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TOWN OF BERLIN

Rensselaer County, New York

Local Law #2 October 13, 1988

LAND USE REGULATIONS

Prepared for

BERLIN TOWN BOARD

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Prepared by

BERLIN LAND USE COMMITTEE

And

RENSSELAER COUNTY BUREAU OF
BUDGET, RESEARCH AND PLANNING

TOWN OF BERLIN
Rensselaer County, New York
Local Law #____, 1988

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ARTICLE 1: TITLE, SCOPE AND PURPOSE

A. Title

This Local Law shall be known and may be cited as "The Land Use Regulations of the Town of Berlin, Rensselaer County, New York."

B. Scope

This Local Law regulates and guides the use of land and the location, construction, alteration, and occupancy of structures in the Town of Berlin and for said purposes divides the Town into land use districts.

C. Enacting Clause and Purposes

This Local Law is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, and the general-welfare, specifically including the following general purposes:

1. To allow reasonable growth and development while protecting the rural, scenic, historic, economic, recreational and environmental qualities of the Town;
2. To recognize the significance of and to promote sound agricultural and forestry practices in the Town;
3. To allow business and job opportunities to develop within the context of the Town in order to meet the needs of Town residents;
4. To respect and enhance the physical characteristics of soils, topography, vegetation, and water sources by ensuring that activities which affect these resources are done in a manner which prevents erosion, sedimentation, ponding, flooding or other damage;
5. To regulate building densities in order to assure access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to facilitate the adequate provision of water and sewerage; `
6. To assure privacy for residences and protection against unsightly, obtrusive and noisome land uses and operations;
7. To safeguard individual choice and decisions while respecting the diversity of needs of the Town's residents and future residents;
8. To recognize that residents of the Town of Berlin have a personal and monetary investment in their property, and to protect the value of that investment.

ARTICLE II. ESTABLISHMENT OF LAND USE DISTRICTS

- A. **LAND USE DISTRICTS.** In order to fulfill the purposes of this Local Law, the Town of Berlin is hereby divided into the following land use districts:

R-1	Residential District
R-2	Residential District
C	Commercial District
I	Industrial District
RU	Rural Use District

An overlay district is also hereby created:

FF-O Flood Fringe Overlay District

- B. **LAND USE DISTRICT MAP.** The location and boundaries of said Districts are shown on the "Land Use District Map, Town of Berlin". Said map, together with all explanatory matter and all amendments, is hereby adopted and is made a part of this Local Law. Said Map shall be kept up-to-date and shall be located in the Office of the Town Clerk for the use and benefit of the public.
- C. **INTERPRETATION OF LAND USE DISTRICT BOUNDARIES.** Where uncertainty exists with respect to the boundaries of any of the land use districts as shown on the Land Use District Map, the following rules shall apply:
1. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highway , public utility easements, or watercourses, or the Town boundary line, property lines or lot lines, said boundaries shall be construed to be coincident with such lines.
 2. Where district boundaries are indicated as approximately parallel to the Town boundary line, property lines, lot lines, or right-of-way lines, said boundaries shall be construed as being parallel to such lines and at such distances therefrom as indicated on the Land Use District Map or as shall be determined by use of the scale shown on the Land Use District Map.
 3. In all other cases, where dimensions are not shown on the Land Use District Map, the location of the boundaries shown on the map shall be determined by the use of the scale appearing thereon.
- D. **DELINEATION OF FLOOD FRINGE OVERLAY.** The boundary of the Flood Fringe Overlay is established as delineated by the floodway and floodway fringe on the most current edition of the appropriate "Federal Insurance Administration Flood Insurance Rate Map" as issued for the Town of Berlin by the U.S. Department of Housing and Urban Development. Any revisions, amendments or successors with all explanatory matter, are adopted and made part of this Local Law. The latest edition of

said map shall be kept on file in the offices of the Town Clerk and the Town Building Inspector for the use and benefit of the public.

E. APPLICATION OF LAND USE DISTRICT REGULATIONS. Except as otherwise provided in this Local Law:

1. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, altered, reconstructed or enlarged except in conformance with the Use Regulations and the Area and Bulk Regulations specified in this Local Law for the district in which it is located.
2. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
3. No lot existing at the time of passage of this Local Law shall be reduced in size or area below the minimum requirements in this Local Law.
4. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use except as otherwise provided in this Local Law.
5. Within each district, the Use Regulations and the Area and Bulk regulations in this Local Law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure, land or use.

ARTICLE III. USE REGULATIONS

- A. **SCHEDULE OF USE REGULATIONS.** The general use regulations in each land use district are set forth in the attached “**DISTRICT SCHEDULE OF USE REGULATIONS**”. This Schedule is supplemented, as appropriate, by other provisions of this Local Law.

**TOWN OF BERLIN
DISTRICT SCHEDULE OF USE REGULATIONS**

STRUCTURE/LAND USE	LAND USE DISTRICTS				
	R1	R2	C	I	RU
RESIDENTIAL USES					
o One-family dwelling	P	P	P	X	P
o Two-family dwelling	P	P	P	X	SP
o Multi-family dwelling	X	X	P*	X	X
o Residential cluster development in accordance with Article V(J)	P*	P*	P*	X	P*
o Individual mobile home	SP	SP	X	X	SP
o Mobile home park	X	X	X	X	SP*
o Home occupation	SP	SP	SP	X	SP
o Accessory uses	P	P	P	P	P
GENERAL USES					
o Forestry uses	P	P	P	P	P
o Institutional and cultural facilities	P*	SP*	P*	X	X
o Heliport or airport	X	X	X	X	SP*
o Public utility or facility	X	X	SP*	P*	SP*
o Golf course or country club	X	P*	X	X	P*
o Camp	X	X	X	X	SP*
o Day camp	SP*	SP*	X	X	SP*
o Roadside stand	P	P	P	X	P
o Bed and breakfast establishment	SP*	SP*	P*	X	SP*
COMERCIAL USES					
o Retail business, personal services or professional office	SP*	SP*	P*	X	SP*
o Restaurant	SP*	SP*	P*	P*	SP*
o Tourist home	SP*	SP*	P*	X	SP*
o Self-service laundry	SP*	SP*	P	SP*	SP*
c Recreational vehicle park	X	X	X	X	SP*
o Commercial recreation facility	X	X	X	SP*	SP*
o Automobile service station	X	SP*	SP*	SP*	SP*
o Automobile repair facility	X	SP*	SP*	SP*	SP*
o Automobile or equipment rental or sales	X	SP*	P*	P*	SP*
o Car wash	X	SP*	SP*	P*	SP*
o Lumberyard or sawmill	X	X	SP*	SP*	SP*
INDUSTRIAL USES					
o Junk yard	X	X	X	X	SP*
o Warehousing	X	X	X	P	X
o Commercial excavation	X	X	X	X	SP*
o Outdoor sales of heavy motor equipment	X	X	SP*	SP*	X
o Light manufacturing or processing	X	X	SP*	P*	SP*
o Wholesale business not otherwise specifically mentioned	X	X	X	P*	SP*

KEY: P = use permitted by right,
SP = special permit required (see Article VI of this Local Law
X = prohibited use
* = site plan review required (see Article VII of this Local Law)

For uses not specifically listed in this Schedule, the Building Inspector shall determine which category best applies.

ARTICLE IV. AREA AND BULK REGULATIONS

- A. **DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS.** The general area and bulk requirements in each land use district are set forth in the attached "DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS". This Schedule is supplemented, as appropriate, by other provisions of this Local Law.
- B. **EXISTING LOTS OF RECORD.** Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed area, width or depth, if such existing lot of record was owned individually or separate from any adjoining tract at the time of enactment of this Local Law, provided that all other provisions of the Local Law are met.
- C. **HEIGHT EXCEPTIONS.** The height restrictions set forth in the "District Schedule of Area and Bulk Regulations" shall not be applicable to the following:
1. Flagpoles, radio or television antennae, transmission towers or cables, agricultural silos, and similar features, any of which shall be restricted to a maximum height of one hundred (100) feet above average finished grade at its base.
 2. A spire, belfry, chimney, skylight, water or cooling tower, parapet or railing, elevator, stair bulkhead, solar collector, air conditioning unit or similar structure, any of which shall be erected only to such height as is necessary to accomplish the purpose for which it is intended.
- D. **CORNER LOTS.**
1. *Required Front Yards.* On a corner lot, each street frontage shall be deemed a front street line, and the required yard along each such lot line shall be a required front yard. The Building Inspector in consultation with the owner shall decide which of the remaining yards shall be the required side yard and the required rear yard.
 2. *Obstructions at Street Intersections.* At all street intersections, no fence, wall, hedge, structure or planting over three (3) feet in height shall be erected which would obstruct the vision of street traffic.
- E. **ARCHITECTURAL FEATURES AND ACCESSORY STRUCTURES PERMITTED IN REQUIRED YARDS.**
1. The following architectural features of a building may extend into a required yard subject to the limitations provided herein:
 - a. Ordinary projections of window sills, belt courses, cornices, eaves, and other architectural features;
 - b. Chimneys or pilasters:

- c. Open arbor or trellis:
 - d. Unroofed steps, patio or terrace not less than twenty (20) feet from the highway right-of-way nor less than ten (10) feet from any side or rear lot line provided that the building complies with the yard requirements of this Local Law:
 - e. Awning or movable canopy:
 - f. Fence, retaining wall, or masonry wall, except as limited by Articles IV (D) and V (D) of this Local Law.
 - g. Open fire escapes on the side or rear of a building.
2. The following accessory structures may be located in any side or rear yard, subject to the limitations stated herein:
- a. Private in-ground or above-ground swimming pool not less than fifteen (15) feet from the side or rear lot line in conformance with the requirements of Article V (N) of this Local Law.
 - b. Permitted accessory structure, as defined in Article XII of this Local Law, provided:
 - 1. no such structure shall exceed twenty (20) feet in height in any residential district:
 - 2. no such structure shall be set back less than twenty (20) feet from any lot line.
 - 3. all such structures together shall not occupy more than thirty percent (30%) of any required yard; and
 - 4. no such structure shall be closer to the fronting street than the principal building on the lot, or a distance of fifty (50) feet, whichever shall be less.

TOWN OF BERLIN

DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

LAND USE DISTRICT	MINIMUM LOT AREA	MAXIMUM STRUCTURE COVERAGE	MINIMUM OPEN SPACE	MAXIMUM STRUCTURE HEIGHT	MINIMUM LOT WIDTH	FRONT	SIDE	REAR
R-1 RESIDENTIAL	1 ACRE	25%	50%	35'	100'	50'	25'	50'
R-2 RESIDENTIAL	2 ACRES	10%	75%	35'	200'	50'	50'	50'
C COMMERCIAL	1 ACRE	30%	40%	35'	100'	25'	25'	50'
I INDUSTRIAL	2 ACRES	30%	40%	35'	200'	100'	50'	100'
RU RURAL USE	3 ACRES	10%	75%	35'	300'	75'	100'	75'

ARTICLE V. SUPPLEMENTARY REGULATIONS

The following supplementary regulations are applicable to all land use districts within the Town of Berlin unless otherwise provided.

