?

	% More	MORE \$	% Same	SAME \$	% Less	LESS \$
Senior activities	32.0%	99	65.5%	188	7.1%	22
Trail systems	28.9%	92	65.2%	172	17.0%	54
Historical society	27.7%	86	68.8%	190	11.3%	35
Picnic facilities	23.5%	74	72.1%	191	15.9%	50
Playground facilities	21.4%	67	75.8%	210	11.5%	36
Other recreation	20.7%	62	75.5%	191	15.4%	46
Ball fields	13.8%	44	83.8%	228	15.0%	48
Basketball courts	13.0%	40	83.7%	205	20.5%	63

15)

Please compare the importance of each of these development issues:

Circle your rating for each, using the following guide, and comparing the choices:

1 = Not that important

2 = Slightly important

3 = Moderately important

4 = Very important

5 = Extremely important

Land Development Issue No.1

Protecting private property rights

1

2

3

4

5

Total Score =

1,206

7

11

39

67

229

COMPARED TO:

Managing the impact of development

1

2

3

4

5

Total Score =

858

28

28

65

84

112

Land Development Issue No.2

Economic development and job creation

1

2

3

4

5

Total Score =

749

42

52

97

61

80

COMPARED TO:

Staying primarily rural/residential

1

2

3

4

5

Total Score =

1,026

11

23

46

81

167

Land Development Issue No.3

Harvesting resources (e.g., timber, wind)

1

2

3

4

5

Total Score =

736

38

46

104

66

71

COMPARED TO:

Preserving existing scenic character

1

2

3

4

5

Total Score =

1,019

11

23

64

72

163

Please note the above choices are not meant to suggest some of both is not possible but rather to simply compare the importance of each when choices must be made

- 16) Which of the following statements BEST describes your view of zoning as a method of dealing with land use issues?

43.7%	153	I support zoning but favor a limited approach that balances property rights and development regulation.
22.6%	79	I don't know enough about it and I am unsure about the costs and benefits of zoning for my community.
20.9%	73	I view zoning as an infringement on my private property rights and, therefore, favor other approaches.
12.9%	45	I want to see a very strong zoning law that addresses all the major land development issues.
100.0%	350	Total

Town of Conesville, Schoharie County, New York

Appendix A - Community Survey Results

		1	2	3	4	5	Rating
17) Where would you like to see the community in the next 10-20 years? Please indicate how important each possible goal is to you. Circle your rating for each, using the following guide: 1 = Not that important 2 = Slightly important 3 = Moderately important 4 = Very important 5 = Extremely important	Clean and green environment	9	4	25	65	246	1,233
	Preservation of remaining farms	17	16	59	80	187	1,122
	Strong natural resources industry	42	34	76	71	103	811
	More agricultural niche businesses	27	41	101	82	75	789
	More local shopping opportunities	57	55	74	61	96	770
	More job opportunities in Conesville	55	54	77	66	88	758
	Higher quality forms of development	42	56	103	52	72	706
	More recreation for residents	65	71	107	51	41	602
	Improved Town office & meeting facilities	64	64	121	51	35	599
	More affordable housing	79	69	97	44	41	559
	Vibrant tourism industry	89	50	90	53	39	545
	More high valued housing	101	67	89	35	33	482
	More second-home development	108	76	77	35	34	471
18) Is there anything else you would like to tell us for use in our Comprehensive Plan?							
Rural nature and farmland, maintain	33	17.5%					
Junked cars, remove	17	9.0%					
Taxes, lower	13	6.9%					
General store	6	3.2%					
Property maintenance, improve	6	3.2%					
Roads, improve and maintain	6	3.2%					
Health facility needed	4	2.1%					
Maintain low density	4	2.1%					
Local trash site for large items	4	2.1%					
Garbage cleaned up	4	2.1%					
Cell towers, yes	2	1.1%					
Conesville, don't change anything	2	1.1%					
Convenience store needed	2	1.1%					
Pavillion, picnic tables, grills in park	2	1.1%					
School taxes, control	2	1.1%					
Shopping, more local	2	1.1%					
Small, restricted strip mall needed	2	1.1%					
Speed control	2	1.1%					
Tennis courts, bike paths	4	2.1%					
Windmills, yes	2	1.1%					
Other comments	70	37.0%					
Total	189	100.0%					

Town of Conesville, Schoharie County, New York
Appendix B - Draft Site Plan Review Law

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Town of Conesville, Schoharie County, New York

Appendix B - Draft Site Plan Review Law

§ 1 GENERAL PROVISIONS

- A. Enactment.** The Town Board of the Town of Conesville, Schoharie County, New York, does hereby ordain and enact the Town of Conesville Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of Town Law.
- B. Short title.** This local law shall be known as the "Town of Conesville Site Plan Review Law." The Town of Conesville is hereinafter referred to as the "Town."
- C. Intent and purpose.** It is the intent of this local law to ensure optimum overall conservation and use of the natural and man-related resources of the Town, by regulating land use activity within the Town of Conesville through review and approval of site plans. It is not the specific intent of this local law to prohibit any land use activity but to allow all land use activities which will meet the standards set forth in this local law for land development. Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the Town.
- D. Authorization of Planning Board to review site plans.** The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the Town of Conesville in accordance with the standards and procedures set forth in this local law.
- E. Applicability of review requirements.** All new land use activities within the Town shall require site plan review and approval before being undertaken, except for the following:
- 1) Construction of one or two-family dwelling and ordinary accessory structures, and related land use activities.
 - 2) Landscaping or grading not connected with a land use reviewable under the provisions of this law.
 - 3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - 4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%.
 - 4) Signs under 32 square feet.
 - 5) All agriculture, timbering and mining activities, excepting permanently constructed processing facilities.
- Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.
- F. Relationship of this law to other laws and regulations.** This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive provisions and requirements shall apply. The Town Board hereby supersedes the New York State Town Law pursuant to the Municipal Home Rule Law to establish a \$350 per day fine for violations of this local law and establish a Board of Appeals for granting area variances.
- G. Further regulations by Planning Board.** The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this law.
- H. Severability.** The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

Town of Conesville, Schoharie County, New York

Appendix B - Draft Site Plan Review Law

I. **Effective date.** This local law shall take effect immediately upon filing with the Secretary of State.

§ 2. DEFINITIONS

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

B. **Definitions.**

CROSS ACCESS DRIVE – A service drive providing vehicular access between two or more contiguous sites so that the driver need not reenter the public street system

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

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

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

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

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

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

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

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

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

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

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

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

Town of Conesville, Schoharie County, New York

Appendix B - Draft Site Plan Review Law

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

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

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

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

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

§ 3. PROCEDURES

- A. General procedures.** Prior to undertaking any new land use activity except for a one- or two-family dwelling and other uses specifically excepted in Section 1.6 of this local law, a site plan approval by the Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.
- B. Sketch plan.** A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:
- 1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
 - 2) An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel; and
 - 3) A topographic or contour map of adequate scale and detail to show site topography.
- C. Application requirements.** An application for site plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.
- 1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 - 2) North arrow, scale and date;

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Appendix B - Draft Site Plan Review Law

- 3) Boundaries of the property plotted to scale;
- 4) Existing buildings;
- 5) Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
- 6) Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- 7) Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- 8) Provision for pedestrian access;
- 9) Location of outdoor storage, if any;
- 10) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- 11) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- 12) Description of the method of securing public water and location, design and construction materials of such facilities;
- 13) Location of fire and other emergency zones, including the location of fire hydrants;
- 14) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- 15) Location, size and design and type of construction of all proposed signs;
- 16) Location and proposed development of all buffer areas, including existing vegetative cover;
- 17) Location and design of outdoor lighting facilities;
- 18) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- 19) General landscaping plan and planting schedule;
- 20) An estimated project construction schedule;
- 21) Record of application for and status of all necessary permits from other governmental bodies;
- 22) Identification of any permits from other governmental bodies required for the project's execution; and
- 23) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

Town of Conesville, Schoharie County, New York

Appendix B - Draft Site Plan Review Law

- D. Required fee.** An application for site plan review shall be accompanied by a fee that is established by the Town Board and modified by the Town Board by resolution or waived for good cause.
- E. Reimbursable costs.** Cost incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.
- F. Referrals to other agencies and boards.**
- 1) The Planning Board may refer the site plan for review and comment to local, and County officials or their designated consultants, and to representatives of federal, state, and County agencies, including but not limited to, the New York State Department of Transportation, the State Department of Environmental Conservation, and the County Department of Public Works, whichever has jurisdiction.
 - 2) Whenever any site plan involves real property in an area described in Section 239-m of the General Municipal Law, said site plan shall be referred to the Schoharie County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law.
- G. SEQR compliance.** The applicant shall demonstrate compliance for any actions subject to the New York State Environmental Quality Review Act (SEQR) prior to site plan approval. The Planning Board shall, after the site plan has been accepted as complete, classify the application according to SEQR, review the Environmental Assessment Form (EAF) and take one of the following actions:
- 1) If additional information is needed to render a determination of significance, the Planning Board shall specify exactly what the applicant needs to supply, or
 - 2) If the information is provided and the project is determined to have only small to moderate impacts with little significance on the environment, then a negative declaration may be given, or
 - 3) If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full Environmental Impact Statement (EIS) will be provided.
- H. Public hearing.**

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing.

