

SECTION 2
STANDARDS APPLICABLE TO ALL DEVELOPMENT ACTIVITIES

2.1.0 OBJECTIVES AND APPLICABILITY

- A. This section is set forth to ensure that site development is sustainable, low impact and aesthetically and functionally appropriate. A primary objective is that new development and redevelopment projects are compatible with the environmental, architectural and cultural context of Lake Placid and the Town of North Elba.*
- B. This section shall apply to all land development activities within the Town of North Elba.*
- C. Compliance with all of the applicable sections of the code is required. The Review Board retains the right to impose such conditions necessary in order to fulfill the intent of the code and its overall purpose. Submission Requirements are contained in Section 5.0, Development Review Process.*
- D. Applicants may be required to present additional exhibits or documentation to support the project design so as to facilitate the permit decision-making process.. The requests may include, but are not limited to 1) material and color samples, 2) visual simulations from selected viewpoints, 3) renderings and viewshed studies; 4) additional maps and site plans 5) project staking or 6) balloons or some other manner of height representations on site.*
- F. In all instances, the applicant shall be responsible for the cost of any additional studies, exhibits, submissions or activities related to completing the application as requested by the Review Board.*

2.2.0 GENERAL STANDARDS

2.2.1 Health and Safety

- A. No land or structure in any planning district shall be used in any manner as to create dangerous, injurious or noxious conditions that adversely affect the reasonable use of adjoining or nearby properties.
- B. No noise or vibration shall be permitted which is excessive at the property line or is incompatible with the reasonable use of the surrounding area. Excessive noise shall be considered a sound pressure level that exceeds 65 decibels at the property line on a regular or reoccurring basis.
- C. No fire, explosive or safety hazard shall be permitted which endangers other property owners or results in a significantly increased burden on municipal facilities and services.
- D. No smoke, dust, dirt, noxious fumes, gases or odors or any other atmospheric pollutant endangering or adversely affecting the health, comfort, safety, or welfare of the public or neighboring property owners, or causing damage to property, business,

or vegetation, shall be permitted. Smoke is excessive when the shade or appearance of such smoke is darker than No.2 on the Ringlemann Smoke Chart, published by the United States Bureau of Mines.

- E. There shall be no discharge of sewage or any waste material whatsoever into any public water, wetland, aquifer, watercourse, open ditch or land surface.
- F. There shall be no discharge of any waste material whatsoever into any sanitary disposal system or sewage system, except in accordance with the rules of land under the control of public health authorities or the public body controlling such sewerage systems. Any chemical or industrial waste, which places undue loads, as determined by the Village Wastewater Treatment Plant, shall not be discharged into any municipal system and must be treated by the industrial user.
- G. There shall be no storage or stocking of any waste materials whatsoever, except in a completely enclosed building.
- H. No emission of hazardous radioactivity at any point shall be permitted, as defined by Federal and/or New York State Governmental Standards.
- I. There shall be no breeding of vermin.
- J. Acceptable trash receptacles shall be located so as not to be visible from any public road or waterway. Where necessary, appropriate screening and/or enclosure shall be used.

2.2.2 Non-Conformities

A. Prohibition to Create Non-conforming lots

- 1. No existing lot of record on the effective date of this Code shall be, subdivided or otherwise in configuration so as to make it nonconforming.
- 2. Where any lot or parcel is located in more than one planning district, the required minimum lot area shall be as required for that planning district in which the building or use is proposed, providing that the lot or parcel has the required minimum lot width in this same district; otherwise, the required minimum lot area, lot width and yard dimensions shall be determined in corresponding proportion to the percentage of the lot or parcel in each separate planning district.

B. Existing Non-Conformities

Any lawful structure or its use existing at the time of the enactment of this Code or its amendment shall be considered as a non-conforming structure or use if it does not conform with this Code. Reconstruction, additions, alterations or changes in non-conforming structures or uses are subject to the following:

- 1. A nonconforming building or use shall not be added to, enlarged, or expanded in any way that will increase the nonconformity, or displace an adjacent conforming use, unless such nonconforming building or use can meet the minimum setback requirements of the planning district in which it is located, as well as the standards

of a conditional use review. If such nonconforming building or use cannot meet the minimum requirements, the Joint Review Board may choose to waive the minimum requirements if it can be proven that the addition, enlargement, or expansion of such nonconforming building or use is necessary for the continued operation and viability of the business.

2. A nonconforming building or use, once removed, shall not be reintroduced or replaced other than by a conforming building or use.
3. Whenever a nonconforming use has been discontinued for a period of two (2) years, any future use shall be in conformity to the provisions of this Code.
4. A nonconforming building or use damaged by fire or other natural causes, may be restored, reconstructed or used as before, provided the location, size and height of the building or use and the percent of the lot coverage shall not exceed that which existed before such damage. Restoration must be completed and a Certificate of Compliance issued within two (2) years of such occurrence; except as application may be made to and considered by the Joint Board of Appeals. That Board may, for due cause shown, authorize a one (1) year extension within which to complete the project and obtain the Certificate of Compliance.
5. An existing use located within a non-conforming building may be replaced by a permitted use or conditional use under this Code, as long as the non-conforming features of the building are not made to be further non-conforming.

C. Existing Small lots

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this Law, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located.