- A. **GENERAL PERFORMANCE STANDARDS.** No use shall be permitted which does not conform to the following standards of use, in addition to all relevant provisions of other local, County, state and Federal laws. These standards are not intended to impede normal agricultural and residential activities.
1. No noise shall be allowed which continually disturbs, injures or endangers the comfort, health or safety of the Town's residents.
 2. The emission of excessive dust, dirt, smoke, fly ash, odor, or noxious gases which can cause damage to the health of persons, animals, plant life, or other forms of property is prohibited. This provision is not intended to restrict the normal use of wood- or coal-burning heating units.
 3. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which the use is located.
 4. There shall be no discharge of any solid or liquid wastes into any stream, wetland, or body of water or any public or private disposal system or on or into the ground, except in strict accordance with the standards approved by the Rensselaer County Department of Health or other duly empowered agency.
 5. No activity shall create a physical hazard by reason of fire, explosion, radiation, electromagnetic disturbance, or other such cause, to any person or property.
 6. There shall be no storage of any material, either indoors or out, in such a manner that it facilitates the breeding of vermin, or endangers health or the environment.
 7. Measures to control erosion, sedimentation, and surface water runoff shall be undertaken prior to during and after any land use or development with the smallest practical area being exposed at any time and for the shortest practical period of time:
 - a. Mulching or temporary vegetation suitable to the site shall be used to protect exposed areas.
 - b. All topsoil excavated during site preparation shall be stockpiled and used for site restoration, and, where necessary, such stockpiles shall be seeded or otherwise treated to minimize erosion.
 - c. Steep slopes where vegetation cannot be readily reestablished or where problems of erosion, sedimentation, or surface water runoff may result, shall not be disturbed or exposed.

8. Any land use or development shall not increase the rate, velocity, or quantity of surface water runoff on neighboring properties nor shall it overload any watercourse with increased runoff, sediment or other pollutant.
9. Drainage systems shall be integrated so as to minimize erosion, sedimentation, slope instability, and adverse effects on neighboring property owners, avoid concentration of water flow, prevent deflection of any receiving watercourse, and not transfer surface water runoff from one watershed to another.
10. Any bulk storage or dumping of any toxic material within the Town of Berlin shall be done in strict accordance to New York State Department of Environmental Conservation regulations.

B. SIGNS

1. Any sign or use of signs allowed by provision of this Local Law shall conform to the following criteria:
 - a. Signs shall at all times be maintained in good repair.
 - b. Signs shall not appear to regulate vehicular traffic nor to resemble official traffic signs or signals.
 - c. Signs shall not project over property lines or the public right-of-way, and no sign shall be erected upon the roof of any building.
 - d. Signs shall not move nor contain flashing or moving lights.
 - e. With the exception of temporary signs, all signs shall convey subject matter related exclusively to the premises on which the sign is located.
2. Temporary signs may be displayed for a reasonable amount of time in advance of the advertised activity, and shall be removed promptly upon fulfillment of the activity. Temporary signs shall be securely anchored and may be erected accessory to all uses in all districts.
3. For home occupations, one sign on the premises not exceeding six (6) square feet in area may be erected to identify the occupation.
4. For non-residential uses within the Residential and Rural Use Districts, a single sign attached to the principal structure is allowed but may not exceed twenty-four (24) square feet in surface area.
5. For non-residential uses within the Commercial and Industrial Districts, the following will be permitted:

- a. either a single sign attached to the principal structure not exceeding twenty-five percent (25%) of the surface area: or
 - b. both a single sign attached to the principal structure not exceeding twenty-four (24) square feet in surface area, and a single free-standing sign also not exceeding twenty-four (24) square feet in surface area.
6. The top of any free-standing sign shall not exceed a height of twenty (20) feet above finished grade or the associated principal structure height, whichever is less. No free-standing sign shall be located closer than twenty (20) feet to any property line.

C. PARKING AND LOADING STANDARDS. All uses shall provide adequate off-street parking for all vehicles parked during the typical peak load period. Parking shall be designed to eliminate the need to back out onto the public road or highway. The basic standard for determining adequacy of provided parking shall be as follows:

If peak loads generate parking that exceeds capacity on the site more often than three times in any one month period, and parking for the use is generated anywhere off the site, the use shall be in violation of this Local Law until sufficient additional parking is provided on the site.

- 1. The Town Board may establish specific schedules of parking requirements for specific problem uses from time to time as necessary. An initial list of specific minimum standards supplementary to the basic standard cited above is included as follows:
 - a. Two parking spaces for each dwelling unit.
 - b. One parking space for every 2½ seats in any public meeting place.
 - c. One parking space for every employee at offices and other places of employment (calculated at maximum employment)
- 2. Off-street loading which is designed logically, and conveniently located for bulk pick-ups and deliveries shall be considered for all commercial and light industrial uses and provided as deemed necessary by the Planning Board during site plan review in accordance with Article VII of this Local Law.

D. FENCES AND WALLS.

- 1. In any residential or commercial district, fences and walls shall not exceed six (6) feet in height when erected in side or rear yards nor four (4) feet in height when erected within twenty-five (25) feet of the front lot line or highway right-of-way.
- 2. In the Industrial District, fences and walls shall not exceed eight (6) feet in height, except that on a residential district boundary line such fences or walls shall be limited to six (6) feet in height.

3. In any district, fences and walls shall additionally conform to the requirements of Article IV (D) of this Local Law, as pertains to corner lots.

E. **HOME OCCUPATIONS.** In any district, home occupations, as defined in Article XII of this Local Law, shall additionally conform to the following use limitations:

1. A home occupation may only be conducted within a dwelling which is a bona fide residence of the principal practitioner of the occupation or in an accessory building which is normally associated with the residential use.
2. The presence of the home occupation shall not alter the primary use or appearance of the premises as a residence, except that a single sign as provided in Article V (B) above shall be permitted. No traffic shall be generated in greater volumes than would be appropriate to a residential neighborhood, with any need for parking generated by the home occupation met on-site and not in the required front yard.
3. Not more than two (2) persons other than members of the household occupying such dwelling shall be employed in the conduct of the home occupation.
4. Display of products outside the residence shall be limited to a representative sample of the products sold in the home occupation.
5. No materials and equipment used in connection with the home occupation shall be permitted in the front yard of the premises. All such materials and equipment shall be screened from view and stored in such a way that they do not pose a nuisance to adjacent property owners, such storage being not less than twenty-five (25) feet from any property boundary.

F. **EXCAVATION, STRIPPING, GRADING AND FILLING.** All use of land for excavation, stripping, grading and filling shall be subject to special use permit review as provided by Article VI of this Local Law, and shall additionally be conducted in strict conformity with all applicable Federal, State, County and local regulations and laws, except that nothing herein shall be deemed to require special use permit review for the following activities:

1. within any parcel or contiguous area:
 - a. Excavation which affects less than six hundred fifty (650) cubic yards of material.
 - b. Stripping which affects less than thirty thousand ((30,000) square feet of ground surface.
 - c. Grading which affects less than fifty thousand (50,000) square feet of ground surface.
 - d. Filling which does not exceed a total of six hundred fifty (650) cubic yards of material.
2. Agricultural operations.

3. Activities preparatory to construction of a building for which a building permit has been issued, or to move such material from one part of a premises to another part of the same premises, when such activity is clearly incidental to the approved building construction/site development, and necessary for improving the property for a use permitted in the district in which it is located.

G. LAKES, PONDS, STREAMS AND WETLANDS.

1. All development proposed within one hundred (100) feet of the mean high water mark of a lake, pond or stream shall be subject to special permit review as provided by Article VI of this Local Law.
2. All development within one hundred. (100) feet of the boundary of a wetland as mapped by the New York State Department of Environmental Conservation shall be prohibited.
3. Nothing herein shall be deemed to prohibit or require special use permit review for boathouses, fences, docks or rafts when such are associated with a lot bordering the mean high water mark of a lake, pond or stream.

H. OUTDOOR STORAGE ON RESIDENTIAL LOTS. Not more than two (2) unregistered vehicles, nor one (1) unoccupied travel trailer or unoccupied recreational vehicle, may be stored outdoors on a lot/in a residential district. All such storage shall occur as inconspicuously as practical and may not occur within the required front yard.

I. FLOOD FRINGE OVERLAY (FF-0). All land use and development within the Flood Fringe Overlay shall be subject to special use permit review as provided by Article VI of this Local Law.

J. RESIDENTIAL CLUSTER DEVELOPMENT. The Town Planning Board is authorized, simultaneously with the approval of a plat or plats pursuant to Article 16 of the Town Law of the State of New York, to modify applicable provisions of this Local Law subject to the conditions set forth in Section 281 of said Town Law and the following requirements:

1. The average density throughout the subdivision shall not exceed the maximum density permissible in the Land Use District.
2. No individual structure shall contain more than four (4) attached residential units.
3. Water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Rensselaer County Department of Health and this Local Law.
4. Common open space totaling not less than twenty-five percent (25%) of the total development site shall be provided in perpetuity.

5. A homeowner's association for the long-term ownership and maintenance of common open space shall be provided, subject to approval of the Town Planning Board.
- K. **SANITARY DISPOSAL.** No person shall construct any new building or structure requiring sanitary disposal in the Town of Berlin without first meeting the requirements for facilities for the separate disposal of sewage, domestic or trade waters in accordance with applicable regulations of the Town, the Rensselaer County Department of Health, and other governmental authorities
- L. **ROADSIDE STANDS.** Roadside stands for the sale of agricultural goods and products shall be permitted provided adequate parking off the public right-of-way is provided, and the structure is set back at least twenty (20) feet from the nearest roadway surface
- M. **RADIO AND TELEVISION ANTENNAS.** Radio and television antennas, except those customarily associated with residential radio and television reception shall require a Certificate of Compliance prior to installation. Dish antennas, ham radio antennas and similar devices, whether associated with residential reception or not, shall not be located in the required front yard except if no other reception is available.
- N. **SWIMMING POOLS.** Any outdoor swimming pool shall be enclosed on all sides by a security fence not less than four (4) feet in height which shall have a locking gate.
- O. **GARAGE SALES.** Signage shall be installed not more than one (1) day before the start of the event and removed within one (1) day of its close, and shall indicate the dates of the event.
- P. **FORESTRY.** All forestry practices shall be conducted in accordance with New York State Department of Environmental Conservation regulations.

