

Dekalb Site Plan Review Law - Final Draft of 1/16/91

**TOWN OF DEKALB
VILLAGE OF RICHVILLE

DEKALB SITE PLAN REVIEW LAW**

Adopted by a three-fourths majority vote
of the Town Board of Dekalb, New York
on _____

Adopted by a three-fourths majority vote
the Village Board of Richville, New York
on _____

Prepared with assistance of the St. Lawrence County Planning
Office, Courthouse, Canton, New York 13617

1-16-91
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VILLAGE OF RICHVILLE

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ARTICLE I - GENERAL PROVISIONS

§ 1.1 - Enactment

The Town Board of the Town of DeKalb and the Town Board of the Village of Richville hereby adopt and enact as a local law this joint Site Plan Review Law (the "Site Plan Review Law" or, alternatively, "this Law") pursuant to the authority and provisions of § 10 of the New York State Municipal Home Rule Law and § 274-a of the New York State Town Law and § 7-725 of the New York State Village Law. Article 5-G of the New York State General Municipal Law and Comptroller Opinion 69-16 provide legislative authority for the Town and Village to establish a combined Planning Board.

§ 1.2 - Title

The Site Plan Review Law shall be referred to for all official purposes as the "DeKalb Site Plan Review Law."

§ 1.3 - Use of the Term "Town"

The use of the term "Town" in this Law shall be deemed to refer to the Town of DeKalb including the Village of Richville.

§ 1.4 - Intent and Purpose

It is the intent and purpose of the Site Plan Review Law to promote the health, safety and general welfare of the Town through implementation and application of a site plan review and approval process. Attractive and well-designed development is deemed to be essential for the sound maintenance and growth of the economy of the Town and to the protection and enhancement of property values. It is further the intent and purpose of this Law to provide for the identification and minimization of the adverse impacts, if any, created by new development on existing neighboring uses and on the overall resources of the Town.

It is the intent of the Town in enacting the Site Plan Review Law to provide for and allow all land use activities that meet the standards set forth herein and not to prohibit any specific proposed land use activity in the Town.

§ 1.5 - Amendments

The Town Board or Village Board may, on a petition properly brought by

- i) any resident or property owner of the Town of DeKalb or the Village of Richville, respectively; or
- ii) on recommendation of the Planning Board established pursuant to § 6.1 of this Law (the "Planning Board"); or
- iii) on its own motion,

and following provision of appropriate public notice and conduct of a hearing, amend the Site Plan Review Law by a majority vote of the full membership of the Town Board and of the Village Board. All proposed amendments originating by petition, or by motion of either of the governing bodies, shall be referred to the Planning Board for a report and recommendation to the Town Board and Village Board. The Planning Board shall submit its report within thirty (30) days after receiving such referral.

§ 1.6 - Effect on Other Laws and Regulations

This Law in no way affects any provision, function or operation of any other Federal, State, or County law or regulation. Where any provision of this Law is in conflict with any other such law or regulation, the Federal, State or County Law shall take precedence, with the conflicting provision of this Law, where permitted, being regarded as supplemental.

§ 1.7 - Definitions

Words and phrases used in this Law shall be defined as follows in this section. Words and phrases that are not defined in this § 1.7 shall be deemed to be used as defined in the New York State Uniform Fire Prevention and Building Code.

Access - any point of vehicular or pedestrian ingress and egress to or from a property or lot.

Accessory Structure or Use - a secondary structure or use on the same lot or on a contiguous lot under the same ownership that is associated with or is ancillary to the principal use or structure, and that is incidental and subordinate to the principal use or structure.

Agricultural Use - a land use involving, on a more or less continuous basis, the growing and harvesting of agricultural crops, the raising of livestock, and the conduct of dairy farming operations, with the intent of selling all or the substantial part of any production for profit, without regard as to whether any actual profit is made. The term includes the necessary ancillary and appurtenant farm structures, to include residences of tenant and seasonal workers, and the storage of equipment used on the premises.

Applicant - the person or persons, corporation, agency, or other legal entity who submits a site plan application for review by the Planning Board pursuant to this Law.

Automotive Sales - a land use activity involving the more or less continuous offering for sale of

- i) automobiles and light trucks that have been acquired for the purposes of resale; or
- ii) heavy trucks or tractor-trailers; or
- iii) construction and grading equipment,

without regard as to whether the seller is constituted or licensed as a business entity. Automotive sales shall not be deemed to include the intermittent sale of used automobiles and light trucks that have been previously registered to the seller for the personal use of the seller.

Automotive Service - a land use activity involving the more or less continuous servicing or repairing for profit of motor vehicles, without regard as to whether the person servicing or repairing the motor vehicles is constituted or licensed as a business entity.

Automotive Repair - see "Automotive Service."

Bed-and-Breakfast - an owner-occupied place of lodging that has four (4) or fewer guest rooms and that customarily, although not necessarily, serves one or more meals incidental to lodging.

Berm - a mound of earth, generally curvilinear between two points. Berms are used to screen, shield and buffer uses such as parking areas, and to separate incompatible uses. They also serve to control the direction of water flow and act as dams. The design of any specific berm is related to the characteristics of the particular site where used, but, in general, berms are two (2) to six (6) feet high and planted with vegetation.

Buffer - an undeveloped area of property, or of a parcel of property, that is specifically intended and designed to separate and thus minimize the effects of a land use activity on contiguous properties. Buffers are generally used in combination with other screening techniques to further promote the desired separation. See "Berm" and "Heavy Vegetative Screening."

Building - a structure designed to be used as a place of occupancy, business, storage, or shelter. Use of the term "building" shall be deemed to incorporate the definition of the term "structure."

Building, Principal - see "Principal Building."

Camp - a building intended for seasonal or intermittent use as a dwelling, generally for recreational purposes.

Change in Use - the change of use or occupancy of a building from residential, commercial, or industrial use to one of the other uses, or a change in the intensity of the same use.

Commercial Outdoor Storage - a land use activity involving the storage of items for profit outside of any structure that completely encloses the items and maintains them away from view on a parcel of property pursuant to a lease, contract or other agreement between the owner of the items and the operator of the storage facility, without regard as to whether the storage activity is constituted or licensed as a business entity.

Commercial Use - any land use that involves, as a primary activity, without limitation, the selling of bulk and individual goods, merchandise, products, food, prepared meals, and services of any nature, but excluding any land use that can otherwise be deemed an industrial use.

Complete Site Plan Application - a site plan application, as defined herein, that has been determined by the Planning Board to meet the requirements of § 3.5.1 of this Law. A complete site plan application is required before the Planning Board can proceed to formally review the proposed site plan.

Curb-cut - a defined opening, not dependent upon the presence of a curb or other improvements, to provide vehicular access from a public road to a lot or property.

Determination Date - the date on which the Planning Board determines that a filed site plan application constitutes a complete site plan application.

Dump - see "Landfill".

Dwelling, Single-family - see "Single-family Dwelling."

Dwelling, Multi-family - see "Multi-family Dwelling."

Dwelling, Two-family - see "Two-family Dwelling."

Effective Date - the date on which this Law is filed with the New York State Secretary of State and the date upon which its provisions are first effective.

Environmental Assessment Form (EAF) - a form used to determine whether a project will have significant environmental impacts under the State Environmental Quality Review Act (SEQRA).

Excavation Equipment - machinery, vehicles, trailers, and other tools and equipment used in the excavation, movement, hauling or transfer of soil, sand, gravel or rock.

Facility - some combination of a buildings and/or structures, generally, although not always, in connection with the use of the surrounding property.

Family - one or more persons living together as a single housekeeping unit and maintaining a common household. The term "family" shall not be deemed to include fraternal or social organizations.

Fence - a structure, generally linear between two or more points, that affords some combination and degree of privacy, screening, noise reduction and security.

Field Entrance - a point of access onto a field or otherwise undeveloped portion of property that is designed for use by agricultural equipment or construction equipment, or for intermittent use by vehicles or pedestrians, or both, in connection with some event taking place on the field or with the use of the field as a temporary parking area.

Filing Date - the date on which a site plan application is filed by an applicant with an official of the Town of Dekalb or Village of Richville, as appropriate.

Forestry Use - the for profit operation, on a more or less continuous basis, of timber tracts, tree farms, forest nurseries, including the gathering and harvesting of forest products. See, however, "Sawmilling" operations, that are, for the purpose of this Law, an industrial use rather than a forestry use.

Generator Number - the identification number assigned by the U.S. Environmental Protection Agency to certain generators of hazardous waste.

Gross Building Area - the area bounded by the total exterior dimensions of a building or structure. Gross building area is expressed in square feet.

Gross Floor Area - the area bounded by the total exterior dimensions of a building or structure times the number of floors or stories less the square footage of any porches, balconies, decks and garages. Gross floor area is expressed in square feet.

