

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

**ARTICLE XI - Chapter 190-11** (as last amended 8/28/08 by LL#8-08)

**Site Plan Review and Special Use Permits**

**A. Minor Site Plan Review**

- (1) Purpose. The purpose of Site Plan Review is to allow the community to properly integrate uses based on their characteristics, or the special characteristics of the area in which they are to be located, to accommodate growth that will have a harmonious relationship with the existing or the permitted use of contiguous land and of adjacent neighborhoods, without creating adverse effects; to ensure that the health, safety, welfare, comfort and convenience of the public is fully considered; and to promote consistency in the development of the Town of Colonie with the goals and objectives of its Comprehensive Plan and other current Planning studies and reports.
- (2) Applicability. Application for Minor Site Plan Review is made to and decisions are rendered by the Planning and Economic Development Department (PEDD) and applies to the following changes to all existing uses other than single family dwellings, and to new single family dwellings subject to Special Use Permit review:
  - (a) Addition, deletion or other site change affecting less than 10,000 square feet.
  - (b) Change in tenancy or use.
  - (c) Set up of a temporary tent, provided that:
    - [1] The tent is erected for a purpose and use directly related to and accessory to an existing permitted business or other establishment on the site; and
    - [2] The tent will not obstruct access, circulation or parking necessary for the safe and orderly conduct of permitted activities on the site; and
    - [3] The tent is erected for a period of 10 days or less, and on not more than four separate occasions in a calendar year; and
    - [4] The site is in compliance with any previous site development plan approval issued by the Town of Colonie Planning Board or the Town of Colonie Planning and Economic Development Department.
  - (d) All interior renovations in any existing bar, fast-food establishment or restaurant or other commercial establishment, which interior renovations may have the effect of increasing the occupancy level of the structure and thus have the potential of increasing the parking demand at the site.
- (3) General review criteria and requirements. PEDD shall refer to the

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- general review criteria and requirements for Major Site Plan Review.
- (4) Permits. The applicant shall obtain any necessary permits or approvals from state or county agencies prior to issuance of any final site plan approval.
  - (5) Incentives. Incentives are available only from the Planning Board. Applicants seeking incentives must forgo administrative review and apply directly for Planning Board Approval.
  - (6) Appeal. Those aggrieved by a decision by the PEDD can appeal that decision to the Planning Board.
  - (7) Referral to the Planning Board. PEDD at its discretion may also refer any minor site plan application to the planning board for review and approval.
  - (8) Review and Approval Procedure.
    - (a) Application for Zoning Verification. An application for Zoning Verification must be made to the Building Department as outlined in the Overview of Permits and Approvals Article of this Chapter. The Building Department will issue its verification to the Planning and Economic Development Department (PEDD) and the applicant. The PEDD will notify the applicant of necessary documentation to accompany the application for Minor Site Plan Review.
    - (b) PEDD review and approval.
      - [1] The applicant shall prepare and submit a final site plan in accordance with the requirements below to the PEDD.
      - [2] The PEDD shall review the submittal for completeness and compliance with the requirements of this Chapter and shall refer the submittal to such other departments or agencies, as it deems appropriate, for additional technical review.
      - [3] Upon satisfactory completion of required reviews, the PEDD shall act to approve, deny or approve with modification the final site plan. Failure to act does not constitute approval.
      - [4] In the event that an approval with modification is made, the applicant shall submit the modified plan to the PEDD.
      - [5] In the event that a modified plan is not submitted to the PEDD within six months from the date of its decision to approve with modification, the approval shall become invalid.
      - [6] In the event that the application is denied, the applicant may have the decision reviewed by the Planning Board.
      - [7] Issuance of approval. Upon approval of a final site plan, the applicant shall furnish to the PEDD sufficient copies of such plans and related documents as are necessary for distribution to appropriate parties.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- [8] The PEDD shall sign and affix a stamp of approval to said plans and shall distribute them together with copies of the applicable approval form.
  - [9] No occupancy or use of the site may occur until the PEDD has determined that all required improvements have been made and the PEDD has issued a site plan approval compliance release to the Building Department and, when applicable, a certificate of occupancy has been issued by the Town Building Department.
  - [10] If, at any time after a certificate of occupancy permit has been issued and the site and building or buildings are occupied and/or used, the PEDD finds that any of the conditions of an approved final site plan have not continued to be met, the PEDD shall order the owner and tenants to make such corrections as it deems necessary to bring the use and operation into compliance with the provisions of such plan. In the event that the owner and tenants have failed to comply or maintain compliance with the final site plan after being ordered by the PEDD to make such corrections, the "Penalties for offenses" provisions of this Chapter shall become applicable.
  - [11] Any PEDD final site plan approval shall be valid for two years from the date of issuance.
  - [12] Final site plan approval may be extended annually for an additional one-year period, upon receipt of a written request by the applicant, and due consideration by the PEDD.
- (9) Final Site Application Requirements. The application requirements for a final review and approval for a minor site plan proposal shall include, but not be limited to, the following:
- (a) Submission of an application for a minor site plan proposal on forms prescribed therefor, together with payment of the required fee therefor as established by the Town Board.
  - (b) The applicant shall obtain any necessary permits or approvals from state or county agencies prior to issuance of any final site plan approval.
  - (c) Such additional reports, maps, plans or materials as the PEDD may reasonably request and deem necessary to make the determinations required by the New York State Environmental Quality Review Act and this chapter.
  - (d) A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (schools, traffic generation, population, utilities, aesthetics and land use

