

Local Law Filing

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

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

County
City of Lincoln
Town
Town

Local Law No. 2 of the year 2011.

A local law to enact the 2011 Town of Lincoln Land Management Law and Land Use Map
(Insert Title)

Be it enacted by the Town Board of the
County
City of Lincoln as follows:
Town
Village

- Continued on following page -

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

2011

TOWN OF LINCOLN

LAND MANAGEMENT LAW

TABLE OF CONTENTS

| <u>INTRODUCTION</u> | | <u>PAGE</u> |
|--|--|-------------|
| <u>ARTICLE 1 - ENACTMENT AND APPLICATION</u> | | |
| Section 100.1 | Title | 1 |
| Section 100.2 | Enacting Clause | 1 |
| Section 100.3 | Purposes of the Land Use Local Law | 1 |
| Section 100.4 | Application of Regulations | 1 |
| <u>ARTICLE 2 - DEFINITIONS</u> | | |
| 2 | | |
| <u>ARTICLE 3 - DISTRICTS AND BOUNDARIES</u> | | |
| Section 301 | Establishment of Districts | 17 |
| Section 301.1 | Permitted Uses and Activities in Agricultural Residential Zone 1: AR-1 | 17 |
| Section 301.2 | Permitted Uses and Activities in Agricultural Residential Zone 2: AR-2 | 18 |
| Section 301.3 | Permitted Uses and Activities in Neighborhood Commercial Zone: NC | 19 |
| Section 301.4 | Permitted Uses and Activities in Industrial Commercial Zone: I-C | 20 |
| Section 302 | Land Use Map | 21 |
| Section 303 | Land Use Schedule (Table 1) | 22 |
| Section 304 | Interpretation of District Boundaries | 23 |
| <u>ARTICLE 4 - SUPPLEMENTARY REGULATIONS</u> | | |
| Section 401 | Additional Regulations for All Lots | 24 |
| Section 402 | Obstruction of Vision | 24 |
| Section 403 | On-premises Parking Space for Vehicles | 24 |
| Section 404 | Menace or Nuisance Conditions | 25 |
| Section 405 | Storage of Flammable Liquids, Chemicals and Explosives | 25 |
| Section 406 | Extraction of Topsoil, Sand, Gravel or Stone | 25 |
| Section 407 | Conservation of Steep Slopes | 25 |
| Section 408 | Open Burning | 25 |
| Section 409 | Non-conforming Uses and Lots | 26 |
| Section 410 | Driveway Tubes | 27 |
| Section 411 | Lot Dimensions | 27 |
| Section 412 | Mobile Homes | 27 |
| Section 413 | Grading and Landscaping Requirements | 28 |

PAGE

ARTICLE 5 - SUBDIVISIONS, SANITARY REGULATIONS AND FLOOD
PLAIN DEVELOPMENT

| | | |
|-------------|-------------------------------|----|
| Section 501 | Subdivisions | 28 |
| Section 502 | Flood Hazard Area Development | 28 |
| Section 503 | Sanitary Regulations | 29 |
| Section 504 | Waste Spreading | 29 |

ARTICLE 6 - ADMINISTRATION AND ENFORCEMENT

| | | |
|---------------|--|----|
| Section 601 | Enforcement | 29 |
| Section 602 | Fees | 29 |
| Section 603 | Building Permit Procedure | 29 |
| Section 603.1 | Certificate of Compliance Procedure | 30 |
| Section 604 | Minor Alterations | 30 |
| Section 605.1 | Board of Appeals | 30 |
| Section 605.2 | Powers and Duties of the Board of Appeals | 30 |
| Section 605.3 | Application to the Board of Appeals | 31 |
| Section 605.4 | Variance | 31 |
| Section 605.5 | Granting of Variances | 32 |
| Section 605.6 | Standards for Granting Variances | 32 |
| Section 606 | Planning Board | 33 |
| Section 606.1 | Special Permits | 34 |
| Section 606.2 | Applications for Special Use Permits | 34 |
| Section 606.3 | Standards for Granting Special Use Permits | 34 |
| Section 606.4 | Submission of Site Plan and Supporting Data | 35 |
| Section 606.5 | Site Plan Approval | 36 |
| Section 607 | Changes and Amendments of the Land Management Law | 36 |
| Section 607.1 | Periodic Review | 37 |
| Section 607.2 | Procedure for Amendments | 37 |
| Section 608 | Referral to County Planning Agency | 37 |
| Section 609 | Violations | 37 |
| Section 610 | Stop Work Orders | 38 |
| Section 611 | Appearance Tickets | 39 |
| Section 612 | State Supreme Court Review | 39 |
| Section 613 | Separability | 39 |
| Section 614 | Enforcement | 39 |
| Section 615 | Effective Date | 39 |
| Section 616 | Repeal of Existing Land Management Law | 39 |

Appendix A
District Boundary Map

ARTICLE 1 - ENACTMENT AND APPLICATION

Section 100.1- TITLE

This local law shall be known and may be cited as the Revised Town of Lincoln Land Management Law.

Section 100.2- ENACTING CLAUSE

The Town Board of the Town of Lincoln in the County of Madison under the authority of Section 261 of the New York State Town Law hereby ordains, enacts and publishes as follows.

Section 100.3- PURPOSES OF THE LAND MANAGEMENT LAW

The Town of Lincoln is noted for its pastoral character, rolling hills and magnificent vistas. It has an agricultural history and is currently experiencing residential development due to its rural nature, clean air and water, and has been presented with potential large scale commercial/industrial development as a result of its large open areas and its proximity to urban and suburban areas. It is also home to a wide variety of wildlife including native mammal, fish and bird species. The purpose of this Land Management Law and the Land Use District Regulations herein and as outlined on the Land Use Map are to provide for the orderly growth of the Town; to encourage the appropriate use of land; to protect and conserve the value or property; to prevent the overcrowding of land; to promote the health, safety and general welfare of the public; and to preserve the character of the Town.

Section 100.4- APPLICATION OF REGULATIONS

- A. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.
- B. No building shall hereafter be placed, erected or altered: to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards, than is specified herein for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this local law shall be included as part of a yard or other open space similarly required for another building.

- D. Unless a use variance is granted, all uses not specifically permitted in a district or permitted after obtaining a special permit shall be deemed prohibited.
- E. Except as otherwise provided herein, no more than one principal use structure is permitted on any single lot.

ARTICLE 2 - DEFINITIONS

Section 200

Customary meanings of words. Except where specifically defined herein, all words used in this local law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular, the word "lot" includes the word "plot", the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupies" or "used" shall be considered as though followed by words "or intended, arranged or designed to be used or occupied".

DEFINITIONS

AIRCRAFT LANDING STRIP; PRIVATE: Any facility designed and/or utilized for the planned take off and/or landing of aircraft of any type which is solely for the private, non commercial use of the facility's owner.

AIRCRAFT LANDING STRIP; PUBLIC: Any facility designed and/or utilized for the planned take off and/or landing of aircraft of any type which is operated for commercial purposes or for which use or hangar rights are sold or leased by any means.

ANIMAL HOSPITAL: Any structure under veterinary supervision for the treatment of sick or injured animals.

ANTENNA: Any external system of wires, poles, rods, reflecting disks, or similar devices used for the reception or transmission of electromagnetic waves.

BED AND BREAKFAST: An owner-occupied single-family dwelling within which is provided overnight accommodations for transient guests who stay as long as 5 nights, which includes the serving of breakfast, but no other meal to such guests.

BOARD OF APPEALS: The Board of Appeals of the Town of Lincoln.

BUILDING: Any structure other than a boundary wall or fence which covers or encloses space. Silos of all kinds and livestock slurry storage tanks are considered to be buildings.

BUILDING, ACCESSORY: A supplemental building, the use of which is incidental to a main or principal building or incidental to the principal use and located on the same lot therewith. The accessory building shall not exceed 750 square feet, shall not be for human habitation, shall not be school buses, mobile homes, trailers, shipping containers or tanks. All accessory buildings must conform to front and side yard requirements of the district in which they are located.

BUILDING AREA: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

BUILDING, FARM: Any building used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE: The line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches whether enclosed or unenclosed (but does not include steps), and any overhang. In the case of a cantilevered building, the building line shall coincide with the most projected surface.

BUILDING, PRINCIPAL OR MAIN: A building in which is conducted the principal use of the lot on which it is located.

CAMP, SEASONAL: Land on which is located one cabin, camping trailer, shelter or other accommodation suitable for seasonal or temporary living purposes, exclusive of mobile dwellings, primarily for the use of the owner.

CAMP, DAY: Any land including any building thereon used for any assembly of persons for what is commonly known as "day camp" purposes, whether or not conducted for profit and whether or not occupied by adults or by children either as individuals, families or groups.

CAMPING GROUND: A parcel of land used or intended to be used, let or rented for occupancy by persons utilizing trailers, campers or other such forms of recreational dwellings.

CERTIFICATE OF COMPLIANCE: A certificate issued by the proper officer of the town upon completion of construction, alteration, or change in occupancy of use of a building.

Said certificate shall acknowledge compliance with all the requirements of this local law and such adjustments thereto granted by the Board of Appeals.

CLUB, MEMBERSHIP: An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain providing they are not operating any vending machines or merchandising or commercial activities except as required generally for the membership and purposes of such club.

CLUSTER DEVELOPMENT: A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

CODE ENFORCEMENT OFFICER: The Town of Lincoln Code Enforcement Officer, or such other person as may be designated or appointed by the Town Board of the Town of Lincoln to administer and/or enforce the provisions of this local law.

