

Local Law Filing

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**Village of Wappingers Falls
Local Law No. _____ (Proposed) of the year 2023**

A local law to delete and replace Chapter 151 of the Village Code entitled ZONING in its entirety, including the Zoning Map, and make related amendments to the Village Code, including: amending Chapter 47 entitled ANIMALS, Chapter 110 entitled PEDDLING AND SOLICITING, and Chapter 132 entitled STREETS AND SIDEWALKS; deleting Chapter 92 entitled HOUSE TRAILERS AND MOBILE HOMES; deleting Chapter A154 entitled FEES and replacing it with a new Chapter 76 entitled FEES; and adding a new Chapter 72 entitled ESCROW, a new Chapter 85 entitled FOOD TRUCKS, and a new Chapter 124 entitled “SHORT-TERM RENTALS”

BE IT ENACTED by the Board of Trustees of the Village of Wappingers Falls as follows:

SECTION 1. LEGISLATIVE INTENT

This local law amends the Village of Wappingers Falls Code by deleting Chapter 151 entitled “Zoning” in its entirety, including the Zoning Map, and replacing it with a new Chapter 151 that is intended to: clarify the Zoning Law and address various inconsistencies; amend the Zoning Map to align it more closely with existing development conditions and the Village *Comprehensive Plan*; amend the Use Table; add provisions for wireless telecommunications, short-term rentals, live-work dwellings, accessory dwellings, day care centers, electric vehicle charging stations, cannabis retail dispensaries, parking structures, assisted living facilities, and to include specific use standards for a variety of other uses; add provisions for an existing Historic Overlay District and a proposed Aquifer and Wellhead Protection Overlay District; add form-based standards for streetscapes, building design and infill; amend the outdoor lighting provisions to reflect recent technological changes in lighting fixtures; amend the sign section to reflect restrictions on content-based signs arising from the 2015 Reed v. Town of Gilbert Supreme Court case; amend the requirements for off-street parking and for landscaping; amend the provisions for the local law also makes related amendments to the Village Code, including: amending Chapter 47 entitled “Animals,” Chapter 110 entitled “Peddling and Soliciting,” and Chapter 132 entitled “Streets and Sidewalks;” deleting Chapter 92 entitled “House Trailers and Mobile Homes;” deleting Chapter A154 entitled “Fees” and replacing it with a new Chapter 76 entitled “Fees;” and adding a new Chapter 72 entitled “Escrow,” a new Chapter 85 entitled “Food Trucks,” and a new Chapter 124 entitled “Short-Term Rentals.” The amendments are designed to protect the health, safety and welfare of Village residents, and to bring the Village's Zoning Law into conformance with *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* pursuant to Chapter 17 of the Village Code, and with the Village of Wappingers Falls *Brownfield Opportunity Area Nomination Study*. The proposed amendments are consistent with the recommendations of the Village's *Comprehensive Plan*.

SECTION 2. APPLICATION

This local law shall apply within the Village of Wappingers Falls.

SECTION 3. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law, which can be given effect without such part or parts.

SECTION 4. EXEMPTIONS

The following applications shall be exempt from this local law:

- A. Planning Board applications. Applications for subdivision approval, site plan approval and special use permit approval for which the Planning Board has adopted a resolution granting final conditional approval prior to the effective date of this local law, and said approval has not expired, shall be exempt from the provisions of this local law, but shall be subject to the 2015 Zoning Law of the Village of Wappingers Falls, Dutchess County, New York, as amended. On the effective date of this local law, the Planning Board Attorney shall certify a list of all subdivision, site plan and special use permit applications which shall be exempt. All other applications before the Planning Board, pending as of the effective date of this local law, shall be bound by and subject to the provisions of this local law.
- B. Zoning Board of Appeals applications. Applications for area variances, use variances and other applications for which the Zoning Board of Appeals has adopted a resolution granting final conditional approval prior to the effective date of this local law, and said approval has not expired, shall be exempt from the provisions of this local law, but shall be subject to the 2015 Zoning Law of the Village of Wappingers Falls, Dutchess County, New York, as amended. On the effective date of this local law, the Zoning Board of Appeals Attorney shall certify a list of all area variance, use variance and other applications which shall be exempt. All other applications before the Zoning Board, pending as of the effective date of this local law, shall be bound by and subject to the provisions of this local law.

SECTION 5. AMENDMENTS TO CHAPTER 47 ENTITLED "ANIMALS"

§ 5.1. Section 47-13 of the Village Code is hereby amended by deleting the entire introductory sentence and replacing it with the following new introductory sentence:

In any zoning district where kennels are permitted by Chapter 151 of the Village Code, kennels shall comply with the following provisions:

SECTION 6. ADOPTION OF NEW CHAPTER 72 ENTITLED "ESCROW DEPOSITS"

§ 6.1. The following new Chapter 72 is hereby inserted into the Code of the Village of Wappingers Falls to read as follows:

CHAPTER 72. ESCROW DEPOSITS

§ 72-1. Legislative findings, intent and purpose.

- A. The Village Board hereby finds and determines that in order to protect and safeguard the Village of Wappingers Falls, its residents and their property, with respect to certain land developments within the Village, all buildings, highways, drainage facilities, sanitary sewer facilities, other utilities and parks within said developments should be designed and constructed in a competent and workmanlike manner and in conformity with all applicable governmental codes, rules and regulations and dedicated and conveyed to the Village in a legally sufficient manner. In order to assure the foregoing, it is essential for the Village to have Village staff and competent engineers, planners and other necessary consultants retained by the Village to review applications, plans and designs, make recommendations to the Village Board, Planning Board, Zoning Board of Appeals, and Architectural Review Board and to recommend their acceptance by the Village. It is also essential to have competent attorneys retained by the Village to negotiate and draft appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed deeds and easements to assure the Village is obtaining good and proper title, and to generally represent the Village with respect to legal disputes and issues concerning these development projects. The cost of staff time and retaining competent engineers, planners, attorneys and other necessary consultants should ultimately be paid by those who seek to profit from such developments rather than from general Village funds paid by taxpayers of the Village.
- B. This chapter is enacted under the authority of Subdivisions a(12) and e(3) of Municipal Home Rule Law § 10(1)(ii) and Municipal Home Rule Law § 22. To the extent NYS Village Law §§ 7-712-a, 7-712-b, 7-718, 7-725-a, 7-725-b, 7-728, 7-730, 7-732 and 7-738 do not authorize the Village Board, Planning Board, Zoning Board of Appeals, or Architectural Review Board to require the reimbursement to the Village of legal, planning, engineering and other consultant expenses incurred by the Village in connection with review and consideration of development applications, it is the expressed intent of the Village Board to supersede such statutes. To the extent that such statutes do not authorize the deferral or withholding of such approvals in the event such expenses are not paid to the Village, it is the expressed intent of the Village Board to change and supersede NYS Village Law §§ 7-712-a, 7-712-b, 7-718, 7-725-a, 7-725-b, 7-728, 7-730, 7-732 and 7-738 to empower the Village to require such payment as a condition to such approvals.

§ 72-2. Consultant review fees; escrow required.

- A. For any application, or as otherwise set forth in the Village Code, the reviewing board may require an applicant to deposit into escrow a sum of money established by the reviewing board to pay for the fees and/or costs of any consultant designated by the board to review such application. Said sum shall be in an amount estimated to cover the reasonable and necessary costs to the Village in obtaining professional review of the application. Costs may include consultant fees for planning, engineering, legal and other professional and technical services required for the proper and thorough review of an application.

- B. If a reviewing board requires an escrow deposit, the applicant shall be required to make an initial escrow deposit. The initial escrow deposit does not reflect any estimation of the actual fees that may be charged by the consultants.
- C. The actual fees and/or costs charged by a consultant in connection with such review will be charged against the sum deposited in escrow.

§ 72-3. Receipt and approval of consultants' itemized voucher by Village Board.

- A. Escrow amounts shall be deposited in a separate non-interest-bearing account in the name of the Village, and the Village Treasurer shall keep a separate record of all such monies deposited, including the name of the applicant and the project for which such sums were deposited.
- B. Upon receipt and approval by the Village Board of itemized vouchers from consultants for services rendered on behalf of the Village regarding a particular application, the Village Treasurer shall cause such vouchers to be paid out of the monies so deposited, and shall debit the separate record of such account accordingly. The Village shall provide copies of the vouchers to the applicant upon request.

§ 72-4. Request for additional sums from applicant.

If at any time during the processing of, or before final action on, an application there shall be insufficient monies in the Village escrow account to the credit of an applicant to pay the approved vouchers in full, or if it shall reasonably appear to the reviewing board that such monies will be insufficient to meet vouchers yet to be submitted, the applicant shall be required to deposit additional sums as is deemed necessary or advisable in order to meet such expenses or anticipated expenses.

§ 72-5. Failure to deposit requested review fees.

In the event the applicant fails to deposit the requested professional review fees with the Village, any reviewing board may suspend application review, and the Code Enforcement Officer may withhold any permits or certificates of occupancy, until such monies are deposited.

§ 72-6. Return of unexpended funds to applicant.

Upon completion of the review of, or work associated with, an application, or upon the withdrawal of an application, and after all reasonable and necessary professional review fees already incurred by the Village have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within 60 days after the applicant's request.

§ 72-7. Fees charged pursuant to SEQRA.

The reviews governed by this chapter shall include all environmental review pursuant to law, including review of the proposed action under the State Environmental Quality Review Act (SEQRA). Fees charged strictly as a result of a SEQRA review shall in no event exceed the maximum amounts that can be charged by the lead agency pursuant to the SEQRA regulations.

§ 72-8. Consulting fees not included in administrative fees.

The review fees provided for herein are in addition to application or administrative fees required pursuant to other sections of the Village Code. Monies deposited with the Village by applicants

pursuant to this section shall not be used to offset the Village's general expenses of professional services for the several boards of the Village or its general administrative expenses.

§ 72-9. No direct payment by applicant to Village consultant.

In no event shall an applicant make direct payment to any Village consultant as compensation for services performed for the Village by the consultant in connection with his/her application.

SECTION 7. ADOPTION OF NEW CHAPTER 76 ENTITLED "FEES"

§ 7.1. The following new Chapter 76 is hereby inserted into the Code of the Village of Wappingers Falls to read as follows:

CHAPTER 76. FEES

§ 76.1. Schedule of Fees.

- A. A Fee Schedule shall be established by resolution of the Village Board of the Village of Wappingers Falls for fees relating to the administration of Village duties contained in this Code. Such Fee Schedule may thereafter be amended from time to time by like resolution.
- B. These fees shall be nonrefundable administrative fees that shall be payable at the time of submission of an application.

§ 76.2. Interest on delinquent accounts.

All accounts invoiced by the Village of Wappingers Falls, unless otherwise provided by the Code, shall be due and payable within 30 days of the date of the invoice. After 30 days, interest will accrue at a rate equal to the interest on unpaid taxes.