I. Planning Board Decision.

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

- 1) **Approval.** Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- 2) **Approval with modifications.** The Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by

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certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

- 3) Disapproval. Upon disapproval of the site plan the decision of the Planning Board shall immediately be filed with the Town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

J. Waivers

The Planning Board may waive, subject to appropriate conditions, the provisions of any or all procedural requirements set forth herein if, in the special circumstances of a particular application such requirements, are not in the interest of the public health, safety, and general welfare or strict adherence to such requirements would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

K. Guarantee of Site Improvements

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

§ 4 DESIGN STANDARDS

A. General standards and considerations.

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

- 1) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- 2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- 3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- 4) Adequacy and arrangement of traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- 5) Adequacy of stormwater and drainage facilities.
- 6) Adequacy of water supply and sewage disposal facilities.
- 7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- 8) Adequacy of fire lanes and the provision of fire hydrants.
- 9) Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

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- 10) Overall impact on the neighborhood including compatibility of design consideration.
- 11) Impacts on agriculture and forestry, which are important industries to the Town of Conesville that need to be protected.

B. Lot development standards.

- 1) The lot development standards set forth in Table 1 following shall apply to all new lots hereafter created in the Town for purposes of placing principal structures or uses.

Table 1 – Lot Development Standards

Description	Standards
Minimum Lot Area	
On-site sewer and water	1 acre
Central sewer & water	½ acre
Central Sewer or Water	¾ acre
Minimum Lot Frontage	50 feet
Minimum Lot Width/Depth	100 feet
Maximum Lot Coverage	50%
Minimum Side/Rear Yard	50 feet
Front Yard	50 feet
Maximum Building Height	45 feet
Minimum Stream Setback	100 feet
Accessory Structure Setback	10 feet side/rear yards

- 2) Corner lots.
 - a) Obstruction of vision at street intersections. The front/side yards at the street intersection shall be kept free of vegetation and other structures that would obstruct the vision of drivers between the heights of 3 ½ feet to 10 feet above the average grade of each street on the center line thereof. The sight distances set forth in Table 2 following shall be maintained.
 - b) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yard shall be deemed to be a rear yard and the other or others, side yards.
- 3) Yard regulations.
 - a) Side yard width may be varied. Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than 1/2 the otherwise required minimum width.
 - b) Front yard exception. When an unimproved lot is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots but shall be not less than 10 feet.
- 4) Height exceptions. Water towers, chimneys, smokestacks, flagpoles, communication towers, masts and aeri-als, and heating, ventilation, air-conditioning and other accessory utilities shall be exempted from height restric-tions except as specifically regulated herein. Farm buildings and structures on farms, e.g., silos, are also ex-cluded.

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- 5) Accessory structures. Accessory structures may be placed in side or rear yards only and shall not be placed within 10 feet of any property line. No accessory structure shall be placed in the required front yard. Accessory structures shall not cover more than 25% of the required rear yard.
- 6) Building placement. Buildings shall be oriented parallel to the public right-of-way and respect the building placement on adjoining properties.
- C. Multi-family dwelling standards.
 - 1) Multi-family dwelling project applications shall, in addition to other data required herein, provide the following data;
 - a) Building layouts, floor plans and profiles indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in Town of Conesville. Setbacks from property lines, improvements and other buildings shall also be indicated.
 - b) A schedule or plan and proposed agreement(s) for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either; (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.
 - 2) Following site plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. No Certificate of Occupancy shall be issued until such time as such improvements have been installed and inspected by the Town of Conesville.
 - 3) No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law and until all improvements have been installed and inspected by the Town of Conesville (unless the improvements shall have been financially guaranteed as provided herein).
 - 4) Multi-family dwelling density shall be limited to one dwelling units per acre. Density shall be calculated by taking the total acreage of the development and deducting the following acreages;
 - a) Land contained within public rights-of-way;
 - b) Land contained within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved, the width shall be assumed to be twenty-five [25] feet);
 - c) Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service;
 - d) All wetlands, floodplains, slopes of 25% or greater grade, water bodies and other undevelopable areas (unless such areas are used for some active recreational purpose such as trails or employed for some other development purpose such as a stormwater detention area);

and dividing by the number of proposed units.

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- 5) All areas of a multi-family development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:
- a) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in sub-section (b) below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 25% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
 - b) Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future development" on all site plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "pre-approved plan" if density or other zoning requirements shall have been modified to preclude such development.
 - c) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.
 - d) Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.
 - e) Developments of fifty (50) units or more shall provide one-half acre of playground area per 50 units unless restricted to adult occupancy only.
- 6) All multi-family developments shall be served with central sewage facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.
- 7) The following design criteria shall apply to multi-family developments;
- a) There shall be no more than ten (10) dwellings in each multi-family building.
 - b) No structure shall be constructed within twenty-five (25) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area. No buildings shall be located

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within one hundred (100) feet of any pond, reservoir, lake or watercourse that is part of a water supply system.

- c) Access roads through the development shall comply with minor street requirements as specified in the Subdivision Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
 - d) Access and egress from the proposed development shall be to a public road and a traffic engineering study shall be an integral part of the site plan application. Such entrances and exits shall be at least one hundred (100) feet from any intersection and shall have at least three hundred (300) feet of sight distance in both directions. No multi-family development shall be served by more than one entrance and one exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
 - e) Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.
 - f) No more than sixty (60) parking spaces shall be provided in one lot, nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.
 - g) No structure shall be erected within a distance equal to its own height of any other structure.
 - h) Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
 - i) Multi-family developments shall be subject to New York State and New York City stormwater management requirements.
 - j) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
 - k) A landscaping plan shall be provided and be subject to approval by the Planning Board.
 - l) Exterior lighting along walks and near buildings shall be provided utilizing architectural grade equipment and shall not create glare on adjoining units or adjoining properties.
 - m) Walks shall be provided throughout the development area to ensure that roads shall not be required for pedestrian circulation.
 - n) The fire district in which the development is proposed shall review and development for adequate access for emergency vehicles.
 - o) The side yard applicable to a multi-family structure shall be increased by ten (10) feet for each dwelling unit over two within the structure.
- 8) Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated

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by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.

- 9) The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity.
- 10) The developer shall, in filing a site plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer.
- 11) Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall:
 - a) Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;
 - b) Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by the total number of expected purchasers.

§ 5 BOARD OF APPEALS

A. Establishment

Pursuant to the provisions of the Town Law, a Board of Appeals is hereby established in the Town of Conesville. The Board shall consist of five (5) members to be appointed by the Town Board. The terms of the initial appointees shall be for one (1), two (2), three (3), four (4), and five (5) years, etc., from and after the date of appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five (5) years after the expiration of the terms of their predecessors in office. Appointments to fill vacancies shall be for the unexpired term of the members whose term or terms become vacant. Such appointment to fill vacancies shall be made in the same manner as the original appointment. The Board of Appeals may continue to legally operate while vacancies are waiting to be filled provided there are enough members to constitute a quorum. The Board shall perform all the duties and have all the powers prescribed by Section 267-b of The Town Law of the State of New York.

B. Types of Variances

Area variances involve relief from dimensional or other requirements under the terms of this Law. Each of the following findings of fact shall be made in writing by resolution by the Board of Appeals prior to granting such variances.

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The Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

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

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

§ 7 NON-CONFORMING USES

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

§ 8 ENFORCEMENT

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

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§ 1.	Title
§ 2.	Purpose
§ 3.	Authority
§ 4.	Applicability
§ 5.	Permits
§ 6.	Waivers
§ 8.	Separability
§ 9.	Effective Date
§ 10.	Definitions
§ 11.	Application Requirements
§ 12.	Application Review Process
§ 13.	Wind Energy Facility Development Standards
§ 14.	Required Site Safety Measures
§ 15.	Traffic Routes and Road Maintenance
§ 16.	Setbacks
§ 17.	Noise and Setback Easements
§ 18.	Issuance of Wind Energy Facility Permits
§ 19.	Abatement
§ 20.	Limitations on Approvals
§ 21.	Permit Revocation
§ 22.	Wind Measurement Towers
§ 23.	Small Wind Turbines
§ 24.	Fees
§ 25.	Tax Exemption

Be it hereby enacted by the Town Board of the Town of Conesville, Schoharie County, New York, as follows:

§ 1. Title

This local law may be cited as the "Town of Conesville Wind Energy Facility Law."

§ 2. Purpose

The purpose of the law is to provide for the construction and operation of wind energy facilities in Town of Conesville, subject to reasonable conditions that will protect the public health, safety and welfare.