COMMERCIAL OR BUSINESS: Of or pertaining to purchase, sale or transaction involving the disposition of any article, substance, commodity or service; the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit; and also the renting or rooms, business offices and sales display rooms and premises.

COMMERCIAL COMMUNICATION TOWER: A structure that is intended for receiving or sending electromagnetic transmissions in connection with a commercial enterprise.

COMMUNITY CENTER: Includes public or private meeting hall, place or assembly, museum, art gallery, library, place of further education, church, not operated primarily for profit.

CONVENIENCE STORE: A retail store not exceeding 3,000 GSF in which food items constitute the principal product available for sale within the principal building upon the premises. A convenience store may also include a single, separate accessory structure for a single bay, self-service car wash facility. A convenience store may engage in the retail sale of gasoline or other motor vehicle fuels dispensed directly into automobiles and other motor vehicles upon the premises, along with the incidental sale of motor oil and other motor vehicle lubricants, and motor vehicle accessories, but may not engage in the maintenance, servicing or repairing of motor vehicles.

COVERAGE: That percentage of the plot or lot area covered by the building area.

DAY CARE FACILITY: A structure, including a private residence, licensed by the State of New York, which receives for care and supervision at least three (3) children for more than three (3) hours but less than twenty-four (24) hours per day per child unattended by his/her parent or legal guardian.

DOMESTIC ANIMALS OR PETS: Animals which normally live in the same dwelling unit as their owner and are not kept for a commercial use.

DRIVE-IN: Premises constructed to cater primarily to the motoring public, whether or not serving pedestrians as well as the automobile trade, and used for the sale to the public of any produce and providing curb and/or window counter service.

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

DUMP: A lot of land or part thereof used primarily for the disposal of abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

DWELLING, PERMANENT: A building designed or used as the permanent living quarters for one or more families. The term "dwelling" shall not be deemed to include automobile court, rooming house, tourist home, motel, hotel, or temporary camps.

DWELLING, SEASONAL: A building such as a cabin, shelter or other accommodation suitable only for seasonable living quarters, exclusive of a mobile dwelling.

DWELLING, ONE-FAMILY: A detached building containing one dwelling unit only and intended for the use of a single family.

DWELLING, TWO-FAMILY: A detached building containing two dwelling units.

DWELLING, MULTI-FAMILY: A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently of each other.

FAMILY: One or more persons who live together in one dwelling unit and maintain a common household. May consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and occasional guests.

FARM: Any parcel containing five or more acres of land which is normally used for gain in the raising of agricultural products including crops, livestock, poultry, dairy products, orchards, nurseries and tree plantations, maple sugar, and stabled animals. It includes a single principal residence and necessary farm buildings and structures within the prescribed limits and the storage of equipment used, as well as seasonal roadside stands for the sale of agricultural products grown on the farm directly to the public.

FARM, HOBBY: Land containing less than 5 acres which is used for raising or boarding livestock or agricultural products.

FRONTAGE: The lineal distance between any two side lot lines of a lot as measured along the street line.

GARAGE, PRIVATE: An accessory building used in conjunction with a principal building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GARAGE, PUBLIC: Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

GASOLINE OR SERVICE STATION: Any area of land, including structures thereon, that is used for the retail sale of gasoline or any other motor vehicle fuel by dispensing such fuel directly into motor vehicles upon the premises. A gasoline station may also sell motor oil and other motor vehicle lubricants, motor vehicle accessories, and may, but need not include facilities for maintaining, lubricating, washing, repairing or otherwise servicing motor vehicles. A gasoline station may not sell food or other consumer item other than incidental sales of beverages or snacks through vending machines.

HOME BUSINESS OR OCCUPATION: Any use of a business or professional nature carried on in a dwelling unit or in an accessory structure by a member of the family living in the dwelling unit and not more than two other non-family employees, which use is secondary to the residential purpose of the dwelling, occupies less than 25% of the floor area of the house, and produces no offensive noises, vibration, smoke, dust, odors, heat or glare, and no externally visible indication of the business being conducted other than a single free-standing or building mounted sign not exceeding 35 square feet in face area and having no more than two faces.

HOSPITAL: Unless otherwise specified, the term "hospital" shall be deemed to include without limitation sanitarium, sanatorium, preventorium, clinic, rest home, convalescent home, nursing home, and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

INN: A building or buildings in which overnight accommodations are provided for transient guests for compensation.

INDUSTRY OR INDUSTRIAL: Means and includes storage, manufacture, preparation, processing or repair of any article, substance, or commodity and the conduct of the industrial trade but shall not mean such preparation, processing or repair as are customarily applied to articles, substances, or commodities in retail businesses or trade for on-the-premises transactions.

INSTITUTION: A building occupied by a non-profit establishment for public use.

JUNKYARD: Land used for collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of two or more motor vehicles either unlicensed or not in operating condition. Motor vehicles registered on a seasonal basis are exempt from this definition.

KENNEL: Any premises on which four or more dogs over four months of age are kept for commercial care.

LANDSCAPED AREA: Any non-built-upon area of grass, agricultural fields, pasture, woodlot, forest, standing or flowing water maintained in healthy condition.

LANDSCAPE SCREENING: Plantings of a permanent nature which will have a height in excess of 5 feet and which have sufficiently dense foliage to screen the view.

LANDSCAPING: The act of changing or enhancing the natural features of a plot of ground (usually around a building) so as to make it more attractive, as by adding lawns, trees, bushes, shrubs, etc.

LOT: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this local law. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

LOT AREA: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public road right-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.

LOT LINES: The property lines bounding the lot.

LOT, THROUGH: An interior lot having frontage on two parallel or approximately parallel roads.

LOT, WIDTH OF: The mean width measured at right angles to its depth.

MOBILE DWELLING: A structure, constructed pursuant to standards of the U.S. Housing and Urban Development Administration published in Part 3280 of Title 24 of the Code of Federal Regulations, which is transportable in one or more sections, which in traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent transport chassis and designed to be used as a dwelling with or without a permanent

foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

MODULAR DWELLING: A dwelling unit built in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, Subchapter B, constructed off-site, consisting of more than one (1) segment and designed to be mounted on, and permanently anchored to a permanent perimeter foundation located below the frost line, thereby becoming a fixed part of the real estate.

MOBILE DWELLING PARK (TRAILER PARK): Any area of land or a building designated as a parking space for two or more mobile dwellings which are used for living purposes in space leased or rented commercially, whether currently occupied or currently open for public occupancy.

MUTIPLE RESIDENCE: A building or group of buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units.

NON-CONFORMING BUILDING: A building which in its design or location upon a lot does not conform to the regulation of this local law for the district in which it is located.

NON-CONFORMING LOT: A lot of record existing at the date of the passage of this local law which does not conform to the dimensional regulations of the district in which it is situated.

NON-CONFORMING USE: Any use of any building, structure, or land existing at the time of enactment of this local law which does not conform to the use regulations of the district in which it is situated.

OFFSITE PARKING AREA: The area of a lot or a building used or designated to be used for the purpose of parking of vehicles when such area is not a part of the same lot on which another principal use is located.

PARKING SPACE OR PARKING SPACE UNIT: An off-street space available for the parking of one motor vehicle and having dimensions of not less than 20 feet by ten feet, exclusive of passageways or driveways. In addition there shall be provided such space as is reasonably necessary for adequate ingress, egress and turning.

PLANNING BOARD: The Planning Board of the Town of Lincoln.

PLAT: A map, plan or layout of a city, town, section or subdivision indicating the locating boundaries of individual properties.

PRIVATE COMMUNICATIONS TOWER: A structure that is intended for the receiving or transmitting electromagnetic transmissions solely for the private, non-commercial use of the owner of the premises.

"PUBLIC WATER" OR "PUBLIC SEWER": Wherever the phrase "public water" and/or "public sewer" is used, it shall be deemed to refer to an off-site water or sewage system which is owned and operated by a government authority or by a utility company or a sewer district adequately controlled by a government authority.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING: A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made to the Code Enforcement Officer.

RECREATION AREA: A facility operated on a commercial basis for the amusement, entertainment and recreation of individuals, clubs, associations or groups, including, but not necessarily limited to, hunting preserves, golf courses, motorized vehicle operation, amusement park and trail facilities.

RESIDENTIAL SUBDIVISION: The creation of parcels of land from larger parcels for the purpose of building single or multi-family homes.

RESTAURANT: Any establishment, however designed, at which food is regularly sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground playfield or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant. A restaurant shall not include any facility or establishment that serves or sells alcoholic beverages.

RIGHT-OF-WAY: The line determining the road or highway public limit of ownership. Also, an easement established for passage across land.

ROAD: Refer to street.

SCREENING: A permanent barrier including but not limited to, fences, bushes, or trees or other natural and/or artificial material, at least four (4) feet high, which obscures the visual character of any given building or use of land.

SIGN: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public; each display surface shall be considered to be a "sign".

SIGN, OFF-PREMISES: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such is located.

SIGN, ON-PREMISES: Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

SINGLE FAMILY RESIDENCE: A permitted habitable structure having provision for one household.

SITE DEVELOPMENT PERMIT: A permit issued by the code enforcement officer upon approval of a site plan by the Planning Board, when applicable, and upon the code enforcement officer certifying that any use to be commenced and/or building that is to be erected, extended or put in place conforms to the district requirements and the schedules of this local law, and if necessary, to the town sanitation ordinance, the New York State Uniform Fire Prevention and Building Code, and any other applicable statute, ordinance and/or regulation.

SITE PLAN: Maps and detailed descriptive text required for any proposed development so designated by the Board of Appeals (see Section 605.5) or the Planning Board (see Section 605.10).

SKETCH PLAN: A concept sketch of a proposed development.