Hazardous Waste - any waste material defined as a "hazardous waste" in 6NYCRR, Part 37, § 371.1(d) - "Identification and Listing of Hazardous Waste."

Heavy Vegetative Cover - an area planted with White Pine or Northern White Cedar, or with a species providing comparable screening density at eye level. The spacing of individual trees shall be close enough to limit visibility onto the site screened, and the trees shall be three to four feet (3'-4') tall at the time planted.

Home Occupation - any occupation or business or commercial activity that is, or is proposed to be

- i) conducted in whole or part on property where the principal building is a single- or two-family residence; and
- ii) results in the production of a product or the provision of a service, or any combination thereof, for financial gain, but without regard as to whether such product or service is actually profitable; and
- iii) that meets the following additional criteria:
 - a. The total area of all such activity conducted on the premises is limited to the lesser of 49% of the gross floor area of the principal building or 750 square feet.
 - b. The activity employs no more than the equivalent of one (1) full-time employee other than residents of the premises.
 - c. The activity does not involve the resale of goods or items produced or otherwise purchased for resale off of the premises on which the home occupation is conducted, except for such minimal quantities of goods or items as are ancillary and necessary to the sale of goods and

items produced on the premises, or to a service not involving the primary sale of merchandise that is provided on the premises.

d. If the activity involves the provision of instruction to students or services to clients, the total number of such students or clients on the premises at any one time shall be limited to no more than four (4) persons.

e. The activity produces no noise, vibration, glare or fumes apparent to any person on adjoining or nearby properties or public ways and does not create any electronic interference of any type that can be detected from those locations.

f. The activity does not require or create a requirement for on-street parking.

g. The activity is not conducted out of doors, or otherwise outside of any enclosed structure, between the hours of 8:30 P.M. and 9:00 A.M.

h. The activity is not a hotel, motel, inn or bed-and-breakfast, or a salvage yard or landfill, and does not involve automotive sales, service or repair, the use of excavation equipment, or commercial outdoor storage.

Hotel - a specifically designed facility offering lodging or any owner-occupied place of lodging that has thirteen (13) or more guest rooms.

Improvements - Any building or structure, or alteration of any physical or natural condition for any reason, that are located or have been undertaken on a parcel of property.

Industrial Use - any use of land that involves:

- i) the basic processing and manufacturing of materials or products predominately from extracted or raw materials; or
- ii) the storage of, or manufacturing processes using, flammable or explosive materials; or
- iii) storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions; or
- iv) the manufacture, predominately from previously prepared materials, of finished products or parts, including

processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution.

Inn - a specifically designed facility offering lodging or any owner-occupied place of lodging that has twelve (12) guest rooms or fewer, but is not a bed-and-breakfast as herein defined, that may, but does not necessarily, include a public tavern and restaurant that may also serve non-guests.

Landfill - any location where waste materials or substances are disposed of by depositing them on or under the earth. For the purposes of this Law, landfills shall be deemed to include those operating in accordance with all applicable laws and those operating without authority under one or more applicable laws.

Land Use - activities involving land and improvements to land. Land uses are further characterized as being residential, commercial, agricultural or industrial in nature.

Lead Agency - the agency, or other body that, pursuant to SEQRA, has primary responsibility for conducting a review of proposed land use activities for environmental impacts.

Loading Area - an off-street space or berth, no smaller than a parking space, used for loading or unloading of vehicles.

Lodging - the for profit offering and provision of transient living accommodations to the general public.

Lot - see "Parcel."

Mobile Home (Class 1) - a structure, transportable in one or more sections, which, in the traveling mode, is 8 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 chassis, and is designed to be used as a dwelling when connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein, and that is constructed in accordance with regulations contained in the Code of Federal Regulations, Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Manufactured Mobile Home Construction and Safety Standards.

Mobile Home (Class 2) - any mobile home that is not a "mobile home (class 1)", as defined in this Law.

Mobile Home Park - a residential use in which two (2) or more mobile homes (class 1 and class 2) are located on a single property.

Motel - see "Hotel."

Multi-family Dwelling - a building or portion of a building designed for year-round occupancy, containing separate dwelling units for three or more families living independent of one another, other than hotels, motels, inns and bed-and-breakfasts.

Open Meetings Law - the New York State Public Officers Law, Article 7. The Open Meetings Law sets out the requirements for public notice, access and participation in the proceedings of public bodies.

Parcel - a contiguous area of land that has boundaries that have been established by some legal means, such as a recorded deed or map, and that is recognized as a separate, legal entity for the purposes of transfer of title.

Parking Space - an area reserved for the parking of a motor vehicle that measures a minimum of nine (9) feet in width and eighteen (18) feet in length, not including any space required for maneuvering aisles and vehicle circulation.

Planning Board - the combined Town of DeKalb and Village of Richville Planning Board that is provided for at § 6.1 of this Law.

Principal Building - the building that houses the principal use on a parcel of land.

Principal Use - the use of property, or of a parcel of property, that a reasonable person would deem to be the primary use.

Property - a contiguous area of land, consisting of two (2) or more parcels, that is under the same ownership. Use of the term "property" as a general term shall be deemed to mean a single parcel where such construction would be appropriate.

Property Line - the legal boundaries of a parcel of property, whether drawn on a plat or recorded map or expressed as metes and bounds in a deed.

Public Hearing Date - the date on which a public hearing is held pursuant to this Law on a complete site plan application.

Public Road - a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, that affords the principal means of access to abutting parcels of property.

Right-of-Way - a defined area of land that provides for parking, road construction, maintenance, drainage, improvement and/or widening.

Runoff - surface water that flows onto, within, and/or off of the site area.

Salvage Yard - any property or parcel, or portion thereof, used for the storage, collection, processing, purchase, sale or abandonment of items such as, without limitation, wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or the equivalent in parts of two or more unregistered, inoperable motor vehicles. Properties containing six (6) or more unlicensed vehicles, whether operational or not, shall be considered a "salvage yard."

Sawmilling - an industrial land use involving the operation of saws and other ancillary equipment for the purpose of converting cut timber into rough or finished lumber, and including all associated storage lots, areas and structures, truck delivery and transport facilities, and structures and equipment used for the handling, storage and disposal of waste wood, brush, bark, leaves and sawdust.

Screening - vegetation, fencing, or earthen materials used to block visibility onto a parcel of property. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses. See "Berm," "Fence" and "Heavy Vegetative Screening."

SEQRA - see "State Environmental Quality Review Act."

Set-back - any required or minimum distance as measured from front, side and rear lot lines to a building or structure located on the property.

Short Environmental Assessment Form - see "Environmental Assessment Form."

Single-family Dwelling - a detached building designed for occupancy by one family, other than a mobile home (class 1 and class 2), recreational vehicle, camp or temporary structure.

Site Plan Application - an application for site plan approval that has been received by the Planning Board, but has not yet been determined by the Planning Board to constitute a complete site plan application.

Sketch Plan - an informal map of a proposed site plan that, at a minimum, is prepared with sufficient accuracy and detail to be used

by the Planning Board in discussing the proposal with the applicant.

Sketch Plan Conference - an informal Planning Board review of a proposed project with the applicant, conducted at the request of the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what specific submission requirements will be established and what issues may be raised by a proposed project prior to formal submission of the site plan application.

Solid Waste - any waste material defined as "Solid Waste" in 6NYCRR, Part 360, § 360-1.2(a) and "recyclables" as defined by the St. Lawrence County Solid Waste Disposal Authority.

Springhouse - a structure that covers, for the purpose of enclosing and protecting, a spring used as a water supply.

State-Designated Tourism Route - any road that has been designated by the State as being part of the "Scenic Auto Trail System."

State Environmental Quality Review Act (SEQRA) - a State law, at 6NYCRR, Part 617, that requires the consideration of environmental factors in the planning, review and decision-making processes of government agencies by establishing a review process.

Structure - anything constructed or built, or a building of any kind, that requires location on the ground or is attached to something having a location on the ground. The term "structure" is deemed to include, without limitation, mobile homes (class 1 and class 2), fences, commercial and private radio, television, and other utility communication towers and dishes, and freestanding signs and light standards.

Temporary Structure - any structure that will not be in use for more than ninety (90) days and that will be taken down or dismantled on termination of the use.

Town Board - the Town Board of the Town of DeKalb.

Tract - see "parcel."

Two-family Dwelling - a detached building designed for occupancy by two families, living independently of one another, other than a mobile home (class 1 and class 2), recreational vehicle, camp, or temporary structure.

Use, Principal - see "Principal Use."

Vehicle Dismantler - any person who is engaged in the business of acquiring motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap. The term "vehicle dismantler" shall be deemed to include any person engaged in the business of acquiring damaged vehicles for the purpose of repairing and reselling them.

Village Board - the Village Board of Trustees of the Village of Richville.