ARTICLE VI. SPECIAL PERMIT USES

All special permit uses specified in Article III, Schedule of Use Regulations, shall be subject to the review and approval of the Zoning Board of Appeals in accordance with the standards and procedures included in this Article, and no Building Permit or Certificate of Occupancy or Use shall be issued by the Building Inspector except upon authorization of and in full conformity with plans approved by the Zoning Board of Appeals.

A. GENERAL STANDARDS FOR SPECIAL PERMIT USES. In authorizing any special permit use, the Zoning Board of Appeals shall take into consideration the public health, safety, and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. The Board shall also take into strict account the specific conditions set forth in this Article for certain uses, applicable supplementary regulations stated in Article V of this Local Law, and the following general objectives:

1. The location, nature and size of the use or buildings, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to street, shall be in harmony with the orderly development of the district and shall not impair the value of adjacent land or buildings.
2. All proposed traffic access ways shall be adequate but not excessive in number¹ adequate in width, grade, alignment and visibility; be located not less than fifty (50) feet from any intersection or place of public assembly; and meet appropriate safety considerations.
3. Adequate provision for safe and accessible off-street parking and loading spaces shall be made.
4. The character and appearance of the proposed use, buildings, structures, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood.

B. ADDITIONAL SPECIFIC STANDARDS FOR CERTAIN USES. In addition to the general standards, the following specific standards shall apply:

1. Vehicle and equipment related service, sales and rental:
 - a. No gas station shall be located within two hundred (200) feet of any school, church, or other public gathering place, the distance to be measured in a straight line between the nearest point of each lot.
 - b. The area for use by motor vehicles, except access drives, as well as any structures or underground storage tanks, shall not encroach on any required yard area.
 - c. No fuel pump shall be located within twenty-five (25) feet of any lot line or within the required side or front yard, whichever shall be more restrictive. The station layout shall eliminate the necessity of any vehicle backing into a public right-of-way.

- d. Gasoline or flammable oils in bulk shall be stored fully underground, not closer than twenty (20) feet to any lot or street line.
 - e. Entrance and exit driveways shall have an unrestricted width of not less than sixteen (16) feet nor more than fifty (50) feet, and be located no closer than ten (10) feet to any side lot line.
 - f. The outdoor storage of equipment, materials, supplies and parts shall be screened from view from adjacent lots and the public right-of-way.
 - g. Those establishments which sell gasoline in combination with a quick-stop retail food outlet shall also:
 - 1. Provide on the premises an enclosed trash dumpster and trash receptacles.
 - 2. Direct all roof-top heating, ventilation, air conditioning refrigeration and exhaust units and vents away from adjacent residential property.
2. Mining, excavation or filling which affects more than six hundred fifty (650) cubic yards of material, including the loading, hauling and/or processing of sand, gravel, soil, shale, top-soil, or any aggregate material:
- a. All applicable provisions of the New York State Mined Land Reclamation Law and other State and Federal regulations shall be fully complied with.
 - b. An Environmental Assessment Form is submitted and reviewed in accordance with the provisions of Part 617 of Article 8 of the New York State Environmental Conservation Law.
 - c. A time schedule for completion of the entire operation, or, if excavation is to occur in stages, of each stage of the operation is submitted and approved.
 - d. An operations plan including, but not limited to, the number and types of trucks and other machinery to be used on the site, is submitted and approved.
 - e. A progressive restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed is submitted and approved.
 - f. A performance guarantee to assure rehabilitation is posted in an amount, form and manner of execution satisfactory to the Town Board and the Town Attorney.
 - g. A buffered area of not less than twice the height of the open face shall be established between the operation and the nearest property line, with fencing provided where deemed necessary by the Zoning Board of Appeals for either aesthetics or to protect public health and safety.

- h. No mining, excavation or filling activity shall occur within one hundred (100) feet of a public water body or watercourse, whether such water body or watercourse is within or adjacent to the property.
- i. The operating area during any stage of the mining, excavation or filling activity shall be restricted to a land area of not more than two (2) acres.
- j. A supporting layer of topsoil and natural vegetative cover shall be restored to all areas, except where otherwise provided in an approved restoration and rehabilitation plan.
- k. Such special use permit shall be restricted to a total disturbed area of five (5) acres (i.e. aggregate of three (3) or more stages) and to a maximum time period of no more than three (3) years.

3. Camp, Day Camp, or Recreational Vehicle Park:

- a. All development shall be serviced by a central water supply and common sewage disposal system fully satisfying the requirements of the Town of Berlin and the Rensselaer County Department of Health.
- b. No building or recreational facility shall be located less than two hundred (200) feet from any lot line, nor within one hundred (100) feet of any stream or wetland, and shall be effectively screened by natural vegetation from adjacent properties.

4. Outdoor Sales of Heavy Motor Equipment:

- a. All stored motor equipment shall be in running or repairable condition at all times.
- b. No equipment may be stored within 15 feet from a street right-of-way.
- c. Lighting shall be shielded at all property lines so as not to shine directly outside the property lines. Minimum non-glare illumination may be required after hours for security purposes.

4. Public utility station or structure:

- a. The station or structure shall, wherever practicable, have the exterior appearance of a residential building.
- b. Suitable landscaping, including screening from public roadways and neighboring residential properties, shall be provided.

C. STANDARDS WITHIN THE FLOOD FRINGE OVERLAY (FF-O) DISTRICT. All uses proposed within the Flood Fringe Overlay District (FF-O) shall be considered special permit uses subject to review by the Zoning Board of Appeals for compliance with the following additional standards, as certified to by a registered architect or licensed professional engineer:

1. All structures shall be designed and anchored to prevent flotation, collapse or lateral movement due to flood related forces.
2. All construction materials and utility equipment shall be resistant to flood damage.
3. Construction practices and methods shall be employed which minimize potential flood damage.
4. All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.
5. Adequate drainage shall be provided to reduce exposure to flood hazards.
6. All water supply and sewage disposal systems shall be designed to minimize or eliminate flood water infiltration or discharges into the flood waters, including the provision that on-site sewage systems shall be located so as to avoid impairment of them or contamination from them during flooding.
7. All new construction or substantial improvements to existing structures shall have the lowest floor (including basement) elevated to at least one (1) foot above the water level of the one hundred (100) year flood boundary, or, as an alternative for existing structures, be flood-proofed up to the same water level, including the attendant utility and sanitary facilities.
8. No use shall be permitted, including excavation, stripping, grading or filling, unless the applicant has demonstrated that the proposed use, in combination with all other existing and anticipated uses, will not raise the water level of the one hundred (100) year flood boundary more than one (1) foot at any point.

D. SPECIAL PERMIT APPLICATION PROCEDURE. The Zoning Board of Appeals shall review and act on all special use permit applications in strict accordance with the procedure specified in Article X of this Local Law. In addition, all special use permit applications to the Zoning Board of Appeals shall be accompanied by the following:

- a. a sketch site and/or building plan as applicable, providing sufficient information to permit the Board to review compliance with the general standards discussed in Article VI (A) of this Local Law.
- b. such additional information as is required for certain uses under Articles VI (B) and (C) of this Local Law.

E. EFFECT OF SPECIAL USE PERMIT APPROVAL.

- a. No Building Permit shall be issued for any structure covered by this Article until such special use permit has received approval by the Zoning Board of Appeals and a copy of a resolution to that effect has been presented to the Building Inspector.

- b. No Certificate of Occupancy or Use shall be issued for any structure or use of land covered by this Article until the structure is completed or the land developed in strict accordance with the resolution of special permit approval by the Zoning Board of Appeals and other applicable requirements of this Local Law.
- c. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.
- d. The Zoning Board of Appeals may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Zoning Board of Appeals that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the applicant prior to revocation of the special use permit.

ARTICLE VII. SITE PLAN REVIEW

Prior to the issuance of a Building Permit or Certificate of Occupancy or Use in any district, except for a one- or two-family dwelling and related accessory uses, the Building Inspector shall require the preparation of a site plan and shall refer the site plan to the Planning Board for its review and recommendation to the Town Board in accordance with the standards and procedures set forth in this Article.

A. **SKETCH PLAN CONFERENCE.** A sketch plan conference between the Planning Board and the applicant shall be held to discuss the applicability of the site plan review and approval procedure to the intended development for which the building or special use permit is sought.

1. At the sketch plan conference, the Planning Board shall take one of three actions:
 - a. determine that the project is limited in scope, with compatible land use and site design characteristics, thus requiring no further review under this Article; or
 - b. determine that the project does require full review under this Article, based upon its scope and/or land use and site design characteristics, and advise the applicant of preliminary site plan requirements in accordance with Section B of this Article; or
 - c. require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.
2. In order to assist the Planning Board in its determination, the applicant shall provide the specific data discussed below:
 - a. An area map keyed to the real property tax maps showing the parcel under consideration and all existing natural and man-made features, properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries. Such area map shall be oriented to the nearest street or road intersection, and contain a north arrow.
 - b. A map showing site topography at no more than ten (10) feet contour intervals.

B. **APPLICATION FOR SITE PLAN APPROVAL.** An application for site plan approval shall be made in writing to the Planning Board and shall be accompanied by four (4) prints of a site plan which includes information drawn from the following checklist of items, as determined necessary by the Planning Board at the time of the sketch plan conference, and certified by a licensed engineer, architect, landscape architect, or land surveyor:

1. Site Plan Checklist.
 - a. Title of drawing, including name and address of such drawing;
 - b. north arrow, scale and date;

- c. boundaries of the property plotted to scale and indication of acreage contained therein;
- d. existing watercourses;
- e. grading and integrated drainage plan, including erosion and sediment control measures, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the Sketch Plan Conference;
- f. location, proposed use and height of all buildings;
- g. location, design and construction materials of all parking and truck-loading areas, with access and egress drives;
- h. provision for pedestrian access;
- i. location of outdoor storage equipment and materials, if any;
- j. location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- k. description of the method of sewage disposal and location, design and construction materials of such facilities;
- l. description of the method of securing water supply and location, design and construction materials of such facilities;
- m. location of fire and other emergency zones, including the location of the nearest water supply for fire emergencies;
- n. location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- o. location, size, design and construction materials of all proposed signs;
- p. location and proposed development of all buffer areas, including indication of existing vegetative cover;
- q. location and design of outdoor lighting;
- r. designation of the amount of building area proposed for retail sales, office use or similar commercial activity;
- s. general landscaping plan and planting scheduler and

- t. other elements integral to the proposed development, as considered necessary by the Planning Board, including the identification of any federal, state, county or local permits required for the project's execution.
 - 2. Required Fee. An application for site plan review and approval shall be accompanied by the applicable fee in accordance with the fee schedule established by the Town Board.
- C. PLANNING BOARD REVIEW OF SITE PLAN.** The Planning Board's review of a site plan shall include, as appropriate, but is not limited to, the following:
- 1. General considerations:
 - a. Adequacy and arrangement of vehicular and pedestrian access and circulation, including intersections, road widths, pavement surfaces and traffic controls.
 - b. Location, arrangement, and sufficiency of off-street parking and loading, lighting, signs and general site compatibility of all buildings
 - c. Adequacy of stormwater and drainage facilities, erosion and sediment control measures, water supply and sewage disposal facilities.
 - d. Adequacy of protection and preservation of the vegetation, topography, wildlife, aquatic life, and other natural features of the site.
 - e. Adequacy of type and use of trees, shrubbery and other landscape elements, including the maximum retention of existing vegetation.
 - f. In the case of a multiple family dwelling, the adequacy of usable open space for play areas and informal recreation.
 - g. Adequacy of landscaping and/or screening to protect adjacent properties against noise, glare, unsightliness or other objectionable features.
 - h. Adequacy of emergency vehicle zones and water supply for fire emergencies.
 - i. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - j. Compatibility of building design with existing characteristics of the neighborhood.
 - 2. Public Hearing. The Planning Board may conduct a public hearing on the application for site plan approval. If a public hearing is considered desirable by a majority of the Planning Board, such hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in a newspaper of general circulation in the Town at least five (5) days before the public hearing.