§ 3. Authority

The Town Board of the Town of Conesville enacts this local law under the authority granted by Section 10 of the New York State Municipal Home Rule Law and the New York State Town Law.

§ 4. Applicability

The requirements of this law shall apply to all wind energy facilities proposed, operated, modified, or constructed after the effective date of this law, including modification of existing wind energy facilities and wind measurement towers erected for the purposing of testing the feasibility of wind energy generation.

§ 5. Permits

- A. Permit Requirement. No wind energy facility shall be constructed, reconstructed, modified, or operated in the Town of Conesville except by first obtaining a Wind Energy Facility Permit as provided under this law.

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- B. Exemptions. No permit or other approval shall be required under this law for mechanical, non-electrical wind turbine utilized solely for agricultural operations. Replacement in-kind or modification of a wind energy facility may occur without Planning Board approval when (1) there shall be no increase in total height; (2) no change in the location of the wind turbine; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the wind turbine.
- F. Transfer. No transfer of any wind energy facility or Wind Energy Facility Permit, nor sale of the entity owning such facility shall eliminate the liability of an applicant nor of any other party under this law.

§ 6. Waivers

The Planning Board may, after a public hearing (which may be combined with other public hearings on wind energy facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this law to improve the quality of any wind energy facility and better protect the health, safety and welfare of the Town. The Planning Board shall consider the impact of the waiver on the neighborhood, including the potential benefits or detriment to nearby properties, the benefits or detriments to the applicant, feasible alternatives and the scope of the request. The Planning Board may attach such conditions as it deems appropriate to waiver approvals to ensure public health, safety and welfare.

§ 7. Enforcement and Penalties

- A. The Town of Conesville Board shall designate a code enforcement officer to enforce the provisions of this law and may employ such professional expertise as may be necessary to support these enforcement efforts and assist the Planning Board with application reviews. Such professional fees shall be the responsibility of the applicant to pay (see § 24).
- B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy facility in violation of this law or in noncompliance with the terms and conditions of any permit issued pursuant to this law, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of a violation of this law and subject to a fine of not more than \$350. The Town may institute a civil proceeding to collect civil penalties in the amount of \$350 for each violation and each week said violation continues shall be deemed a separate violation.
- C. The Town may, in the case of any violation or threatened violation of any of the provisions of this law, including permit terms and conditions, institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use and to restrain, correct or abate such violation, to prevent the illegal act. This shall be in addition to other remedies and penalties herein provided,

§ 8. Severability

Should any provision of this law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 9. Effective Date

This law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

§ 10. Definitions

As used in this law, the following terms shall have the meanings indicated:

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NEW YORK INDEPENDENT SYSTEM OPERATOR (NYISO) - NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and nondiscriminatory wholesale market for electricity in New York State.

RESIDENCE - Any dwelling suitable for habitation existing in the Town of Conesville on the date an application is received. A residence may be part of a multi-family dwelling or multipurpose building, but shall not include buildings such as hotels or motels, hospitals, day care centers, dormitories, sanitariums, nursing homes, municipal buildings, schools or other buildings used for educational purposes, or correctional institutions.

SITE - The parcel(s) of land where a wind energy facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a wind energy facility or has entered an agreement for said facility or a setback agreement shall not be considered off-site.

SOUND PRESSURE LEVEL - According to the NYSDEC Program Policy on Assessing and Mitigating Noise Impacts, a measure of sound pressure in the atmosphere which can be determined according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedure. Also, the perceived loudness of a sound as expressed in decibels (db) or A-weighted decibel scale dB(A). For example, an L₁₀ - 30 dBA indicates that in any hour of the day 30 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes.

TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the wind turbine.

TRANSMISSION OWNER - The owner of the electric distribution networks. Examples include New York State Electric & Gas, Niagara-Mohawk, and Con Edison.

WIND ENERGY FACILITY - Any wind turbine, small wind turbine or wind measurement tower or combinations of these, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY FACILITY PERMIT- A permit pursuant to this law granting the holder the right to construct, maintain and operate a wind energy facility.

WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

WIND TURBINE (SMALL) - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce consumption of utility power at that location.

§ 11. Application Requirements

A complete application for a Wind Energy Facility Permit shall include:

- A. A copy of an executed interconnection agreement with NYISO and the applicable transmission owner.

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- B. A completed application for a Wind Energy Facility Permit.
- C. A site plan prepared by a licensed professional engineer, including:
 - 1) Property lines and physical dimensions of the site;
 - 2) Location, approximate dimensions and types of major existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbines, or 1½ times the total height of such wind turbines, whichever shall be greater.
 - 3) Location and elevation of each proposed wind turbine.
 - 4) Location of all above and below ground utility lines on the site as well as transformers, the inter-connection point with transmission lines, and other ancillary facilities or structures.
 - 5) Locations of buffers as required by this law.
 - 6) Location of the nearest residential structure(s) on the site and located off the site, and the distance from the nearest proposed wind turbine.
 - 7) All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.
- D. A vertical drawing of the wind turbine showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each wind turbine of the same type and total height. The make, model, picture and manufacturer's specifications, including noise decibels data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine.
- E. A lighting plan showing any FAA-required lighting and other proposed lighting.
- F. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation and, if applicable, New York City Department of Environmental Protection watershed standards and to such other standards as may be established by the Town of Conesville Planning Board on the recommendation of its Town Engineer or consultants.
- G. A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
- H. An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.
- I. A decommissioning plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the site restored, less any fencing or residual minor improvements requested by the landowner.

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- J. List of property owners, with their mailing address, within 500 feet of the outer boundaries of the proposed site.
- K. A complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
- L. A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the wind energy facility. This Full Environmental Assessment shall, at a minimum, include:
 - 1) A study of potential shadow flicker, including a graphic to identify locations where shadow flicker may be caused by the wind turbines and expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures to be taken to eliminate or mitigate problems.
 - 2) A visual impact study of the proposed wind turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the site accurately depicting existing conditions shall be included. The visual analysis shall also indicate color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.
 - 3) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed site, as well as Schoharie County Emergency Management Office.
 - 4) A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed wind turbine, existing noise levels at site property lines and at the nearest residence not on the site. The noise analysis shall include low frequency noise. The applicant shall also submit plans for post-development noise monitoring.
 - 5) Evidence of potential impacts on neighboring property values compiled by a licensed appraiser based on experience at other locations, extrapolating that evidence to analyze potential impacts on property values near the site.
 - 6) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.
 - 7) An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species.

§ 12. Application Review Process

- A. Applicants are encouraged to arrange a pre-application meeting with the Planning Board and consultants retained by the Town for application review.
- B. Ten copies of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of submission.
- C. The Planning Board shall, within 45 days of receipt, or such longer time as may be accepted by the applicant, determine if all information required hereunder is included in the application. If the application is

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deemed incomplete, the applicant shall be provided with a written statement listing missing data. Upon submission of a complete application, the Planning Board shall proceed with its review.

- D. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, no less than 14 nor more than 31 days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication shall be required. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.
- E. Notice of the project shall also be given, if applicable, to the Schoharie County Planning Board, as required by the General Municipal Law.
- F. Following receipt of the recommendation of Schoharie County (if applicable), the holding of the public hearing, and completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the Wind Energy Facility Permit application, in accordance with the standards in this law. The Planning Board may also impose financial guarantee and inspection requirements and require permit renewals. Any denial shall be writing setting forth competent reasons for such denial with references to relevant sections of this law.

§ 13. Wind Energy Facility Development Standards

The following standards shall apply to wind energy facilities in the Town of Conesville, unless specifically waived by the Planning Board.

- A. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
- B. No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town of Conesville Planning Board. Applications may be jointly submitted for wind turbine and telecommunications facilities.
- C. No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
- D. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the wind energy facility development plan.
- E. All applicants shall use measures to reduce the visual impact of wind turbines to the extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind turbines within a multiple wind turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- F. Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Planning Board in the form of a waiver.
- G. No wind turbine shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties.

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Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific wind turbine or wind turbines causing the interference.

- H. All construction debris shall be removed from the site or otherwise disposed of in a manner acceptable to the Planning Board.
- I. Wind turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Wind-power Projects published by the State Department of Agriculture and Markets, to the maximum extent practicable.
- J. Wind turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
- K. Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws, New York City Department of Environmental Protection watershed regulations and such other standards as shall be applied by the Planning Board on the advice of the Town Engineer and other Town consultants.
- L. No shadow flicker shall be permitted on any off-site residences.

§ 14. Required Site Safety Measures

- A. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- B. Wind energy facilities shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.
- C. Warning signs shall be posted at the entrances to the wind energy facility and at base of each tower warning of electrical shock or high voltage and containing emergency contact information.
- D. No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- E. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.
- F. Wind turbines shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

§ 15. Traffic Routes and Road Maintenance

- A. Construction and delivery vehicles for wind turbines and/or associated facilities shall propose, and the Planning Board shall approve or modify, designated traffic routes to minimize traffic impacts from construction and delivery vehicles, wear and tear on local roads and impacts on local business operations.
- B. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a wind turbine. A public improvement bond may be required prior to the issuance of any building permit in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to Town or County roads if any of these roads will be among the designated traffic routes. The applicant shall consult with the Town Highway Superintendent and/or the Schoharie County Department of Public

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Works to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board.