SECTION 8. ADOPTION OF NEW CHAPTER 85 ENTITLED "FOOD TRUCKS"

§ 8.1. The following new Chapter 85 is hereby inserted into the Code of the Village of Wappingers Falls to read as follows:

CHAPTER 85. FOOD TRUCKS

§ 85-1. Purpose.

The purpose of this chapter is to regulate food trucks within the Village of Wappingers Falls in a manner that protects the public health, safety and welfare. This chapter describes the permitting procedures for food trucks on private property and is intended to operate in conjunction with the regulations of the Village of Wappingers Falls Code Chapter 151 entitled "Zoning." For requirements for food trucks on public lands, see Chapter 110 "Peddling and Soliciting."

§ 85-2. Definitions.

The following terms shall, for the purposes of this chapter, have the meanings herein indicated:

FOOD TRUCK

A mobile food service operation located in a motor vehicle or a movable cart, stand, or trailer and from which food and beverages (pre-packaged or prepared and served from the vehicle

or stand) are sold or distributed in individual portions to the general public directly from the food truck for consumption on or off the premises.

FOOD TRUCK OPERATOR

The registered owner of a food truck or the owner's agent or employee.

§ 85-3. Permit required.

- A. It shall be unlawful to operate a food truck on private property within the Village of Wappingers Falls without first having obtained a permit for such purpose in accordance with the provisions of this chapter.
- B. An application for a food truck permit shall be made to the Village of Wappingers Falls Code Enforcement Officer on a form provided by the Village and shall be accompanied by a non-refundable application fee in accordance with the Fee Schedule established by the Village Board. The application shall, at a minimum, include the following information:
 - (1) Name, address, e-mail address, and telephone number of the food truck operator and of the registered owner of the food truck, if different.
 - (2) Address of the private property on which the food truck will be located, and written consent from the property owner authorizing the location of the food truck on the property.
 - (3) Zoning district in which the property is located.
 - (4) A description of the food truck, including the license plate number, vehicle identification number (VIN), year, make, model, and dimensions (length and width) of the vehicle, and photographs of the truck, registration, VIN and license plate.
 - (5) Proof of a valid state motor vehicle registration number for the vehicle.
 - (6) A copy of a valid Dutchess County Department of Behavioral and Community Health permit for a mobile food service operation.
 - (7) If applicable, a copy of a license from the New York State Liquor Authority.
 - (8) A copy of a valid annual fire safety inspection by the Village of Wappingers Falls Building Department certifying that the food truck is NFPA compliant.
 - (9) A sketch plan including details sufficient to demonstrate compliance with this chapter.
- C. The Code Enforcement Officer shall approve and issue a food truck permit if:
 - (1) The use is permitted in the zoning district by Chapter 151;
 - (2) The applicant demonstrates compliance with the requirements of this chapter;
 - (3) No notices of violation are pending on the property and the food truck owner and operator; and
 - (4) The applicant pays the required nonrefundable food truck permit fee in accordance with the Fee Schedule established by the Village Board.

- D. A food truck permit is not transferable to any other food truck or food truck operator, or to any other property.

§ 85-4. Siting.

- A. Food trucks permitted under this chapter shall only be located on private property. Nothing in this chapter shall be deemed to authorize the sale or distribution of food from a food truck on public property or in the public right-of-way.
- B. Food trucks shall only be permitted as set forth in Table 4: District Schedule of Uses in Chapter 151 of the Village Code.
- C. Food trucks may only be sited on the property at the location designated on the permit.
- D. Food trucks shall meet the minimum side and rear yard setback requirements for a principal structure in the zoning district in which they are located, and shall have a minimum front yard setback of 15 feet.
- E. Food trucks shall be located a minimum of ten feet from the edge of any driveway, utility box and/or vault, handicapped ramp, building entrance, fire hydrant, or emergency call box, and shall not block fire lanes or access roads for emergency vehicles.
- F. Food trucks must be sited in a location that does not obstruct or interfere with the free flow of pedestrian or vehicular traffic, does not restrict visibility at any driveway or intersection, and does not unreasonably interfere with the activities of other businesses or otherwise interfere with other lawful activities or violate any statutes, ordinances, or other laws.

§ 85-5. Number and size of food trucks.

- A. A maximum of three food trucks shall be permitted per lot at any time.
- B. The maximum size of any food truck, inclusive of any trailers, shall be 256 square feet, measured from the exterior faces of the food truck and any trailer.

§ 85-6. Operations.

- A. Food truck operators shall maintain a valid permit from the Dutchess County Department of Behavioral and Community Health, and shall operate the food truck in conformance with all applicable health standards.
- B. No alcohol may be sold or dispensed from food trucks without a license from the New York State Liquor Authority.
- C. A copy of all valid permits shall be conspicuously displayed on the food truck at all times, including but not be limited to: the Dutchess County Department of Behavioral and Community Health permit; the Village of Wappingers Falls food truck permit; the annual fire safety inspection sticker; and a notice in at least two-inch font stating: "To report a violation, call the Village of Wappingers Falls Code Enforcement Officer at 845-297-5277."
- D. Food truck operators must demonstrate to the satisfaction of the Code Enforcement Officer that adequate parking is available for the food truck use.

- E. Food trucks must have adequate ingress and egress from the property for patrons to prevent traffic congestion and safety hazards. Existing and/or proposed curb cuts intended to serve the food truck shall meet the minimum sight distance requirements of the Village of Wappingers Falls highway specifications or the public entity that has control over the right-of-way.
- F. Signs may be painted on or affixed to the food truck provided the signs do not exceed the dimensions of the food truck on which they are placed. In addition, a food truck shall be permitted a single A-frame sign no greater than six square feet in area that may be displayed only during the food truck's hours of operation. The use of other movable, portable and/or freestanding signs is prohibited.
- G. The operation of food trucks shall be limited to the hours of 6:00 a.m. to 10:00 p.m. provided the food truck is not located within 200 feet of a dwelling unit, in which case the operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m. This shall supersede the provisions of Chapter 100 ("Noise"). Such distance shall be measured from the closest edge of the food truck to the nearest property line of the residential use.
- H. Food truck operators shall provide adequate trash and recycling receptacles within 10 feet of their food truck. A food truck operator is responsible for the proper disposal of waste and trash associated with the operation of the food truck. Operators shall remove all waste and trash from their approved location at the end of each day or more frequently as needed to maintain the health, safety and welfare of the public. The food truck operator shall keep all areas and any associated seating areas clean of grease, and trash, litter or waste, including but not limited to, paper, cups, cans, or bottles associated with the operation. No liquid waste or grease shall be disposed in or on streams, wetlands, storm drains, lawns, sidewalks, streets, or other public space or in sanitary sewers or septic tanks not equipped with a grease trap.
- I. Outdoor seating and tents shall be permitted as long as they are sited consistent with the provisions for food trucks in § 85-4. A maximum of one tent, no more than 12 feet by 12 feet in size, shall be permitted per food truck, and shall only be permitted to be installed or erected outdoors during hours of operation. Awnings are only permitted if they are attached to the food truck. Umbrellas are only permitted if they are attached to a picnic table.
- J. All equipment required for the operation of a food truck shall be contained within, attached to or located within three feet of the food truck with the exception of allowable outdoor seating areas, coolers, barbecue grills and smokers, and trash/recycling receptacles.
- K. No food shall be prepared or sold at the food truck site outside of the food truck with the exception of beverages, barbecue grills and smokers, as follows:
 - (1) A maximum of one barbecue grill or one barbecue smoker shall be permitted per food truck.
 - (2) A barbecue grill or smoker shall be located no more than 10 feet from the food truck.
 - (3) A barbecue grill shall have a maximum total grill width of 36 inches, and a smoker shall have a maximum of 600 square inches of cooking surface.

- (4) No barbecue grill shall be located within 200 feet of a residential use, measured in a straight line from the grill to the nearest property boundary on which the residential use is located.
- (5) No barbecue smoker shall be located within 1,000 feet of a residential use, measured in a straight line from the smoker to the nearest property boundary on which the residential use is located.
- L. No lighting is permitted except for low voltage decorative white string lights, and lighting that is used within the food truck for the purpose of inside food preparation. All lighting shall be turned off after hours.
- M. Amplified sound or loudspeakers are prohibited, and the food truck operation shall comply with the noise limits in Chapter 100 of the Village Code.
- N. Food trucks shall be consistent with the environmental performance standards of § 151-18 of the Zoning Law, and shall not cause objectionable odors or smoke at any lot line.
- O. Food trucks and associated outdoor seating, if any, shall be removed from all permitted locations upon expiration of the permit.

§ 85-7. Exceptions.

- A. Special event, private residence. Residents may request that food trucks cater special events on private property at their place of residence within any zoning district. Such request for a special event private use food truck permit shall be made to the Code Enforcement Officer for a period not exceeding one day, and not more than two events per year, and subject to the requirements of this chapter except for §§ 85-3C(4) and 85-4B. In such cases, provision of food and beverage shall be limited to event attendees only; provision to the general public is prohibited.
- B. Special permit procedure, public property. The Village Board may from time to time by resolution establish procedures for issuance of a permit to locate a food truck on certain public property, and such permits, if authorized by the Village Board in its discretion, shall not be subject to the requirements of this chapter, with the exception of § 85-6A.
- C. Special event, public. The Village Board may by resolution authorize a not-for-profit organization or public entity to obtain a daily permit in any zoning district for a designated date, time and location approved by the Village Board for the purpose of a special event or public festival. The Village Board may by resolution authorize a daily permit in any zoning district in conjunction with a permit for a parade, procession, block party or large assembly.

§ 85-8. Violations.

- A. Any of the following shall constitute a violation of this chapter:
 - (1) Failure to properly obtain and/or properly display a valid food truck permit.
 - (2) Fraud or misrepresentation contained in the permit application.
 - (3) Fraud or misrepresentation made in the course of operating the business.

(4) Conduct in an unlawful manner or that creates a public nuisance, or otherwise constitutes a danger to the public health, safety, and welfare.

(5) Failure to comply with the provisions of this chapter.

§ 85-9. Suspension or revocation of a permit.

- A. The Code Enforcement Officer may issue a notice of intent to suspend or revoke a food truck permit for any violation of this chapter. The notice of intent to suspend or revoke shall describe the violation, and require the permit holder to immediately cease operations and correct the violation or cause the violation to be corrected.
- B. The notice of intent may be given personally to the operator of the food truck, by affixing it to the windshield of the food truck, or in writing by mail to the permit holder at the address shown on the application.
- C. If the permit holder fails to immediately correct the violation or cause the violation to be corrected, the Code Enforcement Officer shall suspend or revoke the permit.
- D. A permit holder shall be entitled to request a hearing on suspension or revocation before the Village Board, upon application made to the Village Clerk in writing demonstrating that the permit holder was not in violation of the permit. Any suspension or revocation remains in effect unless modified by the Village Board. The Village Board shall hold a hearing to determine whether to reverse the suspension or revocation within 30 days of receipt of the written request.