3. Required Referral. Prior to taking action on the site plan, the Planning Board shall refer the site plan, when applicable, to the Rensselaer County Bureau of Budget, Research and Planning for advisory review in accordance with Sections 239 (1) and (m) of the General Municipal Law.

D. PLANNING BOARD ACTION ON SITE PLAN. Within sixty (60) days of the receipt of an application for site plan approval, or within forty-five (45) days of the conduct of a public hearing, whichever shall first occur, the Planning Board shall act on the site plan application. Failure to act within said period shall constitute approval.

1. *Action by Resolution.* The Planning Board shall act by resolution to either approve, disapprove, or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's Office and mailed to the applicant within ten (10) days of the Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the requirements stated in Section D(2) of this Article.
2. *Submission Requirements for Stamping.* After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall within six (6) months submit six (6) prints and one (1) reproducible Mylar of the site plan to the Planning Board for stamping and signature by the Chairman. 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 revisions or other modifications required by the Planning Board, and shall be accompanied by the following additional information:
 - a. Record of application for and approval status of all necessary permits from Federal, State and County officials:
 - b. Detailed sizing and final material specification of all required improvements: and
 - c. An estimated project construction schedule.
3. *Effect of Stamping by Planning Board.* Upon stamping and signature by the Chairman, the Planning Board shall forward a copy of the approved site plan to the Building Inspector and the applicant. The Building Inspector may then issue a Building Permit or Certificate of Occupancy or Use if the project conforms to all other applicable requirements

E. REIMBURSABLE COSTS. Reasonable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in Section B (2) of this Article.

F. PERFORMANCE GUARANTEE. No Certificate of Occupancy or Use shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The amount of the performance guarantee shall

be determined by the Planning Board after consultation with the Town Attorney, the Building Inspector, other local officials, or its designated consultants.

- G. **INSPECTION OF IMPROVEMENTS.** The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Town's private consultants and other local officials and agencies, as may be appropriate.
- H. **INTEGRATION OF PROCEDURES.** Whenever the particular circumstances of a proposed development require compliance with either another procedure in this Local Law, the requirements of the Town Land Subdivision Regulations, or the requirements of the State Environmental Quality Review Act, the Planning Board may integrate site plan review with the procedural and/or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Planning Board and the applicant, reasonable modification of the time schedules stated in this Article.

ARTICLE VIII. NON-CONFORMING AND NON-COMPLYING STRUCTURES AND BULK

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this Local Law, to all buildings and uses that may become non-conforming or non-complying by reason of any subsequent amendment to this Local Law and the Land Use District Map, and to all complying buildings housing non-conforming uses:

- A. **NON-CONFORMING USES.** Any lawful non-conforming use of buildings or open land in existence on the effective date of this Local Law except those specified in Section D of this Article, may be continued indefinitely, but:
1. shall not be enlarged, altered, extended, reconstructed or restored, except as provided in this Article, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Local Law, nor shall any external evidence of such use be substantially increased by any means:
 2. shall not be moved to another location where such use would be non-conforming;
 3. shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals. and then only to a use which, in the opinion of the Zoning Board of appeals, is of the same or a more restricted nature: and
 4. shall not be re-established if such use has been discontinued through vacancy, cessation of use, or for any other reason for a period of one (1) year or more, or has been changed to, or replaced by, a conforming use.

While a non-conforming use may not be extended, nothing contained in this Local Law shall prohibit the extension of a lawful use to any portion of a non-complying building or structure which existed prior to the enactment of this Local Law. No non-conforming use shall be extended to .displace a conforming use.

- B. **NON-COMPLYING BUILDINGS.** Nothing contained in this Article shall be deemed to prevent normal repair and maintenance of, or structural alteration within, a non-complying building, provided that such action does not increase the degree of, or create any new, non-conformity. Further, any non-complying building or structure declared unsafe by the Building Inspector may be restored to a proper condition within the time period provided for such restoration.
- C. **RESTORATION AFTER DAMAGE.** Nothing contained in this Article shall be deemed to prevent the' restoration of a lawful non-conforming use after damage for any reason or by any cause provided that the bulk, height and area shall not be in excess of that which existed prior to the damage, and providing that 'the restoration is commenced within six (6) months after the damage and completed within two (2) years of such occurrence, or the use of such buildings or land as a legal non-conforming use shall thereafter be terminated.

- D. TERMINATION OF CERTAIN USES.** Each of the following non-conforming uses is deemed sufficiently objectionable and out of character within the land use district in which it is located as to depreciate the value of other property and uses permitted in the district and/or otherwise inhibit the proper and orderly development of such district. Therefore, each such non-conforming use must be, and shall be, terminated on or before the expiration of the specified period of time after the effective date of this Local Law.
1. Any non-conforming or non-complying sign including such features as prohibited in Article V (B) of this Local Law shall be modified by its owner to conform or be removed within ninety (90) days after receipt by the owner of specific written notice from the Building Inspector to so comply.
 2. Any sign existing on or after the effective date of this Local Law which advertises a business no longer conducted, product no longer available, or service no longer provided on the premises, shall be removed by the owner of the sign and/or premises upon which the sign is located within ten (10) days after receipt of written notice from the Building Inspector to remove such sign.

ARTICLE IX. ADMINISTRATION AND ENFORCEMENT

- A. **GENERAL.** The Building Inspector shall administer and enforce all provisions of this Local Law except where otherwise required. Whenever any permit is required herein, it shall be applied for and shall be issued in the first instance from the Office of the Building Inspector in accordance with the requirements of this Local Law and applicable regulations governing building construction and the issuance of building permits.
- B. **POWERS AND DUTIES OF THE BUILDING INSPECTOR.** In addition to all other authority conferred by law, the Building Inspector shall have the following powers and duties with respect to this Local Law.
1. *Issuance of Building Permits.* Except for portable accessory structures and agricultural structures, no structure shall be erected, altered, reconstructed or enlarged and no excavation for any building begun nor shall substantial alteration of, or additions to, facilities such as sewage disposal systems, electrical systems, water supply systems, including plumbing or drainage facilities be undertaken until the Building Inspector has issued a building permit stating that the proposed use and structure comply with all applicable provisions of this Local Law.
 2. *Issuance of Certificates of Occupancy.* No structure for which a building permit has been issued shall be occupied or used unless the Building Inspector issues a Certificate of Occupancy. The Certificate of Occupancy shall state that the structure fully complies with the requirements of the New York State Uniform Fire Prevention and Building Code as administered by the Town of Berlin, this Local Law, and the terms of any variance or site plan approval properly granted under the procedures established by this Local Law.
 3. *Inspections.* The Building Inspector shall have the right to enter upon, examine, and inspect, or cause to be entered, examined and inspected, any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this Local Law. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Building Inspector.
 4. *Issuance of Notices of Violation.* Whenever, in the opinion of the Building Inspector, after proper inspection, there appears to exist a violation of any provision of this Local Law, or of any procedure adopted pursuant thereto, the Building Inspector shall serve written notice upon the appropriate person responsible for the alleged violation. The notice shall inform the recipient of the following:
 - a. the nature and specific details of the violation; and
 - b. the date by which the violation must be remedied or removed, which period shall not exceed thirty (30) days from the date of notice, except in the case of non-conforming signs as provided in Article VIII (D).

5. *Issuance of Stop Orders.* Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this Local Law, not in conformity with any application made, permit granted, or other approval issued or in an unsafe or dangerous manner, the Building Inspector shall promptly notify the appropriate person responsible to suspend work on any such building or structure or the use of any such land. Such persons shall suspend such activity until such time that the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and may be served upon the person to whom it is directed either by delivering it personally to that person, or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by certified mail.
6. *Taking of Emergency Action.* If, in the opinion of the Building Inspector, a violation exist which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to other persons or the environment, the Building Inspector may direct such violation immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant, or person responsible for the violation. The Building Inspector shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses, or place a lien against property, in order to recover the said costs.