- C. The applicant shall provide pre-development and post-development photographic evidence of the condition of any Town or County roads along the proposed route.

§ 16. Setbacks

- A. Each wind turbine shall be set back a distance of 500 feet or $1\frac{1}{2}$ times the total height of the largest wind turbine, whichever shall be greater, from any public road, off-site residence, lodging facility, public building, church and other institution. No wind turbine shall be located within its own total height of a site boundary line.
- B. The statistical sound pressure level generated by a wind turbine shall not exceed $L_{10} - 30$ dBA measured at the nearest residence located off the Site. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement.
- C. In the event audible noise due to wind energy facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph (B) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third ($1/3$) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third ($1/3$) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.
- D. Should the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall ambient dBA plus 5 dBA. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than six (6) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public buildings. Ambient noise level measurements shall be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation.

§ 17. Noise and Setback Easements

- A. An applicant may, with approval from the Planning Board, meet noise and setback standards by obtaining written consents from affected property owners stating they are aware of the wind energy facility and the noise and/or setback limitations imposed by this law, and that consent is granted to allow noise levels to exceed the maximum limits provided herein or reduce setbacks to less than required.
- B. Such consents shall be in the form required for easements and be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the decommissioning of the benefited wind turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the wind turbine. No such easement shall permit noise levels at any other location within or outside the areas prescribed to exceed the limitations of this law.

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§ 18. Issuance of Wind Energy Facility Permits

- A. The Planning Board shall, within 120 days of determining the application is complete, and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the applicant. Should the applicant not consent to such an extension and the time period elapse without a decision, the application shall be considered approved without conditions.
- B. If approved, the Planning Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions for said Permit, and upon compliance with the New York State Building Code.
- C. The decision of the Planning Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- D. If any approved wind energy facility is not substantially commenced within two years of issuance of the Wind Energy Facility Permit, the Wind Energy Facility Permit shall expire, unless the Planning Board shall have granted an extension.

§ 19. Abatement

- A. If any wind turbine remains non-functional or inoperative for a continuous period of 24 months, the applicant shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the demonstrates to the Town that it has been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- B. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSEERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Planning Board all reports to and from the purchaser of energy from individual wind turbines, if requested and necessary to prove the wind turbine is functioning, which reports may be redacted as necessary to protect proprietary information.
- C. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.

§ 20. Limitations on Approvals

Nothing in this law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

§ 21. Permit Revocation

- A. The applicant shall fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the

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Planning Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Wind Energy Facility Permit and this law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90 day period may be considered by the Planning Board, but the total period may not exceed 180 days.

- B. A wind turbine shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind turbine become inoperable, or should any part of the wind turbine be damaged, or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Planning Board. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90 day period may be considered by the Planning Board, but the total period may not exceed 180 days.
- C. Should a wind turbine not be repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, order either remedial action within a particular timeframe, or order revocation of the Wind Energy Facility Permit for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Planning Board shall have the right to use the security posted as part of the decommission plan to remove the wind turbine.

§ 22. Wind Measurement Towers

Installation of wind measurement towers, also known as anemometer towers, shall be permitted, upon the issuance of a Wind Energy Facility Permit, to determine the wind speeds and the feasibility of using particular sites. The distance between a wind measurement tower and the property line shall be at least 1½ times the total height of the tower. Wind Energy Facility Permits for wind measurement towers shall be issued for a period of two years and shall be renewable upon application to the Planning Board. An application for a wind measurement tower shall include:

- A. Name, address, telephone number and signatures of the applicant and agent for the applicant, if any.
- B. Name, address, telephone number and signature of the property owner along with written authorization by the property owner to submit the application.
- C. Proposed development plan.
- D. Decommissioning plan, including a security bond for removal, should the tower not be converted to permanent use for wind energy generation.

Other development standards as set forth above for wind energy facilities shall be applied to the maximum extent practicable, as determined by the Planning Board, recognizing the temporary nature of wind measurement towers.

§ 23. Small Wind Turbines

All small wind turbines of less than 100 feet in height that generate 25 kW or less output and are setback from property lines no less than 150% of the height of the facility shall be completely exempt from this law upon the filing and approval of a building permit application, without Planning Board review hereunder. Notwithstanding this exemption, the Planning Board is hereby authorized to approve, approve with conditions, or disapprove other small wind turbine applications designed for residential, farm, institutional and business use on the same parcel. Such applications shall be processed in the same manner as those prescribed above for all wind energy facilities, but may be appropriately modified by the Planning Board to reflect the scale of the proposed facility. All small wind turbine shall comply with

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the following standards and, to the maximum extent practicable, with all other requirements of this law not in conflict herewith:

- A. A system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application.
- B. Only one small wind turbine per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one site for purposes of this law.
- C. Small wind turbine shall be used primarily to reduce the on-site consumption of electricity.
- D. Total heights shall be a maximum of 100 feet on parcels between one and five acres and 150 feet or less on parcels of five or more acres.
- E. The maximum turbine power output is limited to 100 kW.
- F. Tower-climbing apparatus shall be located no closer than 12 feet from the ground, a locked anti-climb device shall be installed on the tower or a locked, protective fence of at least six feet in height that encloses the tower shall be installed to restrict tower access.
- G. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

§ 24. Fees

- A. The Town Board shall, by resolution, establish and from time to time modify a schedule of fees for Wind Energy Facility Permit applications.
- B. The Planning Board may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including but not limited to site inspections, the construction and modification of the site, once permitted, and any requests for recertification. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of the application.
- C. The initial deposit shall be \$7,500 and shall be placed with the Town preceding the pre-application meeting. The Town shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for their services on a monthly basis, which amounts will be charged to the escrow account with notice to the applicant. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.
- D. Should the amount held in escrow by the Town be more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds required for these services may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of construction. The initial deposit in the case of Small Wind Turbines shall be no more than \$2,500.

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§ 25. Tax Exemption

The Town hereby exercises its right to opt out of the tax exemption provisions of Real Property Tax Law §487 for all but small wind turbines, pursuant to the authority granted by paragraph 8 of that law.

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Appendix D - Model Junkyard Law

A local law establishing regulations governing the operation of junkyards in the Town of Conesville.

Be it enacted by the Town Board of the Town of Conesville, Schoharie County, New York as follows:

Section 1 - Junkyard Law

§ 100-1. Purpose.

This chapter is enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Conesville as well as controlling their location so as to limit problems of incompatibility with other activities. The regulations contained are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.

§ 100-2. Jurisdiction and Scope.

This chapter shall apply to all junkyards now existing or hereafter proposed in the Town of Conesville. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense.

The following land uses shall be exempt from the requirements of this Chapter provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:

- A. Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
- B. Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
- C. Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

No right to establish or continue a junkyard operation shall be conveyed by the existence of a State license or the presence of any of the above activities on a site.

§ 100-3. Definitions.

The term "junkyard" shall be interpreted and are hereby defined as follows:

- A. An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
- B. Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Conesville Code Enforcement Officer(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Code Enforcement Officer's determination.

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§ 100-4. License Required.

- A. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Conesville, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided.
- B. The Code Enforcement Officer of the Town of Conesville shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to criteria contained herein and in the Town of Conesville Site Plan Review Law. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement for failure to comply with these regulations.
- C. No license shall be issued until the Code Enforcement Officer has received;
 - (1) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
 - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
- D. The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law are met and provided the Town is so notified.
- E. Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license in any instance where the Planning Board has not approved the site plan. If the application is disapproved, the applicant shall have the right to apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- F. The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard.
- G. If the Code Enforcement Officer finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this Law, be authorized to make periodic inspections of all junkyards and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- H. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Code Enforcement Officer may suspend or revoke such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- I. Any license which is not used for the purpose intended within two (2) years of the date of issuance shall automatically expire.
- J. Junkyard owners shall be required to renew licenses every two years. Information required for renewal, however, shall be limited to ownership data, the number of vehicles stored on site, copies of State and other permits required and evidence regarding compliance with previously established conditions of site plan approval and/or license issuance. An inspection of the junkyard premises by the Town Code Enforcement Officer and/or other Town officials shall be made to ascertain compliance with these regulations and the license requirements as a condition of renewal. The Town Board shall establish fees for license renewals.

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§ 100-5. Standards Applicable to New Junkyards.