ARTICLE II - APPLICABILITY

§ 2.1 - Land Use Activities Requiring Site Plan Review

All proposed activities that involve:

- i) an expansion of an existing principal or accessory use of property; or
- ii) the addition of a new accessory use of property; or
- iii) a change in the principal use of property to another principal use

and require the issuance of a building permit or certificate of occupancy shall be subject to site plan review under this Law, except for the activities specifically exempted in § 2.2 of this Law.

§ 2.2 - Land Use Activities Exempt from this Law

The following land use activities, or proposed land use activities, are exempt from the requirements of this Law:

1. The continuation, without change, of any land use activity being undertaken or maintained in the Town as of the effective date of this Law.
2. The construction of any new single- or two-family dwelling, or any addition thereto, so long as the combined dwelling and addition will continue to be used as a single- or two-family dwelling.
3. The siting of one (1) mobile home (class 1) on an individual lot.
4. The undertaking of agricultural uses or construction of a structure or improvement used, maintained or operated in connection with an agricultural use, but specifically excluding farmstands and other roadside agricultural sales improvements.
5. The undertaking of forestry uses.
6. The construction of an accessory structure that is less than 500 square feet in size.

7. Any temporary use that occurs less than twelve (12) days per calendar year and does not involve the construction of a permanent structure, facility or improvement.
8. The construction or making of exterior additions to or alterations of an existing non-residential structure that does not increase the gross floor area of the existing structure by more than 25%.
9. The undertaking of a home occupation, as defined at § 1.7 of this Law.
10. The construction of a connection, or the upgrading of an existing connection, of an existing building or structure that remains otherwise unchanged to a utility distribution system for the purpose of providing, or upgrading, utility service to the building or structure, and including all necessary associated improvements and work.

§ 2.3 - Effect on Existing Buildings and Structures

1. Existing Buildings and Structures Exempt. The Site Plan Review Law does not apply to any building or structure that is lawfully in existence as of the effective date of this Law so long as there is no change, alteration, modification, expansion or addition to the building or structure.
2. Future Diminution of Use also Exempt. The act or actions involved in reducing or lessening the use, size or extent of any building or structure that is otherwise exempt from this Law under any provision of this Article II, to include the demolishing, razing or removal of the building or structure or any portion thereof shall be also exempt from the provisions of this Law, notwithstanding any other provision to the contrary.
3. Complete Destruction or Removal. On the complete destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law arising under this Article II shall automatically terminate, without requirement of notice to the owner. Complete destruction or removal shall be deemed to have occurred when more than 75% of the gross square footage of the building or structure involved is affected. Any replacement or reconstruction of a completely destroyed building or structure shall be subject to site plan review under this Law, unless one of the exemptions in § 2.2 of this Law applies.

4. Partial Destruction or Removal. Following the partial destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law arising under this Article II that applies to the building or structure shall continue as to the portions of the building or structure that are not affected. Partial destruction or removal shall be deemed to be any destruction or removal that is not complete destruction or removal. Any replacement or reconstruction of a partially destroyed building or structure shall also be exempt from the provisions of this Law, provided that the following criteria are met:

- i) the appropriate Enforcement Officer shall have been notified of the partial destruction or removal within ninety (90) days of the date on which the building or structure was partially destroyed or removed.

The Enforcement Officer shall inspect the building or structure, determine the extent of the destruction or removal, and notify the owner of the property and the Planning Board as to whether the destruction or removal was partial or complete. In the event the destruction or removal is found by the Enforcement Officer to be partial, the Planning Board shall so notify the owner of the property by letter. The notification shall include information about the right to replace or reconstruct the building or structure in a manner exempt from this Law and shall state the date by which replacement or reconstruction must be commenced.

- ii) the replacement or reconstruction shall be commenced within 180 days of the date on which the building or structure was partially destroyed or removed and shall be pursued diligently to completion.

iii) the replacement or reconstruction shall be the reasonable equivalent of the portion of the building or structure that was destroyed or removed, and shall not constitute, comprise or incorporate a change, modification, alteration, expansion or addition to the building or structure, except for such changes, modifications and alterations that are required to connect, upgrade or modernize utilities, maintain the building or structure in accordance with applicable building regulations, or are otherwise needed to provide for the safety of occupants and users of the building or structure and the general public.

5. Automatic Termination of Exemption. Any illegal or unlawful change in the use or characteristics of a property,

parcel, building or structure, or any operation of a property, parcel, building or structure in a manner that is illegal or unlawful, shall have the effect of automatically terminating any exemption applying to property, parcel, building or structure that has arisen under any provision of this Article II, without requirement of notice to the owner. Any act in violation of any provision of this Law shall likewise automatically terminate any such exemption.

The Planning Board, upon making a determination that an exemption has been terminated under this provision, may require, upon provision of notice to the owner of the property, the submission of a site plan pursuant to this Law for all improvements on the property as they then exist or are then in operation, which, in such event, shall be submitted within thirty (30) days of the notice. This provision shall not be deemed to restrict or limit any other right of action of the Planning Board, or of the Town Board, Village Board or of any other County, State or Federal official, against the owner of the property with regard to the act or condition that gave rise to the termination of the exemption.

Failure by the Planning Board to act under this provision shall not be deemed to limit any future right of the Planning Board to act with regard to the same, or any other, such act or condition.

§ 2.4 - Determination of Applicability

Any person uncertain as to whether a given land use activity requires site plan review under this Law may request and receive a non-binding determination of applicability from the Planning Board. The request to the Planning Board shall be in writing and shall state the nature and extent of the proposed land use, and shall provide sufficient additional information needed to allow the Planning Board to make its determination.

§ 2.5 - Sketch Plan Conference

1. General. A sketch plan conference between the applicant and the Planning Board is encouraged to discuss in general terms the development proposal, determine the information to be required in the site plan application, assist the applicant in complying with the requirements of the State Environmental Quality Review Act (SEQRA) process and identify potential problems and concerns with the project.

2. Scheduling. The sketch plan conference shall be scheduled and conducted by the Planning Board based on a request by the applicant, at a place and time established by the Planning Board and acceptable to the applicant. In scheduling and conducting the sketch plan conference, the Planning Board must observe the requirements for public notice, access and participation set out in the New York State Public Officers Law, Article 7 (the Open Meetings Law).

3. Conduct. At the sketch plan conference, the applicant shall provide, at a minimum, a description of the proposed land use activity and a sketch of the planned improvements and changes. This sketch plan shall be sufficient to show the location of the building site and its relationship to the surrounding area and properties. (Note: the Town Assessor or the St. Lawrence County Real Property Tax Office have parcel maps that can usually be copied for a small fee that can be used as a base map for this purpose).

The applicant is encouraged to provide as much additional information about the project during the sketch plan conference as is possible, using the requirements for a complete application set out in § 3.3 of this Law as a guide.

§ 2.6 - Actions Based on Sketch Plan Conference

Upon review of the sketch plan information with the applicant, the Planning Board shall take one of the following actions, either, as deemed appropriate by, and at the discretion of, the Planning Board, at the conclusion of the sketch plan conference or at any time within the following five (5) days.

1. Not Proceed with the Review. Advise the applicant that the Planning Board will not proceed with its review of the site plan proposal because of one or both of the following:

i) There are, in the view of the Planning Board, one or more problems with the applicant's proposed site plan. In such event, the Planning Board may, if deemed appropriate, recommend a manner in which the problems could be addressed.

ii) There is additional information required under § 3.3 of this Law that must be submitted to constitute a complete application. Consistent with § 3.6 of this Law, the Planning Board has the ability, by majority vote, to waive any one or more of the requirements that are not deemed necessary and inform the applicant that such a waiver has been granted.

The applicant shall be informed of the proper procedures for filing the application, and may be granted, at the discretion of the Planning Board, one additional sketch plan conference to present an amended or supplemented proposal. If an applicant is advised that the Planning Board will not proceed with the review at the conclusion of the sketch plan conference, such notice to the applicant may be furnished informally by the Planning Board, with written confirmation to follow within five (5) days. In the event that the Planning Board chooses to so advise the applicant at a time following conclusion of the sketch plan conference that the review will not proceed, the notification shall be in writing.

The applicant will be informed, in the event the Planning Board decides not to proceed with the review, of the reason or reasons for the decision.

2. Proceed with the Review. Determine, by majority vote, that the information submitted is adequate to evaluate the proposal in terms of the review standards set out in Article V of this Law, and constitutes a complete site plan application, as defined in § 3.5 of this Law. Submission requirements stated under § 3.3 of this Law that are to be waived prior to making such a determination shall be waived in the manner and according to the standards described under § 3.6 of this Law.

In the event that a determination is made to deem the applicant's proposal a complete site plan application as a result of the sketch plan conference, the date of the sketch plan conference shall become the determination date provided for under § 3.5 of this Law. The Planning Board shall furnish the applicant with the letter required pursuant to § 3.5.1 of this Law informing the applicant of its determination within five (5) days of the sketch plan conference date.