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

compatibility) and including the following:

- [1] The address of the site.
  - [2] The name of the applicant.
  - [3] Site zoning.
  - [4] The name of the proposed tenant/business.
  - [5] A description of existing site and use.
  - [6] A description of intended site development and use.
  - [7] Anticipated impacts on services (i.e., traffic, sewer, water), with projected quantities.
  - [8] The impact on adjoining property; noise, visual, drainage, other.
  - [9] The proposed gross floor area.
  - [10] The proposed number of parking spaces.
  - [11] The number of employees.
  - [12] Site coverage statistics.
  - [13] Hours of operation.
  - [14] Storage and disposal method of chemicals used (solvents, soaps, etc.).
  - [15] Impact on town communications system of any proposed communications devices (e.g., microwave transmitters).
- (e) A site plan outlining the proposed design at a scale of one inch equals 10 feet, one inch equals 20 feet, one inch equals 30 feet or one inch equals 40 feet; sheet size shall be twenty-two by thirty-four (22 x 34) inches or thirty-four by forty-four (34 x 44) inches; which plan shall show:
- [1] Boundary line of property to be developed or used, including any interior lot lines.
  - [2] Small-scale location and zoning map at a scale of one inch equals 2,000 feet; location map shall be oriented the same as the site plan.
  - [3] North arrow.
  - [4] The names and uses of all adjoining property owners.
  - [5] The location and names of existing adjacent streets.
  - [6] Existing vegetation, watercourses and other natural features.
  - [7] Existing structures, utilities and site improvements on and within 50 feet of the site. Where a boundary of a SFR or MFR District exists within 100 feet of the site, existing structures, utilities and site improvements shall be shown to a distance of 100 feet in the direction of the district boundary.
  - [8] Existing zoning district, with district boundaries within 300 feet of the site.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- [9] Proposed buildings and other improvements (with building and setback dimensions).
  - [10] Existing/proposed utilities, including lateral locations, sizes and connection points.
  - [11] Proposed vegetation and landscaping.
  - [12] Existing/proposed parking, circulation, storage, service and display areas.
  - [13] The number of parking spaces.
  - [14] Analysis of parking requirement.
  - [15] Access.
  - [16] Proposed drainage concept.
  - [17] Existing/proposed easements.
  - [18] Site coverage statistics.
  - [19] The address of the property.
- (f) Architectural elevations (for any application involving a building addition or facade changes.)
- (g) Digital image file of final site plan in format acceptable to the PEDD.
- (10) Annual Approval for Changes in Tenancy. The procedure for changes in tenancy for any building used for offices or retail sales, and having at least 50,000 square feet of gross floor area and three or more tenants, or any combination of buildings under the same ownership and on contiguous lots which together have 50,000 square feet of gross floor area and three or more tenants, shall be the same as that set forth above, except that the applicant may choose to apply for an annual approval for the entire building or buildings. In such case:
- (a) The application form and written description shall include the entire area of the building or buildings. The description shall include a general statement of the intended use of each building, with the maximum number of employees based on the level of occupancy allowed under the New York State Uniform Fire Prevention and Building Code.
  - (b) In order that PEDD may verify that the site is in conformance with prior approvals, such applications shall be accepted only between April 1 and November 30 of each calendar year.
  - (c) Upon approval of the application, changes in tenancy for individual spaces within the approved building(s) shall not be required to obtain site plan approval for a period of one calendar year, provided that the proposed tenancy conforms to the information contained in the approved application and the criteria set forth in this chapter. A copy of the approved zoning

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

verification issued by the Building Department for each change in tenancy shall be filed with PEDD.

- (d) The approval shall be valid for a period of one year from its date of issuance. Upon its expiration, a new application must be submitted and approved for the entire building or buildings prior to the next change in tenancy of an individual tenant space.

**B. Major Site Plan Review**

- (1) Purpose. The purpose of Major Site Plan Review is to allow the community to properly integrate uses based on their characteristics, or the special characteristics of the area in which they are to be located, to accommodate growth that will have a harmonious relationship with the existing or the permitted use of contiguous land and of adjacent neighborhoods, without creating adverse effects and to ensure that the health, safety, welfare, comfort and convenience of the public is fully considered and to promote consistency in the development of the Town of Colonie with the goals and objectives of its Comprehensive Plan and other current Planning studies and reports.
- (2) Applicability. These Site Plan Review provisions apply to:
  - (a) All development other than single family dwellings including all additions, deletions, structural or site changes, and changes in use to any new or existing building, site or portion thereof, except those activities subject to procedures for Minor Site Plan Review as specified above.
  - (b) All applicants seeking incentives.
- (3) General Review Criteria. In acting on any site plan application, the Planning Board, in addition to all other applicable laws, is directed to take into consideration the following:
  - (a) Traffic access and roads. All proposed traffic access points and roads shall be adequate but not excessive in number, adequate in width, paving, grade, alignment and visibility; and not located too near street corners or places of public assembly. Necessary traffic signalization, signs, dividers and other safety controls, devices and facilities shall be given proper consideration and duly provided wherever appropriate or warranted.
  - (b) Frontage on Street. Each lot shall have direct frontage of at least 15' on an improved Street, and provision for vehicular access to said Street, in accordance with Section 280a of the State of New York Town Law. A greater frontage may be required pursuant to other provisions of this Chapter. Such frontage may be on a public Street, or on a private Street owned

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

by a condominium association, in which the lot owner has an ownership interest by virtue of membership in the association, and which Street connects to a public Street. Vehicular access to the Street may be directly through the subject lot, or by easement through an adjacent lot or lots, subject to approval by the Planning Board.