SKIRTING: Material of rigid composition for placement around all sides of a mobile home extending from the base of the mobile home to the surface of the ground or pad beneath it, with vent spaces as necessary, and painted in such a manner as to be compatible with the mobile home.

SPECIAL FLOOD HAZARD AREA: That area along a waterway designed and mapped by the Federal Emergency Management Agency under the Flood Disaster Protection Act of 1973 as subject to flooding that could damage buildings, structures and accessory installations in that area.

SPECIAL USE PERMIT: A permit that allows those areas of land or buildings specifically listed in this local law and with the conditions set out in the granting of such permit.

STABLE, PRIVATE: An accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

STABLE, PUBLIC: A building in which any horses are kept for remuneration, hire or sale.

STREET: A term used interchangeably with road, avenue, land, and highway, among others; a right-of-way improved or intended to be improved as a private or public way for vehicular traffic which affords principal means of access to abutting properties.

STREET CENTER LINE: A continuous line located midway between and parallel to the street lines.

STREET LINE: A lot line dividing a lot from a street.

STRUCTURE: A building, house, tower, office, warehouse, garage, etc.

SWAMPS, WETLANDS: Areas with permanent or seasonal standing water, or those so designated by the Soil Conservation Service and other government agencies.

TWO FAMILY RESIDENCE: A permitted habitable building having provisions for two families living independently of each other in separate dwelling units.

USE, ACCESSORY: A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

USE, PRINCIPAL: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

UTILITIES, COMMUNITY: Community facilities for water supply and distribution, sewage collection and disposal, storm drainage, owned and operated by a private owner, semi-public agency or a public agency, for three or more dwellings or establishments.

UTILITIES, PUBLIC AND/OR SEMI-PUBLIC: Distribution points, transmission lines and stations, sub-stations, storage yards, garages and other central buildings and/or related uses for the operation and provision of public and semi-public power, fuel, water and communications service licensed by the Public Service Commission.

VARIANCE, AREA: A legally-permitted modification of a zoning ordinance to allow for different dimensions in the area coverage of a specific parcel of land.

VARIANCE, USE: A legally-permitted modification of a zoning ordinance to allow a different use of a specified parcel of land or of a specific structure.

WILDLIFE REFUGE: A facility which consists primarily of open, undeveloped lands, which is set aside for the development and preservation of wildlife, without hunting and operated on a noncommercial or non-profit basis.

YARD: An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the edge of the highway right-of-way and the front line of the building projected to the sidelines of the lot. The depth of the front yard shall be measured between the nearest point of the front line of the building and road right-of-way. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required

front yard. The front yard must be free of any man-made building or structure. The only exception is some types of permitted roadside stands (see Section 302.2).

YARD, REAR: An open unoccupied space on the same lot with a main building, extending full width of the lot and situated between the area line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the road right-of-way if there is a roadway and the nearest point of the rear line of the main building. Accessory buildings may be built on the rear yard unless the lot is a "through lot" (see definition).

YARD, SIDE: An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE 3 - DISTRICTS AND BOUNDARIES

Section 301 - ESTABLISHMENT OF DISTRICTS

Land Use Districts are hereby established, defined and classified as provided in this Article:

Section 301.1

Permitted Uses and Activities in Agricultural Residential Zone 1: AR-1

A. This district is envisioned as mixed agricultural and residential with all buildings grouped in the interest of maintaining and enhancing the residential nature and character of the district. The following uses are permitted:

1. Farms and farm buildings for related agricultural activities
2. One-family residential use
3. Home occupation
4. One private garage
5. One accessory building (in addition to a private garage)

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

1. Hobby farm use
2. Additional accessory buildings
3. Religious institution
4. School
5. Community center

6. Hospital
7. Recreation area
8. Cemetery
9. Public utility substation
10. Bed and breakfast
11. On farms only, not more than two residence structures, in addition to the principal residence structure, one or both of which may, but need not be, a mobile dwelling, for supplemental housing. (See note (g) to Table 1.)
12. Private communications towers

- C. 1. Except as specifically provided for in this section, mobile dwellings are not permitted in this district.
2. All other uses are prohibited in this district.

Section 301.2

Permitted Uses and Activities in Agricultural Residential Zone 2: AR-2

A. This district is envisioned as mixed agricultural and residential in the interest of maintaining and enhancing open land for its aesthetic qualities and for its economic value in agricultural production. The following uses are permitted:

1. Farms and farm buildings for related agricultural activities
2. One and two family residential use
3. Home occupation
4. Mobile dwellings
5. One private garage
6. One accessory building (in addition to private garage)
7. Hobby farm use
8. Wildlife refuges
9. Private stables

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

1. Additional accessory buildings
2. Religious institution
3. School
4. Hospital
5. Cemetery
6. Multiple dwellings
7. Utility substation
8. Private aircraft landing strips
9. Recreation areas
10. Private membership clubs

11. On farms only, not more than two residence structures, in addition to the principal residence structure, one or both of which may, but need not be, a mobile dwelling, for supplemental housing. (See note (g) to Table 1.)
12. Private communications towers
13. Kennels and catteries
14. Public stables
15. Bed and breakfast
16. Veterinary hospitals
17. Community center
18. Mobile dwelling parks

C. All other uses are prohibited in this district.

Section 301.3

Permitted Uses and Activities in Neighborhood Commercial Zone: NC

A. This district provides for daily retail and personal services to the residents of the Town and those traveling through the Town. The key distinction is the scale of the activities permitted. These are services for individuals. Services for vehicles and service emphasizing vehicles are discouraged. The following uses are permitted:

All uses allowed in the AR-1 district under Section 301.1(A)

The following are permitted uses that require site plan review and approval by the Planning Board prior to issuance of a site development permit and/or building permit and commencement of the use.

1. Retail convenience store less than 3000 square feet of building area
2. Personal service less than 3000 square feet of building area
3. Business office, financial institutions less than 6000 square feet of building area
4. Restaurant less than 6000 square feet of building area
5. Daycare
6. Inns and bed-breakfast
7. Health club less than 6000 square feet of building area
8. Religious institution
9. Community center
10. Health clinic
11. Private membership club house less than 6000 square feet of building area
12. Off site parking lot less than 18,000 square feet of surface area

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

1. Gasoline station
2. Car wash

3. Public Garage
 4. Drive-in service
 5. Mortuary, funeral home without crematorium
 6. Accessory buildings
 7. Private communication towers
 8. Offsite parking greater than 18,000 square feet in surface area
 9. Utility substation
- C. 1. Mobile dwellings are not permitted in this district.
 2. All other uses are prohibited in this district.

Section 301.4

Permitted Uses and Activities in Industrial-Commercial Zone: I-C

- A. The following uses are permitted:

All uses allowed in AR-2 and NC districts under Sections 301.2(A) and 301.3(A)

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

1. Salvage yard
2. Quarry
3. Commercial use of the types which would be allowed in the NC zone, but that exceed the square footage limitation of the N-C zone
4. Other commercial and industrial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses
5. Offsite parking
6. Private energy facility
7. Public aircraft landing strips
8. Commercial communication towers
9. All uses allowed in AR-2 and NC districts under Sections 301.2(B) and 301.3 (B)
10. Enclosed manufacturing industries
11. Enclosed warehouse or wholesale use
12. Public utility
13. Enclosed service and repair
14. Machinery and transportation equipment, sales, service and repair
15. Enclosed industrial processes and service
16. Freight or trucking terminal
17. Contractor's yard
18. Garage, gasoline stations and car washes
19. Parking
20. Accessory building use
21. Research laboratories

Section 302 - LAND USE MAP

The "Land Use Map" attached hereto as Appendix A is hereby made a part of this local law. All land use districts are shown on the Land Use Map, and defined as hereinbefore stated. Future district changes or additions may be shown on this map, the master of which will be kept on file in the Town Clerk's Office.

Section 303 - LAND USE SCHEDULE (Table 1)

The Land Use Schedule shows, for all districts, the permitted minimum size and dimensions of lots, bordering yards, and maximum building heights.

TABLE 1

LAND USE SCHEDULE
Minimum Dimensions

| Lot Area | Frontage | | Lot Depth | | Yards* | | | Maximum Structure Page | Notes (see) |
|---|----------------------|-----|-----------|--------|-----------|----------|-----------------|------------------------|---------------|
| | Ft. | Ft. | Ft. | Ft.(a) | Front Ft. | Side Ft. | Rear Height Ft. | | |
| Single-family unit | 40,000 sq. ft. | 150 | 150 | 150 | 20 | 50 | 40 | 35 | b, h |
| Two-family unit | 60,000 sq. ft. | 150 | 150 | 150 | 25 | 50 | 50 | 35 | b, h |
| Multi-family | 60,000 sq. ft. | | | | | | | | |
| | + 10,000 | | | | | | | | |
| Farm | sq. ft/unit | 200 | 200 | 200 | 40 | 50 | 50 | 45 | d, e, h |
| | 5 acres | 200 | 200 | 200 | 40 | 50 | 50 | None | c, g, h |
| Manufactured Home | 40,000 sq. ft. | 200 | 200 | 200 | 40 | 50 | 50 | 35 | b, h |
| Manufactured Home park | 5 acres ** | 200 | 300 | 300 | 30 | 50 | 50 | | b, d, e, f, h |
| Individual Park Site | @ 10,000 sq. ft/unit | 70 | 120 | 120 | 20 | 30 | 20 | 35 | f, h |
| Commercial and industrial, on separate lots | 40,000 sq. ft. | 200 | 200 | 200 | 40 | 100 | 50 | 35 | b, d, e, h |

* Corner lots are considered to have two front yards along the two roadways and two side yards.