§ 85-10. Enforcement, administration and penalties for offenses.

- A. The requirements established by this chapter shall be administered and enforced by any law enforcement agency that has jurisdiction in the Village of Wappingers Falls, the Village Code Enforcement Officer, the Building Inspector, or their duly authorized representatives.
- B. The individuals identified in subsection A are authorized to issue appearance tickets as defined in § 150.10 of the Criminal Procedure Law, and to prosecute the violation in Court, and are authorized to issue orders to remedy and notices of violation, to enforce the provisions of this Chapter.
- C. Any violation of this chapter shall be deemed an offense, and each occurrence or incident shall constitute a separate offense. If a violation continues for more than a 24-hour period, each day shall constitute a separate offense.
- D. If the offense occurs on the premises of a property that is occupied by someone other than the owner, the issuer of the appearance ticket must also notify the owner in writing of the violation within five business days of said violation. Failure to provide such notice shall not affect the prosecution of the person or persons charged with said offense.
- E. A violation of this chapter or any part thereof shall constitute an offense punishable as follows:
 - (1) By a civil penalty
 - (a) Not to exceed \$500 for a first offense;

- (b) Not to exceed \$1,000 for a second offense; and
- (c) Not to exceed \$1,500 for any subsequent offense; and/or
- (2) By a fine
 - (a) Not to exceed \$1,500 for a first offense;
 - (b) Not to exceed \$2,500 for a second offense; and
 - (c) Not to exceed \$3,500 for any subsequent offense; and/or
- (3) By imprisonment for a term of not more than fifteen (15) days; and/or
- (4) By any combination thereof.
- F. Conviction of two violations of any provision of this chapter, or consent to the payment of two separate penalties for separate offenses, shall result in the immediate revocation of the food truck permit. No refund of any food truck permit fee shall be given. If the food truck permit is revoked, the food truck operator will not be allowed to apply for another food truck license or permit for any food truck until the following calendar year.
- G. Without limiting any other remedy, the Village Board may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, this chapter.

SECTION 9. AMENDMENTS TO CHAPTER 92 ENTITLED “HOUSE TRAILERS AND MOBILE HOMES”

§ 9.1. Chapter 92 of the Village Code is hereby deleted in its entirety.

SECTION 10. AMENDMENTS TO CHAPTER 110 ENTITLED “PEDDLING AND SOLICITING”

§ 10.1. Section 110-5A of the Code is hereby amended by inserting a new subsection “(3)” to read as follows:

§ 110-5A(3). Food trucks, which shall be governed by Chapter 85 of the Village Code.

SECTION 11. ADOPTION OF NEW CHAPTER 124 ENTITLED “SHORT-TERM RENTALS”

§ 11.1. The following new Chapter 124 is hereby inserted into the Code of the Village of Wappingers Falls to read as follows:

CHAPTER 124. SHORT-TERM RENTALS

§ 124-1. Purpose.

The Village of Wappingers Falls Board of Trustees has determined it is in the best interest of the Village and its residents to regulate short-term rentals. The Village Board recognizes the benefits of short-term rentals to allow homeowners to supplement their income to defray the cost of housing and to provide lodging for visitors to the Village. However, to protect the health, safety and welfare of the Village and its residents, it is necessary to restrict the rental of dwelling units for terms shorter than 30 consecutive days because such use has the potential to negatively impact residential neighborhoods by allowing what are effectively transient lodging uses in buildings and areas where commercial uses may not be permitted. In addition, the presence of

short-term rentals also can lead to a reduction in the affordable housing supply by removing dwelling units from the market and driving up demand for the limited remaining housing supply. This can result in fewer available units and increased prices or rents for those units. The Village Board believes that the restrictions and requirements imposed herein further the Village's goals and objectives and promote the protection of the health, safety and welfare of the Village and its residents. This chapter describes procedures and requirements for obtaining a permit for a short-term rental and is intended to operate in conjunction with the regulations of the Village of Wappingers Falls Code Chapter 151 entitled "Zoning."

§ 124-2. Definitions.

As used in this chapter, the following words shall have the meanings indicated:

OWNER

Any person, partnership, corporation, limited liability company, trust, governmental entity or other legal entity having a fee interest in the real property to be used as a short-term rental.

PERSON

A natural person, a living human being.

PRIMARY RESIDENCE

The domicile and principal dwelling that a person inhabits and resides in for the majority of a year. If title to the property is not held in the name of a natural person, then the following shall apply: if the property is held in the name of a trust, the person that inhabits the residence must be a grantor or a beneficiary of the trust; if the property is held by an entity other than a trust (corporation, limited liability company, partnership, etc.), the resident must be a majority owner of, or have a majority interest in, the entity.

RESIDENT

A person for whom the dwelling containing the short-term rental is their primary residence.

SHORT-TERM RENTAL

A portion of a detached single-family dwelling made available for rent or lease, or otherwise assigned, for an occupancy of fewer than 30 consecutive days. The term "short-term rental" does not include dormitories, hotels, inns, bed-and-breakfast establishments, or boarding or rooming houses as regulated by the Village of Wappingers Falls Zoning Law, and does not include the use of any accessory structure(s) for dwelling purposes. The following are types of short-term rentals:

- (1) Hosted short-term rental. A short-term rental where the resident who lives in the dwelling is residing in the dwelling overnight with their guest(s).
- (2) Unhosted short-term rental. A short-term rental where the resident who lives in the dwelling is not present in the dwelling overnight with their guest(s). Unhosted short-term rentals are prohibited in the Village.

§ 124-3. Short-Term Rental Permit.

- A. Permit required. It shall be unlawful to use, establish, maintain, operate, rent or lease, or advertise for rent or lease, any property as a short-term rental within the Village of

Wappingers Falls without first having obtained a short-term rental permit for such purpose in accordance with provisions of this chapter, and without having obtained any requisite planning or zoning approvals required by Chapter 151, Zoning. Any required planning and zoning approvals must be obtained prior to the issuance of a short-term rental permit. The failure or refusal to obtain a short-term rental permit prior to the commencement of a short-term rental use shall be deemed a violation of this chapter.

- B. Zoning use authorized. Subject to the conditions set forth in this chapter, a property owner may obtain a short-term rental permit only where such use is permitted by Chapter 151 in the zoning district in which the property is located.
- C. Advertisement. If the rental is advertised, the short-term rental permit number must be included in the listing.
- D. Presumptive evidence. The presence or existence of any of the following shall create a rebuttable presumption that a property is being utilized as a short-term rental:
 - (1) The property is offered for lease or rent on a short-term rental website, app or social media, including but not limited to Airbnb, HomeAway, VRBO or similar websites, apps or social media; or
 - (2) The property is offered for lease or rent by the use of any other advertising mechanism for a period of fewer than thirty (30) consecutive days.

§ 124-4. Term of Permit.

A short-term rental permit shall be issued annually and shall expire on the last day of December next succeeding the date of issuance, unless sooner terminated or revoked. A property owner may apply for renewal for the following calendar year up to 90 days prior to the expiration of the permit, but no later than 30 days prior to such expiration.

§ 124-5. Application for permit.

- A. Application. An application for a short-term rental permit shall be made to the Code Enforcement Officer on forms provided by the Village and signed by all owners of the property. The form and content of the permit application shall be as determined from time to time by the Village and shall request such information and materials as the Village deems necessary. Such application shall contain, at a minimum, the information required by this chapter and the following:
 - (1) The name, address, e-mail address, and telephone number of the property owner.
 - (2) Property information, including:
 - (a) The property address and Tax Parcel ID number;
 - (b) The total number of bedrooms and bathrooms in the dwelling;
 - (c) The number of bedrooms occupied by the resident(s) of the dwelling;
 - (d) The total number of bedrooms proposed for short-term rental use;
 - (e) The square footage and ceiling height of bedroom(s) to be used for short-term rental;

- (f) A sketch indicating the location of each bedroom in the dwelling to be rented, and two means of egress from each such bedroom; and
 - (g) The number of persons to be accommodated in each short-term rental bedroom.
- (3) Certification that the property is the resident's primary residence. Primary residency shall be verified by one of the following:
 - (a) Proof of receipt of New York State STAR Credit or STAR property tax exemption for the short-term rental property; or
 - (b) A copy of a filed federal or state tax return showing the owner being domiciled at the property address; or
 - (c) Other evidence satisfactory to the Village that the property meets the primary residence criteria.
 - (d) The Village shall have the final authority to determine whether a property is a primary residence.
- (4) Proof of insurance coverage for the short-term rental use.
- (5) A sketch map or photos of the site sufficient to show the location of the driveway, the number and location of existing on-site parking spaces, and the number of on-site parking spaces available for the short-term rental. It is not necessary for the sketch map to be prepared by a licensed professional surveyor or engineer.
- (6) A certification in a form acceptable to the Village Attorney signed and authorized by the property's resident attesting to the fact that:
 - (a) The property is the resident's primary residence and the resident will reside in the dwelling during the rental;
 - (b) That the property is fit for human habitation and is safe;
 - (c) That the resident will comply with all of the conditions and restrictions of the permit;
 - (d) That no portion of the area to be used for the short-term rental will utilize a cellar or attic, or any portion thereof, as habitable space unless it meets the requirements of the New York State Uniform Fire Prevention and Building Code; and
 - (e) That the property is in compliance with all of the provisions of this chapter, the applicable provisions of the Village Code, and the New York State Uniform Fire Prevention and Building Code.
- (7) A non-refundable application fee, in accordance with the Fee Schedule established by the Village Board, payable upon application. In no instance shall the filing of an application or the payment of an application fee be construed as permission to operate a short-term rental, or to exonerate the property owner and resident from responsibility for compliance with the building, housing, fire and maintenance requirements of any local, county, state or federal agency having jurisdiction.