- (c) Pedestrian safety and access. Safe, adequate and convenient pedestrian access and circulation shall be provided both within the site and to adjacent streets, with particular attention to all intersections with vehicular traffic.
- (d) Circulation and parking. Off-street parking and loading spaces shall be arranged with consideration given to their location, sufficiency and appearance and to prevent parking in public streets of vehicles of persons connected with or visiting the use. The interior circulation system shall be adequate to provide safe accessibility to, from and within all required off-street parking areas.
- (e) Screening and landscaping. All structures and recreational, parking, loading, public and other service areas shall be reasonably landscaped and/or screened so as to provide adequate visual and noise buffers in all seasons from neighboring lands and streets. The scale and quality of the landscaping and screening on site shall be harmonious with the character of, and serve to enhance, the neighborhood.
- (f) Environmental quality. All bodies of water, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value shall be preserved insofar as possible; soil erosion shall be prevented insofar as possible; flood hazard shall be minimized; air quality shall be well within legal limits; and all potentially ecologically disruptive elements of site preparation, such as blasting, diversion of watercourses and the like, shall be conducted according to the highest standards of professional care.
- (g) Fire protection. All proposed structures, service areas, fire lanes, water distribution lines, hydrants, equipment and material shall be adequate and readily accessible for the protection of the proposed uses from fire. Sufficient water supply for fire-fighting purposes shall be provided.
- (h) Drainage. A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed when developed to

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

the maximum density permitted under the existing zoning standards. Drainage shall be conducted to a point of adequate and suitable disposal. Where appropriate, stormwater control shall be provided so as to limit flow from the site to zero increase in the rate of runoff as related to existing conditions.

- (i) Refuse and sewage disposal. The public and/or private disposal systems shall be sufficient to safely and adequately handle the type and volume of refuse and sewage which can reasonably be anticipated to be generated by the land uses on-site.
- (j) Lighting. All site lighting shall be designed and installed so as not to illuminate adjacent properties or highways.
- (k) Water supply. The public and/or private delivery systems for bringing potable water to each of the uses on-site shall be shown to be sufficient.
- (l) Location and dimension of buildings. The location, arrangement, size and design of the buildings, lighting and signs shall be compatible to each other and with the site as a whole. Sufficient separation between buildings shall be maintained to ensure adequate access, circulation, light, air and solar access.
- (m) Impact of the proposed use on adjacent land uses. Adjacent and neighboring properties shall be protected against noise, glare, unsightliness or other objectionable features. Where a proposed use is a nonresidential use which would adjoin residential areas, special consideration shall be given by the Planning Board to minimizing the impact of the proposed use on the residential properties.
- (n) Snow clearance and removal. The means employed to address snow and ice removal from sidewalks, parking lots and driveways must be sufficient to safely and adequately handle the type and volume of snow and ice which can reasonably be anticipated to be deposited by nature on the site without subjecting green space areas to damage and while maintaining the minimum required parking spaces.
- (o) Design elements review. The design elements of the site shall be in harmony with the natural environment and in keeping with the character of the surrounding neighborhood.
- (p) Impact of the proposed use on both on-site and off-site infrastructure. The proposed project shall not place an undue burden on the existing infrastructure's capacity (i.e., roadways, drainage, utilities). Should infrastructure capacity be inadequate, the project sponsor shall be required to provide for the necessary improvements to the infrastructure to accommodate the development or mitigate the impact on said infrastructure.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- (4) General Requirements.
- (a) Site development proposals shall conform in all respects to this Chapter and the other laws and ordinances of the Town of Colonie as well as conforming to the town official highway map, if any, and to any comprehensive planning documents, other plans or maps as may be adopted by the Town Board.
  - (b) Open space requirements of this Chapter cannot be waived during site plan review, nor shall they be subject to review by the Zoning Board of Appeals.
  - (c) The project sponsor shall comply with all applicable federal, state and local laws, rules and regulations.
  - (d) Site development proposals shall conform to the Design Guidelines contained in this Chapter.
  - (e) Natural features of the property to be developed shall be preserved and enhanced, as far as is practical.
  - (f) Adequate buffering shall be established to mitigate the impacts of visual and noise pollution, to the satisfaction of the Planning Board.
  - (g) All lots shall be graded to provide positive drainage of surface water from all points on the lot to a stormwater disposal system, drainage channel, or ground water recharge (infiltration) system.
  - (h) The applicant shall be responsible for keeping existing public highways and adjacent lands free of debris, soil and other matter which may accumulate due to construction related to the site.
  - (i) The Planning Board may, at its discretion, require the submission of such additional information or reports as it deems necessary to conduct its review.
  - (j) The Planning Board may, at its discretion, require that provision be made for public amenities and off-site improvements as conditions of their approval, provided that the same have a rational nexus to the project. Such improvements or amenities shall be installed or provided for prior to issuance of a temporary or final certificate of occupancy.
  - (k) All applications for site plan approval shall be made by the owner of the property to be developed or used or by a party with a purchase agreement for the property. The applicant shall bear the sole responsibility for ensuring that all improvements are completed in accordance with approved plans, specifications and standards.
  - (l) No temporary or final certificate of occupancy shall be issued until all required improvements are satisfactorily completed, and the PEDD has issued a written site plan approval compliance release to the Building Department. In lieu of completion of the