** Acre = 43,560 sq. ft.

*** Requirement of actual frontage along public highway, or, if applicable, private access easement

All non-farm accessory buildings shall conform to front and side yard requirements of the district in which they are located.

Notes for Table 1

- a. Measured from the road right-of-way. Applies to each side of a lot that adjoins a public road.

An alternative front yard minimum dimension measurement is permissible from the center of road-ways where neither road right-of-way bounds nor surveys are available: (1) on three rod roads (generally, but not necessarily, Town roads) add 25 feet to the required front yard setback and measure from the centerline of the road; and (2) on four rod roads (generally, but not necessarily, County roads) add 35 feet to the required front yard setback and measure from the centerline of the road.

- b. Where community water supply and sewer are to be used in a subdivision subject to Planning Board review, upon Planning Board approval, smaller lot areas of not less than one-half of the stated lot area requirement and smaller bordering yards of not less than: Lot: 100 feet front x 150 feet depth. Yards: 30 feet front x 20 feet sides x 50 feet rear, may be permitted.
- c. Accessory farm buildings (silos, barns, etc.) are exempt from height limits.
- d. Requires site plan review and approval by Planning Board.
- e. A landscaped screening zone at least 15 feet wide shall be maintained by the owner on those sides of his lot that adjoin any residential property owned by another party.
- f. Each mobile dwelling site shall connect to an access road within the mobile dwelling park, and the front yard of each lot shall be measured from the edge of this access road.
- g. Upon the issuance of a special permit by the Planning Board, not more than two units of supplementary housing are allowed for relatives or hired hands employed by the farm; each unit must be provided with an adequate sewage disposal system; does not require separate lots.
- h. Maximum structure height limitation not applicable to private and public communications towers, which are allowed to such height as the applicant can demonstrate a technical need for effective communications. The determination of such need shall be made by the Planning Board by the issuance of a special use permit.
- i. In addition to all otherwise applicable side and rear yard requirements, along any lot line (other than a front yard) of any use requiring a special permit in the I-C zone that adjoins a residential district there shall be provided a perimeter strip of a least twenty-five (25) feet and there shall be provided and maintained within such perimeter strip a protective

screen of conifers at least eight (8) feet high on six-foot centers and such other plantings and fencing as may be needed (as determined by the Planning Board) to separate, protect, conceal and maintain the character of the adjoining residential zone free from the persons, activities and traffic which may result from the activities permitted in the I-C district. Landscaping plans must be approved by the Planning board. Plantings shall be properly bedded when planted, and thereafter maintained and fertilized to assure long life and growth, and plantings shall be replaced if they die.

Section 304 - INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Land Use Map, the following rules shall apply:

- A. Distances shown on the Land Use Map generally follow tax map parcel lot lines as such lot lines existed as of the date of preparation of the Map. Where the Map indicates a district boundary following a lot line, such tax parcel lot line shall constitute the district boundary.
- B. Where district boundaries are indicated as approximately following the centerline of roads or streams, such centerline shall be construed as the district boundary.
- C. Where district boundaries are so indicated as a straight line extension of one or more tax parcel lot lines, such straight line extension of such lot lines shall be construed as the district boundary.
- D. Where district boundaries are so indicated that they are approximately parallel to the centerline(s) of roads and/or lot line(s), such district boundaries shall be construed as being parallel thereto and at such distance from the road centerline as indicated on the Land Use Map. If no distance is given, such dimension(s) shall be determined by the use of the scale shown on the Land Use Map.
- E. Where district boundaries are indicated as a straight line between corners of two existing tax parcel lot lines, the district boundary shall be the straight line connecting such corners of such lots as shown on the map.

ARTICLE 4 - SUPPLEMENTARY REGULATIONS

Section 401 - ADDITIONAL REGULATIONS FOR ALL LOTS

This article provides for the safety of the occupants of buildings and of those who use the roads. Therefore, those who build, buy, use, repair or remodel any buildings

shall observe the standards enacted by New York State under the NYS Building Code, and/or similar codes.

Section 402 - OBSTRUCTION OF VISION

On a corner lot, there shall be no obstruction of vision creating a safety hazard for anyone using the intersecting roads. The determination of an appropriate "clear zone" shall be made by the County or Town Highway Superintendent.

Section 403 - ON-PREMISES PARKING SPACE FOR VEHICLES

For every building hereafter erected, or converted to something other than its current use, the following minimum parking spaces shall be provided on the premises:

Residential uses: Two per dwelling unit.

Multiple tenant uses: One per tenant plus one extra for service and guests.

Hotel, motel, tourist home, boarding house: One per guest room plus three for service.

All other uses: As required in granting the special use permit.

Section 404 - MENACE OR NUISANCE CONDITIONS

Junkyards shall be screened on all sides by a fence and/or evergreens to provide a visual barrier in accordance with Section 136 of the General Municipal Law

In all districts, any uses that endanger the health, safety or welfare of any person or persons is prohibited. Any existing uses judged to be a menace or nuisance may be cited by the land use officer upon a written complaint as provided in Section 609A.

This section applies to noise, odor, dust, dirt, smoke, noxious gases, building vibrations, dangerous glare or other impairment of vision, contamination of soil and open water systems, and other physical conditions.

Section 405 - STORAGE OF FLAMMABLE LIQUIDS, CHEMICALS AND EXPLOSIVES

The design, construction, maintenance and operation of storage facilities for flammable liquids, chemicals and explosives shall comply with all applicable laws, codes and regulations.

Section 406 - EXTRACTION OF TOPSOIL, SAND, GRAVEL OR STONE

All landowners shall comply with the New York State Mined Land Reclamation Law (Chapters 1043, 1044) which requires that operators who mine more than 1,000 tons of minerals from the earth within 12 successive calendar months must obtain a permit for such operations from the Department of Environmental Conservation (DEC). No such mining operations shall be permitted except in strict compliance with a mining permit and mined land reclamation plan approved by the DEC. Berms, plantings, and other screening devices specifically approved upon issuance of a special permit by the Planning Board may be located outside the limits of the I-C zone, but all other aspects of the mining operation, including but not limited to support buildings and facilities, must be located within the boundaries of the I-C District as depicted on a site plan approved by the Planning Board. In determining whether to grant a special permit and site plan approval for a mining or quarry activity, the Planning Board shall specifically consider the potential effects of the proposed activities, including, but not necessarily limited to visual impact and site and neighborhood aesthetics, noise control, dust control and impact on ground water resources.

Section 407 - CONSERVATION OF STEEP SLOPES

The construction of new buildings, roads and other facilities on slopes of 15% or more grade (15% = 1 1/2 foot rise in 10 feet horizontal distance) shall require a special use permit. Logging on such areas shall comply with New York State Department of Environmental Conservation standards.

Section 408 - OPEN BURNING

The burning of dry household rubbish (not garbage, food stuffs, plastics, tires, recyclables, non-wood building materials, or toxic materials), yard wastes and cuttings may be done in the open without a town board permit by individual households only in accordance with applicable regulations of the New York State Department of Environmental Conservation and under the following conditions:

- A. In daylight when visibility is at least two miles.
- B. When wind speed and direction will not blow the smoke into the house, business premises, place of assembly of another, or across public roads.
- C. If it is on a site safely distant from any structure or combustible material.
- D. If it is suitably contained and under the control of a responsible person at all times who is equipped to extinguish as necessary.
- E. If a large controlled burn is planned, the prior approval of the Town Fire Chief must be obtained.

Section 409 - NON-CONFORMING USES AND LOTS

- A. Lawful use of any building or land existing at the time of enactment or amendment of this local law may be continued, although such uses do not conform with this local law, except as hereinafter provided.
- B. When a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with this local law.
- C. No non-conforming use shall be changed to other than a conforming use for the district in which it is situated.
- D. A non-conforming use may be rebuilt or restored to its original dimensions following damage by natural causes (including fire, wind and motor vehicles) within one (1) year.
- E. Expansion or enlargement of a non-conforming use shall be subject to issuance of a special permit.
- F. Any lot which was duly approved or legally existed in separate ownership from any adjoining land prior to this local law and which has an area less than required by this local law may be used for any permitted purpose if:
 - a. The owner, on the effective date of this local law or at the time of application for any permit or approval from the Town, has no adjoining land which would permit the owner to make the lot conforming, and
 - i. if all other zoning and planning requirements are satisfied, or;
 - ii. if the owner obtains a variance pursuant to the provisions of Article 6 for any setback, frontage, lot coverage or other requirement of this local law (other than lot size) which can not be met. Such a variance may only be granted if the applicant demonstrates that all requirements of New York law relating to residential lots (such as percolation, sewage disposal, and water supply) can be satisfied, or if;
- G. No nonconforming lot shall be created where no nonconforming lot existed prior to the passage of this local law. No lot shall be so reduced in area that the total area, yard setbacks, lot width, frontage, coverage, or other requirements of this local law shall be less than herein prescribed for each land use district without a variance. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

Section 410 - DRIVEWAYS

All driveways must be at least eight feet wide and must allow sufficient width at the street line for safe turning on or off any public road which they adjoin. Drainage under all access road and driveways to new property development shall be provided for through the installation of driveway tubes. Driveway tubes must be properly installed before the issuance of a building permit. All tubes sizes and specifications will be determined by the Town Highway Superintendent and the Town Code Enforcement Officer. Diameter (determined by the Superintendent) large enough to adequately carry normal drainage on the side of the road at that location.

Section 411 - LOT DIMENSIONS

No lot created on or after the effective date of this local law shall have a lot depth which is more than three (3) times its lot width as measured at the street line.