- (8) If a short-term rental will serve food that is freshly prepared on site, a Food Service Permit from the Dutchess County Department of Behavioral and Community Health may be required.
 - (9) Such other information and/or documentation deemed necessary by the Code Enforcement Officer.
- B. Inspection. In submitting the application for the issuance of a short-term rental permit or any renewal, the property owner consents, and must provide evidence that the property resident, if different, also consents, to a fire and safety inspection of the property by the Village Building Inspector, or a NYS licensed engineer or architect, prior to the issuance of the initial permit and prior to the issuance of any permit renewal confirming that the property is in compliance with this chapter and all other applicable provisions of the Village Code and the New York State Uniform Fire Prevention and Building Code. Prior to such inspection, all fire extinguishers shall be certified as operational by a third party with a maintenance tag, and appropriate paperwork provided to the Village. The inspection will confirm that the short-term rental contains smoke and carbon monoxide detectors in appropriate locations as required by the New York State Uniform Fire Prevention and Building Code, as well as at least one functioning fire extinguisher, and two safe means of ingress/egress for each rented bedroom. The property owner or resident shall also provide an affidavit attesting that all smoke detectors and carbon monoxide detectors are in good working order. The inspection report shall indicate the number of bedrooms in the dwelling permitted by the certificate of occupancy and/or as permitted by the size of the sanitary sewage disposal system approved for the dwelling by the Dutchess County Department of Behavioral and Community Health. For an inspection by the Village Building Inspector, a non-refundable inspection fee shall be payable upon application in accordance with the Fee Schedule established by the Village Board. If the Building Inspector or NYS licensed engineer or architect determines that the short-term rental space is not in compliance, any existing permit shall be revoked, and the property owner and resident shall cease use of the dwelling unit as a short-term rental until all noncomplying elements have been corrected, as confirmed by re-inspection by a NYS licensed engineer or architect or by the Building Department, which shall be subject to an additional fee as set forth in the Fee Schedule.
- C. Permit Fee. A non-refundable permit fee shall be payable upon issuance of the permit in accordance with the Fee Schedule established by the Village Board.
- D. Duty to amend. If the information submitted as part of the permit application changes at any time after submittal, it is the responsibility of the property owner and resident to submit such changes to the Code Enforcement Officer in writing within 30 days of the occurrence of such change. Failure to do so shall be deemed a violation of this chapter.

§ 124-6. Renewal of permit.

A short-term rental permit may be renewed by application to the Code Enforcement Officer as in the case of an original permit application as outlined in § 124-5 above. All applications for a renewal of a permit shall be filed within the time frame outlined in § 124-4 above. A permit may only be renewed by the same owner for the same property upon the payment of the requisite fees.

§ 124-7. Issuance of permit; conditions and restrictions.

- A. Transferability. Only the owner of the property containing a proposed short-term rental may apply for a short-term rental. Short-term rental permits are specific to the designated owner and property, and cannot be transferred to other owners or properties. Any owner who purports to transfer a permit, or who uses a permit that has been transferred, shall be in violation of this chapter.
- B. Primary residence. It shall be unlawful for any owner to use, establish, maintain, operate, rent or lease any property as a hosted short-term rental if the property is not the owner's or their tenant's primary residence. The property used as a hosted short-term rental shall be the primary residence of such person at all times during the term of the permit. A property owner may operate only one short-term rental in the Village.
- C. Violations. No short-term rental permit shall be issued to any resident or for any property with an outstanding notice of violation under the Village of Wappingers Falls Code, nor to any resident or property with a permit that was suspended or revoked and remains uncured, or that was suspended or revoked two or more times during the two-year period preceding the year applied for.
- D. Authority of Code Enforcement Officer. The Code Enforcement Officer may issue a permit upon such restrictions and conditions as he/she deems reasonable and necessary under the circumstances.
- E. Conditions and restrictions of permit. All permits issued pursuant to this chapter shall be subject to the following conditions and restrictions, whether or not they are itemized on the permit:
 - (1) Signage. There shall be no signage on the property advertising or identifying any portion of the property as a short-term rental.
 - (2) Residential appearance and character. All outward appearances of the property in which the short-term rental will be located must remain residential in character. A short-term rental shall be conducted in a manner which does not give the outward appearance of a business, does not have commercial-type outdoor lighting, does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their residential premises, and does not alter the residential character of the property or the neighborhood.
 - (3) Parking. Off-street parking shall be required if the short-term rental is rented during times when the snow ordinance is in effect. Such off-street parking shall be located on the parcel on which the short-term rental is located, and shall be comply with § 151-44 of the Village Code.
 - (4) Bedrooms. The use of any single-family dwelling for a short-term rental shall not result in an increase in the total number of permitted bedrooms indicated in the inspection report pursuant to § 124-5B herein.
 - (5) Number of guests. No more than two guests per bedroom may be accommodated on any occasion. Children under 5 years of age shall not count towards this maximum.

- (6) Traffic. Traffic attributed to the short-term rental must not result in significant adverse impacts to existing traffic patterns nor create a hazard to pedestrians in the neighborhood.
- (7) Code Compliance. Compliance with the provisions of Chapter 100 (Noise), Chapter 114 (Property Maintenance), and Chapter 128 (Solid Waste) shall be required.
- (8) Assembly. It shall be unlawful for a short-term rental property to be utilized for any type of assembly. As used in this chapter, assembly shall include, but not be limited to, a wedding; bachelor or bachelorette party; or any similar party, activity or gathering; or a luncheon, banquet, or meeting; or similar activities.
- (9) Meals. No restaurant may be operated, and no meals may be prepared or served to guests other than the rental occupants of the short-term rental. Meals served to permitted occupants of the short-term as in a typical “bed-and-breakfast” are permitted.
- (10) Non-habitable structures. No part of the property shall be offered or used as a short-term rental that is not approved for residential use, including but not limited to a recreational or other vehicle parked on the property, a storage shed, recreation room, trailer, garage, or any temporary structure such as a tent or treehouse.
- (11) Transient recreational use not part of short-term rental use. It shall be unlawful for a property owner and resident to offer for use, rent or lease, or advertise for use, rent or lease, any portion of the residential property, such as pool or hot tub rentals, party or yard rentals, or sport court rentals, to any third-party for transient recreational use separate from a permitted short-term rental use.
- (12) Postings. The resident shall post a copy of the following in an open and conspicuous place in the rental unit, readily visible to all guests:
 - (a) Short-term rental Permit Number.
 - (b) A copy of Chapter 100 (Noise) of the Village Code.
 - (c) A safety/egress plan, which also shall be posted on the back of the door of each rented bedroom.
- (13) Registry of Guests. The owner or resident of the short-term rental shall maintain a true and accurate registry of the short-term rental use, including the dates and total number of days rented, number of bedrooms rented, and number of short-term rental occupants. Such registry shall be retained for at least three years, and shall be available for inspection by the Code Enforcement Officer upon request.
- (14) Hotel Occupancy Tax. The property owner shall be responsible for payment of the Hotel Occupancy Tax to Dutchess County either directly or through Airbnb or other similar websites, apps or social media, if applicable, and for collecting and remitting all applicable occupancy and sales taxes required by state and/or county law. Compliance with applicable laws. The property owner and resident shall comply with all applicable state, federal, and local laws.

(15) Conditions and restrictions. It shall be unlawful for a property owner or resident to violate, fail, neglect or refuse to fully comply with any condition, restriction or requirement of the short-term rental permit.

§ 124-8. Denial or revocation of application.

- A. Basis for denial. Any application for a short-term rental permit, including the renewal of a permit, may be denied for the reasons set forth in § 124-10.
- B. Basis for revocation. Any permit for a short-term rental may be revoked for the reasons set forth in § 124-11.
- C. Form of denial or revocation. In the event an application is denied or revoked, notice of the denial or revocation shall be given in writing by first class mail to the owner at the address shown on the application. If the notice is returned by the Post Office as undeliverable for any reason, as long as it was properly addressed and sufficient postage affixed, service of the notice shall be presumed valid. The failure of an owner to provide a current address to the Town shall not be a basis to claim service of the notice was not proper.
- D. Notice of denial or revocation, contents. The notice of denial or revocation shall set forth the grounds therefor and contain a statement that the owner may appeal such denial or revocation pursuant to § 124-12 herein. The notice shall also contain a statement that the owner may submit written objections to the denial or revocation, and any other information deemed advisable or necessary.

§ 124-9. Reapplication for a permit.

Once an application has been denied, no reapplication for a permit or a renewal of the permit shall be accepted for filing until the owner has remedied the condition(s) that formed the basis for denial or revocation to the satisfaction of the Code Enforcement Officer.

§ 124-10. Basis for denial of a permit.

An application for the issuance of a short-term rental permit, or renewal thereof, may be denied under the following circumstances:

- A. Failure of the owner to file a full, true and complete application; or
- B. Failure of the owner to meet any of the requirements for obtaining a short-term rental permit; or
- C. Occupancy of the property or the short-term rental area(s) creates a hazard, public nuisance, or other condition which negatively impacts the use and/or enjoyment of surrounding properties, or threatens the peace and good order, or quality of life in the surrounding community as determined by the Code Enforcement Officer; or
- D. The property owner had a previous short-term rental permit revoked by the Village.

§ 124-11. Revocation of a permit.

The grounds upon which a permit can be revoked shall include but shall not be limited to:

- A. Permanent Revocation.

- (1) The permit was issued in whole or in part as a result of a false, untrue, or misleading statement on the permit application or other document submitted as part of the application, including but not limited to the schematic or certification;
- (2) The property owner ceases to be an owner, or the resident fails to continue to occupy the property as a primary residence;
- (3) The Village either has revoked, or is in the process of revoking, the certificate of occupancy or letter in lieu for the property;
- (4) The use of the property as a short-term rental creates a hazard or public nuisance, threat to public safety or other condition which negatively impacts the use and/or enjoyment of surrounding properties, or threatens the peace and good order, or quality of life in the surrounding community, as determined by the Code Enforcement Officer;
- (5) The failure of the owner or resident to comply with, or violation of, the conditions and restrictions of the permit; or
- (6) The failure by the owner or resident to comply with, or violation of, any federal, state, or local law, regulation or rule.

B. Temporary Revocation.

- (1) The receipt by the Village of three (3) or more credible complaints about separate events, as determined by the Code Enforcement Officer, about the short-term rental use within a thirty-day period shall cause the permit to be revoked for a period of thirty days.
- (2) The receipt by the Village of four (4) or more credible complaints about separate events, as determined by the Code Enforcement Officer, about the short-term rental use within a forty-five-day period shall cause the permit to be revoked for a period of time to be determined by the Code Enforcement Officer, such time to be determined based upon the type and nature of the complaint (s).

§ 124-12. Appeals.

- A. Upon the denial, or revocation of a permit, the owner may, within 20 business days from the date of the written notice, file a request for a hearing before the Village Board. Such request shall be filed with the Village Clerk. The Village Clerk shall promptly forward a copy of the appeal to the Village Attorney and the Code Enforcement Officer for further processing. Notice of the date, place and time of the hearing shall be given in writing by mail to the owner at the address shown on the application. If the notice is returned by the Post Office as undeliverable for any reason, as long as it was properly addressed and sufficient postage was affixed, service of the notice shall be presumed valid. The hearing shall be scheduled no later than 30 days after the date on which the request was filed.
- B. In the event that demand for a hearing is not made within the prescribed time or in the event that the owner does not timely appear for the hearing, the Code Enforcement Officer's decision shall become final.
- C. The owner shall be given an opportunity to present evidence why such denial or revocation of the permit, should be modified or withdrawn. The Code Enforcement

Officer or his or her designated agent may also give testimony or submit evidence in support of the proposal to deny or revoke the permit. All hearings shall be recorded and may be adjourned by the Village Board upon good cause shown. Upon consideration of the evidence presented, the Village Board shall within fifteen (15) days of the close of the hearing sustain, modify or reverse the decision of the Code Enforcement Officer, and the Village Board's decision shall be filed with the Village Clerk,

- D. The applicant may file an Article 78 proceeding under the New York Civil Practice Law and Rules challenging the Village Board's decision. The Article 78 proceeding must be filed within 30 days of the filing of the Village Board's decision with the Village Clerk.