ARTICLE III - PROCEDURE

§ 3.1 - General

Before commencing any land use activity that is not otherwise exempt from the provisions of this Law, the owner of the property where the activity is proposed to take place, or a person authorized in writing to act for such owner, shall, in accordance with the provisions stated herein, obtain approval of a site plan for the property.

§ 3.2 - Application Procedure

To apply for site plan approval, an applicant shall complete the "Application for Site Plan Review" form attached to this Law at Appendix "A", or its successor form, and prepare all other information listed at § 3.3 of this Law (the application form and other information hereinafter collectively termed the "Site Plan Application"). The site plan application shall then be filed, with respect to developments or improvements located in the Town but outside of the Village of Richville, with the Town of DeKalb Clerk or Enforcement Officer, or, with respect to developments or improvements located within the Village of Richville, with the Village of Richville Clerk or Enforcement Officer. The date on which the site plan application is filed with a municipal officer shall be termed the "Filing Date." The municipal officer who receives the site plan application shall forward it to the Planning Board within five (5) days of the Filing date and notify the Planning Board of the Filing date.

§ 3.3 - Site Plan Application Information Requirements

The following information shall be required in addition to the completion of the "Application for Site Plan Review" form. A completed site plan application shall include all listed items unless submission of one or more of the items is specifically waived by the Planning Board.

1. Initiation of SEQRA Review. The applicant shall prepare and file with the site plan application the New York State Short Environmental Assessment form, a copy of which is attached to this Law at Appendix "B", or its successor form, to allow the Planning Board to determine the applicability of the State Environmental Quality Review Act (SEQRA). For "Type I" SEQRA actions, which are those that may have a significant

effect on the environment, and all other actions not listed as "Type II" SEORA actions ("Unlisted Actions"), the Planning Board shall then initiate the review process required by SEORA. Type II actions are not subject to review under SEORA. A list of "Type I" and "Type II" actions is at Appendix "C" of this Law. As this list may be amended after the enactment of this Law, it should not be deemed authoritative and current information as of the date of the filing of the site plan application must be obtained.

2. Affidavit or Written Authorization of the Property Owner. If the person filing the site plan application is the owner of the property on which the land use activity is proposed, a notarized statement to that effect shall be filed. For non-owner applicants, a written permission of the owner that references the proposed land use shall be filed.

3. Existing Features and Location Map. A map shall be prepared of the property on which the land use activity is proposed. The map, at a minimum, shall be drawn to scale with a north arrow and clearly show boundaries and dimensions of the parcel, adjacent properties and their uses, roads, and any easements or other rights-of-way located on the property. The map shall also show, where present, existing man-made and natural features of the site, including buildings and structures, points of access, signs, free-standing lights, land uses not housed in a building or structure, roads, steep slopes, wetlands, flood and erosion prone areas, wells, septic tanks and leach fields, wooded areas greater than 1/4 acre in size and individual trees outside wooded areas with a trunk diameter of 24" and over, and sewer lines (Note: the Town Assessor or the St. Lawrence County Real Property Tax Office have parcel maps that can usually be copied for a small fee and used as a base map on which to display this information).

4. Development Plan Map. A development plan shall be prepared for the land use activity proposed, either as additional information noted on the Existing Features and Location Map or on a separate map prepared to the same scale. If the Existing Features and Location Map is used for this purpose, it shall clearly be identified as doing so. The Development Plan Map shall show the location, to include notation of distance in feet from at least two lot lines that are more or less perpendicular from one another, of the following information:

- a. Proposed buildings and structures, any proposed additions to existing structures, and other proposed uses not involving any change to a building or structure.

Buildings and structures, and any additions, shall be annotated with exterior dimensions, to include height.

b. Proposed access points to the site, annotated as to whether for vehicular or pedestrian use, or both, and specifying type of construction and width.

c. Proposed internal driveways and other on-site circulation, and parking and loading areas, specifying type of construction and dimensions.

d. Proposed new water supply and wastewater disposal systems, and any expansion of existing systems. In the event that the Existing Features and Location Map is not used as the Development Plan Map, the Development Plan Map will be annotated with the location of existing waterlines, wells, streams, watercourses, sewer lines, septic tanks and leach fields. The distance of the proposed water supply and wastewater disposal system improvements from each of the above features, as applicable.

e. Proposed outdoor storage and display areas.

f. Proposed solid waste and hazardous waste collection, storage and staging areas, including the location of waste storage containers.

g. Proposed signs, specifying height from the ground to the top of the sign, dimensions and means of illumination.

h. Proposed outdoor lighting, specifying height from the ground to the top of the light or light enclosure, type (whether wall or ground mounted, or on a freestanding standard or pole), bulb type (mercury or sodium vapor, incandescent, etc.), bulb style (floodlight, spotlight, etc.), hours of operation, the area that the light will illuminate, and any other special characteristics.

i. Proposed changes in the existing surface drainage pattern.

j. Proposed screening, set-backs and other buffer areas.

The preceding list should be used by the applicant in conjunction with the requirements set out in Article V of this Law to insure inclusion of sufficient information on the Development Plan Map.

§ 3.4 - Confirmation of Site Plan Application Filing

The Planning Board shall, within fourteen (14) days of the filing date of a site plan application, provide written confirmation to the applicant of the receipt of the site plan application by the Planning Board. The letter, when appropriate, may also note additional materials or information needed from the applicant in order to complete the site plan application, but failure of the Planning Board to do so shall not be deemed for any reason a determination that the site plan application is a complete site plan application, as defined in § 3.5 of this Law.

§ 3.5 - Determination of Complete Site Plan Application

The Planning Board shall, within thirty (30) days of the Filing date or within five (5) days following the receipt by the Planning Board of notice of completion of any review required under SEQRA for which the Planning Board is not the lead agency, whichever is later, make a determination as to whether to accept the site plan application as complete and begin the review process, or to reject the site plan application as incomplete. The date of this determination shall be termed the "Determination Date."

1. Complete Site Plan Applications. A site plan application deemed by the Planning Board to be complete shall hereinafter be termed a "Complete Site Plan Application." Following the determination that a complete site plan application has been received, the Planning Board shall provide the applicant with a letter noting the determination, stating the determination date and informing the applicant that a final determination will be made within forty-five (45) days of the determination date or, if a public hearing is to be held pursuant to § 4.1 of this Law, within forty-five (45) days of the date on which the public hearing is held. The applicant shall also be informed in this letter of the determination by the Planning Board that a public hearing will or will not be required.

2. Incomplete Site Plan Applications. Incomplete site plan applications shall be returned to the applicant by the Planning Board within five (5) days of the determination date and shall be accompanied by a letter that states the information that must be filed by the applicant in order to proceed with the review. In the event that the applicant chooses to proceed with the application and submit the required information, the date on which the additional information is received by the Planning Board shall become the

new filing date, with the thirty (30) day period provided for in this section re-commencing as of that date.

§ 3.6 - Waiver of Certain Submission Requirements

In certain instances where a site plan application would otherwise be returned to the applicant as incomplete, the Planning Board, consistent with good planning practices and at its discretion, may by majority vote waive one or more of the submission requirements listed in § 3.3 of this Law. This waiver shall be limited to projects or activities deemed by the Planning Board to generate minor amounts of traffic and that present minimal impacts to neighboring properties and Town resources.

ARTICLE IV - PUBLIC HEARING AND PLANNING BOARD DECISION

§ 4.1 - Public Hearing

1. **When Mandatory.** For any site plan application involving construction of or improvements or changes to any of the following land use activities, a public hearing on the application is mandatory and shall be scheduled by the Planning Board.
 - a. Mobile Home Parks.
 - b. Salvage Yards.
 - c. Industrial uses.
 - d. Facilities involving or used for the transfer or disposal of solid waste.
 - e. Facilities generating sufficient quantities of hazardous waste to require issuance of a "Generator Number" from the U.S. Environmental Protection Agency.
 - f. Facilities involving or used for the transport or disposal of hazardous waste in any quantity.
2. **When Optional.** For all other applications, the Planning Board may, at its discretion, determine, by a majority vote, that a public hearing on the proposed site plan shall be held.
3. **Procedure.** The public hearing shall be held within forty-five (45) days of the determination date and shall be advertised in a newspaper that has general circulation in the Town at least five (5) days before the public hearing. Following such a public hearing, the Planning Board shall have forty-five (45) days from the date the public hearing is held (the "Public Hearing Date") to render a final decision.

§ 4.2 - Planning Board Decision

Within forty-five (45) days of the determination date or, if a public hearing is held, within forty-five (45) days of the public hearing date, the Planning Board, by majority vote, shall render a decision to approve, approve with modifications or conditions, or disapprove the site plan.