Section 412 - MOBILE HOMES

- A. No mobile home shall be parked or placed on any parcel within the Town for any purpose other than use as a principal residence structure. Use of a mobile home on any parcel for any purpose other than as a principal residence, including, but not limited to, storage or animal housing, is hereby prohibited. Junked mobile homes shall be permitted only in licensed junkyards.
- B. No permit in the placement of a mobile home within the Town shall be issued until all of the following performance standards have been met to the satisfaction of the Code Enforcement Officer:
 - i. The lot must be graded to allow the safe placement of the mobile home. The lot shall have one of the following in place to accommodate the placement of the mobile home
 - a) A six inch thick, steel mesh reinforced concrete pad with dimensions at least as large as the exterior dimensions of the mobile home to be placed upon it, or;
 - b) Concrete piers at least 12" in diameter or width, placed no more than 10 feet apart (or to manufacturer's recommendations if available) around the perimeter of the mobile home, and also placed to a depth of 4 feet below the ground surface or to bedrock, whichever is less, or;
 - c) A permanent foundation.
 - ii. Driveway, septic system and well must be installed and approved by the Code Enforcement Officer prior to placement of the mobile home on the lot.

- C. All mobile homes not placed on a permanent foundation shall be skirted prior to the issuance of a certificate of occupancy. If a mobile home is placed in such a manner that settling of the earth around the mobile home may occur after placement of the mobile home, a provisional certificate of occupancy may be issued for a period not to exceed sixty (60) days to allow for settling prior to the placement of skirting and the issuance of a final certificate of occupancy.

Section 413 - GRADING AND LANDSCAPING REQUIREMENTS

Within nine months of issuance of a certificate of occupancy, all ground within 25 feet of a structure, or to the property line, whichever is less, shall be graded and seeded, stoned or paved to allow sufficient access by emergency vehicles and personnel. In addition any ground disturbed during site preparation or erection or placement of the structure shall be regraded and seeded, or otherwise appropriately landscaped within nine months of the issuance of the certificate of occupancy. This provision shall not be construed to require the removal of any trees which the owner otherwise desires to remain for landscaping purposes.

ARTICLE 5 - SUBDIVISIONS, SANITARY REGULATIONS, FLOOD PLAIN DEVELOPMENT AND WASTE SPREADING

Section 501 - SUBDIVISIONS

All subdivisions are subject to the Town of Lincoln Subdivision Regulations, as amended, to which all property owners and developers are referred.

Section 502 - FLOOD HAZARD AREA DEVELOPMENT

All development within special flood hazard areas as defined by the Federal Emergency Management Agency must be accomplished within the regulations embodied in the Town of Lincoln Flood Plain Development Local Law, to which all property owners and developers are referred.

Section 503 - SANITARY REGULATIONS

All private sanitary disposal systems must be constructed and installed in accordance with the Town of Lincoln Sanitary Local Law and Appendix 75-A of the New York State Department of Health Handbook, to which all property owners and developers are referred.

Section 504 - WASTE SPREADING

No surface or subsurface spreading or application of human sewage or septic waste is permitted in the Town of Lincoln. Spreading or land application of all other

waste materials must be in accordance with the Town's local law governing same, to which all property owners and developers are referred.

ARTICLE 6 - ADMINISTRATION AND ENFORCEMENT

Section 601 - ENFORCEMENT

This local law shall be enforced by the Code Enforcement Officer.

Section 602 - FEES

A fee as determined from time to time by resolution of the Town Board, shall be charged for all permits issued and for processing all applications for appeals, for interpretation of decisions, for variances, for site plan review and for special permits.

Section 603 - SITE DEVELOPMENT PERMIT PROCEDURE

- A. No use shall be commenced, and no building shall be erected, extended, or put in place nor excavation commenced until the code enforcement officer has issued a site development permit certifying that it meets all the requirements of this local law and the New York State Uniform Fire Prevention and Building Code.
- B. Application for a site development permit, including instructions on procedure, shall be obtained from the Town Clerk before construction begins.
- C. The site development permit shall be issued or denied, by the code enforcement officer, within 30 days of receipt of the complete application.
- D. If construction authorized by the site development permit has not been started and continued within one year, the permit shall be cancelled.
- E. The location of a new access (driveway) onto town, county and state roadways must be cleared with the appropriate highway department for approval of the location prior to construction.

Section 603.1 - CERTIFICATE OF COMPLIANCE PROCEDURE

- A. A certificate of compliance shall be applied for coincident with the application for a building permit.
- B. No land shall be occupied or used and no building, structure or system hereafter erected, altered or extended, shall be used or changed in use, until a certificate of compliance shall have been issued by the code

enforcement officer stating that the building, structure, system, or land alteration and proposed use thereof comply with the provisions of this local law. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been inspected and found to comply with the provisions of this local law, including the written certification of the Code Enforcement Officer that he has inspected the improvements as constructed and has found them to be in accordance with the conditions of approval of any variance, special permit and/or site plan approval granted in connection with the development.

- C. The Town Clerk shall maintain a record of all certificates, and copies shall be furnished upon request and the payment of applicable copying charges.

Section 604 - MINOR ALTERATIONS

Any minor alteration of an existing building not subject to Subchapter B of the New York State Uniform Fire Prevention and Building Code pursuant to section 1231.3 thereof, shall not require a building permit. All alterations and/or additions must conform to the requirements of this local law and of the Town sanitation ordinance.

Section 605.1 - BOARD OF APPEALS

The Town Board hereby affirms the existence of the Board of Appeals of the Town of Lincoln, consisting of five members, and having all the authority conferred upon a board of appeals by Article 16 of the Town Law of the State of New York.

Section 605.2 - POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers and duties:

- A. Upon appeals from a decision, or upon request of another board or officer of the Town of Lincoln, to decide questions involving interpretation of any provisions of this local law.
- B. To grant area and use variances upon application, in accordance with standards established by Article 16 of the Town Law of the State of New York.
- C. Decisions of the Board of Appeals shall be made within 90 days from the time that the application has been filed with the Board; decisions shall be by resolution, shall contain a full statement of findings of fact in the minutes of the Board. In a case of restoration because of destruction beyond the owner's control, the Board of Appeals should meet within one week.

Section 605.3 - APPLICATION TO THE BOARD OF APPEALS

An appeal of a decision made by the code enforcement officer, or a request for an interpretation of any part of this local law, or a request for a variance, shall be made to the Board of Appeals within 60 days after the filing in the Town Clerk's office of the administrative determination being appealed. The Town Clerk will furnish an application form and instructions, along with a statement of the standards and procedure to be followed by the Board of Appeals, including a public hearing, as required by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, a copy will be provided to the code enforcement officer, and a copy will be submitted to the Planning Board for an advisory recommendation, and then forwarded to the Board of Appeals within one week after the Planning Board reviews the application. The failure of the Planning Board to submit a recommendation to the Board of Appeals within 35 days of its receipt of the application shall be deemed a waiver of the Planning Board review requirement.

Section 605.4 - VARIANCE

A variance is a legal permit for a modification of some part of the Land Use law to meet an individual hardship. "Hardship" does not refer to a personal hardship of the property owner/user. Rather, "hardship" refers to the inability of the property to be used for a permitted use or to the inability to meet the lot area and/or dimensional requirements.

If a use or construction authorized by a variance has not been started and continued within one year, the Board of Appeals may revoke the variance and require a new application.

When a variance is granted, the Board of Appeals may prescribe conditions to be observed in order to protect the health safety, or welfare of the public, to preserve the general character of the neighborhood, and to minimize possible detrimental effects on nearby property.

Section 605.5 - GRANTING OF VARIANCES

A. The Board of Appeals shall act in strict accordance with the procedure specified by state law and by this law. All applications made shall be in writing on forms prescribed by the Board. Every application shall refer to the specific provision of the law involved, the details of the variance being applied for, and the grounds on which it is claimed that the variance should be granted.

B. Each application shall include a site plan of the proposed use or construction to enable the Board of Appeals to evaluate development constraints inherent in the property and the proposed use's or construction's compatibility with the existing uses in its vicinity and with the purpose of this law, Upon the granting of any variance, the

submitted site plan, with any modifications required by the Board, shall become a part of the record on which future compliance with the terms of the variance shall be based.

C. Written notice setting forth the general nature of the variance application and the date of the public hearing shall be forwarded by first-class mail by the Town Clerk to owners of real property within the Town of Lincoln at those addresses as appear on the Town tax roll in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the property parcel(s) which is the subject of the proposed variance.

Section 605.6 - STANDARDS FOR GRANTING VARIANCES

No variance for modification of the strict application of any provision of this law shall be granted by the board unless it finds that:

A. For Use Variances: No use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable regulations and restrictions contained in those Land Use Regulations have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under those Regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

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

C. For Area Variances: In making its determination, on each application for an area variance, 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 condition in the neighborhood or district; 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.

D. 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.

E. Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Land Use Regulations, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 606 - PLANNING BOARD

The Town Board hereby affirms the existence of the Town of Lincoln Planning Board consisting of seven (7) members and having all the authority conferred pursuant to Article 16 of the Town law. Specifically, the Planning Board shall have the following powers and duties:

1. To issue or deny Special Permits required by this law.
2. To undertake planning activities allowed by Town Law or as requested by the Town Board.
3. Subdivision Review and Approval.
4. Site Plan Review and Approval.

Section 606.1 - SPECIAL PERMITS

A Special Permit gives some means of control of proposed new uses of land and buildings which are compatible with land uses permitted by right by the Land Use Regulations as long as the conditions applicable to special permit uses are satisfied. Specifically, it gives the Planning Board the opportunity to determine whether such proposed new development (in the particular location, at the particular scale, and of the particular site design contemplated) will create special problems which can be corrected or effectively minimized by specially devised conditions or which call for denial of permission.