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- required improvements, the Planning Board may permit posting of escrow for the completion thereof.
- (m) Where applicable, the Planning and Economic Development Department shall refer submittals to the Albany County Planning Board and to neighboring municipalities in accordance with the New York State General Municipal Law, §§ 239-l through 239-nn.
  - (n) Pedestrian walkways, entrances and exits and parking designed for use by disabled people shall be provided in accordance with the requirements of NY State and Federal law (e.g., New York State Uniform Fire Prevention and Building Code, the New York State Vehicle and Traffic Law and the Federal Americans with Disabilities Act.) Where the provisions of those statutes conflict, the most stringent provisions shall be met.
  - (o) The applicant shall obtain any necessary permits or approvals from state or county agencies prior to issuance of any final site plan approval.
  - (p) All plant materials installed pursuant to an approved site plan shall conform to the American Standard for Nursery Stock (ANSI Z60.1-1986) of the American Association of Nurserymen, or equivalent recognized standard, and shall be installed and maintained in accordance with accepted industry practice.
  - (q) No portion of any site shall be used for storage or display of any product or material or for parking of any vehicles or for the conduct of any other business operations, unless specifically designated for such use on an approved final site plan.
  - (r) Site development consideration must include the preservation and supplementation of existing vegetation and the preservation of existing features of environmental significance and the screening of parking and service areas from public view.
  - (s) The minimum percentage of landscaped area shall be 35%, except where an incentive has been granted under the incentive provisions of this Chapter. If the site lies within more than one zoning district, the minimum required landscaped area must be contained within the district or districts within which the use is permitted.
  - (t) Particular emphasis should be given to landscaping a significant portion of the front yard of any lot.
  - (u) If for any reason the elements of a landscape plan do not survive, the Planning Board shall require the removal and replacement of such material.
- (5) Major Site Plan Review procedure.
- (a) Pre-submission conference. Major site plan applications shall have a pre-submission conference with Development

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

Coordination Committee (DCC).

- [1] The purpose of such conference shall be to give both the town and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. This conference does not constitute a formal submission of an application. The Applicant shall prepare a Sketch Plan and narrative description of the project and provide copies as requested by the PEDD prior to the Pre-submission conference.
  - [2] The DCC shall provide project direction and feedback on the Sketch Plan to the Applicant based on the professional expertise of the DCC, the Town's current planning documents and the design guidelines and other requirements of this Chapter. If the applicant proposes to apply Incentive Zoning provisions to the project, the DCC shall include in its review the adequacy of the public street and utility systems to support the proposed increase in development intensity.
  - [3] The PEDD shall, when applicable, refer the proposal to the Planning Board for its determination as to whether the application of Incentive Zoning provisions to the project site is appropriate, and advise the applicant of the Planning Board's determination.
- (b) Zoning Verification. An application for Zoning Verification must be made to the Building Department as outlined in the Overview of Permits and Approvals Article of this Chapter. The Building Department will issue its verification to Planning and Economic Development Department (PEDD) and the applicant. The PEDD will notify the applicant of necessary documentation to accompany the application for Major Site Plan Review.
  - (c) Concept Submission. Applications shall be submitted to the PEDD, who shall review the submittal for completeness. Once the PEDD has received a complete application the PEDD shall notify the applicant and refer the proposal to such other agencies as it deems appropriate and shall place the proposal on the Planning Board meeting agenda for presentation by the applicant to the Planning Board.
  - (d) Conceptual plan review and acceptance. -- The purpose of the conceptual plan is to provide the project sponsor and the Planning Board with a flexible design that may be readily changed before a detailed final site plan is produced.
  - (e) The project sponsor shall present the proposal to the Planning Board and based on its review and such recommendations as it

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

may receive from PEDD and other agencies and departments, the Board shall act to accept, reject or request modification of the conceptual plan. Failure to act does not constitute approval.

- [1] In the event that the conceptual plan is rejected, the applicant may revise and resubmit the conceptual plan, withdraw the application or prepare a final submittal in accordance with the rejected conceptual plan and apply for final site plan review and approval.
- [2] In the event that a modification is requested, the applicant shall re-submit the modified plan to PEDD for review as described above under the Initial Approval Process.
- (f) Any Planning Board conceptual plan acceptance shall be valid for one year from the date of issuance. Conceptual acceptance may be extended for one additional year upon written request by the applicant and after due consideration by the Planning Board.
- (g) Final site plan review and approval
  - [1] Upon acceptance of a conceptual plan by the Planning Board or in the event that an applicant wishes to proceed with a rejected conceptual plan, the applicant shall prepare and submit a final site plan to the PEDD.
  - [2] The PEDD shall review the submittal for completeness and compliance with the requirements of this Chapter and shall refer the submittal to such other department or agencies, as it deems appropriate, for additional review.
  - [3] Upon satisfactory completion of required technical reviews, the PEDD shall notify the applicant and refer the submittal to the Planning Board for its action.
  - [4] The Planning Board may schedule public informational meeting(s) on any site plan application submitted to it for the purpose of obtaining public input thereon. Such public informational meetings are not required to conform to the procedural requirements of publication and notice that statutorily mandated public hearing(s) have associated with them but shall conform to such notification requirements as may be adopted by the Town Board or Planning Board.
  - [5] The Planning Board shall act to approve, deny or approve with modification the final site plan. Failure to act does not constitute approval.
  - [6] In the event that an approval with modification is made, the applicant shall submit the modified plan to the PEDD and, upon completion of such further technical review and consultation with the Planning Board as may be necessitated by the modification, the PEDD shall verify that the submittal

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

is in accordance with the Board's decision.