C. PENALTIES FOR VIOLATION.

1. *Civil Penalty.* Violation of any provision or requirement of this Local Law or violation of any statement, plan, application, permit, or certificate approved under the provisions of this Local Law shall be considered an offense punishable by a fine of not more than two hundred fifty dollars (\$250.00), and/or imprisonment for not more than six (6) months for each such offense. Each and every week that any such violation continues after the initial fine is imposed, shall constitute a separate offense. Such notice shall be given in writing by the Building Inspector and shall be served by certified mail or personal service.
2. *Court Action.* The imposition of penalties described in this Article shall not prevent the Town or any person from instituting appropriate legal action in a court of competent jurisdiction to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain by injunction, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.
3. *Taxpayer Action.* If the Building Inspector fails or refuses to act upon or refer a violation of this Local Law to the Town Attorney for legal action in accordance with the provisions contained herein within a ten (10) calendar day period following written request by any taxpayer to so proceed, then any three (3) or more taxpayers of the Town of Berlin may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

ARTICLE X. ZONING BOARD OF APPEALS

- A. **CREATION, APPOINTMENT AND ORGANIZATION.** A Zoning Board of Appeal is hereby created in accordance with Section 267, Article 16, of the Town Law. Said Board shall consist of five (5) members appointed by the Town Board. Of the members first appointed, one shall hold office for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years. If a vacancy occurs otherwise than by expiration of term, it shall be filled by appointment by the Town Board for the unexpired term. All members are subject to removal by the Town Board for cause after public hearing. The Town Board shall annually designate the Chairperson of the Zoning Board of Appeals, while the Zoning Board of Appeals shall annually designate its Secretary and may prescribe rules and procedures in addition to those provided herein for the conduct of its duties. The Town Board shall provide reasonable operating expenses to ensure the proper functioning of the Zoning Board of Appeals.
- B. **POWERS AND DUTIES.** The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this Local Law, which are more particularly specified as follows:
1. *Interpretation.* On appeals from an order, requirement, decision or determination made by the Building Inspector in accordance with the provisions of this Local Law, or on request by an administrative official, board or agency of the Town, to decide any of the following questions:
 - a. determination of the meaning of any portion of the text of this Local Law or of any conditions or requirements specified or made under the provisions of this Local Law.
 - b. determination of the exact location of any district boundary shown on the Land Use District Map.
 2. *Variances.* On appeal, to authorize such variances from the terms of this Local Law where there are unnecessary hardships or practical difficulties in carrying out the strict letter of this Local Law. The granting of such variances shall be due to exceptional and extraordinary circumstances, shall not be contrary to the public interest, and shall be subject to terms and conditions fixed by the Zoning Board of Appeals provided, however, that no such variance shall be granted unless the Board finds:
 - a. that there are physical conditions, fully described in the findings of said Board, applying to the land or building for which the variance is sought, which conditions are peculiar to such land or buildings, and have not resulted from any act of the applicant or any predecessor in title;
 - b. that, for reasons fully set forth in the findings of the Zoning Board of Appeals, the aforesaid circumstances or conditions are such that the strict application of the provisions of this Local Law would deprive the applicant of the reasonable use of such land or building, that the granting of the variance is necessary for the reasonable use of the land

or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

- c. that the granting of the variance under such conditions as the Zoning Board of Appeals may deem necessary or desirable will be in harmony with the general purpose and intent of this Local Law, will not represent a radical departure from it, will not be injurious to the neighborhood or change its character, and will not be otherwise detrimental to the public welfare or the environment.

C. **PROCEDURE.** The Zoning Board of Appeals shall act in strict accordance with the procedure specified by Section 267 of the Town Law and this Local Law.

1. *Meetings.* Meetings shall be held at the call of the Chairperson or at such other times as the Board of Appeals may determine. A quorum shall consist of three (3) members, but in order to reverse a decision of the Building Inspector, issue an interpretation or special permit or authorize a variance, an affirmative vote of at least three (3) members shall be required. A favorable vote of a majority plus one shall also be required if the action taken is contrary to an advisory recommendation received from the Rensselaer County Bureau of Budget, Research and Planning under the provisions of Section 239 (l) and (m) of the General Municipal Law. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and shall keep records of its examinations and other official actions. All meetings of the Board of Appeals shall be open to the public.
2. *Application and Fee.* All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, within thirty (30) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule established by the Town Board. Every appeal or application shall refer to the specific provision of this Local Law that is involved and shall precisely set forth either the interpretation that is claimed or the details of the action that is applied for and the grounds on which it is claimed that such action should be granted.
3. *Public Notice and Hearing.* The Zoning Board of Appeals shall fix a reasonable time and place for a public hearing on any such appeal, of which hearing date the appellant shall be given notice and at which hearing appellant shall appear in person or by agent. The Board shall additionally provide notice as follows:
 - a. By publishing at least five (5) calendar days prior to the date of the public hearing a legal notice in the official newspaper of the Town.
 - b. By requiring the Secretary of the zoning Board of Appeals to provide notice at least five (5) calendar days prior to the date of the public hearing the substance of every appeal or application together with a notice of the hearing thereon by mailing such to the owners of all property abutting that held by the appellant. Compliance with this notification procedure shall be certified by the Secretary.

- 1) The names of owners notified shall be taken as they appear on the last completed tax roll of the TOWN.
- 2) Provided that there has been substantial compliance through good faith efforts with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in connection with granting or denying of an appeal or application.
- c. By requiring the Secretary of the Zoning Board of Appeals to transmit to the Secretary of the Planning Board a copy of any appeal or application together with a copy of the notice of such hearing at least thirty (30) calendar days prior to the hearing date. The Zoning Board of Appeals shall request that the Planning Board submit to the Zoning Board of Appeals an advisory opinion prior to the date of such hearing. Failure of the Planning Board to submit its report shall be deemed to be a recommendation of approval of the application or appeals.
- d. If the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Zoning Board of Appeals shall also submit to the municipal clerk of such other municipality a copy of the notice of the substance of every appeal together with a copy of the official notice of such public hearing at least five (5) days prior to the public hearing.
4. *Required Referral.* A full statement of any appeal that meets the referral requirements of Sections 239 (l) and (m) of the General Municipal Law shall also be referred prior to the public hearing to the Rensselaer County Bureau of Budget, Research and Planning for its review.

Such actions shall include those which affect property located within five hundred (500) feet of the following:

- a. Municipal boundary;
- b. Boundary of any existing or proposed County or State park or other recreation area;
- c. Right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway;
- d. Existing or proposed right-of-way of any stream or drainage channel owned by the County, or for which the County has established channel lines: or
- e. Existing or proposed boundary of any County or State owned land on which a public building or institution is situated.

No action shall be taken by the Zoning Board of Appeals on such appeal or application until an advisory recommendation has been received from said County Bureau or thirty (30) calendar days have elapsed since said County Bureau received such full statement.

5. *Decisions.* Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, shall fully set forth the circumstances of the case, and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each decision being filed in the Office of the Town Clerk within ten (10) calendar days. The Board shall also notify the Building Inspector, the Secretary of the Planning Board, and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven (7) calendar days of said action with the Rensselaer County Bureau of Budget, Research and Planning.
 6. *Attachment of Conditions.* In all cases where the Zoning Board of Appeals grants a variance from the strict application of Local Law, it shall be the duty of conditions and safeguards as may be spirit and intent of this Local Law.
 7. *Expiration of Approval.* Unless construction or use is commenced and diligently pursued within one (1) calendar year from the date of the granting of a variance or special permit, such variance or special permit shall become null and void without further hearing by the Zoning Board of Appeals.
 8. *Strict Construction.* All the provisions of this Local Law relating to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this Local Law and in strict compliance with all limitations contained therein, provided, however, that if the procedural requirements set forth in this Local Law have been substantially observed through good faith efforts, no applicant or appellant shall be deprived of the right of application or appeal.
- D. **RELIEF FROM DECISIONS.** Any person or persons, jointly or individually aggrieved by any decision of the Zoning Board of Appeals, may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated within thirty (30) days after the filing of the Board's decision in the Office of the Town Clerk.

ARTICLE XI. AMENDMENTS

This Local Law or any part thereof, including the Land Use District Map, may be amended, supplemented or repealed by the Town Board as provided by Sections 264 and 265 of the Town Law.

A. INITIATION. An amendment to this Local Law may be initiated in one of three ways:

1. By the Town Board upon its own motion:
2. By resolution of the Planning Board, filed with the Town Clerk, recommending change or repeal of specific provisions of this Local Law.
3. By petition duly signed and acknowledged from the owners of fifty percent (50%) or more of the frontage in any district or part thereof requesting an amendment, supplement or change in the regulations prescribed for such district or part thereof, in which case the Town Board shall act upon such petition, within ninety (90) days of the time such petition is filed by the petitioners with the Town Clerk.

B. REPORT OF THE PLANNING BOARD. All proposed amendments, supplements or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendations. The Planning Board shall submit its report within forty five (45) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be a recommendation of approval of the proposed amendment.

C. TOWN BOARD PROCEDURE.

1. *Public Notice and Hearing.* The Town Board by resolution shall fix the time and place of a public hearing on the proposed amendment and provide notice as follows:
 - a. By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Town, specifying:
 - 1) the nature of the proposed amendment;
 - 2) the land or district affected; and
 - 3) the date, time and place where the public hearing shall take place.
 - b. By providing a copy of such notice of any proposed amendment affecting property within five hundred (500) feet of any other municipality to the Clerk of such municipality at least ten (10) calendar days prior to the date of the public hearing.
2. *Required Referral.* The Town Board shall transmit a full statement of any proposed amendment, either map or text, that meets the referral requirements of Sections 239 (1) and (m) of the General Municipal Law to the Rensselaer County Bureau of Budget, Research and

Planning for its review and recommendations. No action shall be taken by the Town Board on the proposed amendment until a recommendation has been received from said Bureau or thirty (30) calendar days have elapsed since said Bureau received the full statement.

3. *Compliance with the New York State Environmental Quality Review Act.* Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance of the proposal in accordance with Part 617 of Article 8 of the Environmental Conservation Law.
4. *Town Board Action.* The Town Board may approve any such proposed amendment by a majority vote, except that a favorable vote of a majority plus one shall be required if:
 - a. the action being taken is contrary to the advisory recommendation received from the Rensselaer County Bureau of Budget, Research and Planning under the provisions of Section 239 (l) and (m) of the General Municipal Law: or
 - b. in accordance with the provisions of Section 265 of the Town Law, a protest against such amendment has been duly signed and acknowledged by the owners of at least twenty percent (20%) of the land area included in such proposed amendment or of land immediately adjacent extending one hundred (100) feet therefrom or that directly opposite.

ARTICLE XII. DEFINITIONS

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense include the future; the singular number includes the plural, and the plural number includes the singular; the word "lot" includes the word "plot", the word "structure" includes the word "building". The term "occupied" or "used" as applied to any building or land shall be construed to include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used or occupied".

The word "shall" is mandatory and not optional.

<i>ACCESSORY STRUCTURE.</i>	A structure, the use of which is customarily incidental and subordinate to that of the principal building and which is attached to it or is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include tennis courts, garages and barns. Mobile homes shall not be utilized as accessory structures.
<i>ACCESSORY USE.</i>	A use, occupancy, or tenancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises.
<i>ADDITION.</i>	Extension or increase in the floor area or height of a structure.
<i>ALTERATION.</i>	Any change, rearrangement, or addition to a building, other than repairs; any modification in construction, or in building equipment, or the moving of a building or structure from one location to another.
<i>APARTMENT.</i>	A dwelling unit contained within a two family or multifamily building.
<i>AREA AND BULK REGULATIONS.</i>	The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot.
<i>ATTIC.</i>	That space within a building between the top of the uppermost floor construction and the underside of the roof.
<i>AUTOMOBILE REPAIR FACILITY.</i>	Any area of land, including structures thereon, where any painting, rebuilding, reconditioning or collision services involving frame and fender straightening or repair, or any dismantling or disassembly of mechanical, frame and exterior parts of automobiles or other vehicles occur.
<i>AUTOMOBILE SERVICE STATION.</i>	A building or place of business where gasoline, oil and grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, and where minor repair service is rendered.