1. Approval. The Planning Board, upon a decision to approve a proposed site plan, shall file the Complete site plan application documents and a written statement of approval, signed by the Chair of the Board, with the Town of DeKalb or Village of Richville Clerk, as appropriate. Copies of the written statement of approval shall be provided to the applicant and the appropriate Enforcement Officer.

2. Approval with Modifications or Conditions. The Planning Board may approve the site plan subject to

i) specific modifications made by the applicant to the site plan; or

ii) specific conditions established by the Planning Board to be met by the applicant,

or both. Copies of the complete site plan application documents and a written statement of approval containing the modifications and conditions required by the Planning Board, signed by the Chair of the Board, shall be filed with the Town or Village Clerk, as appropriate. Copies of the written statement of approval containing the modifications and conditions shall be provided to the applicant and the appropriate Enforcement Officer.

3. Disapproval - The Planning Board, upon disapproval of an applicant's site plan following a review of the proposal against the standards set out in Article V of this Law, shall file, as appropriate, with the Town of DeKalb or Village of Richville Clerk a written statement of the decision containing the reasons for the disapproval signed by the Chair of the Board. Copies of the written statement of disapproval shall be provided to the applicant and the appropriate Enforcement Officer.

§ 4.3 - Extension of Time for Final Decision

The time period during which the Planning Board must render its decision can be extended by the mutual consent of the applicant and the Planning Board.

§ 4.4 - Appeals Procedure

Any person aggrieved by any decision of the Planning Board or by the action of an officer of the Town with respect to the provisions of this Law may apply to the Supreme Court for a review of the decision by a proceeding brought under Article

78 of the Civil Practice Laws and Rules. Such proceeding must be brought within thirty (30) days of the date of the filing of a final decision rendered pursuant to § 4.2 of this Law in the office of the Town of DeKalb or Village of Richville Clerk, as appropriate, or it is statutorily barred.

ARTICLE V - REVIEW STANDARDS

§ 5.1 - General Standards

1. Protection of Health and Safety. Development proposed on a site plan shall be of such character that, following completion of the proposed improvements, the property upon which the improvements are located does not present any danger arising from conditions detrimental to health or safety, or peril from fire, flood, or other causes, to persons occupying or using the property or to the general public.
2. Preservation of Town Character. The proposed development shall be visually compatible with the character of the Town with the extent of compatibility necessary to be determined by the Planning Board in its sole discretion following consideration of all relevant information. The economic impact on the applicant of achieving such compatibility shall be among the factors considered by the Planning Board in making the determination.
3. Separation of Incompatible Uses or Activities. Heavy vegetative screening, combined, as appropriate, with other means of buffering, such as the use of earth berms, shall separate:

- i) commercial and industrial uses from residential properties; and
- ii) other proposed uses from any adjacent existing uses where the degree of conflict is so great or so apparent as to allow a reasonable person to conclude that the proposed use would have a detrimental affect on any person's enjoyment, for any purpose, of the existing use.

§ 5.2 - Specific Standards

The review of the complete site plan application by the Planning Board shall include, as appropriate, consideration and application of the following specific standards.

1. Legal. The proposed development shall be in conformance with all provisions of this Law and other applicable Town of DeKalb, Village of Richville, County, State and Federal laws and shall demonstrate application for or compliance with all required permits.

2. Traffic Movement and Safety. The proposed development shall provide for safe, convenient and efficient movement of traffic on the site and as it affects adjoining roads, driveways and properties. The applicant shall be responsible for obtaining any necessary permits to create curbs-cuts and work in the right-of-way from the State, County or Town highway departments. Access to the site from public roads and on-site circulation shall be well-designed, safe and in conformance with the following.

a. The site shall be accessible during all months of the year if used year-round with particular attention to providing access for emergency vehicles. If only seasonal use is proposed, access shall be possible during the months of use.

b. Onsite driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.

c. There shall be no more than two (2) vehicular access points (excluding field entrances).

d. In cases where sites have frontage on more than one road, the principal point of access shall be from the more secondary road whenever feasible, however, access suitable for emergency vehicles shall be provided, where possible, from a road that is maintained on a year-round basis as opposed to from a road that only maintained seasonally.

e. Sight distances from vehicular access points shall be adequate to provide for safe ingress and egress of vehicles, as measured by an assessment of the effect of providing the access point on the highway function of the public road accessed.

f. Development of the site shall not create or increase any traffic hazard, whether by limiting site distance, reducing effectiveness of vehicular circulation on adjacent roads, or through creation of some other condition that affects safe operation of motor vehicles.

3. Parking and Loading. Adequate off-street parking and loading spaces shall be provided for the use of occupants, employees, clients, customers, and patrons so that parking does not obstruct the safe flow of traffic on public roads. Parking and loading areas shall be adequately screened or fenced from existing residences and State-designated tourism routes. Design of parking areas shall be accomplished so as

not to force vehicles to back onto a public roadway, block access to the site, or create hazards for pedestrians, and shall avoid dispersion of vehicles about the site to the maximum extent possible. Interior driveways shall be adequate to provide safe accessibility to all off-street parking spaces required. The number of spaces provided shall be in accordance with the following.

- a. Residential use - one (1) parking space for each dwelling unit.
- b. Retail establishment or office - one (1) parking space for each 200 square feet of gross floor area.
- c. Church, meeting hall, funeral home, or other place of public assembly - one (1) parking space for every eight (8) seats provided based on maximum seating capacity.
- d. Restaurant - one (1) parking space for each five (5) seats.
- e. Hotel, motel, inn, or bed-and-breakfast - one (1) parking space for each guest room.
- f. Nursing home - one (1) parking space for each five (5) patients.
- g. Industrial facility - one (1) parking space for each employee per shift.
- h. Other uses - parking spaces adequate to meet the expected maximum demand based on requirements established for similar uses.

4. Town Services. The proposed development shall not place unreasonable or extraordinary demands on Town services and facilities, to include, without limitation, fire protection, upgrading, maintenance and snow plowing of public roads, recreational facilities, water supplies and sewage/waste disposal systems.

5. Drainage. The proposed development shall provide for proper stormwater and drainage on the site such that runoff shall not enter, cross or undermine public roads, lead to ponding, excessive erosion, or cause nuisance conditions for neighbors.

6. Water and Sewer/Waste Disposal. The development shall, in the absence of either or both community water and sewer

service, adequately accommodate on-site wastewater treatment and water supply as follows:

a. Pollution control methods for sewage disposal shall comply with the New York State Fire Prevention and Building Code, 10NYCRR, Chapter 11, with particular reference to Appendix 75-A, Individual Household Systems. This code requires an appraisal of soil conditions to install a septic tank and leach field system by conducting a soil percolation test to properly locate and size the leach field. The following minimum separation distances for locating septic tanks and leach fields shall be satisfied:

- i) 100 ft. from any source of water supply; and
- ii) 100 ft. from any stream or watercourse; and
- iii) twenty feet (20') from any foundation wall; and
- iv) fifteen feet (15') from any property line.

The location of septic tanks and leach fields shall be clearly identified on the Development Plan Map with distances from lot lines and wells. Proposals that may lead to increased demands on sewage disposal facilities shall demonstrate that such systems are properly functioning and sized to accommodate increased demands.

b. Water supply for public or semi-public uses shall be from a properly grouted, drilled well. Water for private uses may come from a drilled well, dug or driven well or springhouse.

7. Off-site Impacts. The design of the proposed use shall not create conditions that adversely affect nearby properties and public areas, to include the following, without limitation:

a. No aspect of the development shall unreasonably block sunlight and air circulation from neighboring properties.

b. The location, direction, power and time of use for any proposed lighting shall be designed to protect nearby properties from unreasonable disturbance.

c. Nearby properties shall be protected against nuisances created by the proposed improvements, to include, without limitation, nuisances caused by noise, smoke, trash, garbage, debris, vibration, fumes, dust, odors or glare.

d. On-site materials storage, refuse, salvage materials and unlicensed non-agricultural vehicles and equipment shall be screened or fenced from view from public roads and existing residences.

8. Waste Management. The site design shall provide for the safe and sanitary storage of solid and hazardous waste. Waste storage and loading areas and waste containers shall be screened from public view and from view from adjacent properties. All storage and handling of solid and hazardous waste shall demonstrate compliance with applicable Town, County, State and Federal laws, and shall demonstrate application for and compliance with all required permits.

9. Storage of Petroleum Products. Proposed uses involving the bulk storage of petroleum products shall demonstrate compliance with applicable Town of Dekalb, Village of Richville, County, State and Federal laws, and shall demonstrate application for and compliance with all required permits.

10. Underground Storage Tanks. Proposed uses involving the installation or use of underground storage tanks shall demonstrate compliance with applicable Town of Dekalb, Village of Richville, County, State and Federal laws, and shall demonstrate application for and compliance with all required permits, satisfactory leakage or tightness testing results for existing tanks, and satisfaction of financial responsibility requirements.