- [7] In the event that a modified plan is not submitted to the PEDD within six months from the date of the Planning Board's decision to approve with modification, the approval shall become invalid.
  - [8] In the event that the application is denied, the applicant may have the decision reviewed only by the Supreme Court of the State of New York in the manner provided by law.
  - [9] Issuance of approval. Upon approval of a final site plan by the Planning Board, the applicant shall furnish to the PEDD sufficient copies of such plans and related documents as are necessary for distribution to appropriate parties.
  - [10] The PEDD shall sign and affix a stamp of approval to said plans and shall distribute them together with copies of the applicable approval form.
  - [11] A grading permit as provided for in this Chapter may only be applied for with respect to any proposed site development upon receipt of a final site plan approval. Until such time, no grading or clearing shall be done on the subject site.
  - [12] No occupancy or use of the site may occur until the PEDD has determined that all required improvements have been made and the PEDD has issued a site plan approval compliance release to the Building Department and, when applicable, a certificate of occupancy has been issued by the Town Building Department.
  - [13] Any Planning Board final site plan approval shall be valid for two years from the date of issuance.
  - [14] Final site plan approval may be extended annually for an additional one-year period upon written request and due consideration of the Planning Board.
- (6) Application Requirements for Conceptual Site Plan Review. Requirements for a conceptual plan submission shall include, but not be limited to, the following:
- (a) Submission of a conceptual plan application on forms provided by the PEDD, together with payment of the required fee as established by the Town Board.
  - (b) A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (schools, traffic generation, population, utilities, aesthetics and land use compatibility) and including the following:
    - [1] The address of the site
    - [2] The name of the applicant

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- [3] Site zoning district
- [4] The name of the proposed tenant/business.
- [5] A description of existing site and use.
- [6] A description of intended site development and use.
- [7] Anticipated impacts on services (i.e., traffic, sewer, water) with projected quantities.
- [8] The impact on adjoining property; noise, visual, drainage, other.
- [9] Proposed gross floor area.
- [10] Proposed number of parking spaces.
- [11] The number of employees.
- [12] Site coverage statistics in square feet and as percentage of the total area.
- [13] Hours of operation.
  
- [14] Storage and disposal method of chemicals used (solvents, soaps, etc.).
- [15] Impact on town communications system of any proposed communications devices (e.g., microwave transmitters).
- [16] Description of project construction sequence and phasing.
- (c) Photograph(s) of the site.
- (d) Approved Building Department zoning verification (For a Planned Development District submittal, a completed, unapproved Zoning Verification form shall be submitted.)
- (e) Completed environmental assessment form.
- (f) Site analysis diagram to include the following features:
  - [1] North arrow.
  - [2] Boundary survey map of property to be subdivided at a scale of one inch equals 10 feet, one inch equals 20 feet, one inch equals 30 feet or one inch equals 40 feet. Sheet size shall be twenty-two by thirty-four (22 x 34) inches or thirty-four by forty-four (34 x 44) inches.
  - [3] Existing topography at contour intervals of two feet or less, extending 50 feet from the site and based on a NGVD 1929 benchmark. Where the boundary of a zoning district which permits residences exists within 100 feet of the site, topography shall be extended to a distance of 100 feet in the direction of the district boundary.
  - [4] Existing zoning district, with district boundaries within 300 feet of the site.
  - [5] The names of adjoining property owners.
  - [6] Location and description of existing vegetation (species, size, condition and value), watercourses, wetlands,

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- floodplains and other natural features.
- [7] Existing streets, utilities, structures, other man-made features, on or within 50 feet of the site.
  - [8] Soil analysis describing soil types, surface and subsurface rock and groundwater conditions.
  - [9] Identification of visual features such as smokestacks, borrow pits, overhead utility lines, junkyards, refuse areas and billboards (if none, so note).
  - [10] Identification of sources of smoke, noise, odors or other emissions (if none, so note).
  - [11] Small-scale location and zoning map at a scale of one inch equals 2,000 feet as inset; location map shall be oriented the same as the site analysis.
  - [12] Identification, by both verbal description and graphic depiction, of adjacent land uses.
  - [13] Where the site is a component or phase of a larger development, an overall plan of the larger development must be submitted.
  - [14] Existing structures, utilities and site improvements on and within 50 feet of the site. Where a boundary of a zoning district which permits residences exists within 100 feet of the site, existing structures, utilities and site improvements shall be extended to a distance of 100 feet in the direction of the district boundary.
- (g) Conceptual plan on site analysis base map, including the following added information:
- [1] Proposed buildings, other improvements (with building and setback dimensions).
  - [2] Proposed utilities, including lateral locations, sizes and connection points.
  - [3] Proposed vegetation and landscaping.
  - [4] Proposed parking, circulation, storage, service and display areas.
  - [5] The number of parking spaces.
  - [6] Access.
  - [7] Proposed drainage concept.
  - [8] Existing/proposed easements.
  - [9] Site coverage statistics.
  - [10] Floor plan.
  - [11] Analysis of parking requirement.
  - [12] Architectural plans, including a color perspective rendering of the building, and building elevations from the front, rear and side, showing materials and colors to be used on