§ 124-13. Effect of revocation.

- A. If a permit is revoked, the property owner shall not be eligible to re-apply for a permit for a period of one (1) year from the date of the revocation. Following the one (1) year period, no application for a new permit will be accepted for filing until the owner has remedied the conditions that formed the basis of the revocation to the satisfaction of the Code Enforcement Officer, if applicable. A prior revocation may be a factor in the determination as to whether a new permit will be issued. Once remedied, the owner will need to apply for a new permit.
- B. Notwithstanding the foregoing paragraph and the provisions of § 124-11(B), if an owner moves to a new residence in the Village and provides timely notice to the Village of the same, the failure to continue to occupy the original residence shall not be subject the owner to the one-year waiting period.

§ 124-14. Violations, enforcement, and penalties for offenses.

- A. Violations of this chapter may be enforced by the Code Enforcement Officer, the Building Inspector, any law enforcement agency that has jurisdiction in the Village of Wappingers Falls, or their duly authorized representatives.
- B. Appearance tickets. The individuals identified in subsection A above are authorized to issue appearance tickets as defined in § 150.10 of the Criminal Procedure Law, and to prosecute the violation in Court, and are authorized to issue orders to remedy and notices of violation, to enforce the provisions of this chapter.
- C. Each occurrence or incident shall constitute a separate offense. If a violation continues for more than a 24-hour period, each day shall constitute a separate offense.
- D. A violation of this chapter or any part thereof shall constitute an offense punishable as follows:
 - (1) By a civil penalty
 - (a) Not to exceed \$500 for a first offense;
 - (b) Not to exceed \$1,000 for a second offense; and
 - (c) Not to exceed \$1,500 for any subsequent offense; and/or
 - (2) By a fine
 - (a) Of at least \$500 but not to exceed \$1,500 for a first offense;

- (b) Of at least \$1,000 but not to exceed \$2,500 for a second offense; and
- (c) Of at least \$1,500 but not to exceed \$3,500 for any subsequent offense; and/or
- (3) By imprisonment for a term of not more than fifteen (15) days; and/or
- (4) By any combination thereof.

SECTION 12. AMENDMENTS TO CHAPTER 132 ENTITLED “STREETS AND SIDEWALKS”

§ 12.1. Section 132-1 of the Code is hereby amended by deleting it in its entirety and replacing it with the following new § 132-1:

§ 132-1. Erection and repair of awnings.

Unless otherwise permitted by Chapter 151 of the Code, it shall be unlawful for any person to erect any new awning across the sidewalks of the Village.

§ 12.2. Section 132-3 of the Code is hereby amended by deleting it in its entirety and replacing it with the following new § 132-3:

§ 132-3. Obstruction of streets and sidewalks.

Unless otherwise permitted by Chapter 151 of the Code, it shall be unlawful for any person at any time to block or obstruct any street, lane, road, or sidewalk, and any driveway or other means of ingress or egress from any street, lane, road, or sidewalk within the Village of Wappingers Falls with any structure, vehicle, or any substance or material whatsoever.

SECTION 13. AMENDMENTS TO CHAPTER 151 ENTITLED “ZONING”

§ 13.1. Chapter 151 of the Code is hereby amended by deleting it in its entirety and replacing it with the following new Chapter 151:

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HOW TO USE THIS ZONING LAW

The following text is advisory only and is intended to give a brief overview of the overall Zoning Law. It is important to understand that the Zoning Law governs uses of properties and design of development. Please refer to the Zoning Law for more detailed information. Village Planning Staff is available for assistance via phone or email—see www.wappingersfallsny.gov/building-planning-zoning/ for contact information.

A. If you own or lease property and want to know what rules apply in order to build or establish a particular use:

Step 1: Find your zoning district and any overlay districts by looking at the [Official Zoning Map](#).

Step 2: Find the [purpose](#) of your district.

Step 3: Determine which [uses](#) are allowed in the district. Some uses have [supplementary standards](#), some require [site plan](#) approval, and some require a [special permit](#). If there is an existing use that does not conform to the land use provisions in Article III, see [Article XII: Nonconformities](#).

Step 4: Determine the dimensional standards—setbacks, building height limits, etc.—as described in [Article IV](#) and in the district standards in [Tables 5 to 11](#). If there is an existing structure that does not conform to the dimensional standards, see [Article XII: Nonconformities](#).

Step 5: If the project involves any new construction or building modification, determine which [building design and infill standards](#) apply to your property. For example, [frontage elements](#).

Step 6: Find the standards for [streetscapes](#), [parking](#), [landscaping](#), and [lighting](#) for your property.

Step 7: If the project involves any signage, see [Article VII](#).

Step 8: Meet with the Code Enforcement Officer to understand the next steps in the planning review process.

B. If you want to subdivide your property:

Step 1: Find your zoning district and any overlay districts by looking at the [Official Zoning Map](#).

Step 2: Determine the dimensional standards—setbacks, lot occupation, etc.—as described in [Article IV](#) and in the district standards in [Tables 5 to 11](#).

Step 3: Determine which [uses](#) are allowed in the district. Some uses have [supplementary standards](#), some require [site plan](#) approval, and some require a [special permit](#).

Step 4: Meet with the Code Enforcement Officer to understand the next steps in the planning review process.

NOTE: Readers are advised to consult Article [XVI](#) for the definitions of terms used in the Zoning Law.

ARTICLE I: GENERAL PROVISIONS

§ 151-1. TITLE

This chapter shall be known as the “Zoning Law of the Village of Wappingers Falls, Dutchess County, New York” and shall hereafter be referred to as the “Zoning Law.”

§ 151-2. LEGISLATIVE AUTHORITY AND PURPOSES

This chapter is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Chapter 36-a of the Consolidated Law, and under § 7-700 of the Village Law of the New York State, to protect and promote public health, safety, comfort, convenience, economy, aesthetics, general welfare, and natural and cultural resources of the Village of Wappingers Falls (the “Village”), and for the following additional purposes:

- A. To guide development and redevelopment of the Village in accordance with the Village *Comprehensive Plan* so that the Village may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the residential, commercial, mixed-use, and public areas within the Village and with due consideration to:
 - (1) The character of the district and its suitability for particular uses;
 - (2) The existing conditions and trends in population, economic value of buildings and neighborhoods;
 - (3) The limitations imposed upon development by natural and cultural resources; and
 - (4) The historical pattern of compact, pedestrian-oriented development in the Village.
- B. To protect the character and the social and economic stability of all parts of the Village and to protect and conserve the value of land and buildings appropriate to the various districts established by this chapter.
- C. To improve the physical appearance of the community with urban design standards that provide more predictable results in the form and character of buildings.
- D. To coordinate the placement, orientation, and design of buildings in established neighborhoods to ensure a coherent and walkable streetscape and traditional urban character by creating well-defined street edges with uniformly placed building walls, appropriate frontage types, and architectural features that create visual interest and an attractive pedestrian environment.
- E. To enhance the appearance of the Village as a whole by ensuring that all development is orderly and beneficial to the Village, by eliminating inappropriate and poor quality design in the provision of site improvements and in the exterior appearance of structures, and by controlling the erection and maintenance of signs and lighting in the Village.
- F. To facilitate the provision of affordable housing and a variety of housing choices within the Village.

- G. To capitalize on opportunities to attract a variety of residential building types, retail, service, and cultural establishments to serve local needs, enhance tourism, and create a robust economic base.
- H. To enable and encourage mixed-use development within areas of the community in support of viable and diverse locally oriented business and cultural institutions.
- I. To preserve residential neighborhoods and provide privacy for residents by protecting such areas from, among other factors, the intrusion of non-residential uses and, wherever reasonable, by the elimination of nonconforming uses.
- J. To preserve the Village's historic heritage and in particular to protect and restore designated historic districts, buildings, sites, features, and their environs.
- K. To prevent the pollution of streams, lakes, wetlands, groundwater and other water resources; protect steeply sloped areas; avoid hazardous conditions and excessive damage resulting from stormwater runoff and flooding; protect significant wildlife habitats; and encourage the appropriate use and sound management of natural resources throughout the Village in order to preserve the integrity, stability and beauty of the community and the value of the land.
- L. To make provision for access to sunlight and the accommodation of solar energy equipment and other alternative energy systems.
- M. To promote energy conservation and low impact, environmentally sensitive development.
- N. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks, and other public facilities and services as needed by the community.
- O. To bring about the gradual conformity of the uses of land and buildings throughout the Village through the comprehensive zoning law set forth in this chapter.
- P. To promote the most beneficial relationship between the uses of land and buildings and the street system which serves these uses, having particular regard to the potential amount and intensity of such land and building uses in relationship to the traffic capacity of the street system, so as to avoid congestion in the streets and to promote safe and convenient vehicular, pedestrian, and bicycle traffic movements.
- Q. To provide a guide for public policy and action in the orderly and efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Village.
- R. To ensure compliance with all applicable laws, rules and regulations, local, county, state and federal, governing the use and development of land and structures within the Village.
- S. To implement the policies of the Dutchess County and Village Comprehensive Plans, as set forth in *Directions* (February 1987), and the Village *Comprehensive Plan* (2023) respectively, as may be amended from time to time, and the Village's *Brownfield Opportunity Area Nomination Study* (2020).

§ 151-3. GREENWAY CONNECTIONS

The Village is a member of Dutchess County's Greenway Compact Program and has adopted [Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities](#), as amended from time to time, as a statement of land use policies, principles and guides to supplement other established land use policies in the Village. In its discretionary actions under this chapter, the reviewing agency should be guided by said statement of policies, principles and guides, where and whenever appropriate.

§ 151-4. APPLICABILITY

- A. This chapter shall apply to all land, buildings, structures, and uses of land, buildings, and structures within the Village, unless an exemption is provided by or granted pursuant to the terms of this chapter, or otherwise by law.
- B. Except as hereinafter otherwise provided, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be constructed, erected, moved, altered, reconstructed or enlarged for any purpose, except in conformity with all of the regulations herein, and in conformity with the New York State Uniform Building Code and Chapter 64 of the Village Code.

§ 151-5. SUPERSESSION OF INCONSISTENT LAWS

The Village Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of NYS Village Law inconsistent with this chapter. The NYS Village Law provisions intended to be superseded include all of Article 7 of NYS Village Law, and any other provision of law that the Village may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. Courts are directed to take notice of this legislative intent and apply it in the event the Village has failed to specify any provision of law that may require supersession. The Village Board hereby declares that it would have enacted this chapter and superseded such inconsistent provision had it been apparent.