11. Environmental Considerations. In general, proposed development of any site shall avoid areas where the following conditions are present. Where mitigation of any environmental condition is permitted by law, the applicant shall show or state in the site plan application all such proposed mitigation measures and shall provide evidence of application for any permits, submissions, agency approvals or other permissions required therefore.

- a. slopes greater than 15%.
- b. areas of seasonal or permanent high groundwater.
- c. flood hazard areas.
- d. freshwater wetlands.
- e. rivers and other bodies of water.

- f. areas of shallow soil depth to bedrock or of numerous rock outcrops.
- g. areas subject to high erosion.
- h. other designated sensitive environmental areas, such as species habitat.

12. Pedestrian Circulation. The development, where appropriate, shall provide for the safe and convenient movement of pedestrians both within the site and to and from the site in a manner separated from vehicular traffic.

13. Preservation of Historic Resources. Designated historical sites on the State and National Register of Historic Places shall be identified on the property to be developed. The applicant shall provide evidence of application for any permits, submissions, agency approvals or other permissions required in connection with the presence of such sites, areas and structures.

14. Town Character. The location, scale, height, and appearance of structures shall be appropriate to their function and shall harmonize with the surrounding architecture, townscape and natural landscape.

15. Preservation of Wooded Areas. Clear-cutting of large wooded areas for development or of any individual healthy trees of 24" or over in diameter located outside of wooded areas shall be avoided. When tree removal is required, consideration shall be given to the planting of replacement trees of equivalent species elsewhere on the site.

§ 5.3 - Additional Standards for Mobile Home Parks

The following requirements shall apply to two (2) or more mobile homes (class 1 and class 2) on a single property:

1. Installation standards. Installation of mobile homes (class 1 and class 2) shall be in accordance with standards set out in the New York State Uniform Fire Prevention and Building Code, Subchapter D, Part 1223, §§ 1223.1 to -6.
2. Water supply and Wastewater Facilities. All water supply and wastewater discharge facilities for mobile homes (class 1 and class 2) shall conform to Department of Health standards applicable to mobile home parks.

3. No Operation Unless in Compliance with all Laws. No mobile home park shall operate, or continue in operation, in any area of the Town unless the operation is in full compliance at all times with all applicable Federal, State, County and Town laws.
4. Automotive parking. At least one (1) off-street parking spaces for each mobile home (class 1 and class 2) shall be provided within the individual mobile home space. Each parking space shall have convenient and ready access to the internal road network and shall not directly access a public road.
5. Internal Road System. The internal road system for mobile home parks shall comply with the following standards:
 - a. All roads shall provide year-round accessibility to every lot in the mobile home park for emergency and service vehicles.
 - b. All roads shall be a minimum of eighteen feet (18') wide and shall be constructed to accommodate two lanes of traffic.
 - c. All road surfaces shall be paved or, at the discretion of the Planning Board, constructed with gravel or crushed stone.
 - d. Road system design shall provide two separate access points to the adjacent public road network. A single access road that consists of two eighteen foot (18') wide lanes with a central median may be substituted.
 - e. Any dead-end roads shall be no longer than five hundred feet (500') and terminate in a turn-around with a sufficient diameter to accommodate fire trucks and snow plows.
6. Recreation Area. A minimum area shall be set aside exclusively for recreational use by the residents, equal to the greater of five percent (5%) of the total property area or 4,000 square feet.
7. Screening and Landscaping. Undisturbed natural vegetation, fencing or a landscaped area along exterior lot lines shall provide visual screening of the mobile home park from adjacent residential properties and public roads. In addition, along public roads a ten foot (10') wide buffer of heavy vegetative screening shall be provided where feasible, but shall be

designed not to obstruct sight distances at points of road access.

8. Separation Distances. No mobile home (class 1 or class 2) shall be located closer than ten feet (10') from any other mobile home (class 1 or class 2).

9. Utilities. Utilities shall be placed underground wherever possible, and shall be screened where above-ground placement is necessary. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Access to above-ground utility structures shall be provided at all times.

§ 5.4 - Additional Standards for Salvage Yards

Salvage yards shall meet the following additional requirements:

1. No Establishment Without Proper Authorization. No vehicle dismantling or salvage yard shall be established in any part of the Village of Richville unless a permit for such facility is issued by the Village Board pursuant to Article 6, § 136, of the New York State General Municipal Law. No vehicle dismantling or salvage yard shall be established in any part of the Town of Dekalb outside of the Village of Richville unless the proposed facility complies with the State standards set out in Article 6, § 136, of the New York State General Municipal Law.

2. No Operation Unless in Compliance with all Laws. No vehicle dismantling or salvage yard shall operate, or continue in operation, in any area of the Town unless the operation is in full compliance at all times with all applicable Federal, State, County, Town of Dekalb and Village of Richville laws.

3. Fencing and Screening Required. Any salvage yard shall be completely surrounded with a fence that substantially screens the area. All vehicles, vehicle parts and other materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence.

Where the topography, land forms, natural growth of trees or other considerations accomplish effective screening, the fencing requirements may be varied by the Planning Board.

4. Restrictions on Location. No salvage yard shall be located within 500 feet of any existing dwelling other than the

principal residence on the same parcel or within 50 feet of a public highway.

5. Effect of this Law on Existing Salvage Yards. All operating salvage yards that are legally permitted and in compliance with all applicable laws on the effective date of this Law shall be allowed to continue in operation, but shall be limited to the size, area, manner and scale of the present operation unless a site plan for any proposed expansion or improvements is approved in accordance with this Law, in which event the entire area of the salvage yard shall be subject to compliance with all provisions of this Law.

§ 5.5 - Additional Standards for Landfills

Landfills shall meet the following additional requirements:

1. No Establishment Without Proper Authorization. No landfill shall be established in any area of the Town unless a permit for such facility, when required, is issued by the State pursuant to 6 NYCRR, Part 360, and the proposed facility complies with State standards.

2. No Operation Unless in Compliance with all Laws. No landfill shall operate, or continue in operation, in any area of the Town unless the operation is in full compliance at all times with all applicable Federal, State, County and Town of DeKalb and Village of Richville laws.

3. Buffer Area Required. Any landfill, to include any structures, facilities or improvements associated with the operation of the landfill other than:

- i) structures, facilities or improvements that are entirely used for administrative purposes, such as a business office or employee parking lot; and
- ii) structures, facilities or improvements constructed to provide vehicle or rail access to the landfill, to include roadways and rail spurs and appurtenant bridges, culverts and drainage improvements,

shall be completely surrounded by a designated buffer area under the same ownership as the landfill that is:

- i) at least five hundred feet in width; or
- ii) of the width specified a permit issued pursuant to 6NYCRR, Part 360,

whichever is greater. Any unloading, staging or storage area, to include any rail spur where rail cars are held awaiting unloading or pickup, shall be inside of the buffer area. All vehicular, rail switching and maintenance operations shall be conducted inside of the buffer area. All administrative parking lots shall be outside of the buffer area. The buffer area shall incorporate the use of berms and heavy vegetative screening to prevent visibility into the landfill from neighboring properties and public roads.

4. Security. The entire perimeter of the inside of the buffer required under § 5.5.3 of this Law shall be fenced by

- i) a chain link security fence of at least seven feet (7') in height; or
- ii) any security fence required under County, State or Federal law or regulation,

whichever affords greater protection to the general public. Two gated vehicular access points shall be created through the fence. Both access points shall be of sufficient width to permit the passage of emergency vehicles and equipment. A single gate shall be used during the hours of operation, with the other gate to remain locked. One or more employees of the landfill operator shall be present at the vehicle gate used during the hours of operation for the purpose of providing physical security of the facility and to inspect and monitor vehicles and materials entering the landfill. Notwithstanding any provision in this subsection to the contrary:

- i) one or more gated pedestrian access points with access security features and controls sufficient to prevent unauthorized access to the facility may be created through the fence; and
- ii) one gated rail access point with access security features and controls sufficient to prevent unauthorized access to the facility may be created through the fence.

Keys or equivalent means of entry to all gates shall be supplied, as appropriate, to the Town of DeKalb or Village of Richville Clerk and Volunteer Fire Department.

5. Internal Road System. Roads constructed on landfills, to include any surrounding buffer area, shall comply with the following standards:

- a. All roads shall provide year-round accessibility for emergency vehicles.

- b. All roads shall be a minimum of eighteen feet (18') wide with shoulders as necessary to accommodate two vehicles side by side.
- c. All road surfaces shall be paved unless a particular aspect of the nature of the use of the road requires otherwise. In such event the road surface shall be constructed and maintained with gravel or crushed stone.
- d. Road system design shall provide two separate access points to the adjacent public road network.