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- exterior finishes and any other features the Planning Board may reasonably request.
- [13] Existing limits of the Latham Water District or a note stating that the site is inside, partially inside or outside the district.
- (h) Such additional reports, maps, plans or materials as the Planning Board may reasonably request and deem necessary to make the determinations required by the New York State Environmental Quality Review Act and this chapter.
- (i) Digital image files of full set of concept site plans in format acceptable to the PEDD.
- (7) Final site plan requirements. The requirements for a final review and approval for a major site proposal shall include, but not be limited to, the following:
- (a) A final site plan at the same scale as concept submission, showing:
- [1] Exact boundary and lot lines, showing bearings and distances, including any interior lot lines.
  - [2] Lot area in acres and square feet.
  - [3] Small-scale location plan at a scale of one inch equals 2,000 feet, oriented the same as the site plan.
  - [4] Existing utilities.
  - [5] Proposed finished floor elevations.
  - [6] Title block, including the name of the project, the name of the applicant, the name of the map preparer, the date of the map and address of property.
  - [7] A three-inch-by-three-inch block for Planning Board approval stamp.
  - [8] Lot number(s) as approved by the Town Assessor.
  - [9] Building setback dimensions to each lot line.
  - [10] Existing zoning district with district boundaries within 300 feet of the site.
  - [11] Fire and school district boundaries within the site.
  - [12] Existing and proposed topography at contour intervals of two feet or less, extending 50 feet from the site, and based on a NGVD 1929 benchmark.
  - [13] Proposed utilities.
  - [14] Limits of grading and clearing.
  - [15] Location of all easements.
  - [16] Building location and dimensions.
  - [17] Site coverage statistics in square feet and as percentage of the total area.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- [18] Layout and dimensions of parking, drives and walks.
- [19] Service, equipment locations: HVAC, refuse and loading storage.
- [20] Fencing: location, type and height.
- [21] Landscaping, existing to be preserved; proposed species, size and location [deciduous trees two to two and one-half (2 1/2) inches caliper minimum; evergreen trees five feet high minimum].
- [22] Location of fire lanes and hydrants.
- [23] Surface treatment (paving, gravel, lawn, ground cover, etc.) identified for all areas.
- [24] Location of and data on soil tests and groundwater elevation.
- [25] Owners and use of adjacent land.
- [26] Lighting plan and details showing fixture locations and type, and lighting pattern.
- [27] Access/parking for the disabled.
- [28] Traffic flow pattern.
- [29] Location of freestanding signs with setback dimensions.
- [30] North arrow.
- [31] Details: storm system, walls, curbs, pavement sections, etc.
- [32] Proposed erosion control measures.
- [33] Curbing to protect green space.
- [34] Stamp and signature of a New York State licensed professional. Plans shall be prepared by an engineer, surveyor, architect or landscape architect licensed by the State of New York and authorized under their New York license to execute the plans and contents thereof.
- [35] The following standard notes:
  - [a] The applicant shall comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the State Environmental Quality Review Act (SEQR), Freshwater Wetlands Permit Regulations, the Town Grading, Floodplains Management, and Protected Watercourse Area Management Regulations.
  - [b] The applicant shall bear the sole responsibility for ensuring that all improvements are completed in accordance with approved plans, specifications and standards.
  - [c] No certificate of occupancy shall be issued until all required improvements are satisfactorily completed and the Planning and Economic Development Department

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

has issued written authorization to the Building Department.

- [d] The applicant shall be responsible for keeping existing public highways and adjacent lands free of debris, soil and other matter which may accumulate due to construction related to the site.
  - [e] All site lighting shall be designed and installed so as not to illuminate adjacent properties or highways.
  - [f] All plant materials installed pursuant to this site plan shall conform to the American Standard Nursery Stock (ANSI Z60.1-1986) of the American Association of Nurserymen or equivalent recognized standard and shall be installed and maintained in accordance with accepted industry practice.
  - [g] No portion of this site shall be used for storage or display of any product or material or for parking of any vehicles or for the conduct of any other business operations, unless specifically designated for such use on this site plan.
- (b) For Planned Development District proposals, an approved Building Department Zoning Verification.
  - (c) Professional certification form.
  - (d) Storm water pollution prevention plan, including storm water management report in accordance with the town's standard format.
  - (e) Any additional engineering reports, supporting documentation or other information as may be required by the Planning Board to complete its review.
  - (f) Required warranty deeds, real property transfer gains tax affidavits and 8 1/2" x 11" or 8 1/2" x 14" boundary maps certified to Town and title company
  - (g) Digital image files of final set of final site plans in format acceptable to the PEDD.
- (8) Additional Site Plan Approval Criteria for Incentive Projects.
- (a) All applicants seeking incentives must apply for Planning Board review.
  - (b) Applications requesting incentives in exchange for providing amenities shall include the following additional information during site plan review:
    - [1] The requested incentive.
    - [2] The proposed amenity.
    - [3] The location of the proposed amenity.
    - [4] The constrained land and unconstrained land must be