All new junkyards shall conform to the following standards:

- A. If a junkyard is to be located adjacent to a federal aid primary highway, it shall comply with all regulations of the Federal Highway Administration and the New York State Department of Transportation and provide evidence of the same to the Town of Conesville.
- B. Junkyards shall be located no closer than five-hundred (500) feet to an existing public right-of-way or five-hundred (500) feet to any adjoining property.
- C. Junkyards shall comply in all respects with the provisions of the Town of Conesville Site Plan Review Law.
- D. All new junkyards must erect and maintain a eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
- E. No junkyard or portion of a junkyard shall be located on a slope exceeding twelve percent (12%) in grade or so situated on a bluff as to be unscreenable (visible from an adjacent public highway or residence located above or below the level of the junkyard).
- F. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
- G. All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in improved parking areas specifically designated for this purpose.
- H. The Planning Board, in acting upon the application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and § 136-8 of the General Municipal Law.

§ 100-6. Standards Applicable to Existing Junkyards.

All existing junkyards shall conform to the following standards:

- A. Existing nonconforming junkyards shall, within a period of three (3) years following the effective date of this chapter shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below, excepting that existing junkyards with approved licenses and site plans shall have a period of five (5) years to fully implement such plans provided a specific schedule for the same has been approved by the Planning Board and met by the applicant.
- B. Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this chapter.
- C. Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan prepared by a Professional Engineer depicting the existing operation and any planned improvements as may be required by this chapter.

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- D. The plan shall comply with the requirements applicable to new junkyards to the maximum extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. A six (6) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.
- E. All fencing must be approved by the Town of Conesville Planning Board and produce a screen through which one generally cannot see and children cannot enter. Dense evergreen screening shall be preferred and may be required in combination with other fencing. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- F. The license application and site plan for the existing non-conforming junkyard shall be processed in a manner identical to that for land development/site plan applications under the Town of Conesville Site Plan Review Law and shall include other information as may be required to determine compliance with this chapter. The Planning Board, in acting upon the application, shall consider the following:
- (1) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (2) The degree to which the use can economically be made to comply with requirements for new junkyards.
 - (3) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - (4) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- G. Existing junkyards which are made to comply with the above requirements, continue to meet all licensing standards and for which the owners have implemented approved site plans may be expanded within the bounds of the existing parcels on which they are located but not onto new properties unless the requirements applicable to new junkyards are fully met, and in no case will any change in an existing junkyard which would lessen its conformity with these regulations or with approved site plans be permitted. The Town Board may also waive license renewal fees for owners of existing junkyards who offer specific evidence of progress in the implementation of approved site plans and meeting of the regulations contained herein.
- H. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

§ 100-7. Site Plans, Notifications and Fees.

- A. Any person or persons proposing to establish or expand a junkyard in the Town of Conesville shall prepare site plans of the same to be submitted to the Planning Board under the land development/site plan review procedures of the Site Plan Review Law. Plans shall be prepared by a professional engineer at a scale of one (1) inch equals one-hundred (100) feet or larger. They shall be in sufficient detail to document compliance in every respect with the standards of this chapter.
- B. Existing junkyards shall be identified and notified of any non-conformities with this chapter within sixty (60) days of the effective date of this chapter. The Town of Conesville Code Enforcement Officer shall be re-

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Appendix D - Model Junkyard Law

sponsible for this procedure and shall, additionally, inform all owners of existing non-conforming junkyards of the action which must be taken to comply with this chapter, the time available to take those actions and the consequences of violations.

- C. The Town Board may establish and, from time to time, revise a fee schedule for junkyard plan submissions.

§ 100-8. Variation of Standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board and/or Code Enforcement Officer in order to accommodate unusual site conditions.

§ 100-9. Penalties for Offenses.

- A. Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this chapter and subject to a fine of not more than five-hundred (\$500) dollars. Each day of continued violation after notice thereof shall constitute a separate and distinct violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this chapter.

§ 85-10. Severability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Town of Conesville, Schoharie County, New York

Appendix E - Model Manufactured Home Law

BE IT ENACTED by the Town Board of the Town of Conesville, Schoharie County, New York, as follows:

§ 30-1. Purpose.

The purpose of this Law is to promote the general welfare of the Town of Conesville, including the retention of its rural character, preservation of the qualities of its natural environment and the protection of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of mobile (manufactured) home parks.

§ 30-2. Definitions.

For the purpose of this Law, the following words, terms and phrases shall have the meaning ascribed to them in this section:

- A. Mobile Home (a/k/a "Manufactured Home"). A factory-built single-family dwelling constructed on a chassis to facilitate its transportation to the site. Such structures shall be self-contained single units (excludes modular homes), and shall meet the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and applicable standards of the New York State Uniform Fire Prevention and Building Code. A mobile home shall not be construed to be a travel trailer or a recreational vehicle. Double-wide units shall be considered mobile homes, not modular homes.
- B. Manufactured Home Lot. A designated site of specific total land area which is located within a manufactured home park for the accommodation of one mobile home and its occupants.
- C. Manufactured Home Park. A parcel or contiguous parcels or land which has been designated and improved for the purpose of placing five (5) or more manufactured homes for occupancy as single-family dwellings.
- D. Manufactured Home Stand. A durable surface located on a manufactured home lot which is capable of supporting and which is used for placement of a manufactured home.
- E. Modular Home. A factory-built dwelling which is not constructed on a chassis so as to allow repeated towing.

§ 30-3. Licenses Required for Manufactured Home Parks.

- A. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Conesville, shall use or allow the use of such land for a manufactured home park unless a license has been obtained as herein provided.
- B. Issuance of license.
 - (1) The Town Code Enforcement Officer of the Town of Conesville shall issue a license after approval of the application by the Town Planning Board. The Board shall apply land development/site plan review criteria contained in the Town of Conesville Site Plan Review Law. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer and shall be renewed annually based on an inspection by the Code Enforcement Officer as to continued compliance with the standards of this Law.
 - (2) No license shall be issued until the Code Enforcement Officer has received;
 - (a) A written application from the applicant on the form provided by the Town Code Enforcement Officer.

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- (b) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
 - (c) Evidence there is a or will be a New York State Approved sewage disposal system designed by a Licensed Professional Engineer.
 - (3) The license shall be transferred to a new owner of a manufactured home park provided all of the requirements of this Chapter are met and provided the Town is so notified.
- C. Supplemental license.
- (1) Any person holding a license for a manufactured home park who desires to add additional lots to such park shall file an application for a supplemental license.
 - (2) The application for such supplemental license must be accompanied by four sets of plans and specifications and shall be filed and processed as provided herein for new manufactured home parks.
 - (3) When approved, the Town Code Enforcement Officer shall issue a supplemental license which will be effective from the date of issuance and continue until surrender by the licensee or revocation by the Code Enforcement Officer.
- D. The applicant shall pay the Town such a fee(s) as are established by resolution of the Town Board. Fees may be assessed for both the initial license and to cover subsequent inspections on a periodic basis.

§ 30-4. Application Procedure.

- A. Each application for a manufactured home park license shall be in writing and signed by the applicant.
- B. Four (4) copies of the application and plans and related information shall be filed with the Code Enforcement Officer on a form supplied by the Code Enforcement Officer. No application shall be deemed filed until all required information shall have been filed with the Town of Conesville Planning Board. The Planning Board shall advise the applicant of any such deficiencies within thirty (30) days of its receipt thereof.
- C. The Code Enforcement Officer promptly shall transmit copies of the application and plans to the Town Planning Board who shall process the application pursuant to the Town of Conesville Site Plan Review Law.
- D. The Code Enforcement Officer, within ten (10) days of the filing of the Planning Board decision shall issue the license provided approval has been granted and all other requirements of this Law are met.
- E. Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license, in any instance, where the Board has not approved the Land Development/Site Plan. If the application is disapproved, the applicant shall have the right to appeal pursuant to Article 78 of the Civil Practice Law and Rules.

§ 30-5. Application Data.

- A. Each application shall be accompanied by four (4) complete sets of plans which have been prepared by a licensed land surveyor or engineer.
- B. Each application shall contain the following information:

Town of Conesville, Schoharie County, New York
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- (1) The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation including principal shareholders (more than 5% ownership).
 - (2) The description of the land that is proposed to be used as a manufactured home park, together with a map showing its location in the Town.
 - (3) The number of lots to be provided in such manufactured home park.
 - (4) The names and addresses of the owners of the property on which the manufactured home park is to be located and a written statement signed by the owners consenting that the premises be used for a manufactured home park.
- C. Four (4) copies of a location map shall be presented with the application which shows all land within 300 feet of the park, the location of all streets and roads adjacent to and within the park and the location of all water and sewer lines and utilities adjacent to and within the park.
- D. Proposed development. The application shall be accompanied by four copies of a development plan showing the following:
- (1) The location and widths of all entrances, exits and streets.
 - (2) The location, size and arrangement of each lot within the park.
 - (3) The method and plan for electric lighting.
 - (4) The location and plan of all proposed structures and improvements.
 - (5) Plans for landscaping.
 - (6) Storm water drainage.
 - (7) Utilities.
 - (8) Off-street parking facilities.
 - (9) Fencing and screening.
 - (10) Signs and other structures.
 - (11) Names of owners of adjoining properties.
 - (12) Recreational facilities.
 - (13) Location and type of trash receptacles.
 - (14) All other applicable information required by the Town Site Plan Review Law.