<i>BASEMENT.</i>	That space within a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.
<i>BED AND BREAKFAST ESTABLISHMENT.</i>	A private dwelling in which at least one and not more than four rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such occupant, and in which no public restaurant is maintained.
<i>BOARD OF APPEALS.</i>	The Zoning Board of Appeals of the Town of Berlin as provided for in Article X of this Local Law.
<i>BOARD-FOOT.</i>	A measure of lumber twelve (12) inches by twelve (12) inches by one (1) inch.
<i>BUILDING.</i>	A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. See definition of STRUCTURE.
<i>BUILDING, PRINCIPAL.</i>	A building in which is conducted the main or principal use of the lot on which said building is located.
<i>BUILDING COVERAGE.</i>	The amount of land covered or permitted to be covered by the combined area of all buildings on a lot, excluding uncovered porches, terraces and steps.
<i>BUILDING INSPECTOR.</i>	That Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing this Local Law, as well as the New York State Uniform Fire Prevention and Building Code and related regulations.
<i>BUILDING LINE.</i>	The line, established by law, ordinance, or regulation, beyond which no part of a building, other than parts expressly permitted within Article IV (E) of this Local Law, shall extend.
<i>CAMP.</i>	Any parcel of land on which are located two or more cabins, tents, shelters, or other accommodations suitable for seasonal or other temporary living purposes, including summer colony and resort but not including a trailer park, boarding house, hotel or motel.
<i>CAR WASH.</i>	Premises regularly used for washing, cleaning, or polishing motor vehicles for compensation.
<i>CELLAR.</i>	That space within a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the

average established curb level or finished grade of the ground adjoining the building.

CENTRAL WATER.

For the purposes of this Local Law, a water supply system serving five (5) or more dwelling units and approved by the Town of Berlin and the Rensselaer County Health Department for either private or public operation.

CERTIFICATE OF OCCUPANCY.

Official certification issued by the Building Inspector that a premise conforms to the provisions of this Local Law, the New York State Uniform Fire Prevention and Building Code, and other applicable regulations, and may be legally used or occupied. May also be referred to as "CERTIFICATE OF USE".

CESSATION OF USE.

As used herein, a use shall be determined by the Building Inspector to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon such use or not.

CLEARCUTTING.

Any cutting of eighty percent (80%) or more of all trees over six (6) inches in diameter at breast height over any ten year cutting cycle.

CLUSTER DEVELOPMENT.

A development pattern in which uses are grouped or "clustered" through a density transfer within a particular development rather than spread evenly throughout a parcel as in conventional lot-by-lot development. See Section 281 of the Town Law.

COMMERCIAL EXCAVATION.

Excavation or extraction of stone, sand, gravel or topsoil for sale, or as an industrial operation. The term Commercial Excavation shall include mine, quarry, sand pit, gravel pit, turf farm, topsoil stripping, and any similarly-described place or activity.

COMMERCIAL USE.

Any use involving the sale, rental, or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreational facilities or activities for a fee.

COMMON SEWER.

For the purposes of this Local Law, a sewage disposal system serving five (5) or more dwelling units and approved by the Town of Berlin and the Rensselaer County Health Department for either private or public operation.

CONSERVATION.

The protection or management of open land in a natural state, including such management practices as supplementary clearing and replanting, stream channel maintenance, and erosion control.

<i>CONVERSION.</i>	A change in use or occupancy of a building, generally by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.
<i>DAY CAMP.</i>	Non-overnight camp providing recreation, arts and crafts, and other activities for pre-school and school age children, limited to summer and other school vacation periods.
<i>DENSITY.</i>	The ratio of lot area per family or dwelling unit on a lot
<i>DEVELOPMENT.</i>	<p>Any activity other than normal agricultural, conservation or forest management activity which materially affects the existing condition of land or improvements, including but not limited to:</p> <ul style="list-style-type: none"> a. removal of trees or other natural cover; b. substantial excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water; c. construction, reconstruction, alteration, or demolition of any improvement; d. dumping, storing, or parking of any object or material whether mobile, liquid or solid; e. commencement of any use of the land or improvements and any change in its type or intensity; and; f. commencement of any noise, light, smoke or other emission and any change in its type or intensity.
<i>DISTRICT, or LAND USE DISTRICT.</i>	An area, section or zone of the Town described on the Land Use District Map contained within this Local Law, and within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.
<i>DWELLING.</i>	A building or part of a building, designed or used principally as the living quarters for one or more families.
<i>DWELLING, ONE-FAMILY</i>	A detached building containing one dwelling unit only.
<i>DWELLING, TWO-FAMILY.</i>	A detached or semi-detached building containing two dwelling units only.

<i>DWELLING, MULTIPLE.</i>	A detached, semi-detached or attached building or portion of a building containing three or more dwelling units. The term multiple dwelling shall be deemed to include apartment house.
<i>DWELLING, ROW OR ATTACHED.</i>	One-family dwelling with party walls separating it from adjacent units on both sides, with each having separate entrances from the outside.
<i>DWELLING UNIT.</i>	A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other 'dwelling unit." A boarding house, dormitory, hotel, motel, inn, nursing home, or other similar building shall not be deemed to constitute a dwelling unit.
<i>FAMILY.</i>	One or more persons occupying a dwelling unit as a single housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption, shall not be considered to constitute a "family".
<i>FARM.</i>	Any parcel of land used principally in the commercial raising or production of agricultural products, and the necessary or usual dwelling, farm structures, storage and equipment. Agricultural products shall include, but are not limited to, field crops, vegetable crops, fruit, livestock and livestock products and fowl. It excludes kennels and stables used by the public.
<i>FLOOD, 100 YEAR OR BASE.</i>	The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year).
<i>FLOOD INSURANCE RATE MAP (FIRM).</i>	The official map of the Town of Berlin on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones.
<i>FLOODPROOFING.</i>	Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduces or eliminates flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
<i>FORESTRY USE.</i>	Any management, including logging or timber harvesting of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skid ways, landings, fences and forest drainage systems.
<i>FULL CORD.</i>	A cut pile of wood measuring four (4) feet by four (4) feet by eight (8) feet.

<i>GARAGE, PRIVATE.</i>	An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space for more than one car is leased to a non-resident of the premises.
<i>GARAGE, PUBLIC.</i>	Any garage other than a private garage, available to the public. operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
<i>GARAGE, STORAGE.</i>	A building or part of a building used only for the storage of vehicles for gain, and at which automobile fuels and oils are not sold and motor driven vehicles are not equipped, repaired, leased or sold.
<i>GARAGE SALE.</i>	The temporary sale of used household items on a residential premises. Also referred to as "yard sale", "barn sale", or "tag sale".
<i>GRADE, FINISHED.</i>	The elevation at which the finished surface of the surrounding lot. either natural or upon completion of any change in contour, intersects the walls and supports of a structure.
<i>HABITABLE SPACE.</i>	Space occupied by one or more persons for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage or utility spaces and similar areas are not classified as habitable space.
<i>HEIGHT, BUILDING.</i>	The vertical distance measured from the average elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, tanks and similar projections, consistent with the provisions of Article IV (C) of this Local Law.
<i>HEAVY MOTOR EQUIPMENT.</i>	Automobiles, trucks, farm machinery, construction equipment; i.e. any heavy equipment dependent on motors for its operation, whether self-contained or not. This definition does not include light-weight recreational vehicles, household gardening equipment, etc.
<i>HOME OCCUPATION.</i>	Any personal service, professional service, or business use conducted entirely within a dwelling or customary accessory structure and carried on by its residents, which use is clearly incidental and secondary to the use of the property for residential purposes and does not change its residential character. For purposes of this Local Law, a home occupation is further defined as being fully consistent with the provisions of Article V.

<i>HOTEL.</i>	A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more dining rooms.
<i>INDUSTRIAL USE.</i>	Any manufacturing, production or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills and similar wood using facilities.
<i>INSTITUTIONAL USES.</i>	Facilities and uses operated, owned or undertaken by government, school districts, churches, fraternal organizations, and membership clubs.
<i>INTERNATIONAL 1/4" LOG RULE.</i>	A professionally recognized and accepted methodology for grading and measuring logs.
<i>JUNK YARD.</i>	An area of land with or without buildings used for or occupied by a deposit, collection, or storage, outside a completely enclosed building, of used or discarded materials such as waste paper, rags, scrap material used building materials, house furnishings, machinery or parts thereof, with or without dismantling, processing, salvage, sale or other use or disposition of the same.
<i>JUNK YARD, MOTOR VEHICLE</i>	An area of land with or without buildings used for or occupied by a deposit, collection, or storage outside a completely enclosed building of used or discarded motor vehicles or parts thereof; with or without the dismantling, wrecking, salvage, sale, or other use or disposition of the same. A deposit, collection or storage on a lot of two (2) or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for one (1) month or more in a residential district or for three (3) months or more in any non-residential district, shall constitute a motor vehicle junk yard.
<i>LAND USE DISTRICT MAP.</i>	The map delineating the boundaries of the land use districts which, along with the text, comprises this Local Law.
<i>LANDFILL.</i>	A lot or land area used primarily for the disposal or abandonment, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.
<i>LIVESTOCK.</i>	Any four-legged domestic type farm animal, including but not limited to horses, cows, beef cattle, sheep or goats.
<i>LOT.</i>	A parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures

that are united by a common interest, use or ownership, and including' customary accessory structures, uses, open spaces and yards.

LOT, CORNER.

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street right-of-way lines is the "corner".

LOT AREA.

The total area of a lot within lot lines.

LOT DEPTH.

The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT LINE.

Line dividing one premise from another, or from a street or other public space.

LOT WIDTH.

The minimum horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot, lines or the width of a lot measured along the rear line of the required front yard.

LOT OF RECORD.

A legally-existing lot at the time of adoption of this Local Law duly filed and recorded in the Rensselaer County Clerk's Office as either an individual parcel of land or part of an approved subdivision.

LUMBERYARD.

A facility that buys boards from a sawmill and sells them to individuals or firms.

MANUFACTURING.

The fabrication, alteration, processing, finishing, handling or assembly of raw materials and packaging, warehousing, and storage of articles in quantity.

MOBILE HOME.

Any self-contained dwelling unit, but not including travel trailers, that is designed to be transported to its site on its own wheels or those of another vehicle, and which is designed to be used exclusively for residential purposes.

MOBILE HOME PARK.

Any lot, parcel or tract of land or portion thereof, together with the open space and facilities required by this Local Law, held out for hire or lease to accommodate mobile homes as defined herein.