When a Special Permit is granted, the Planning Board may prescribe conditions to be observed in order to ensure adherence to the standards specified in Sections 606.2 and 606.5.

No Special Permit shall be granted with respect to any property or any use on or for which a violation currently exists. (Non-conforming uses as outlined in Section 408 are not considered violations of this local land use law.)

Unless extended by the Planning Board, if a use or construction authorized by a Special Permit has not been started within one year, the Special Permit will expire.

Section 606.2- APPLICATIONS FOR SPECIAL USE PERMITS

- A. An application to the Planning Board for a special use permit shall be submitted to the Town Clerk and shall be accompanied by three sets of preliminary site plans and other descriptive matter to show clearly the intentions of the applicant as provided in Section 606.4. These documents shall become a part of the record to determine if the proposed special use meets the requirements of this local law.

A public hearing shall be held by the Planning Board within sixty-two days from the date any application for a Special Permit is received.

- B. At least 10 days before the date of the public hearing, the Town Clerk shall transmit to the Planning Board a copy of the application, with supporting documents, and notice of hearing. The Planning Board shall render its decision within 62 days of the date the public hearing is closed.

Section 606.3- STANDARDS FOR GRANTING SPECIAL USE PERMITS

No special use permit shall be granted unless it is determined by the Planning Board that the proposed use meets all of the following criteria:

- A. The location, size and use of structure, nature and intensity of operations involved, size of site in relation to the proposed structure(s), and the location of the site with respect to roads giving access to it are such that the proposed use will be in harmony with orderly development of the district.
- B. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
- C. The proposed use shall not conflict with any master plan, or part thereof.
- D. Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any unconditionally permitted use.
- E. A special use permit shall not be issued for a use on a property where there is an existing violation of this local law.
- F. The use shall not have an adverse effect on the agriculture of the area.
- G. The proposed use shall be in strict compliance with the requirements of all other applicable federal, state and local laws and regulations.

The Planning Board may impose additional standards on the special use to provide adequate safeguards to protect the health, safety, or general welfare of the public, to preserve the general character of the neighborhood in which such proposed special use is to be placed, and to minimize possible detrimental effects of use on adjacent property.

Section 606.4 - SUBMISSION OF SITE PLAN AND SUPPORTING DATA

A site plan and supporting data shall be submitted to the Planning Board for all uses which require site plan approval or a special permit. The owner shall submit a site plan and supporting data as required and shall include all or a portion of the following information presented in drawn form and accompanied by a written text. The amount of information will depend on the scope of the proposal. Applicants may submit an initial sketch plan of the proposal to the Planning Board for a determination as to whether any of the following items may be omitted from the submission.

- A. Survey of the property, showing existing features of the property, including contours, large trees, buildings, structures, streets, utility easement, right-of-way, land use, land use district and ownership of surrounding property.
- B. Site plan showing proposed lots, blocks, building locations, and land use area.
- C. Traffic circulation, parking and loading spaces, and pedestrian walks.
- D. Landscaping plans, including site grading, landscape design, and open areas.
- E. Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations, and sections.
- F. Preliminary engineering plans, including road improvements, storm drainage system, public utility extensions, water supply, and sanitary sewer facilities.
- G. Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.
- H. Construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas.
- I. A description of the proposed uses, including hours of operations, number of employees, expected volume of business, and type and volume of traffic expected to be generated.
- J. A completed Environmental Assessment Form.

Section 606.5- SITE PLAN APPROVAL

The Planning Board shall review the site plan and supporting data before approval, rejection, or approval with stated conditions as given, and take into consideration the following:

- A. Harmonious relationship between proposed uses and existing adjacent uses.
- B. Maximum safety of vehicular circulation between the site and road network.
- C. Adequacy of interior circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety.
- D. Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

Should changes or additional facilities be required by the Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with the changes or additions.

Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

Section 606.6 Wind Energy Facilities

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

- A. Minimum lot size shall be five (5) acres.
- B. Minimum road frontage shall be four hundred fifty (450) feet.
- C. Minimum lot depth shall be four hundred fifty (450) feet.
- D. Maximum structure height shall be as determined by the Planning Board in the course of its special permit review.
- E. 1. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding street and property lines, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds that the following circumstances apply: the property line in

question a) separates two properties that are both part of a commercial wind powered electricity generation facility, and b) either, i) both properties on each side of the boundary line in question will have electricity generation or transmission facilities constructed on them as part of the project under review, or ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

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

606.6.2 No special use permit shall be granted for commercial wind power electricity generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria, in addition to those general criteria listed in subsection 606.6.1:

A. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

B. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

C. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval as it applies to existing residential uses within 2000' of each tower for which such strobe lighting is proposed.

D. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Lincoln, or that extends beyond the border of the Town of Lincoln.

E. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site

parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.

F. No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

G. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

H. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.

I. Procedures acceptable to the Planning Board for emergency shut-down of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.

J. Prior to issuance of a Building Permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.

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

A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing cultural features.

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

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

A. Private wind energy systems may only be placed only in the AR-1 and AR-2 zoning districts.

B. The private wind energy system shall not exceed the total minimum height established by the New York State Energy Research and Development Authority ("NYSERDA") for grant funding at a wind speed of ten miles per hour.

C. The wind energy system tower must be set back from all property lines and public highways, all driveways and buildings, and all overhead utility and communications lines, a distance equal to 1.5 times its total height. The area around the facility shall be designed to prevent unauthorized access.

D. The wind energy system shall:

1. display appropriate warning signs (e.g., electrical hazard)
2. be designed and installed so that no ladder or step bolts are readily accessible to the public for a minimum height of 15 feet above the ground
3. have ground clearance of no less than 15 feet to the lowest point of any rotating blade
4. utilize electrical panel access doors that are lockable
5. utilize an automatic braking system to prevent uncontrolled rotation
6. utilize only underground power lines leading to and from the wind energy structure, which lines shall be installed in accordance with applicable codes.

E. Unless otherwise specified by FAA requirements, the wind energy system shall be painted a non-reflective, non-obtrusive color that conforms to the environment. The system may not be artificially lit.

F. The wind energy system shall not exceed audible sound levels specified by the manufacturer, as measured at a point 200 feet from the tower base.

G. The construction of a wind energy system shall only remove the natural vegetation necessary for the construction, operation, and maintenance of the system.

H. No more than one private wind energy system shall be permitted per lot.

I. The private wind energy system may not interfere with utility or electromagnetic communication lines.

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

K. No advertising may be included on any portion of the wind energy system.

L. All facilities shall be sited in the location that will have the least off-site visual impact.

Section 606.7.1 Definitions.

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

SIGN - Any material, structure or device or part thereof composed of lettered or pictorial matter, which is located out-of-doors or on the exterior of any building or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

COPY-CHANGE SIGN - A sign on which the visual advertising message may be electronically pre-programmed to change.

DIRECTIONAL SIGN - A sign limited to providing information on the location of an activity, business or event.

FREESTANDING SIGN - Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground; included are pole signs, pylon signs and masonry wall-type signs.

ILLUMINATED SIGN - Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

OFF-PREMISES SIGN - A sign unrelated to a business or a profession conducted or to a commodity or service sold or offered upon the premises where the sign is located.

PERMANENT SIGN - Any sign which is painted on, etched into, or otherwise structurally attached to the ground, a building, a structure, or another permanent sign.

PORTABLE SIGN - A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

TEMPORARY SIGN - Any sign fabricated of paper, plywood, fabric, window whitewash, or other light impermanent material, which relates to a single activity or event having a duration of no more than sixty (60) days.

SIGN SURFACE AREA - The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form

an integral background for the display. Both faces of a double-faced sign shall be included as surface or area of such a sign.

Section 606.7.2 General Regulations.

Except as otherwise provided, no person shall erect, alter or relocate any permanent sign without first obtaining a permit from the Code Enforcement Officer. Subsequent to this initial application, no permit shall be required for a sign to be repainted, repaired or have its message changed.

Section 606.7.3 Specific Sign Regulations.

A. Exempt signs (require no permits). The following types of signs may be erected and maintained without a permit or fee, provided that such signs comply with the general requirements of this section and other conditions specifically imposed by the regulations:

(1) Historical markers, tablets and statutes, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet.

(2) Flags and insignia of any government, except when displayed in connection with commercial promotion.

(3) On-premises directional signs for the convenience of the general public, identifying parking areas, fire zones, entrances and exits and similar signs, not exceeding four square feet per face and mounted not more than six feet above grade. Business names and personal names shall be allowed, excluding advertising messages.

(4) Nonilluminated warning, "private drive," "posted" or "no trespassing" signs, not exceeding two square feet per face.

(5) One on-premises sign, either freestanding or attached, in connection with any residential building in any zoning district, for permitted home occupations, not exceeding four square feet and located outside the highway right-of-way. Such sign shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line.

(6) Number and nameplates identifying residents, mounted on a house, apartment or mailbox, not exceeding one square foot in area.

(7) Lawn signs identifying residents, not exceeding two square feet. Such signs are to be nonilluminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.

(8) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four square feet for a period not exceeding seven successive days for each such event.

(9) Nonilluminated "For Sale," "For Rent" and real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In all zoning districts, one sign not exceeding four square feet per side shall be permitted. All such signs

shall be removed within three days after the closing of the sale, lease or rental of the premises, or upon expiration of the listing agreement.

(10) Holiday decorations, including lighting, are exempt from the provisions of this section and may be displayed in any district without a permit.

(11) Temporary directional signs for special, nonrecurring meetings, conventions and other assemblies. Signs shall be limited to two per meeting or event and shall not be erected more than two days prior to the meeting or event, and all signs shall be removed within two days after the meeting or event.