6. Restrictions on Location. No landfill, to include any surrounding buffer area provided for in § 5.3.3 of this Law, shall be located within 1,500 feet of any

- i) existing dwelling; or
- ii) commercial or industrial building where one (1) or more persons is employed on a regular basis; or
- iii) any public building or land

as measured from the closest point of the security fence required under § 5.3.4 of this Law unless:

- i) the permission of the owner of such dwelling or building, or of the local government, is obtained in writing and is furnished to the Planning Board; or
- ii) the dwelling or building is under the same ownership as the landfill, and a notarized statement attesting to such ownership is furnished to the Planning Board.

ARTICLE VI - ADMINISTRATION

§ 6.1 - Planning Board

1. Combined Planning Board Established. There is hereby created a combined Village of Richville and Town of DeKalb Planning Board (the "Planning Board") pursuant to Article 5-G of New York State General Municipal Law, § 271 of New York State Town Law, and § 179-f of New York State Village Law.
2. Composition. The Planning Board shall consist of five (5) members, two (2) of whom shall reside in the Village of Richville and three (3) of whom shall reside in the Town of DeKalb outside the Village of Richville.
3. Appointment of Members and Terms of Office. Appointment of members from the Town of DeKalb shall be made by the Town Board and appointment of the members from the Village of Richville shall be made by the Village Board. The terms of the initial appointments shall be as follows: The Town of DeKalb shall appoint one member to serve a one (1) year term, one member to serve a three (3) year term and one member to serve a five (5) year term. The Village of Richville shall appoint one member to serve a two (2) year term and one member to serve a four (4) year term. All members appointed or reappointed thereafter following on the expiration of the term of an initial member shall be appointed for a term of five (5) years. Reappointment of a member shall be at the discretion of the Town Board.
4. Vacancies. In the event of a vacancy arising during the term of office of any member for any reason, such vacancy shall be filled by appointment of a new member who shall serve the balance of the term.
5. Selection and Responsibilities of Chair, Vice-Chair and Secretary. The Planning Board, at its initial meeting, shall, by a vote conducted pursuant to § 6.1.6 of this Law, select a Chair, Vice-Chair and Secretary. The Chair shall preside at all meetings of the Planning Board and shall take such actions on behalf of the Planning Board as are authorized by the vote of its members. The Vice-Chair shall act for the Chair at such times as the Chair is unavailable. The Secretary shall be responsible for preparing the agenda and minutes of the meetings of the Planning Board, shall receive all correspondence and other communications directed to the Planning Board, and shall prepare all correspondence, reports

and other documents on behalf of the Planning Board as are authorized by the vote of its members.

6. Meetings; Quorum; Votes. The Planning Board shall meet at such times of its choosing, but shall schedule a regular meeting during which all matters before it may be considered at least monthly during the year, in accordance with the requirements for public notice, access and participation established in the New York State Public Officers Law, Article 7 (the "Open Meetings Law"). All proceedings of the Planning Board shall be recorded by the Secretary and, unless otherwise provided for by law, be a matter of public record. A quorum of the membership of the Planning Board shall be obtained for any purpose of the Planning Board when at least two (2) of the members appointed by the Town of DeKalb and one (1) of the members appointed by the Village of Richville are present. The Planning Board may not act in any manner or for any purpose in the absence of a quorum of its membership. Votes of the Planning Board shall be taken following a recorded motion and second from the membership, and shall be recorded as to ayes and nays. A majority of the membership of the Planning Board shall constitute the "majority vote" of the Planning Board required for all purposes under this Law.

§ 6.2 - Powers and Authorities of Planning Board

The Planning Board established pursuant to § 6.1 of this Law is hereby authorized to receive applications for all site plans required under § 2.1 of this Law and, on making the determination provided for under § 3.4 of this Law that such an application is complete, is authorized to review the application in accordance with the provisions of Article IV of this Law and to make the findings provided for therein; to wit: the Planning Board is authorized by majority vote, at its discretion, to

- i) approve the application; or
- ii) approve the application with modifications or conditions, or both; or
- iii) disapprove the application.

The Planning Board is further authorized, at its discretion, to receive and consider reports, testimony, and other evidence during its proceedings, and to make such additional inquiry as it deems necessary into any matter relevant to the making of its determination on a site plan application properly before it.

In the event that the Planning Board determines that modifications or conditions are necessary in approving a site plan, it is hereby authorized to require or impose such modifications and conditions as, in its discretion, are necessary to adequately safeguard the public health and safety, or are needed to provide for and safeguard the welfare and quality of life of adjacent landowners and of the residents of the Town. The Planning Board is authorized to adopt any additional rules and regulations that it deems necessary for the efficient administration of this Law. The Planning Board may also require the posting of a bond or other similar performance guarantee to ensure compliance with a site plan proposal and with any conditions established for approval and to cover any Town costs involved in the development.

As required under SEQRA, the Planning Board is authorized to act as the lead agency for the purpose of reviewing a proposed site plan pursuant to that law.

Once a site plan has been approved, the Planning Board is authorized to act on the request of any person, or on its own initiative, to suspend or, at its discretion, revoke such site plan approval when work or other compliance with the approved site plan is not accomplished as required. The Planning Board is also authorized to recommend to the Town Board or Village Board, in such instance and as appropriate, that any building permit or other approval that has been granted be likewise suspended or revoked.

The Planning Board is authorized to establish, charge and receive such fees as are determined necessary to undertake and conduct the review of any site plan application. The Planning Board shall not deem a site plan application to be a complete site plan application until the fee established for the review of the application has been received. The setting of a fee amount by the Planning Board shall not be deemed to preclude the Planning Board from assessing additional amounts when the cost of the review exceeds the amount of the fee originally assessed. The Planning Board may, in its discretion, allow direct payment by the applicant of costs and charges to any business, agent or contractor of the Planning Board that is retained by the Planning Board in connection with the review. The Planning Board shall refund all of any portion of any fee that is collected but not spent in connection with the review within thirty (30) days of the completion of the review or of the termination of the review for any reason. At the request of any applicant, the Planning Board shall render a statement documenting the expenditure of any fee charged.

§ 6.3 - Enforcement Officers

1. Positions Created. There are hereby created the appointive offices of Enforcement Officer for the Town of DeKalb and Enforcement Officer for the Village of Richville.
2. Appointment. The Enforcement Officer for portions of the Town of DeKalb outside the Village of Richville shall be appointed by the Town Supervisor with the approval of the Town Board. The Enforcement Officer for the Village of Richville shall be appointed by the Mayor with the approval of the Village Board. Enforcement Officers shall serve at the pleasure of the respective governing body. The same person may be appointed to and hold simultaneously both positions.
3. Powers and Duties. The Enforcement Officers shall carry out all the functions identified in this Law and be responsible for the overall inspection of site improvements to ensure compliance with approved site plans. The Enforcement Officers shall conduct such inspections at their discretion, or on the direction of the Planning Board. In the event that the Enforcement Officers determine that a violation or other non-compliance with the conditions of an approved site plan has occurred, such violation or non-compliance shall be reported expeditiously to the Planning Board.

§ 6.4 - Issuance of Building Permit Conditioned

No building permit shall be issued by any official or employee of the Town for any project that requires site plan review under this Law until the applicant for the building permit furnishes the issuing official or employee with the written notification of approval of the site plan provided for in § 4.2.1 of this Law. Any building permit issued in contravention of this provision, or that is issued in error, or that is issued based upon any misrepresentation of the applicant, whether intentional or unintentional, shall not be deemed to confer any right of any sort upon the person that the permit is issued to, nor shall it be deemed to deny or restrict any right or ability of the Town to take any action of any sort against such person and the building, structure or property that is the subject of the building permit.

§ 6.5 - Amendments to an Approved Site Plan

Submission and review of any amendment to an approved site plan shall be acted upon in the same manner as the original application.

§ 6.6 - Violations and Enforcement

Any person, corporation, partnership, association or other legal entity who violates any of the provisions of this Law, or any condition or conditions imposed under a site plan approval or subsequent permit granted pursuant to this Law shall be guilty of an offense against the Town of DeKalb or the Village of Richville, as appropriate, and be subject to a fine of not more than two-hundred fifty dollars (\$250) or by penalty of two-hundred fifty dollars (\$250) to be recovered by the Town of DeKalb or Village of Richville, as appropriate, in a civil action. Each week of said offense, if continuous, shall constitute a separate offense.

In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed under an approved site plan, the Town of DeKalb or Village of Richville, as appropriate, may institute any appropriate action or proceeding to prevent or enjoin the unlawful activity deemed to give rise to the violation; i.e. to restrain, correct, or abate such activity, or to prevent occupancy of any building, structure or land involved in such activity, or to prevent any illegal act, conduct, business or use that constitutes all, or part, of any such activity.

The Planning Board may act, in its discretion, to suspend or revoke any approved site plan as to improvements that remain uncompleted in the event of any deviation or discrepancy from the terms and conditions of the approved site plan.