***MODULAR OR
MANUFACTURED
HOME.***

A factory-built dwelling transported to the site and permanently attached to same.

<i>NON-COMPLYING BUILDING OR USE.</i>	An existing building or use which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; or lot coverage after the enactment or amendment of this Local Law.
<i>NON-CONFORMING USE.</i>	An existing use which does not conform to the applicable use regulations for the district in which such use is located after the enactment or amendment of this Local Law.
<i>NUISANCE.</i>	A condition that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
<i>OCCUPANCY.</i>	Use of a building, structure, or premises
<i>OCCUPANCY LOAD.</i>	The maximum number of persons permitted to occupy a building or portion thereof based upon standards contained in the New York State Uniform Fire Prevention and Building Code.
<i>OPEN AREA, REQUIRED.</i>	That area of a lot which shall be a properly maintained combination of natural, not artificial, lawn, trees, shrubs, and other plant material. Also know as "Minimum Open Space".
<i>PARKING AREA.</i>	An area of land used or intended for off-street parking facilities for motor vehicles.
<i>PARKING SPACE, OFF STREET.</i>	A space, not less than one hundred eighty (180) square feet excluding driveways or access drives, which is out of the public right-of-way and is available and adequate for the parking of one motor vehicle.
<i>PERMITTED USE.</i>	A specific use noted in Article III of this Local Law for which land, lots, buildings or structures may be used, occupied or maintained.
<i>PLANNING BOARD.</i>	The Planning Board of the Town of Berlin.
<i>PREMISES.</i>	A lot, plot or parcel of land, together with all structures and uses thereon.
<i>PROHIBITED USE.</i>	Any use which is not listed as a special, permitted or accessory use in the Schedule of Use Regulations shall be considered a prohibited use under this Local Law.
<i>PUBLIC UTILITY FACILITY.</i>	Any limited public utility use, equipment or structure, including a municipal garage. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law.

<i>RECREATIONAL VEHICLE or TRAVEL TRAILER.</i>	A vehicle or portable structure, whether or not self-propelled, which is designed to be transported on its own wheels, and designed or intended to be used for temporary living quarters for travel, recreational or vacation purposes, provided, however, that any recreational vehicle/travel trailer used for residential purposes for more than one hundred twenty (120) days aggregate in any calendar year shall be considered a mobile home. In no instance shall a mobile home be a recreational vehicle/travel trailer.
<i>RECREATIONAL VEHICLE PARK.</i>	Premises which provide spaces for compensation in which recreational vehicles may park overnight for camping purposes.
<i>RESIDENCE.</i>	Any building which is designed or used exclusively for residential purposes, except hotels and motels.
<i>RIGHT-OF-WAY.</i>	The property within an easement permanently established for the passage of persons or vehicles.
<i>ROADSIDE STAND.</i>	A structure where products grown on the premises or elsewhere by the operator of the roadside stand may be sold and purchased.
<i>SAWMILL.</i>	A facility that buys round wood and converts it to a semi finished or finished product.
<i>SCHEDULE OF USE REGULATIONS.</i>	The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this Local Law.
<i>SETBACK.</i>	The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways.
<i>SIGN.</i>	Any material, structure or device or part thereof, composed of lettered or pictorial matter which is located out of doors, or affixed to or painted on the exterior of any building, including illuminated window signs over two (2) square feet in area and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name. However, a 'sign' shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, school or religious group.
<i>SIGN, ACCESSORY.</i>	A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located.
<i>SIGN, DIRECTIONAL.</i>	An off-premise sign directing the way to a place of business, public service or residence.

<i>SIGN. SURFACE AREA OF.</i>	The entire area within a single, continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be counted in computing its area.
<i>SITE PLAN.</i>	That map or drawing and all related information submitted for review by the Planning Board in accordance with the requirements and procedure specified in Article VII of this Local Law.
<i>SPECIAL PERMIT USE.</i>	A use which is deemed potentially desirable for the public welfare within a given district, but which is potentially incompatible with other uses provided therein. The use shall therefore be subject to the requirements and procedure specified in Article VI of this Local Law.
<i>STORY.</i>	That part of any building excluding cellars but including basements, which is between one floor level and the next higher floor level or the roof.
<i>STREET.</i>	A public or private right-of-way which provides vehicular access to abutting properties.
<i>STREET LINE.</i>	The right-of-way line of a street, whether indicated by use, dedication or deed of record.
<i>STREET WIDTH.</i>	The width of the right-of-way or the distance between property lines on opposite sides of a street.
<i>STRIPPING.</i>	Any activity, not including clear-cutting, which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.
<i>STRUCTURE.</i>	A combination of materials assembled, constructed or erected at a fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, solar collectors, dish antennae, swimming pools, gasoline pumps, billboards, signs, and mobile dwellings. See definition of ACCESSORY STRUCTURE.
<i>SUBDIVISION.</i>	The division of any parcel of land into two (2) or more lots or sites, or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include re-subdivision of parcels of land for which an approved plat has already been filed in the Office of the Rensselaer County Clerk and which is entirely or partially undeveloped.
<i>TIMBER HARVESTING.</i>	Activity that removes trees whose volume in any year is greater than twenty (20) full cords of wood or sixteen hundred (1,600) cubic feet of wood or ten thousand (10,000) board feet of timber as measured by the

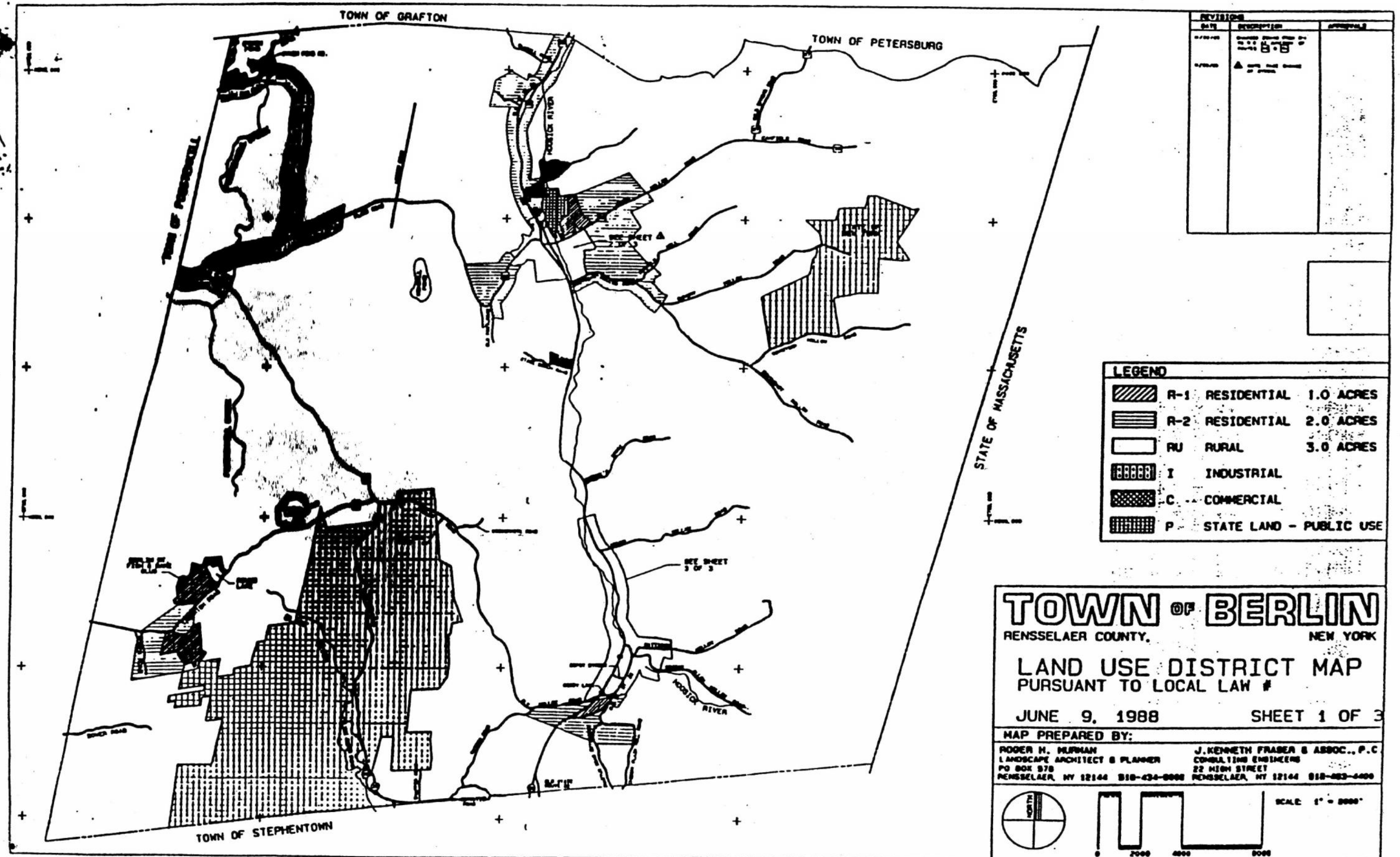
International 1/4" Log Rule. The clearing of lands for utility line rights of way which shall remove trees greater than such volumes shall specifically be included within this definition.