§ 151-6. INTERPRETATION; CONFLICT WITH OTHER LAWS

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare.
- B. Where the requirements of this chapter are inconsistent with the requirements of any other lawfully adopted statute, law, ordinance, rule or regulation, the more restrictive provisions, or those imposing the higher standards, shall govern.
- C. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this chapter imposes a greater restriction on the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings, or imposes any higher standards than are imposed or required by any easement, covenant or agreement, the provisions of this chapter shall control.

§ 151-7. EFFECT OF EXISTING VIOLATIONS

- A. Except where an application is submitted for the purpose of curing existing violations or will result in the curing of existing violations, no application for subdivision plat

approval, site plan approval, special use permit, certificate of appropriateness, certificate of demolition or removal, change of nonconforming use, or variance pursuant to this Zoning Law shall be deemed complete for purposes of commencing review of the same by either the Planning Board or the Zoning Board of Appeals, as applicable, for any premises or property on which there is an existing violation as defined in section C, *infra*, of this Zoning Law or of any Village, county or state law or regulation governing building construction and/or the development and use of land, buildings and structures within the Village. This provision does not apply to a legal nonconforming use or legal nonconforming structure or lot, nor shall it be interpreted to prohibit the issuance of a certificate of demolition or removal if demolition or removal is deemed by the Code Enforcement Officer to be the reasonable means to remedy a condition determined by the Code Enforcement Officer to be an imminent threat to public health and safety.

- B. No building permit, sign permit, certificate of occupancy, or certificate of compliance shall be issued by the Code Enforcement Officer for any premises or property within the Village on which there is an existing violation of this Zoning Law or of any Village, county or state law or regulation governing building construction, and/or the development and use of land, buildings and structures.
- C. For purposes of this section, a premises or property shall be deemed to be in violation of this Zoning Law where a stop-work order, notice of violation, order to remedy violation, or similar notice or order has been issued by the Village's Code Enforcement Officer in accordance with the provisions of the Village Code, or the Village has filed a criminal or civil action in a court of competent jurisdiction and the violation which is the subject of the order, notice or legal action has not been remedied by the property owner. In the event the automatic stay provisions of § 7-712-A(6) of NYS Village Law are invoked by timely appeal of any such order or notice to the Zoning Board of Appeals, the applicable Board or the Code Enforcement Officer can deem the application complete for purposes of commencing review, but no final approval shall be granted by the Board until such time as the Zoning Board of Appeals has reversed the determination of the officer or the violation has been remedied. For purposes of this provision, remedy of a violation shall be deemed to have occurred when the officer who issued the order or notice has inspected the property and has notified the property owner in writing that the violation has been satisfactorily remedied.
- D. No application under this chapter shall be accepted, processed or considered without proof that all taxes, water and sewer bills, garbage bills, and all other fees or fines payable to the Village, including any fines due and payable to the Village Justice Court, for the property subject to the application are paid in full.

§ 151-8. PERIODIC REVIEW REQUIRED

From time to time, at intervals of not more than five years, the Planning Board shall conduct a review of the effectiveness of the provisions of this chapter, including the locations of zoning district boundaries, and shall submit a report thereon to the Village Board, recommending such changes or amendments, if any, which may be desirable in the interest of the public health, safety, convenience, necessity or welfare.

§ 151-9. EFFECTIVE DATE

This chapter, together with the Zoning Map described in § 151-13, shall take effect 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 law, specifically § 27 of the Municipal Home Rule Law.

§ 151-10. SEVERABILITY

It is the legislative intent of the Village Board in adopting this Zoning Law that all provisions shall be liberally construed to implement the purposes set forth herein and the Village *Comprehensive Plan*, and to guide zoning and development in accordance with the existing and future needs of the Village as established in the *Comprehensive Plan*. If any clause, sentence, paragraph, section, subsection or part of this chapter is for any reason adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. Without affecting or limiting this general statement, each section of the sign regulations in Article VII (Signs) are specifically severable, and the invalidity of any regulation in that section shall not affect the validity or enforceability of other regulations in that section.

ARTICLE II: ZONING DISTRICTS

§ 151-11. ESTABLISHMENT OF ZONING DISTRICTS

For the purposes of this chapter, the Village of Wappingers Falls is hereby divided into the seven zoning districts listed below in Table 1: Summary Table of Zoning Districts and as illustrated on the Village of Wappingers Falls Zoning Map. Three overlay districts are also hereby created. Within the overlay districts, all of the underlying land use district regulations remain in effect, except as they are specifically modified by the overlay district regulations.

TABLE 1: SUMMARY TABLE OF ZONING DISTRICTS	
ZONING DISTRICTS	
Residential	
R	Residential
VR	Village Residential
Mixed-Use and Commercial	
RMU	Residential Mixed Use
VMU	Village Mixed Use
VC	Village Commercial
CMU	Commercial Mixed Use
B	Bleachery
OVERLAY DISTRICTS	
AWP-O	Aquifer and Wellfield Protection Overlay District
H-O	Historic Overlay District
MH-O	Manufactured Home Overlay District

§ 151-12. PURPOSE OF ZONING DISTRICTS

A. The purpose of each zoning district is described in Table 2.

TABLE 2: PURPOSE OF ZONING DISTRICTS**R - Residential**

The primary purpose of the Residential District is to preserve the character of existing pedestrian-friendly, moderate-density, single-family neighborhoods. Building height and front yard setbacks in this district are consistent on each block face. Single-family homes have front porches or stoops and are located on narrow lots. Streets generally have curbs, sidewalks and street trees. While almost exclusively residential, some civic functions and parks are also complementary to the character of this district.

VR - Village Residential

The primary purpose of the Village Residential District is to provide for pedestrian-friendly residential neighborhoods with a variety of housing types, including single-family, two-family, three-family, and townhouses, and some civic functions and parks. Lots in this district are compact and narrow. Shallow front yard setbacks and a consistent build-to line and building height on each block face serve to define the public realm of the street and encourage walking. Most homes have front porches. Streets with curbs, sidewalks and street trees define medium-sized blocks.

RMU - Residential Mixed Use

The primary purpose of the Residential Mixed Use District is to provide for a mix of clustered garden-style apartments and limited commercial uses, such as professional offices, for the convenience of neighboring residents. Front and side yard setbacks may be variable. In the Channingville Road area, the intent is also to preserve significant areas of open space, particularly along the road frontage, on lands that are constrained by topography. Streets generally have sidewalks and street trees.

VMU - Village Mixed Use

The primary purpose of the Village Mixed Use District is to provide for pedestrian-friendly neighborhoods with a mix of housing types and some small-scale commercial uses that primarily serve the local community. Lots are compact and narrow, and building height and front yard setbacks are consistent on each block face in order to define the public realm of the street and encourage walking. Streets with curbs, sidewalks and street trees define medium-sized blocks. On East and West Main Street, the VMU District additionally serves as a gateway to the Village, to slow traffic and provide a transition between the large commercial uses on Route 9 and the walkable village center.

VC - Village Commercial

The primary purpose of the Village Commercial District is to provide for a vibrant, walkable downtown with higher density mixed-use buildings that accommodate a range of retail, service, entertainment, and office uses on the ground floor, and apartments above or below the ground floor. Infill development is designed to reinforce the existing well-defined urban character of the Village's historic downtown area. Streets have curbs with consistent street tree plantings, relatively small blocks, and wide sidewalks that accommodate outdoor dining while providing for comfortable strolling and easy view of retail merchandise. Buildings are set very close to the sidewalk in order to define the public realm, with frontage types that encourage substantial pedestrian activity.

TABLE 2: PURPOSE OF ZONING DISTRICTS	
CMU - Commercial Mixed Use	<p>The primary purpose of the Commercial Mixed Use District is to redevelop the Route 9 corridor as a more contained sub-center with shared entrances and parking; higher quality landscaping, signage and architecture; sites that are upgraded with sidewalks, street trees, internal service roads; and development that fills in the fronts of large parking lots with small, closely spaced storefronts to build a street frontage with courtyard parking behind. Development form supports a high-quality commercial character, with one-story back buildings in the rear of the lots, and two- to three-story mixed-use linear buildings close to road frontages. Linear buildings conceal parking lots, and include ground floor commercial uses, a uniform setback, and wide sidewalks to increase pedestrian activity in the area.</p>
B - Bleachery	<p>The primary purpose of the Bleachery District is to revitalize the former Dutchess Bleachery into a vibrant contemporary market place with small-scale artisan manufacturing, collaborative makerspaces, start-up or incubator businesses, recreation-based uses, craft beverage manufacturing, and tourism-support businesses, through the adaptive reuse of historic industrial buildings and construction of new architecturally compatible buildings. Increasing waterfront access and recreational opportunities in the district, and reestablishing the pedestrian connection between the Bleachery and downtown, will attract tourism, encourage private investment in new economic development and employment opportunities, and support downtown businesses.</p>

B. The purpose of each overlay district is shown in Table 3.

TABLE 3: PURPOSE OF OVERLAY DISTRICTS	
AWP-O - Aquifer and Wellfield Protection Overlay District	<p>The primary purpose of the Aquifer and Wellfield Protection Overlay District is to preserve the quality and quantity of the Village's water resources to ensure a safe and adequate water supply for present and future needs.</p>
H-O - Historic Overlay District	<p>The Historic Overlay District is coincident with the Wappingers Falls Historic District, which is listed on the National Register of Historic Places, and it also includes any locally designated historic districts in the Village. The Wappingers Falls Historic District includes within its 90 acres extensive historic resources that reflect the development of a significant Hudson Valley industrial community over more than two centuries from 1730 to 1940. The Village retains significant, well-preserved examples of industrial and commercial buildings, working-class houses, stylish residences, and public structures and parks directly linked to the Village's historic industrial economy. The primary purpose of the Historic Overlay District is to promote the general good, welfare, health and safety of Village residents by providing for the protection, enhancement, perpetuation, and use of buildings, structures, and features of historic or architectural significance within the Wappingers Falls Historic District, and any locally designated historic districts, to link the community to its heritage and contribute to the aesthetic character of the Village.</p>
MH-O - Manufactured Home Overlay District	<p>The purpose of the Manufactured Home Overlay District is to promote orderly planned development of manufactured home parks through designs that foster a pleasant, attractive, safe environment while preserving the benefit of relatively low cost housing traditionally associated with manufactured homes. The regulations are designed to preserve and protect the residential character of the district, and to ensure compatibility with adjacent neighborhoods.</p>

§ 151-13. OFFICIAL ZONING MAP

- A. The location and boundaries of the zoning districts hereby established are shown on the attached map¹ entitled “Official Zoning Map of the Village of Wappingers Falls” (referred to herein as the “Zoning Map”). Said map, together with all explanatory matter thereon and all amendments thereto, is hereby adopted and declared to be an appurtenant part of this chapter.
- B. The Zoning Map shall be kept on file in the Village Clerk’s office at Village Hall for the use and benefit of the public. Certified copies of said map shall also be on file in the offices of the Planning Board and the Village Building Department at Village Hall, and on the Village website.
- C. Regardless of the existence of purported copies of the Zoning Map that may from time to time be made or published, the Zoning Map that is on file in the Village Clerk’s office shall have final authority as to the current zoning status of any land in the Village.
- D. The Village Clerk shall maintain copies of superseded versions of the Zoning Map for historical reference.