No building permit, certificate of occupancy or other authorization of use shall be granted until all improvements shown on an approved site plan or agreed upon as conditions to an approved site plan are installed or a performance guarantee deemed sufficient by the Planning Board has been posted for such improvement not completed and a timetable approved by the Planning Board for such completion has been established and agreed to by the applicant.

Any permit or approval granted based upon a site plan approved pursuant to this Law shall be void if the site plan was approved in reliance upon any material misrepresentation or failure to make a material fact or circumstances known, whether by or on behalf of an applicant.

§ 6.7 - Expiration of Site Plan Approval

Any approval of a site plan granted pursuant to this Law shall expire automatically one (1) year from the date upon which the

approval was granted in the event of either of the following events.

- i) the applicant has failed to break ground on the improvements to be constructed; or
- ii) following breaking of ground, the applicant has failed to pursue construction of the improvements to such extent that a reasonable conclusion could be drawn that the development has been abandoned.

The Planning Board, at its discretion, by majority vote may elect to extend a site plan approval beyond one year in the case of either of the foregoing instances based on an affirmative showing by the applicant of relevant hardship.

§ 6.8 - Transferability of Site Plan Approval

A site plan approval shall be transferable upon the sale or transfer of the property that is to be developed on the provision of notice to the Planning Board by the new owner within thirty (30) days of the date the property is sold. The notice shall include the following:

- i) The new owner shall affirm the intention to construct all improvements remaining to be constructed on the property in accordance with the approved site plan.
- ii) The new owner shall affirm compliance with all conditions established by the Planning Board in connection with the approval of the site plan.

The Planning Board may revoke, without requirement of notice to the new owner, the site plan approval with regard to any improvements not constructed in the event that the new owner does not strictly comply with the provisions of this § 6.8.

ARTICLE VII - MISCELLANEOUS PROVISIONS

§ 7.1 - Effective Date

This Law shall take effect immediately upon filing with the Secretary of State. The date upon which this filing is made shall be deemed the "Effective Date."

§ 7.2 - Severability

If any article, section, paragraph or provision of this Law shall be deemed invalid by any authority of competent jurisdiction, such determination shall apply only to the article, section, paragraph or provision adjudged invalid and the rest of this Law shall continue valid, effective and in force.

§ 7.3 - Provision of Notice Deemed to have Occurred

Unless otherwise specifically provided herein, any notice, letter or other written communication furnished to an applicant under any provision of this Law shall be deemed furnished on such date as it is postmarked. Any notice, letter or other written communication to be furnished by an applicant under any provision of this Law shall be deemed furnished on the date that it is actually received by the person or entity specified in such provision.

§ 7.4 - Headings for Convenience

The underlined heading of any section or provision of this Law is for the convenience of the reader and shall not be construed as part of the respective section or provision in the interpretation of same.

§ 7.5 - Excavation of Soil Following Approval of Site Plan

Unless a permit for commercial excavation has been granted, no applicant, after obtaining an approved site plan under this Law, shall, in connection with the development of the property that is the subject of the site plan, strip, excavate or otherwise remove topsoil for sale or for use on premises other than those from which the topsoil is taken.

APPENDIX A

APPLICATION FOR SITE PLAN REVIEW

Applicant: _____
Name _____

Date: _____

Mailing Address: _____

Telephone: (_____) _____

Property Owner (if different): _____
Letter of signed permission attached (circle one): yes no

Location of Site (road name and estimated distance from nearest intersection): _____

Parcel tax map identification number (available from Town or Village Assessor's Office or the County Real Property Tax Office): _____

Section _____ **Block** _____ **Lot** _____

Total Site Area (square feet or acres) _____

Describe proposed buildings, structures and/or uses of site:

List the uses on surrounding properties:

List attachments to this application:

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

<p>1. APPLICANT / SPONSOR</p>	<p>2. PROJECT NAME</p>
<p>3. PROJECT LOCATION: Municipality _____ County _____</p>	
<p>4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)</p>	
<p>5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration</p>	
<p>6. DESCRIBE PROJECT BRIEFLY:</p>	
<p>7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres</p>	
<p>8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly _____</p>	
<p>9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: _____</p>	
<p>10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals _____</p>	
<p>11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval _____</p>	
<p>12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE</p>	
<p>Applicant/sponsor name: _____ Date: _____</p>	
<p>Signature: _____</p>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

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more than 150,000 persons: a facility with more than 240,000 square feet of gross floor area;

- (7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;
- (8) any non-agricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25, section 303 and 304) which exceeds 25 percent of any threshold established in this section;
- (9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in said National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulation (C.F.R.) Parts 60 and 63, 1986 (see section 617.19 of this Part).);
- (10) any Unlisted action, which exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 C.F.R. Part 62, 1986 (see section 617.19 of this Part);
- (11) any Unlisted action which exceeds a Type I threshold established by an involved agency pursuant to section 617.4 of this Part; or
- (12) any Unlisted action which takes place wholly or partially within or substantially contiguous to any critical environmental area designated by a local or state agency pursuant to section 617.4(h) of this Part.

617.13 TYPE II ACTIONS.

- (a) Actions or classes of actions which have been determined not to have a significant effect on the environment are classified as Type II

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- (9) maintenance of existing landscaping or natural growth;
- (10) mapping of existing roads, streets, highways, uses and ownership patterns;
- (11) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (12) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than land, radioactive material, pesticides, herbicides, or other hazardous materials;
- (13) collective bargaining activities;
- (14) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (15) routine or continuing agency administration and management, not including new programs or major reordering of priorities;
- (16) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;
- (17) routine activities of educational institutions not involving capital construction, including school closings, but not changes in use related to such closings;
- (18) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurficial investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- (19) minor temporary uses of land having negligible or no permanent effect on the environment;
- (20) the extension of utility distribution facilities to serve new or altered single or two-family residential structures or to render service in approved subdivisions; and
- (21) promulgation of regulations, policies, procedures and legislative decisions in connection with any Type II action in this Part.

617.14 PREPARATION AND CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS.

- (a) An EIS provides a means for agencies to give early consideration to environmental factors and facilitates the weighing of social, economic

617.12 TYPE I ACTIONS.

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant effect on the environment and require the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant effect on the environment and may require an EIS. For all individual actions which are Type I, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.11 of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action defined as Type II in section 617.13 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded, or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres;

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the

APPENDIX C - List of "Type I" and "Type II" Projects

thresholds given elsewhere in this list;

(4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a State or local agency;

(5) construction of new residential units which meet or exceed the following thresholds:

(i) 10 units in municipalities which have not adopted zoning or subdivision regulations;

(ii) 50 units not to be connected (at commencement of habitation) to existing community or public water and sewerage systems including sewerage treatment works;

(iii) in a city, town or village having a population of less than 150,000: 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewerage treatment works;

(iv) in a city, town or village having a population of greater than 150,000 but less than 1,000,000: 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewerage treatment works; or

(v) in a city or town having a population of greater than 1,000,000: 2,500 units to be connected (at the commencement of habitation) to existing community public water and sewerage systems including sewerage treatment works;

(6) activities, other than the construction of residential facilities, which meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

(i) a project or action which involves the physical alteration of 10 acres;

(ii) a project or action which would use ground or surface water in excess of 2,000,000 gallons per day;

(iii) parking for 1,000 vehicles;

(iv) in a city, town or village having a population of 150,000 persons or less: a facility with more than 100,000 square feet of gross floor area;

(v) in a city, town or village having a population of

APPENDIX C - List of "Type I" and "Type II" Projects

actions, and do not require environmental impact statements or any other determination or procedure under this Part. All agencies are subject to the Type II actions contained in this section. No agency is bound by a Type II action on another agency's list. An agency that lists an action as Type II is not an involved agency.

(b) Each agency may adopt its own Type II list provided that it finds that each of the actions:

(1) is no less protective of the environment than the actions listed in this section; and

(2) will, in no case, have a significant effect on the environment based on the criteria contained in section 617.11 of this Part and any additional criteria contained in its procedures adopted pursuant to section 617.4 of this Part.

(c) No agency may designate as Type II any Type I action as defined in section 617.12 of this Part.

(d) The following actions are Type II actions:

(1) replacement of a facility, in kind, on the same site unless such facility meets or exceeds any of the thresholds in section 617.12 of this Part;

(2) the granting of individual setback and lot line variances;

(3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;

(4) repaving of existing highways not involving the addition of new travel lanes;

(5) street openings for the purpose of repair or maintenance of existing utility facilities;

(6) installation of traffic control devices on existing streets, roads, and highways;

(7) public or private forest management practices, other than the removal of trees or the application of herbicides or pesticides;

(8) construction or placement of minor structures accessory or appurtenant to existing facilities, including garages, carports, patios, home swimming pools, fences, barns or other buildings not changing land use or density, including upgrading of buildings to meet building or fire codes;