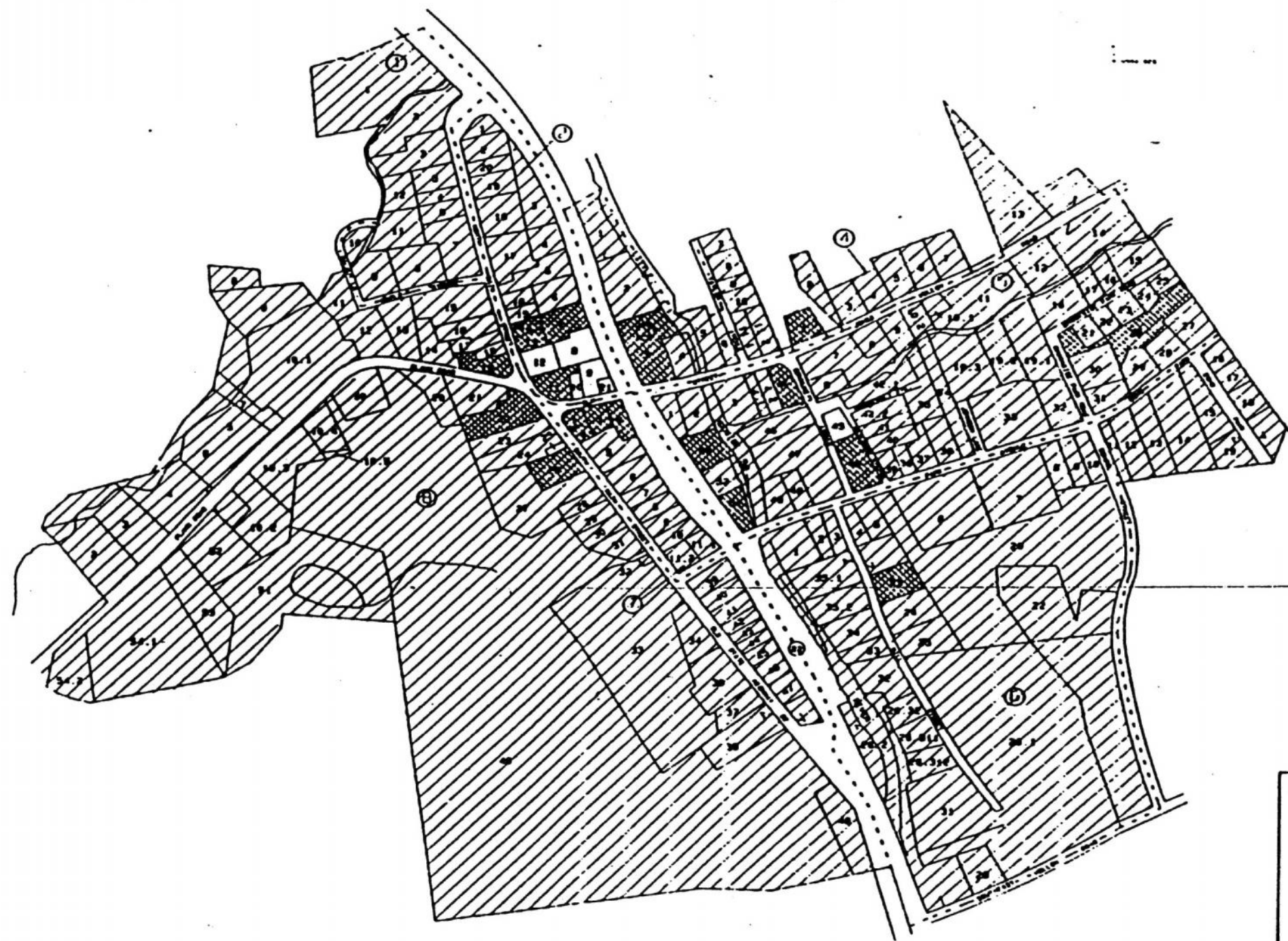
<i>TOURIST HOME.</i>	A building where, for compensation, lodging, meals or both are provided or offered for transient guests.
<i>TOWN BOARD.</i>	The Town Board of the Town of Berlin, Rensselaer County, New York.
<i>TRAILER, HOUSE.</i>	See/ definition of MOBILE HOME.
<i>TRAILER, CAMPING.</i>	A folding structure mounted on wheels and designed for limited travel recreation and vacation use only.
<i>TRAILER, TRAVEL.</i>	A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation.
<i>TRANSIENT.</i>	A person passing through or visiting for a brief stay, generally less than one week.
<i>USE.</i>	The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.
<i>USE REGULATIONS.</i>	The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this Local Law.
<i>VARIANCE.</i>	A modification of the use and/or bulk regulations of this Local Law in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or extreme practical difficulty that would deprive the owner of reasonable use of the land or structures. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconvenience or a desire or opportunity to make more money.
<i>VARIANCE AREA.</i>	A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the land use district.
<i>VARIANCE, USE.</i>	A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.
<i>WAREHOUSE.</i>	A structure for use as a storage place for goods, material or merchandise.

<i>WETLANDS.</i>	Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog. Swamp, or marsh; an area of aquatic or semi-aquatic vegetation which has been mapped as such by the New York State Department of Environmental Conservation under the Freshwater Wetlands Act.
<i>YARD.</i>	An open space on the same lot with a building, unoccupied by any portion of a structure except as otherwise provided in this Local Law.
<i>YARD, FRONT.</i>	An open, unoccupied space on the same lot with a building, between the front line of a building and the street or highway line, and extending the full width of the lot.
<i>YARD, REAR.</i>	An open, unoccupied space on the same lot with a building between the rear line of the building and the rear lot line and extending the full width of the lot
<i>YARD, SIDE.</i>	An open, unoccupied space on the same lot with a building, situated between the building and the side lot line, and extending from the front yard to the rear yard.

ARTICLE XIII. INTERPRETATION AND APPLICATIONS

- A. **INTERPRETATION, CONFLICT WITH OTHER LAWS.** The provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare, and protection of the environment. Whenever the requirements of this Local Law are at variance with the requirements of any lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.
- B. **SEPERATIBILITY.** Should any section or provision of this Local Law be decided by the courts to be unconstitutional or otherwise invalid, such decisions shall not affect the validity of this Local Law as a whole or any other part of this Local Law.
- C. **PERIODIC REVIEW REQUIRED.** At- intervals of not more than five (5) years, the Planning Board shall conduct a review of, the provisions of this Local Law, and shall submit a report of the review to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of environmental protection, public safety, health, convenience, necessity or welfare.
- D. **EFFECTIVE DATE.** This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State of the State of New York in accordance with the applicable provisions of the Municipal Home Rule Law.





REVISIONS		
DATE	DESCRIPTION	APPROVALS

LEGEND		
	R-1 RESIDENTIAL	1.0 ACRES
	R-2 RESIDENTIAL	2.0 ACRES
	RU RURAL	3.0 ACRES
	I INDUSTRIAL	
	C COMMERCIAL	
	P STATE LAND - PUBLIC USE	
	BLOCK & LOT NUMBERS	

TOWN OF BERLIN

RENSSELAER COUNTY, NEW YORK

LAND USE DISTRICT MAP

PURSUANT TO LOCAL LAW #

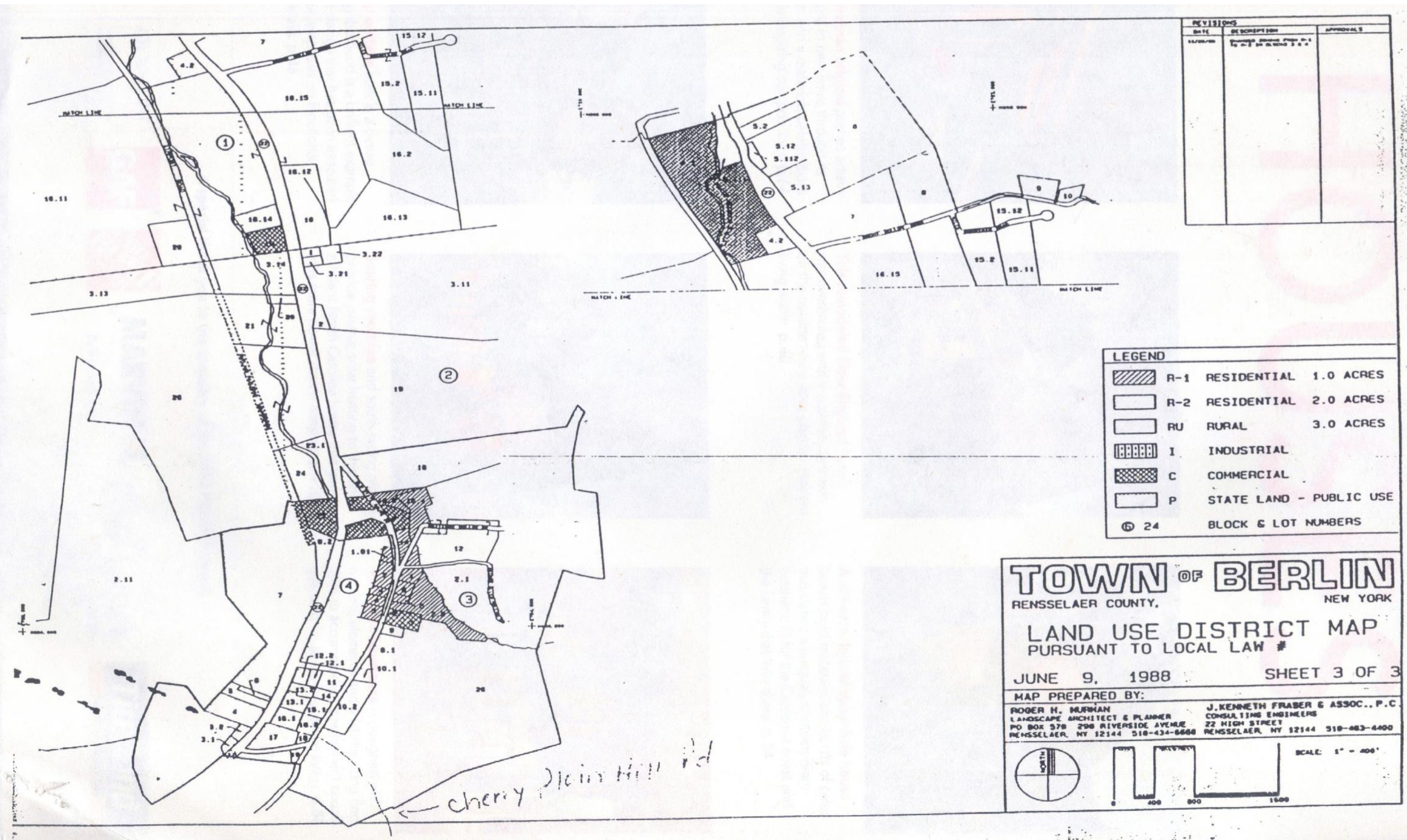
JUNE 9, 1988 SHEET 2 OF 3

MAP PREPARED BY:

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LANDSCAPE ARCHITECT & PLANNER
PO BOX 578
RENSSELAER, NY 12144 518-434-8888

J. KENNETH FRASER & ASSOC., P.C.
CONSULTING ENGINEERS
22 HIGH STREET
RENSSELAER, NY 12144 518-483-4400

SCALE: 1" = 200'



REVISIONS		
DATE	DESCRIPTION	APPROVALS
11/20/88	Revised District Map 2-1 to 2-3 to Block 3 & 4	

LEGEND		
	R-1 RESIDENTIAL	1.0 ACRES
	R-2 RESIDENTIAL	2.0 ACRES
	RU RURAL	3.0 ACRES
	I INDUSTRIAL	
	C COMMERCIAL	
	P STATE LAND - PUBLIC USE	
	BLOCK & LOT NUMBERS	

TOWN OF BERLIN
RENSSELAER COUNTY, NEW YORK

LAND USE DISTRICT MAP
PURSUANT TO LOCAL LAW #

JUNE 9, 1988 SHEET 3 OF 3

MAP PREPARED BY:
ROGER H. MURMAN
LANDSCAPE ARCHITECT & PLANNER
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CONSULTING ENGINEERS
22 HIGH STREET
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SCALE: 1" = 400'

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