§ 151-14. INTERPRETATION OF DISTRICT BOUNDARIES

- A. The precise location of any zoning district boundary line shown on the Zoning Map shall be defined by the rules of this section.
 - (1) District boundary lines are intended to follow centerlines of streets, highways, rights-of-way, or watercourses or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.
 - (2) Where district boundaries are indicated as approximately following lot lines, such lot lines are construed to be such boundaries.
 - (3) Where district boundaries are indicated as approximately following the Village boundary line, they shall be construed to be coincident with such Village boundary line.
 - (4) Where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the Zoning Map, is determined by the use of the map scale shown thereon.
 - (5) Where district boundaries cannot be determined by the Code Enforcement Officer through the use of center lines, existing property lines or by the Zoning Map, the Zoning Board of Appeals, upon hearing, shall determine and fix the location of such boundaries upon consideration of the purposes set forth in this chapter and all relevant evidence.

§ 151-15. LOTS IN TWO OR MORE DISTRICTS OR MUNICIPALITIES

- A. Where a lot of record existing at the time of enactment of this chapter is divided by one or more district boundary lines, the following shall apply:

¹ A copy of the Zoning Map is included as Attachment 1 to this chapter.

- (1) Each of said divisions of the lot shall be subject to the regulations of the district in which it is located.
 - (2) The regulations for the less restricted portion of such lot may, at the owner's discretion, extend not more than 25 feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district, and provided that all other requirements of this chapter, including extraordinary setbacks or buffers which may be required between certain land uses, are wholly met.
 - (3) For the purposes of this section, the "more restricted portion" shall be deemed to be that district subject to regulations which:
 - (a) Prohibit the use intended to be made of said lot; or
 - (b) Require higher standards with respect to density, setbacks, coverage, yards, screening, landscaping, signage and similar requirements.
- B. Where portions of a lot lie in two or more districts or municipalities and the area of the lot within any district or within the limits of the Village (as the case may be) does not comply with the provisions of this chapter, the Code Enforcement Officer shall nevertheless issue a building permit, provided that the total area of the lot and the proposed setbacks comply with the most stringent zoning provisions applying to any part of the lot. However, where the area and/or setbacks do not so comply, the Zoning Board of Appeals, on direct application to it, may, after a public hearing, grant a variance to modify the area and setback requirements of the portion of such lot within the jurisdiction of the Board in such fashion and to such degree that the zoning requirements shall be affected to the minimum extent necessary.

ARTICLE III: USE REGULATIONS

§ 151-16. DISTRICT SCHEDULE OF USES

- A. The general use regulations in each zoning district are set forth in the attached Table 4: District Schedule of Uses.² The uses permitted in the Village are subject to, as appropriate, the other provisions of this chapter, including but not limited to: the district development standards set forth in Article IV; the building design and infill standards set forth in Article V; the supplemental development standards for streetscapes, parking, landscaping, lighting, and signage set forth in Articles VI and VII; the overlay district standards set forth in Article VIII; the supplementary standards set forth in Article IX; the special use permit standards set forth in Article X; and the site plan review and approval requirements set forth in Article XI.
- B. Any use not listed specifically within the District Schedule of Uses shall be considered a prohibited use in all those districts under this chapter. Where permitted or special permit uses are identified by generic words or descriptions, the Code Enforcement Officer shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Code Enforcement Officer shall consider to what extent the proposed use is similar to the class of use indicated in the District Schedule of Use Regulations. If a use is specifically listed elsewhere in the District Schedule of Use Regulations, it is excluded from a generic classification.
- C. Symbols used on Table 4 shall be interpreted as follows:
- | Symbol | Meaning |
|---------------|-------------------------|
| P | Permitted use |
| SP | Special Permit required |
| X | Prohibited use |
| * | Site Plan required |
- D. Any structure containing a principal use shall be deemed to be a principal building. Only structures that do not contain a principal use may be deemed to be an accessory structure.
- E. Any use permitted by right that does not require Planning Board review and approval remains subject to the applicable provisions of this chapter and all other permit, license or other requirements remain in full force and effect, including but not limited to building permits from the Code Enforcement Officer under Chapter 64 of the Village Code.
- F. Any change from an existing use to a different use allowed only by special permit shall require the granting of a special permit for such use.

§ 151-17. NUMBER OF PRINCIPAL BUILDINGS AND USES ON THE SAME LOT

- A. Except as otherwise specifically provided by this chapter, and without consideration to whether the lot lies in more than one district or municipality, there shall be no more than one principal building or principal use and its accessory structures or uses on any one lot as follows:

² Table 4: District Schedule of Uses is included as Attachment 2 to this chapter.

- (1) Within the R, VR, and VMU Districts, with the exception of lots with frontage on Delavergne Avenue; and
 - (2) On any lot in any zoning district containing a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse, except for lots in the RMU District.
- B. In all other cases, a lot may include more than one principal building and/or use, including a combination of residential and non-residential uses, provided that all of the following shall apply:
- (1) Each use is either a permitted or special permitted use in that zoning district;
 - (2) The required approvals have been obtained for each use, as outlined in Table 4;
 - (3) All supplementary standards applicable to each use are met; and
 - (4) The development complies with all applicable density, dimensional, and development standards.
- C. Access. The following shall apply where more than one principal building is permitted:
- (1) A public or private right-of-way shall be provided for access to each principal building. Shared rights-of-way are permitted.
 - (2) For multi-family dwellings and non-residential uses, such access shall consist of a right-of-way not less than 40 feet wide with a road width of a minimum of eighteen (18) feet when serving non-residential uses, and sixteen (16) feet when serving residential uses exclusively.
 - (3) Any access roadway shall not have any portion which exceeds a maximum grade of 12 percent.
 - (4) Dead-end access roadways longer than 200 feet shall terminate in a turnaround, and shall provide for walking, bicycling, and/or vehicular connections where possible. The right-of-way for such turnaround may be a cul-de-sac.

§ 151-18. ENVIRONMENTAL PERFORMANCE STANDARDS

The following environmental performance standards shall apply to all uses in all districts, in addition to all relevant provisions of other local, county, state and federal laws, rules or regulations:

- A. Noise. All uses shall comply with Chapter 100 of the Village Code regulating noise. No continuous hum, intermittent noise or noise with any noticeable shrillness, or a volume of more than 50 decibels, measured at the property line of the lot from which the noise is emitted, shall be permitted.
- B. Vibration. No vibration discernible at any lot line or beyond shall be permitted.
- C. Smoke. No emission of visible grey smoke of a shade equal to or darker than No. 2 on the Ringelmann Chart, measured at the point of emission, shall be permitted.
- D. Odors. No activity shall be permitted which causes offensive or noxious odor that is noticeable outside the building in which the use is conducted or, if the use is not conducted within a building, at the property line of the lot on which the use is conducted.

- E. Toxic or noxious matter. No activity shall be permitted which causes the escape of any toxic or noxious fumes, gases or other matter beyond building in which the use is conducted or, if the use is not conducted within a building, beyond the property line of the lot on which the the use is conducted.
- F. Fly ash; dust. No emission which can cause any damage to human or animal health, vegetation or property, or any excessive soiling, shall be permitted.
- G. Heat. No unreasonable heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. A rise in temperature of 1° F along any adjoining property line shall be considered perceptible.
- H. Lighting. Lighting shall be in accordance with the Village Lighting Regulations, as set forth in § 151-46 of this chapter
- I. Liquid or solid wastes. No discharge of liquid or solid wastes into any present or future public or private disposal system, stream, or on or into the ground shall be permitted, except in strict conformance with the standards approved by the New York State Health Department, the New York State Department of Environmental Conservation, Dutchess County and/or other duly empowered agency. Facilities for the storage of solid wastes shall be so located and designed as to be screened from the street and/or from any adjoining property and so as to discourage the harboring of rodents or insects.
- J. Radioactivity. No activity which emits dangerous radioactivity at any point, as covered by federal government standards, shall be permitted.
- K. Fire and explosion hazard. No processing or storage of material in such manner as to create undue hazard by reason of fire or explosion shall be permitted.
- L. Electrical emissions. No activity which causes electrical disturbance that adversely affects the operation of radios, televisions or any other electric equipment in the vicinity shall be permitted, unless state or federal regulation require such operation to be permitted.
- M. Vermin. No material shall be stored, indoors or outdoors, in a manner which attracts vermin.
- N. Nuisance prohibited. All structures and land uses within the Village shall be constructed, used, operated, and maintained in such a manner so as to be free of nuisances, as defined in state law.

ARTICLE IV: DISTRICT DEVELOPMENT STANDARDS

§ 151-19. DIMENSIONAL STANDARDS

- A. Dimensional standards for each zoning district are set forth in the attached Tables 5 to 11.³
- B. These Tables are supplemented, as appropriate, by the other provisions of this chapter, including but not limited to: the land use regulations of Article III; the building design and infill standards set forth in Article V; the supplemental development standards for streetscapes, parking, landscaping, lighting, and signage set forth in Articles VI and VII; the overlay district standards set forth in Article VIII; the supplementary standards set forth in Article IX; the special use permit standards set forth in Article X; and the site plan review and approval requirements set forth in Article XI.
- C. If the provisions of this Article IV conflict with the building design and infill standards of Article V, the provisions of Article V shall apply.

§ 151-20. APPLICATION OF DIMENSIONAL STANDARDS FOR REQUIRED YARDS AND LOT COVERAGE

A. Required Yards.

(1) Except as hereinafter otherwise provided:

- (a) 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.
- (b) No yard or lot existing at the time of the effective date of this chapter shall be reduced in size or area below the minimum requirements set forth herein.
- (c) Yards of lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.
- (d) Yards, as required herein, shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material, or for signs, unless otherwise provided in this chapter.

B. Lot Coverage.

- (1) For any parcel in any district greater than 15,000 square feet, the maximum lot coverage shall be the parcel's acreage minus any area of constrained land for which no permits or approvals have been obtained that would allow development within such constrained land areas. Constrained land is that which contains any of the following features:
 - (a) Wetlands;
 - (b) The Wappinger Creek measured at the high water mark;

³ Tables 5 to 11 are included as Attachment 3 to this chapter.