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- mapped, with the proposed amenity land area specifically identified and highlighted on the map.
- [5] The proposed land conservation mechanism(s).
  - [6] The estimated cash value of the proposed amenity.
  - [7] A narrative which demonstrates the following:
    - [a] The benefits to the community, including the immediate benefit area, from the proposed amenity.
    - [b] Consistency with the goals and objectives of the Town's Comprehensive Plan.
    - [c] The relative importance and need for the amenity.
  - [8] A demonstration there are adequate sewer, water, transportation, waste disposal and fire-protection facilities to handle the additional demands the incentive may place on those facilities beyond the demand that would be placed on them if the project were developed without incentives.
  - [9] Any other information or support materials as needed or requested by the Planning Board.
- (c) Findings and Final Decision. - In addition to any findings made under the Site Plan Review Process the Planning Board shall make findings including, but not limited to, the following:
- [1] Development capacity: that the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town Code.
  - [2] Public benefit: that the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted.
  - [3] Comprehensive plan: that the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.
- (d) The Planning Board may impose conditions on a project to ensure that the above findings are met through the subsequent plan review and construction phases of the project.
- (e) Notations on Final Site Plan. Preserved open space land shall be clearly delineated and labeled on the Final Site Plan as to its use, ownership, management, method of preservation, and the rights, if any, of the public to the open space land. The Final Site Plan shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement or other permanent encumbrance, and shall include deed recording information in the County Clerk's office for the

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- conservation easement.
- (9) Condominium Proposals. For condominium proposals, the following additional items shall be required:
- (a) Copy of bylaws.
  - (b) The name and address of the condominium association contact person.
  - (c) A copy of any and all rules and regulations.
  - (d) A copy of any and all restrictions, covenants, easements, etc., relating to the operation, control, maintenance and preservation of common areas or open space.
- (10) Submittal for Stamping and Signing.
- (a) Within six months after receiving site plan approval, with or without modifications, the applicant shall submit copies of the site plan to the PEDD as required for stamping and signing. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:
    - [1] Record of application for and approval status of all necessary permits from federal, state and county officials.
    - [2] An estimated project construction schedule.
    - [3] Proof of payment of the Planning Board's reasonable review costs.
  - (b) Upon stamping and signing the site plan, the PEDD shall forward a copy of the approved site plan to the Building Department and the applicant. The Building Department may then issue a building permit if the project conforms to all other applicable requirements.
- (11) Compliance with Approval Prior to Occupancy or Use; Penalty for Noncompliance. Upon issuance of the final site plan approval and such other permits and approvals as may be necessary; the applicant shall develop the site in strict compliance with the approved plans and in conformance with such additional conditions as may have been imposed by the Planning Board in granting conceptual or final site plan approval. No occupancy or use of the site may occur until the PEDD has determined that all required improvements have been made and the PEDD has issued a site plan approval compliance release to the Building Department and, when applicable, a certificate of occupancy has been issued by the Town Building Department. If any occupancy or use does occur prior to such time, the "Penalties for offenses" provisions of this Chapter shall become applicable.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- (12) Site Plan Amendments. The site plan may be amended by filing an application with the Planning Board for a site plan amendment prior to the completion of the development authorized under the approved site plan.
- (a) If the Planning Board finds that such proposed amendment is consistent with the terms of any applicable special use permit approval (or if no special use permit is required) and does not represent a substantial change from the approved site plan, the amendment shall be approved.
  - (b) If the Planning Board determines that the proposed amendment is consistent with the terms of the applicable special use permit approval (or if no special use permit is required), but is a substantial change from the approved site plan, it shall follow the procedures for site plan approval contained above.
  - (c) If the Planning Board determines that the proposed amendment is inconsistent with the terms of any special use permit approval, it shall consider the application to be one for a special use permit amendment and proceed pursuant to this Chapter.
- (13) Compliance with Final Site Plan After Issuance of Occupancy Permit; Penalty for Noncompliance. If, at any time after an occupancy permit, temporary or permanent, has been issued and the site and building or buildings are occupied and/or used, the Planning Board or PEDD finds that any of the conditions of an approved final site plan have not continued to be met, the PEDD shall order the owner and tenants to make such corrections as it deems necessary to bring the use and operation into compliance with the provisions of such plan. In the event that the owner and tenants have failed to comply or maintain compliance with the final site plan after being ordered by the PEDD to make such corrections, the "Penalties for offenses" provisions of this Chapter shall become applicable.
- (14) Duration of Approval. Any Planning Board conceptual plan acceptance shall be valid for one year from the date of issuance. Any Planning Board final site plan approval shall be valid for two years from the date of issuance. For purposes of this section, the date of issuance shall be the date that notice of a Planning Board decision granting such acceptance or approval is filed in the office of the Town Clerk.
- (15) Extension of Approval. Application materials required shall be for the purpose of determining whether any change in the condition of the site or its environs has occurred or whether the applicable law has been changed. The extension will only be granted provided the plans have been reviewed by the Planning and Economic Development Department and such other agencies as it deems appropriate and

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

due consideration of the application has been made by the Planning Board. If there is no substantial change in the condition of the site or its environs or in the applicable law:

- (a) Conceptual acceptance may be extended for one additional year upon written request by the applicant and after due consideration by the Planning Board.
- (b) Final site plan approval may be extended annually for an additional one-year period, upon submission of:
  - [1] A written request for such extension.
  - [2] Fee required pursuant to the fee schedule adopted by the Town Board has been paid.
  - [3] An updated, approved zoning verification.
  - [4] A current site plan application.
  - [5] Any other materials which the Planning and Economic Development Department or the Planning Board deems necessary.

**C. Special Use Permit Review**

- (1) Purpose. The primary purpose of Special Use Permit review is to ensure the use's compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Town. The intent of this section is to set forth additional considerations and requirements which shall apply to certain land uses and activities that, due to their special characteristics, or the special characteristics of the area in which they are to be located, require particular consideration so that they may be properly planned and located with respect to the objectives of this Chapter and their effect on the surrounding properties and community character.