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§ 30-6. Requirements for Manufactured Home Parks.

A. Site

- (1) The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and free at all times from stagnant pools of water.
- (2) The park shall be at least ten (10) acres in size and have at least three-hundred (300) feet frontage on a public road. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new such road may be approved as part of the plan.

B. Manufactured Home Lots

- (1) Each manufactured home park shall be marked off into manufactured home lots.
- (2) Reserved.
- (3) Each manufactured home lot shall have a total area of not less than 8,000 square feet.
- (4) No more than (1) manufactured home shall be placed on any manufactured home lot.
- (5) The lot numbers shall be legibly noted for each lot on the plans submitted

C. Manufactured Home Placement

All manufactured homes shall be parked or otherwise be located:

- (1) At least fifty (50) feet from an adjacent manufactured home.
- (2) At least seventy-five (75) feet from an adjacent property line.
- (3) At least seventy-five (75) feet from right of way line of public street or highway.
- (4) At least twenty-five (25) feet from the nearest edge of any roadway located within the park.

D. Manufactured Home Stand. Each manufactured home lot shall have a manufactured home stand which will provide for the practical placement on a permanent foundation or the lot of both the manufactured home and its appurtenant structures and provide for the retention of the home on the lot in a stable condition.

E. Accessibility and Lighting

- (1) Each manufactured home park shall be accessible from an existing public highway or street.
- (2) Where a manufactured home park has more than sixteen (16) manufactured homes, two (2) points of entry and exit shall be provided.
 - (a) 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 friction with the free movement of traffic on a public highway or street.

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- (b) No individual manufactured home shall have direct access to a State, County or Town road without first entering a street or driveway in the manufactured home park leading to an exit. This requirement may be waived by the Planning Board for good cause in the case of individual park lots.
- (c) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
- (d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with manufactured homes attached and shall be at least fifty (50) feet in width.
- (3) Each manufactured home park shall have roads to provide for the convenient access to all manufactured home lots and other facilities within the park.
 - (a) The road system shall be so designed to permit the safe and convenient vehicular circulation within the park. All streets shall be provided with safe, dustless all-weather surfaces.
 - (b) All roads shall have the following minimum pavement widths:
 - [1] One way traffic movement - 12 feet
 - [2] Two way traffic movement - 20 feet
 - (c) The roads shall be constructed in accord with the requirements set forth in the Town Subdivision Law and Town highway specifications.
 - (d) Except in cases of emergency, no parking shall be allowed on such street unless such street is at least 28 feet wide, in which case parallel parking shall be allowed on one side of the street only.
- (4) All means of egress, drives and public places shall be adequately lighted.
- (5) One non-flashing, illuminated sign shall be permitted on the park. Such sign shall not be greater than thirty-two (32) square feet in area and shall not extend more than eight (8) feet above ground level. Such sign shall be located at least 20 feet from any property line or street right-of-way line and meet all other applicable sign requirements of the Town of Conesville.

F. Parking

- (1) Two (2) off-street parking spaces shall be provided on each manufactured home lot. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet
- (2) One off-street parking space or common area, readily accessible to the occupants of the manufactured homes it is intended to serve, shall be provided for each five (5) manufactured home sites to accommodate guests and delivery and service vehicles.

G. Utilities and Service Facilities

The following utilities and services shall be provided in each manufactured home park in accordance with the regulations and requirements of the Schoharie County Department of Health:

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- (1) An adequate supply of pure water meeting Schoharie County Department of Health standards for drinking and domestic purposes shall be supplied by pipes to manufactured home lots and buildings within the park. Documentation of compliance with the Department of Health's requirements shall be provided.
- (2) Each manufactured home lot shall be provided with a sewer, which shall be connected to the manufactured home situated on the lot, to receive the waste from the shower, tub, flush toilet lavatory and kitchen sink in such home. The sewer shall be connected to a public or private off-site sewer system meeting Schoharie County Department of Health standards so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.
- (3) Garbage containers with tight fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The containers shall be kept in sanitary condition at all times. The containers shall be located no farther than two-hundred-fifty (250) feet from any manufactured home lot, shall be stored in covered collecting enclosures and garbage shall be removed and disposed of as frequently as may be necessary to ensure that such containers shall not overflow. The operator of the manufactured home park shall provide for all trash removal services.
- (4) Manufactured homes which do not contain toilets, lavatory and tubs or showers shall not be permitted in any manufactured home park. Service buildings shall be provided as deemed necessary for the normal operation of the park. Such buildings shall be maintained by the owner or manager or the park in a clean, sightly and sanitary condition.
- (5) Each manufactured home lot shall be provided with weather-proof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.

H. Recreation and Open Space

- (1) Each manufactured home park shall provide common open space for the use of the occupants of the park.
- (2) Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least fifty (50) percent of the gross land area of the park such that the net overall density of the park shall not exceed one (1) dwelling unit or manufactured home per 16,000 square feet of park land area.
- (3) Any manufactured home park or more than ten (10) manufactured home sites shall provide, as part of its open space, areas for active recreational use. These recreation areas shall not include any wetlands, steep slopes or other land areas unusable for development and shall consist of contiguous land areas which can be used for active recreational activities such as ballfields. No less than 20% of the open space provided shall be dedicated to such recreational areas and no individual area so designated shall be less than two (2) acres in size. Each manufactured home park affected by this section shall provide at least one developed picnic area, including tables and benches, and a system of marked and improved trails or sidewalks connecting each manufactured home to the recreation and other open space areas created. Unless the park shall be restricted to senior citizens, it shall also include at least one improved ball field. These recreational improvements shall be included on the landscaping plans presented as part of the application package.

I. Landscaping

- (1) Ground cover shall be provided on those areas not used for the placement of manufactured homes

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and other buildings, walkways, roads and parking areas.

- (2) Screening acceptable to the Planning Board and Code Enforcement Officer shall provide for adequate shade and a suitable setting for the manufactured homes and other facilities. It shall include landscaping materials meeting the requirements of the Town of Conesville Site Plan Review Law. A side or rear yard adjacent to an existing developed area shall be a minimum width or depth of 100 feet and the 50 feet nearest to the existing developed area shall be planted or screened with materials approved by the Planning Board and Code Enforcement Officer. Such screening shall be designed to create and maintain a high quality neighborhood character for existing residents as well as new manufactured home park residents. Natural landscape buffers shall be required as opposed to fencing or other artificial measures. It shall provide, to the maximum extent practical, for the effective screening of other development from the view of manufactured home residents and of all manufactured homes and accessory structures from view by adjoining. The Planning Board shall also require and approve a landscaping plan for the interior of the manufactured home park to buffer individual manufactured homes, provide shade and green areas and ensure a wholesome living environment.
 - (3) Skirting acceptable to the Planning Board and Code Enforcement Officer shall be installed along the perimeter of each manufactured home, extending from the manufactured home stand to the floor of the manufactured home unit and fully screening the area beneath the unit from view. The landscaping plan required above shall also address landscaping of individual manufactured home sites and ensure effective separation of manufactured homes from each other for purposes of privacy as well as aesthetics.
- J. The owner or operator of each manufactured home park shall keep a register wherein there shall be recorded the name and permanent address of the owner and occupant of each manufactured home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into the court. Such register shall be open for inspection to the Town Code Enforcement Officer, the Town Planning Board, the Town Board or the Town Assessor at all reasonable times. Registers shall be kept for a period of seven (7) years.
- K. Fire District Approval and Firefighting Requirements
 - (1) No application for a manufactured home park license shall be approved unless and until the appropriate officer of the applicable Town fire district shall have reviewed the plans as well as the site and determined the district fire-fighting equipment can provide adequate coverage of the park and that there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a fire hydrant(s), with sufficient capacity to meet the fire-fighting needs associated with the development, located on the site and convenient for easy access. Water storage facilities may be provided as an alternative to hydrants if the same are secured from access by small children.
 - (2) If the fire district approval cannot be obtained because the district lacks the specific services and facilities needed to serve the proposed park, the Town shall be authorized, through its Planning Board and Code Enforcement Officer, to require a condition of special use and site plan approval as well as licensing hereunder, a financial contribution from the applicant toward providing those services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the manufactured home park.

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Appendix E - Model Manufactured Home Law

L. Sales and Storage

- (1) No sales of manufactured homes for off-site placement shall be permitted within the manufactured home park, excepting for previously occupied manufactured homes sold individually by residents of the manufactured home park. Also, no manufactured home shall be used for rental purposes except for temporary periods in those instances where an individual owner of such home, not including the manufactured home park operator, shall have placed such home on-site for purposes of personal occupancy and is no longer, for reasons of health or circumstance able to live there.
- (2) No individual manufactured home shall be placed anywhere within the Town of Conesville for a period of six (6) months or more for any purpose other than use as a dwelling.
- (3) Storage of any unlicensed vehicles within a manufactured home park for a period six (6) months or more is prohibited.