2.2.3 Conversions and Changes of Use

- A. A conversion or change of use from a permitted to a conditional use, or from a conditional use to another conditional use, including changes in the intensity of any type of commercial use, requires conditional use approval. Changes or conversions involving nonconforming uses and/or nonconforming structures also are subject to the provisions of Section 3.7.
- B. No excavation, site alteration or improvement shall be initiated until a Building/Use Permit has been issued or conditional approval is given for a Final Plat/Site Plan.

2.2.4 Accessory Buildings and Uses

A. General Requirements

On any lot, accessory dwelling units, buildings, or uses in connection with the principal building or use may be constructed subject to the following process:

1. All accessory dwelling units, buildings, or uses shall require a Building/Use Permit issued prior to their construction and a Certificate of Compliance upon completion, except when such accessory dwelling units, buildings, or uses as have been specifically exempted.
2. Where applicable, a Building/Use Permit shall be issued conditionally upon satisfactory completion of construction, and issuance of a Certificate of Compliance for the principal building or use to which it is accessory. If said Certificate is not issued within one (1) year from the date of issuance of the Permit for the accessory dwelling unit, building, or use, the conditions upon which said Permit was issued shall be deemed not to have been complied with and the accessory dwelling unit, building, or use shall be considered in violation of these Regulations, except as application may be made to and considered by the Joint Board of Appeals which may, for due cause shown, authorize a one (1) year extension to allow for compliance with the conditions under which the Permit was issued.
3. A building, mobile home, trailer or other structure accessory to a construction project for office, storage or related construction use may be permitted upon issuance of a temporary use permit by the Review Board, provided that it is used only for the duration of the construction project. Such accessory structures shall not be used for living accommodations except for the accommodation of a night watchmen, and they shall be promptly removed upon completion of the construction project or part thereof to which it is accessory, such date to be determined by the Review Board, at which time their permit shall expire. Failure to remove such structures in a prompt manner after notice by an Enforcement Officer shall be considered a violation of this Code.
4. Exempt structures and uses, as defined in this Code, shall be setback at least five (5) feet from all lot lines, except for forest, agricultural or open space recreation practices which shall not be subject to such setback requirements.

B. Accessory Buildings and Uses

Accessory buildings and uses shall be governed by the following:

1. Accessory buildings to a residential use and not attached to a principal building, may be erected in accordance with the following requirements:
 - a. Front yard - Not to be located in any required front yard.
 - b. Rear yard - at least ten (10) feet from rear lot line.
 - c. Side yard – at least ten (10) feet from side lot line.
 - d. Corner lot - Not to be located in any front yard or yard adjacent to a road-right-of-way.
 - e. No closer to a principal or other accessory building than ten (10) feet.
2. An accessory building attached to a principal residential building or an accessory building other than a residential use shall comply in all respects with the requirements of this Code applicable to the location of the principal building.

3. No accessory building shall be constructed or located to house or provide shelter for more than one (1) animal, other than a domestic household pet, on any lot less than three (3) acres in size. Front, side and rear setbacks for any such buildings designed to house or provide shelter for livestock shall be a minimum of one hundred (100) feet from the side and rear lot lines.
4. The maximum height of any accessory building or structure shall be eighteen (18) feet, but shall in no instance exceed the height of the principal building or use.
5. A private, outdoor swimming pool shall be permitted as an accessory use to a dwelling unit only in accordance with the following standards:
 - a. It shall be erected only on the same lot as the principal building or one contiguous thereto.
 - b. It may be erected or constructed only in the side or rear yard of the lot and shall conform with the minimum side and rear yard requirements for the District in which it is located. It shall be not less than fifteen (15) feet distance from any principal or accessory building.
 - c. It pool shall be adequately fenced to assure that it will be used only by those persons having approved entrance to the pool.
 - d. It shall be adequately screened or otherwise situated so as not to be obtrusive from the public right-of-way or to otherwise present a nuisance to any adjoining use.
 - e. It shall not adversely affect the character of any residential neighborhood. All lighting or other appurtenances shall be arranged to not interfere with neighboring uses.
 - f. A swimming pool to be constructed or installed as an accessory use to any conditional use shall be permitted only after issuance of a permit by the Review Board. It shall be located so that it will not be a public hazard or nuisance to adjoining uses, and it shall be designed and located in accord with acceptable engineering standards and any applicable State requirements.

C. Accessory Dwelling Units

1. There shall only be one principal structure per residential lot. One accessory dwelling unit shall be permitted if located within, detached or attached to a single-family dwelling. Accessory dwelling units must meet the following standards:
 - a. The unit is not for transient rental.
 - b. The property has sufficient wastewater capacity.
 - c. The unit does not exceed 50 percent of the total habitable floor area of the principal single-family dwelling and is not located in the front yard.

- d. Applicable setback, coverage, and parking requirements specified in this Code are met.
2. Notwithstanding the provisions in 4.2.3.A. above, the creation of an accessory dwelling unit will require conditional use approval under Section 5.0 under any of the following circumstances.
- a. Conversions of an existing accessory structure (e.g. a garage) to an accessory dwelling, if the accessory structure is in violation of the setback;
 - b. An increase in the height or floor area of the existing principal dwelling;
 - c. An increase in the dimensions of parking areas.