(12) Political posters, banners, promotional devices and similar signs, not exceeding 32 square feet, provided that placement shall not exceed 60 days prior to the election, and all signs shall be removed within three days after the election.

(13) Any sign advertising a private vehicle for sale, subject to a limitation of one sign per vehicle which shall not exceed four square feet.

(14) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies may be erected on the premises of such institutions. One such sign or bulletin board not exceeding 20 square feet may be erected for each entrance on a different street or highway.

(15) Signs necessary for the identification, operation or production of a public utility, not exceeding 20 square feet, may be erected on the premises of such public utility.

B. Prohibitions.

(1) No off-premises signs shall be allowed other than as permitted under the exempt signs provision of § 606.7.3A.

(2) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.

(3) No sign shall be permitted within the street or highway right-of-way.

(4) No sign shall impair visibility for the motorist at a street corner or intersection.

(5) No sign or sign supports shall be placed upon the roof of any building.

(6) No permanent sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.

(7) No advertising message shall be extended over more than one sign placed along a street or highway.

(8) Copy change signs shall not be permitted.

C. Sign permit required.

(1) Permanent signs.

(a) Within any zoning district, the following permanent signs may be erected upon the issuance of a permit by the Code Enforcement Officer. If the sign is to be erected in association with a use or development that also requires special permit or site plan approval, approval of the Planning Board shall be required prior to the issuance of the permit by the Code Enforcement Officer.

(b) [1] Off-premises directional signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service or

community facility may be erected, provided that such signs do not exceed ten (10) square feet per establishment nor total more than two such signs per establishment. The message shall be limited to name or identification, arrow or direction and distance. Advertising messages shall be prohibited.

[2] On-premises advertising signs for business, commercial and industrial uses, subject to the limitations hereafter stated in the following subparagraph (b).

(c) For business, commercial and industrial uses, the following permanent sign provisions shall apply:

[1] The total number of permitted signs on a single business or industrial lot shall not exceed two, of which one may be freestanding.

[2] The total cumulative area of all signs permitted on the lot shall not exceed 150 square feet.

[3] No freestanding sign shall be located less than five feet from the side property line. No freestanding sign may be located less than 50 feet from any other freestanding sign.

[4] If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within 90 days to conform with the minimum setback requirements.

[5] No freestanding sign shall be more than 75 square feet per side for a double-faced sign.

[6] No freestanding sign shall be more than 25 feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including support structures.

[7] No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.

[8] Masonry, wall-type signs shall not exceed four feet in height and shall not be placed so as to impair visibility for motorists.

(2) Temporary / Portable signs.

Upon issuance of a permit by the Code Enforcement Officer, a new business or a business in a new location, awaiting installation of a permanent sign, may utilize a portable sign for a period of not more than 60 days or until installation of a permanent sign, whichever comes first. A separate permit for such a portable sign shall be required. Temporary signs shall not exceed 32 square feet, nor be attached to fences, trees, utility poles, rocks or other parts of a natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and/or welfare of the general public.

D. Nonconforming signs. In the event that a sign lawfully erected prior to the effective date of this section does not conform to the provisions and

standards of this section, then such signs shall be allowed to be maintained. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign.

E. Removal of signs. Any sign, existing on or after the effective date of this section, which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed.

(1) If the Code Enforcement Officer shall find that any sign regulated in this section is not used, is coded in advertising, is abandoned, unsafe or insecure or is a menace to the public, the Code Enforcement Officer shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within 30 days from the date of the notice. If the sign is not removed or repaired within said time period, the Code Enforcement Officer shall revoke the permit issued for such sign and may remove or repair the sign and assess the owner for all costs incurred for such services.

(2) The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.

Section 606.7.4 Construction Standards.

A. General.

(1) All internally illuminated signs shall be constructed in conformance with the Standards for Electric Signs (U.L. 48) of Underwriters Laboratories, Inc., and bear the seal of Underwriters Laboratories, Inc.

(2) All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.

(3) All freestanding signs requiring a permit shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area.

(4) All signs shall be securely anchored and shall not swing or move in any manner.

(5) All signs, sign finishes, supports and electrical work shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose supports, braces, guys and anchors.

Section 606.7.5 Application Procedure.

A. Application procedure. Applications shall be made in writing to the Code Enforcement Officer, on forms prescribed and provided by the Town, and shall contain the following information:

(1) The name, address and telephone number of:

- (a) The applicant.
- (b) The owner of the property.

(2) The location of the building, structure or land upon which the sign now exists or is to be erected.

(3) If a new sign is to be erected, elevation and plan drawings to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall cover the following:

- (a) Location on the premises, specifically, its location in relation to adjacent buildings, structures and property lines.

- (b) The method of illumination, if any, and the position of lighting or other extraneous devices and a copy of the electrical permit and/or the lighting manufacturer's requirements related to the electrical connections.

- (c) Graphic design, including symbols, letters, materials and colors.

- (d) The visual message, text, copy or content of the sign.

(4) Written consent or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.

(5) A letter size, self-addressed, stamped envelope.

(6) Incomplete applications shall not be reviewed and must be resubmitted. The applicant shall be notified in writing, via regular U.S. mail, if the application is incomplete. The incomplete application shall also be returned to the applicant at that time.

B. Permit. Upon the filing of a completed application for a sign permit and the payment of the required fee, if such a fee has been established by the Town Board, the Code Enforcement Officer shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this section, he/she shall then, within seven (7) days forward the application to the Planning Board for review at its next scheduled meeting. The Planning Board shall examine the application, determine whether the requirements of Subsection 606.7.3 of this Section have been met, and then either approve the application, deny the application, or approve the application upon the imposition of appropriate conditions. Upon approval of the application, and/or the applicant's compliance with any conditions imposed upon such approval, the Planning Board shall issue the sign permit. The issuance of a permit shall not excuse the applicant from conforming to the other laws of the Town of Lincoln. If the erection of the sign authorized under any such permit has not been

completed within six (6) months from the date of issuance, the permit shall become null and void but may be renewed within thirty (30) days prior to the expiration, for good cause shown, for an additional six (6) months upon payment of one-half (½) of the original application fee.

C. Permit period. The sign permit shall remain effective for the life of the sign, provided that all provisions of this section are complied with.

D. Permit fee. A one-time fee as set forth from time to time by the Town Board shall be imposed for each permanent sign, except that there shall be no fee to obtain a permit for a permanent sign existing as of the effective date of this section if such application is made within ninety (90) days of such effective date.

Section 606.8 Telecommunications Towers

A. Purpose. The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town, to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Town of Lincoln. The provisions of these regulations do not apply to towers in amateur radio service. Nor are these regulations intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to discriminate among providers of functionally equivalent services consistent with current federal regulations.

B. Definitions.

Accessory Facility—An accessory facility serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

Antennae—A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

Telecommunication Tower—A structure on which transmitting and/or receiving antenna(e) used in connection with a commercial enterprise are located.

C. Application of Special Use Regulations:

1. No telecommunications tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a Special Use Permit and in conformity with these regulations. No existing structure

shall be modified to serve as a transmission tower unless in conformity with these regulations.

2. The applicant shall demonstrate with a reasonable degree of certainty that the proposed location and height for the telecommunications tower is necessary to meet the frequency re-use and spacing needs of the system, and to provide adequate coverage in the Town.
3. Exceptions to these regulations are limited to (i) new uses which are accessory to residential uses and (ii) lawful or approved uses existing prior to the effective date of these regulations.
4. Where these regulations conflict with other laws and regulations of the Town of Lincoln, the more restrictive shall apply, except for tower height restrictions, which are governed by the following Special Use Permit standards.

D. Special Use Permit Standards.

1. Site Plan.

An applicant shall be required to submit a site plan showing all existing and proposed structures and improvements, including roads, and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use, as well as a justification for the height of any tower or antennae, and justification for any land or vegetation clearing required.

Additionally, the Planning Board shall require that the site plan include a completed SEQR Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Board may require submission of a more detailed visual analysis based on the results of the Visual EAF.

2. Shared Use.

- a. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.
- b. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall

pay all reasonable fees and costs of adapting an existing tower or structure to a new-shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

- c. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

3. **Setbacks.** Towers and antennae shall be erected only to such height as is necessary to accomplish the purpose they are to serve. Front, rear, and side setback requirements shall be the height of the tower plus ten percent (10%), or the front, side, and rear yards, required by the district increased an additional foot, whichever is greater. Additional setbacks may be required by the Planning Board to contain on-site ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and any accessory facilities.

4. **Visibility.**

- a. All towers and accessory facilities shall be sited to have the least adverse visual effect on the environment.
- b. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- c. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

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

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

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

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

9. Utility connections to towers and accessory facilities shall be underground.

10. Towers and related facilities shall be maintained in good working condition and repair. Towers shall be inspected annually by a professional engineer, licensed in the State of New York, for structural integrity and continued compliance with these regulations. A copy of the inspection report, including findings and conclusions, shall be submitted to the Town's Code Enforcement Officer no later than December 31 of each year.

E. Authority to Impose Conditions.

1. The authorized board(s) shall have the authority to impose such reasonable conditions and restrictions upon the Special Use Permit and/or site plan approval as may be directly related to the achievement of the purposes envisioned by this section with respect to the proposed telecommunication tower.

2. Such conditions shall include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, including posting of a financial bond of security.

Section 607 CHANGES AND AMENDMENTS OF THE LAND MANAGEMENT
LAW

Section 607.1 - PERIODIC REVIEW

From time to time, the Town Planning Board may re-examine the provisions of this local law and the location of district boundary lines and may submit a report to the Town Board recommending such changes, or amendments, if any, which may be desirable in the interest of the safety, health, or welfare of the public.