§ 30-7. Enforcement.

The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right at all reasonable times, to enter and inspect any manufactured home park or other premises used for the parking and placing of manufactured homes.

- A. If the Code Enforcement Officer finds that a manufactured home park for which a license has been issued, is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within 10 days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this Law, be authorized to make periodic inspections of all manufactured home parks and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- B. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Code Enforcement Officer may suspend such license and the holder of the license shall thereupon terminate the operation of such manufactured home park provided residents have been afforded adequate opportunities consistent with State and/or Federal law to relocate.
- C. However, if the owner or operator of such manufactured home park shall thereafter correct such conditions and bring the manufactured home park into compliance with this Law, such owner may then apply for the issuance of a new license for such park and if the application is approved and a license granted, the applicant shall pay to the Town the fee required by this Law without any credit for the fee paid for the license which was revoked.
- D. Any license which is not used for the purpose intended within two (2) years of the date of issuance as evidenced by placement of the home(s) on the designated site, shall automatically expire.
- E. No license for a manufactured home park, or any portion of a manufactured home park, shall be issued unless and until all improvements as required herein, including landscaping and screening, have been physically installed, inspected and approved by the Code Enforcement Officer, excepting that roads shall be approved by the Town Highway Superintendent in consultation with the Town Engineer as may be required. In those instances where a manufactured home subdivision is to be created and individual lots are to be conveyed for purposes of placing a manufactured home, all required improvements will be installed or financially secured pursuant to Section 277 of the Town Law and all other requirements of the Town of Conesville's Subdivision Law shall be met. Such subdivisions shall be subject to the development standards pro-

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vided herein and in the Town Zoning and Subdivision Laws. Should the latter development standards and the standards herein conflict the more restrictive standard shall apply.

§ 30-8. Penalties.

- A. Any person, partnership, association or corporation who violates any provision of this Law shall be guilty of an offense against this Law and subject to a fine of not less than one-hundred dollars (\$100) or more than three-hundred-fifty dollars (\$350). When a violation of any of the provisions of this Law is continuous, each day or portion thereof shall constitute a separate and distinct violation.
- B. In addition to the above provided penalties, the Code Enforcement Officer may maintain a civil action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this Law or to restrain, by injunction, the violation of this Law.
- C. This § 8.0 is enacted pursuant to § 10 of the Municipal Home Rule Law and is intended to supersede § 135 of the New York State Town Law.

§ 30-9. Exceptions.

None of the provisions of this Law shall be applicable to the following:

- A. The business of manufactured home sales, except that where units are used as living quarters, they shall conform with the provisions of this Law
- B. The storage of an unoccupied manufactured home, provided, however, that such unoccupied manufactured home shall not be parked or located between the street line and the front building line of any premises or within any required yard area.
- C. A manufactured home located on the site of a construction project, survey project or other similar work project which is used solely as a field office or work or tool house in connection with such project, provided that such manufactured home is removed from such site within thirty (30) days after the completion of such project.
- D. A modular house or factory-manufactured home, other than a double-wide manufactured home, which is prefabricated in sections, transported to the building site then fastened together and anchored to a permanent and totally enclosed masonry foundation and which has a minimum width of 24 feet for its entire length and contains a minimum of 960 square feet of usable living space.

§ 30-10. Validity and Non-waiver.

- A. If any section, paragraph, subdivision or provision of this Law shall be found invalid, such validity shall apply to the section, paragraph, subdivision or provision adjudged invalid and the remainder of the Law shall remain valid and effective.
- B. The issuance of any permit or license pursuant to the provision of this Law shall not be deemed to waive compliance; by the holder thereof, by the property owner or by any occupant; of any court or manufactured home park statute of the State of New York Law or health regulation of the State of New York or the County of Delaware or the Town of Conesville or of any provision of this Law.

§ 30-11. Waivers.

- A. The Planning Board may, for good cause shown, authorize waivers from the strict interpretation of the provisions of this Law affecting existing manufactured home parks and manufactured homes, excepting that it

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shall not waive any requirement which would otherwise require a variance of the Town of Conesville Site Plan Review Law.

B. Procedure for waivers

- (1) The owner of an existing manufactured home park or manufactured home outside a manufactured home park may apply for a waiver by filing an application with the Code Enforcement Officer together with an application for a license setting forth the reasons for the waiver.
- (2) Fees for waiver applications shall be established by resolution of the Town Board.

§ 30-12. Separability.

Should any section or provision of this Law be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

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Appendix F - Model Road Law

BE IT ENACTED by the Town Board of the Town of Conesville, Schoharie County, New York, as follows:

§ 50-1. Title.

A Law regulating the construction and the dedication of any road ordained and other associated facilities (hereinafter referred to as improvements) offered to the Town of Conesville, Schoharie County, New York. This Law may be referred to as the "Town of Conesville Road Law."

§ 50-2. Purpose.

This Road Law is enacted to ensure all improvements offered for dedication to the Town of Conesville meet the standards contained herein and have been reviewed and approved by the Town Board with the advice of the Town Engineer and the Town Highway Superintendent.

§ 50-3. Administration.

A. Application. Any person or persons proposing to dedicate any improvements to the Town of Conesville shall submit to the Town Clerk of the Town of Conesville, five (5) copies of a plan, prepared by a Professional Engineer setting forth the details of the proposed dedication. Said plan shall be submitted prior to commencing the construction or reconstruction of the road proposed for dedication. Similar as-built plans shall be required in those instances where existing roads are proposed for dedication. The plan shall include all information necessary to document compliance with this Law and shall include, as a minimum, the following information.

- (1) A map at a scale of one inch equals 100 feet showing the following:
 - (a) Locations, distances and bearings of right-of-way lines.
 - (b) Locations of storm drainage systems and devices.
 - (c) Locations of any existing or proposed easements.
 - (d) Location of utilities.
 - (e) Locations and names of the record owners of real property over which the road passes, said properties abutting on the road proposed for dedication.
 - (f) Road name(s).
- (2) Plans, profiles and cross sections of the roads.
- (3) Detailed specifications for drainage facilities.
- (4) Detailed specifications for any bridges.
- (5) Documentation regarding the identity of each property owner along the right-of-way of the proposed road and certification that each such property owner has joined in the application for dedication and that each such property owner releases any right to assert any claim such property owner might otherwise have against any person, persons, partnership, corporation or political subdivision by reason of the dedication.

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B. Plan Distribution.

The Town Clerk shall distribute the filed plans as follows:

- (1) One with the Town Highway Superintendent ("the Superintendent").
- (2) One with the Town Engineer.
- (3) One with the Town Planning Board.
- (4) One with the Town Supervisor.
- (5) One in the Town Clerk's permanent files.

C. Plan Review.

- (1) No action shall be taken by the Town Board until such time as the Town Planning Board and the Town Engineer have reviewed the plan of the proposed dedication.
- (2) The Town Planning Board and the Town Engineer shall within forty-five (45) days of the Town Clerk's receipt of the application, review said application and make recommendations to the Superintendent.
- (3) The Superintendent shall, within sixty (60) days of receipt of said recommendations: (1) review the plans and make an inspection of the road site (the Superintendent may request the Town Engineer to assist with any inspection required by this Law); (2) notify the applicant of deficiencies, if any, in the plan, with such notification in writing, and (3) recommend acceptance or rejection of the plans to the Town Board.
- (4) The applicant shall make any necessary modifications to the plan and resubmit the plans to the Superintendent, who shall have an additional thirty (30) day review and notification period from the date of submittal. However, if more than one (1) year shall elapse between the original filing date and the amendment filing date, an additional filing fee shall be assessed.
- (5) Upon receipt of the Highway Superintendent's recommendation to accept the plans, the Town Board shall within sixty (60) days, vote to accept or reject the plans. The Town Board may make its own inspection of the road site prior to taking action. If the plans shall be rejected for any reason, the applicant shall be notified in writing within fifteen (15) days of the reasons for rejection and how the plans can be brought into compliance with the Law. The applicant may request a conference with the Town Board and Highway Superintendent to review the reasons the plans were rejected and how it can be corrected, which conference shall take place at the earliest date convenient to the Town Board. If the plans are accepted, the applicant shall be so notified and may proceed with construction pursuant to this Law.

D. Construction Procedure.

- (1) The construction or reconstruction of any improvements for dedication shall be in accord with approval plans.
- (2) Prior to the initiation of construction or reconstruction, the applicant shall propose an Inspection Schedule to the Superintendent for approval. The Inspection Schedule shall include inspections adequate to ensure compliance with this Law. Inspections shall be required at all phases of con-

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struction when a failure to inspect the construction would result in a physical impossibility to verify compliance at the time of the final inspection.