It is the policy of the Town of Colonie to allow a variety of uses of land, but only when such uses do not adversely affect neighboring properties, or the natural environment of the Town. Many uses are therefore permitted only upon issuance of a special use permit by the Planning Board, in order to ensure that these uses are appropriate to their surroundings and consistent with the Town's Comprehensive Plan. Accessory uses or structures used in connection with a special use permit or site plan use shall be subject to the same approval requirements as the principal structure or use.

- (2) Special Use Permit Procedure. All special use permit review and approval shall occur concurrently with Site Plan review. Applicants shall refer to the Site Plan Review section for application content and review process. For Major Site Plan Review actions, the special use

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

permit review shall be conducted concurrently with the concept site plan review.

- (3) Planning Board review. The Planning Board shall not issue a special use permit unless it makes a written finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require reasonable conditions, restrictions and/or modifications to the project. Such reasonable conditions and restrictions shall be directly related to and incidental to the proposed special use permit. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial or approval, the record of the Planning Board must address the standards outlined below and include the facts and reasons upon which such denial was based.
- (4) Findings required. In granting or denying special use permits, the Planning Board shall take into consideration the scale of the proposed project and the possible impact of the proposed project on neighboring properties. Before granting a special use permit, the Planning Board shall determine:
- (a) That the use conforms with Specific Special Use Permit Standards found in the Use Regulations Article of this Chapter.
  - (b) That the use is consistent with the Town's current planning documents including the Comprehensive Plan.
  - (c) That the use is consistent with the purposes of the land use district in which it is located, and with the applicable provisions of this Chapter including any other detailed special use permit criteria provided herein.
  - (d) That the use will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat and hydrology and, if appropriate, its ability, if desirable, to be buffered or screened from neighboring properties and public roads.
  - (e) That the use will be compatible with adjoining properties and with the natural and man-made environment.
  - (f) That the use will not adversely affect surrounding land uses by creating excessive noise, dust, odors, glare, pollution or other nuisances.
  - (g) That the use will not cause undue traffic congestion, unduly impair pedestrian safety or overload existing roads, considering their current width, surfacing and condition.
  - (h) That the use will have appropriate parking and be accessible to

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- fire, police and other emergency vehicles.
- (i) That the use will not overload any public water, drainage or sewer system or any other municipal facility or service, including schools.
  - (j) That the use will not degrade any natural resource, ecosystem or historic resource.
  - (k) That all relevant site planning criteria can be satisfied and a site plan approval can be granted under this Chapter.
- (5) Planning Board Action.
- Site Plan approval. Site plan approval is a required step in the consideration of all special use permit uses and shall be carried out either prior to, or in conjunction with, these special use permit procedures.
- (a) Public Hearing. – The Planning Board shall conduct a public hearing once a complete application is received.
  - (b) Notice.
    - [1] Public Notice. – Notice of the Public hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof.
    - [2] Applicant’s Notice – At least ten days before such hearing, the Planning Board shall mail notices thereof to the applicant.
    - [3] County and Neighboring Municipality Notice – The planning board shall provide notices of the hearing to the county planning board and neighboring municipalities, as required by section 239-m and 239-nn of the General Municipal Law.
- (6) Decision. After the conclusion of a public hearing for a special use permit, including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions, the special use permit.
- (a) Any decision shall contain written findings explaining the rationale for the decision in light of the standards contained herein. The grant of a special use permit shall be conditional upon the approval of a site plan pursuant to this Chapter.
  - (b) In granting a special use permit, the Planning Board may impose any conditions that it considers necessary to fulfill the purposes of this Chapter. These conditions may include, but shall not be limited to, increasing dimensional or area requirements, requiring the permanent set-aside of open space land, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities and requiring action by the applicant,

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

including the posting of performance bonds and furnishing of guaranties to insure the completion of the project in accordance with the conditions imposed.

- (7) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk, and a copy thereof mailed to the applicant.
- (8) Application for Area Variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the dimensional requirements of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to this Chapter.
- (9) Expiration, Change of Use, Revocation and Enforcement.
  - (a) A special use permit shall expire if the special use permit use or uses cease for more than 24 consecutive months for any reason, if the applicant fails to obtain the necessary building permits or fails to comply with the conditions of the special use permit within 18 months of its issuance or if its time limit expires without renewal.
  - (b) A special use permit shall apply only to the use for which it has been granted.
  - (c) A new special use permit shall be required for any change to a new use that requires a special use permit.
  - (d) A special use permit may be revoked by the Planning Board if the permittee violates the conditions of the special use permit or engages in any construction or alteration not authorized by the special use permit.
  - (e) Any violation of the conditions of a special use permit shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- (10) Special Use Permit Amendments. The terms and conditions of any special use permit may be amended in the same manner as required for the issuance of a special use permit, following the criteria and procedures in this section. Any enlargement, alteration or construction of accessory structures not previously approved shall require only site plan approval provided that the use does not change and that such alteration does not increase the total floor area or impermeable surface coverage by more than 10% over the area originally approved under the Special Use Permit. A special use permit amendment shall be required in addition to site plan approval in other cases.

**D. Administration and Enforcement.**

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

The provisions of this article shall be primarily administered and enforced by the PEDD, which shall have the power to make necessary inspections.