Section 607.2 - PROCEDURE FOR AMENDMENTS

- A. Regulations, districts and boundaries established by this local law may be amended or repealed either upon motion of the Town Board, or upon a petition submitted to the Town Board, after official notice has been given and a public hearing has been held by the Town Board as required by law.
- B. A petition requesting a change of land use regulations or district boundaries shall be typewritten, signed by the owner, and filed in triplicate with the Town Clerk accompanied by a site plan of the proposed development for which a change of district is sought and the required fee, which shall be determined from time to time by resolution of the Town Board.
- C. Upon receipt of a petition in accordance with paragraph B of this Section, the Town Clerk shall transmit to the Planning Board a copy of the proposed amendment or change, with supporting documents. The Planning Board shall review the request and submit its recommendation to the Town Board within thirty-five (35) days of its receipt of the petition. Failure of the Planning Board to submit a recommendation to the Town Board shall not prohibit the Town Board from acting on any proposed amendment, nor impair the validity of any such approval.
- D. Upon receipt of the Planning Board's recommendation on a petition, or upon the expiration of thirty-five (35) days following the Planning Board's receipt of the petition from the Clerk, the Town Board shall, at its election, determine whether to hold a public hearing on any petition submitted pursuant to this section.

Section 608 REFERRAL TO COUNTY PLANNING AGENCY

Requirements for referral to the Madison County Planning Agency as defined in Section 239-l and m of Article 12-B of the General Municipal Law shall be strictly complied with.

Section 609

VOLATIONS

- A. Any person may file a complaint about a violation of this local law. Such complaints must be in writing, signed and filed with the code enforcement officer, the Town Clerk, or the Town Board. The code enforcement officer shall investigate promptly and take the appropriate action to satisfy that complaint.
- B. Any violation of this local law alleged by the Town will be reported to the alleged offender by the code enforcement officer, with the date by which the violation must be corrected. Such a notice shall not be deemed a condition precedent to prosecution of any alleged offender pursuant to paragraph (C) of this section.
- C. Any person who violates any provision of this local law shall be guilty of an offense punishable by a fine not to exceed the sum of \$250.00, or by imprisonment of not more than fifteen days, or both. Each continuous period of violation of 7 days shall constitute a separate offense.
- D. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building structure or land if used, or any land if divided into lots, blocks, or site in violation of this article or any other local laws, ordinance or other regulation made by the Town of Lincoln, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of such buildings, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

Section 610

STOP WORK ORDERS

- A. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a required permit or approval, or is otherwise in violation of the provisions of this law, or any other local law, ordinance or regulation, or is not in conformity with specifications on the basis of which a permit was issued, or is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Office and shall state the reasons for the stop-work

order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Office or that of a duly authorized designee and shall be prominently posted at the work site.

Section 611 APPEARANCE TICKETS

The Code Enforcement Officer shall have authority, pursuant to Article 150 of the New York Criminal Procedure Law, to issue appearance tickets as defined therein for the purpose of enforcing this local law, and any other applicable state or local law or regulation regulating land use, development and/or construction within the Town of Lincoln.

Section 612 STATE SUPREME COURT REVIEW

Anyone who is aggrieved by a determination of the Board of Appeals, or Planning Board in the implementation of this local law may apply to the State Supreme Court for review of any such determination which shall be within 30 days after the filing of that decision in the office of the Town Clerk.

Section 613 SEPARABILITY

If any part of this local law is found to be invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this local law.

Section 614 ENFORCEMENT

The provision of this local law shall be strictly enforced by the Code Enforcement Officer.

Section 615 EFFECTIVE DATE

This local law shall take effect on the date it is filed in the office of the Secretary of State of the State of New York.

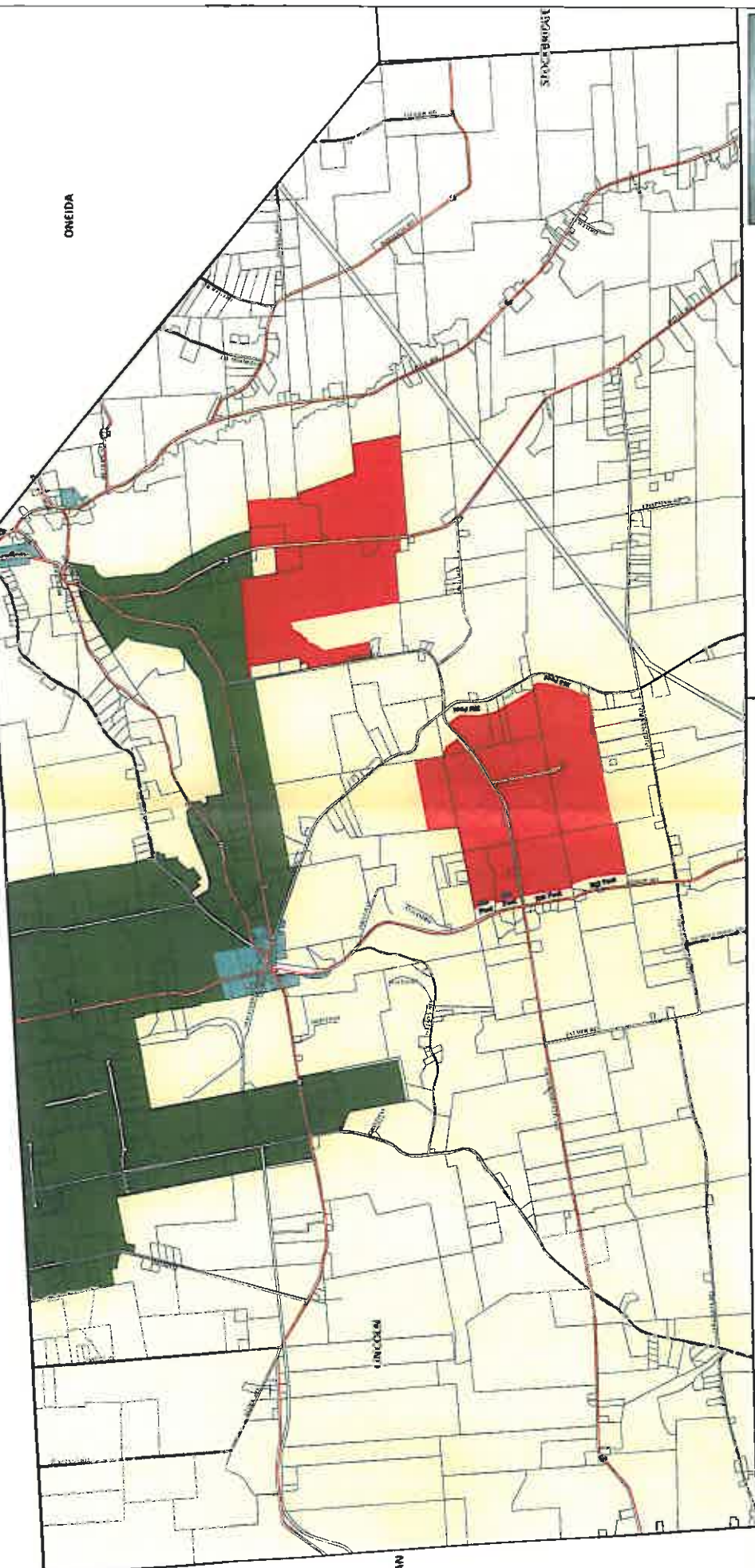
Section 616 REPEAL OF EXISTING LAND MANAGEMENT LAW

Town of Lincoln Local Law No. 2 of the year 1999, and all subsequent amendments thereto, and the Town of Lincoln Land Use Map adopted pursuant to such local law, as amended, to the extent the same in effect as of the date of adoption of this local law, are hereby repealed. All rules, regulations and ordinances of the Town of Lincoln inconsistent with the provisions of this local law are hereby repealed. The adoption of this local law shall not, however, affect any pending prosecution, or prevent any future prosecution, or action to abate any violation of any such ordinance or local law which existed prior to the effective date of this local law.

Town of Lincoln Land Use District Boundaries

ADOPTED MAY 11, 2011 BY LOCAL LAW 2011-2

APPENDIX "A"



Legend

- Map Symbols
- Map Types
- Map Layers
- Map Data
- Map Style
- Map Scale
- Map Units
- Map Projection
- Map Datum
- Map SRS
- Map EPSG
- Map UTM
- Map Zone
- Map Datum
- Map SRS
- Map EPSG
- Map UTM
- Map Zone

SMITHFIELD



FENNER

SULLIVAN

(Complete the certification in the paragraph that applies to the filing of this local law and
Strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2011 of the
(County)(City)(Town)(Town) of Lincoln was duly passed by the Town Board on May 11,
2011 in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective
Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____
of the (County)(City)(Town)(Town) of _____ was duly
passed by the _____ on _____ 20_____, and was
(approved)(not approved)(repassed after disapproval) by the _____
and was deemed duly adopted
(Elective Chief Executive Officer*)
on _____ 20_____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the
affirmative vote of a majority of the qualified elector voting thereon at the (general)(special)(annual) election held
on _____ 20_____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting
referendum.)

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

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as
of _____ 20_____, in accordance with the applicable provisions of law.

- Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Town, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to electors of the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in Paragraph 1, above.

Joanne Warner
Clerk of the county legislative body. ~~City, Town or~~ Town Clerk or officer designated by local legislative body

(Seal)

Date: May 16, 2011

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Town Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF MADISON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

James T. [Signature]
Signature
Attorney for the Town
Title
County
City
of Lincoln
Town
Village
Date: 5-16-11