- (3) The applicant shall provide a minimum of two (2) working days notice prior to the time for each inspection required in the Inspection Schedule.
- (4) If the Superintendent discovers construction is not in compliance with the approved plans, all construction shall be terminated until such time as the identified deficiency is corrected.

E. Dedication Procedures.

When the improvements proposed for dedication are completed to the standards of this Law, the Superintendent shall make a final inspection and verify said completion to the Town Board. The Town Board, at their next meeting following receipt of the Superintendent's report, shall take action to initiate the dedication process as follows:

- (1) The applicant shall provide to the Town three (3) complete sets on mylar and three (3) complete sets on paper of all plans of the improvements which shall be certified by a Professional Engineer as "AS CONSTRUCTED" plans with the plans labeled as such. The plans shall include the information required by Section 401 of this Law.
- (2) The "Date of Completion" of the improvements shall be established by the Town Highway Superintendent confirmed by the Town Board.
- (3) No improvements shall be accepted by the Town for dedication until one (1) year from the "Date of Completion" has passed. During said one year probationary period, the applicant shall be responsible for all maintenance and repair of the improvements proposed for the dedication.
- (4) At the end of the probationary period the Superintendent shall conduct an inspection of the improvements and verify to the Town Board the improvements integrity and functioning. Any deficiencies shall be corrected by the applicant.
- (5) Following the probationary period and upon the final verification by the Superintendent of compliance with this Law, the Town Board shall accept the improvements for dedication upon the receipt of the following:
 - (a) A maintenance guarantee in the amount of twenty-five (25) percent of the cost of the construction of the improvements as certified by the applicant's Professional Engineer. Such guarantee shall comply with Section 277 of the Town Law and shall be satisfactory to the Town Attorney as to form sufficiency, manner of execution and surety. The term of the guarantee shall be for twelve (12) months from the date of dedication. Upon the failure of any of the improvements, the Town shall enforce said guarantee and make any necessary repairs. If the proceeds of the guarantee are insufficient to complete the repairs, the Town shall institute legal or equitable action to recover the amount of the insufficiency.
 - (b) Deeds for the right-of-ways of all improvements which deeds shall be of a bargain and sale type with covenants against grantors acts and shall transfer all lands in fee simple.
- (6) Nothing herein shall require the Town of Conesville to accept any road dedication regardless of compliance with the standards and procedures of this local law, if the Town Board determines such acceptance would unnecessarily burden the Town highway system or its maintenance forces.

Town of Conesville, Schoharie County, New York

Appendix F - Model Road Law

§ 50-4. Standards.

A. Road Construction.

- (1) Private roads shall meet all Town construction requirements in compliance with AASHTO (American Association of State and Transportation Officials) standards for the design speed of 25 miles per hour. Bridges shall meet New York State Specification HS20-44 in compliance with AASHTO standards.
- (2) Road right-of-ways shall be a minimum of sixty (60) feet in width and surveyed by a licensed land surveyor with monument markers placed and shall be deeded to the Town by warranty deed with a clear title. The Town may also require title insurance.
- (3) The Town reserves the right to require verified core samples or other testing measures by approved agencies or other persons to ascertain compliance with these standards during construction and at the time of takeover.
- (4) No road less than 2,640 feet (one-half mile) in length shall be accepted by the Town of Conesville.
- (5) No branch, spur or interior sections of a subdivision road shall be accepted apart from the entire subdivision road.
- (6) No road shall be accepted by the Town of Conesville where less than three homes have been constructed, or where less than 20% the total number of lots in the subdivision have been built upon, whichever shall be greater.

B. Assessed Value Requirement.

- (1) Land and buildings accessed or abutted by a proposed road, with primary access being from said road, shall offer sufficient tax base (assessment value) at the time of takeover to raise, at current combined highway tax rates, sufficient tax revenue to support said road based on the current total highway levy. This amount shall be determined by dividing the total highway cost to the Town by the number of miles of road maintained by the Town. The required assessed value per mile shall be sufficient to generate those tax revenues required to pay the Town's share of these costs.
- (2) Total highway costs shall be determined on the basis of the amount to be raised by tax for the Town of Conesville Highway Fund in the Town budget for the year of takeover.
- (3) Required assessed value per mile shall be determined by dividing the current cost per mile for Town highway maintenance (town share) by the rate of general levy for the Highway Fund, multiplied by one-thousand (1,000).

§ 50-5. Variations.

Variations to the standards contained herein may be approved by the Town Board on the recommendation of the Town Highway Superintendent in cases where unreasonable hardship would result from strict application of the standard.

Town of Conesville, Schoharie County, New York
Appendix F - Model Road Law

§ 50-6. Interpretation, Conflict and Separability.

A. Interpretation.

The provisions of this Law in their interpretation and application shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Conflict.

This Law is not intended to interfere with, abrogate, or annul any other Law, Law, rule or regulations, statute or provision of law. Where any of the provisions of these regulations impose restriction different than any other Law, Law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

C. Separability.

If any part or provision of this Law or application thereof to any person or circumstances is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares it would have enacted the remainder of this Law even without such part, provision or application.

Town of Conesville, Schoharie County, New York

Appendix G - Right to Practice Forestry Law

BE IT ENACTED by the Town Board of the Town of Conesville, Schoharie County, New York, as follows:

§ 50-1. Legislative Intent and Purpose.

The Town Board recognizes forestry as an essential enterprise and as an important industry that enhances the economic base, natural environment and quality of life in the Town of Conesville. The Town Board further declares that it shall be the policy of this Town to encourage forestry and foster understanding by all residents of the necessary day to day operations involved in forestry so as to encourage cooperation with those practices.

The specific purposes of this Law are to:

- A. respect the existing common law right to engage in forestry practices and support the continuation such practices for the benefit of the Town of Conesville;
- B. protect the existence and operation of existing forest activities;
- C. encourage the initiation and expansion of additional forestry businesses;
- D. discourage inadvertent impediments to the practice of forestry that may result from inappropriate regulation of forestry activities; and
- E. improve understanding of the economic and environmental contributions that well managed forests bring to the Town of Conesville.

§ 50-2. Definition.

The Practice of Forestry shall mean practices related to growing, harvesting, or processing of timber on the site where grown, including, but not limited to, on-site and off-site road construction and maintenance, thinning, salvage, harvesting, reforestation, brush control, cutting of firewood, logging and the operation of portable sawmills.

§ 50-3. Right to Practice Forestry Declaration.

Landowners, as well as those employed, retained, or otherwise authorized to act on behalf of landowners, may lawfully engage in the practice of forestry within the Town of Conesville at all times and all such locations as are reasonably necessary to conduct the business of forestry. Forestry practices conducted in the Town of Conesville shall not be found to be a public nuisance under Town law if such practices are:

- A. Reasonable and necessary to the particular forestry operation,
- B. Conducted in a manner that is not negligent or reckless,
- C. Conducted in a manner generally consistent with the New York State Department of Environmental Conservation Timber Harvesting Guidelines,
- D. Conducted in a manner that does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
- E. Conducted in a manner that does not obstruct the free passage or use of public roadways.

These criteria shall, in the absence of specific violations of other local, State or Federal law, or direct threats to public health and safety, be construed in favor of landowners and others engaged in the practice of forestry.

Town of Conesville, Schoharie County, New York
Appendix G - Right to Practice Forestry Law

§ 50-4. Permit and Other Requirements

Nothing contained herein shall be construed to require a permit from the Town of Conesville or impose any additional requirements beyond those of existing law. Notwithstanding this limitation, however, a landowner or other person engaged in the practice of forestry who is found, by the Town of Conesville Town Board, to be operating in a manner that is specifically contrary to sound forestry management practices as defined above and that specifically imperils public health or safety may be notified of the same by the Town Board, offered an opportunity to remedy the specific problems identified by the Town within 10 days and, in the absence of such remedies, may be prohibited from continuing operations until such time as appropriate remedies have been accomplished. The Town Board shall, in such instance, be authorized to pursue such additional civil remedies as may be available from a court of competent jurisdiction. Failure of a landowner or other person to comply with the order of the Town Board shall be a violation of this Law and subject to a fine of \$350. Each day of continued failure to comply shall be a separate violation.

§ 50-5. Other Regulations

All local policies, rules and regulations of any agency or department of the Town of Conesville affecting the practice of forestry in the Town shall be submitted to the Town Board, and to the New York State Commissioner of Environmental Conservation as provided by Section 9-0815 of the New York State Environmental Conservation Law, for review and comment prior to enactment or implementation. The Town Board and the Commissioner shall, in preparing comments and taking action, as the case may be, consider the impact of the proposed policy, rule or regulation upon the long-term viability of forests in the Town of Conesville and any modifications or alternatives the agency or department could undertake to minimize the impacts to the practice of forestry. No action shall be taken by such agency or department until the Town Board and the Commissioner shall have had 45 days provide comments.

§ 50-6. Separability.

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

§ 50-7. Precedence.

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

§ 50-8. Effective Date.

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