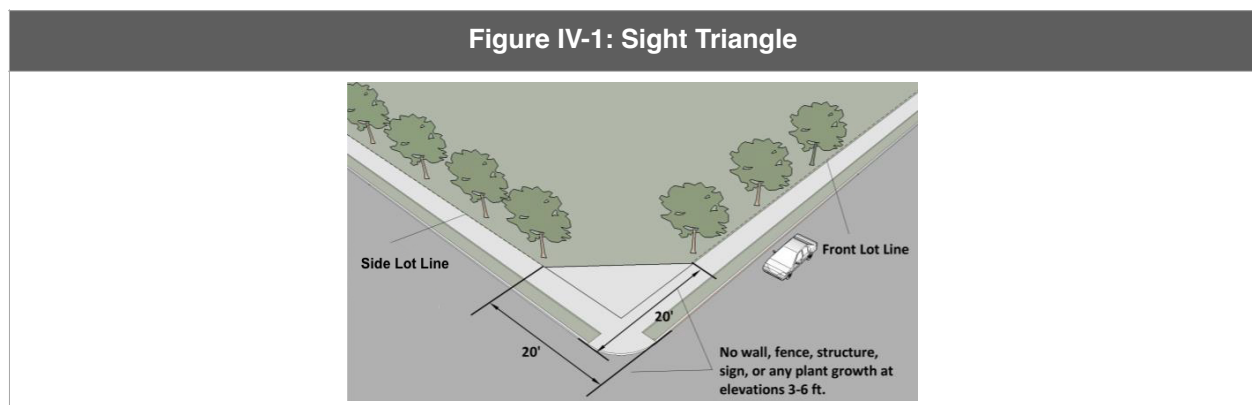
- (c) Other streams and waterbodies measured at the high water mark; or
 - (d) Acreage subject to a conservation easement or other long-term easement that expressly prohibits development.
- (2) For lot coverage calculations, the applicant shall subtract the acreage of any constrained land from the total (gross) acreage. Maximum permitted lot coverage shall be based on the amount of acreage that remains.
- (3) The Planning Board's determination as to maximum permitted lot coverage shall be based on a certified survey of the parcel and delineation of the constrained features by a licensed land surveyor and by a tabular presentation by the land surveyor or a licensed professional engineer of the gross site acreage and each of the subtracted land areas set forth above. Two or more parcels in common ownership or under common control which are the subject of an application for subdivision or site plan approval may be considered as a single development parcel for purposes of this section.

§ 151-21. CORNER LOTS AND SIGHT TRIANGLES

A. Required frontages.

- (1) A corner lot shall be deemed to have two frontages, one on the primary street and one on the side street. The required yard along the primary street shall be the front yard, and the required yard along the side street shall be the side street yard.
- (2) The above notwithstanding, for the purposes of this chapter no lot shall, however, be interpreted to have more than two frontages, regardless of how such lot is located or configured.

- B. **Sight triangles.** On any corner lot, no wall, fence, structure, sign, berm, or plant growth that obstructs sight lines at elevations between three and six feet above the driving surface of the adjacent roadway shall be permitted in the area formed by measuring 20 feet along both curb lines where they intersect, and connecting the two points to form a triangle, as illustrated in Figure IV-1.⁴ This section shall not be construed to apply to existing street trees, provided that no branches are maintained closer than eight feet to the ground.



⁴ All photographs and graphics used in this chapter are for illustration only.

§ 151-22. IRREGULAR LOT CONDITIONS

- A. **Irregular Lot Lines.** Generally, side lot lines shall be perpendicular or radial to the street right-of-way, and rear lines shall be approximately parallel to the street right-of-way. Irregularly shaped lots shall be permitted at the discretion of the Planning Board when unique site conditions exist.
- B. **Irregular Lot Setbacks.** The location of required front, side (interior and side street), and rear yards on irregularly shaped lots shall be determined by the Planning Board, based on the prevailing setbacks and spacing of buildings on the adjacent parcels.
- C. **Through Lots.** On lots with two street frontages, not located at a corner, the front setback shall apply to both streets, unless otherwise determined by the Planning Board.
- D. **Flag lots.** The Planning Board may permit a flag lot as a conforming lot for a detached single-family dwelling, if all of the following conditions apply:
 - (1) There is no reasonable alternative, due to extreme topographic conditions or other physical condition.
 - (2) Connectivity and circulation via a network of streets, sidewalks, pathways, etc. will be maintained.
 - (3) The flag lot shall have a minimum lot frontage of 24 feet on a public street to provide for an accessway, and no portion of a flag lot shall be less than 24 feet in lot width.
 - (4) The front setback on flag lots shall be measured from the front property line within the main building site (the “flag” portion of the lot), as opposed to the property line adjoining the public right-of-way.
 - (5) Flag lot access shall meet the minimum fire apparatus access road requirements as outlined in the New York State Uniform Fire Prevention and Building Code.

§ 151-23. ENCROACHMENTS INTO SETBACKS AND RIGHTS-OF-WAY

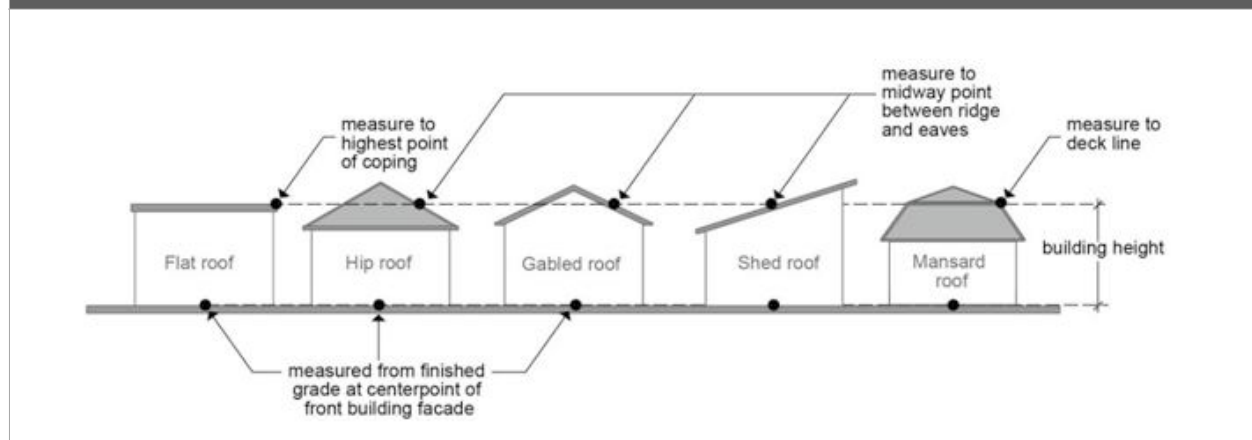
- A. The following features shall be permitted to encroach into a required yard or right-of-way, as applicable, subject to the limitations provided herein:
 - (1) Upper story encroachments. Bay windows, balconies and similar features projecting from the principal building may encroach up to 40 percent of the depth of the front yard setback.
 - (2) Lower story encroachments. Cornices, eave overhangs, chimneys, flues, bay windows, and similar projections (including gutters) may encroach up to 2 feet into any required yard, provided, however, that the sum of such projections on any wall does not exceed $\frac{1}{3}$ of the length of said wall.
 - (3) Covered porches. Covered porches may encroach a maximum of 8 feet into any required front yard.
 - (4) Uncovered porches, stoops, decks, patios, steps and stairs. Uncovered porches, stoops, decks, patios, steps and stairs, and other similar features may encroach a maximum of 3 feet into any required front yard.

- (5) Encroachments over sidewalks. With the approval of the public entity that has authority over the right-of-way, awnings and galleries may encroach over the sidewalk as provided in §§ 151-38 and 151-41.
- (6) Accessibility Ramps. Ramps, lifts and similar improvements required to provide access for persons with disabilities and/or compliance with ADA requirements, may encroach into any required yard but may not be closer to any property line than 5 feet. Such features shall not be located in a front yard if it is possible to accommodate them in a side or rear yard.
- (7) Fences and walls. Fences and walls (but not retaining walls) may encroach into required setbacks where in full compliance with the standards provided in § 151-45I of this chapter.
- (8) Mailboxes. Mailboxes may encroach into a front setback area.

§ 151-24. MEASUREMENTS

A. Building height

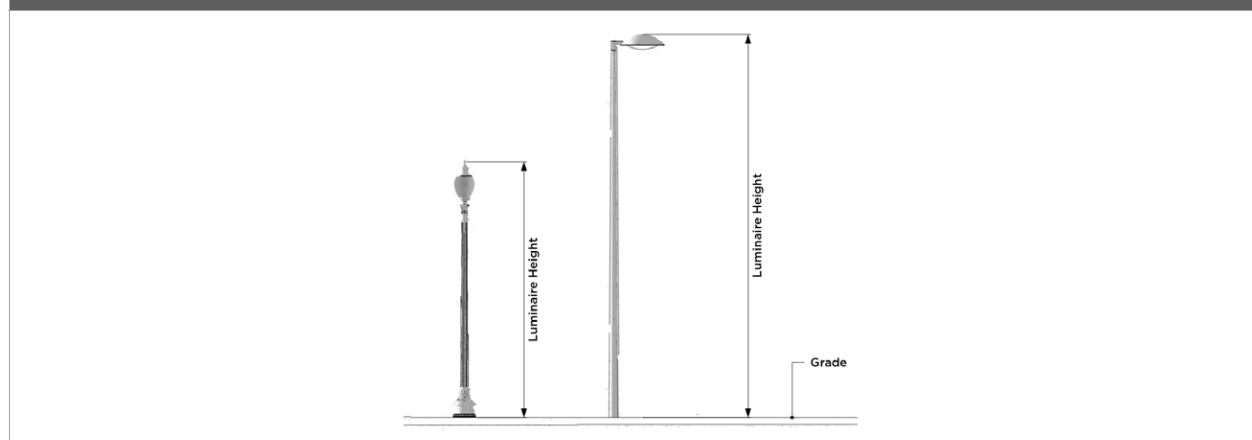
- (1) Purposes. Minimum and maximum building height standards promote relationship of scale among structures in residential, mixed-use, and commercial neighborhoods, helping to create harmonious environments which enhance a sense of place.
- (2) Applicability. Buildings constructed, enlarged, or modified after the effective date of this chapter shall comply with the maximum and (if applicable) minimum building height standards of the applicable zoning district.
- (3) Measurement of building height.
 - (a) Building height is measured as the number of stories in a building as counted from the center-point of the building's primary facade. Attics and cellars shall not be considered a story. A basement shall be considered a story, whether occupied or not, if more than four feet of the basement is visible above the finished grade at the center-point of building's primary facade.
 - (b) Where a maximum height is also provided in feet, that height shall be measured as follows:
 - (i) Except as provided in subsection (ii) below, building height is the vertical distance measured from the finished grade at the center-point of the building's primary facade to the highest point of the coping of a flat roof, to the deck line of mansard/gambrel roofs, or to the point midway between eaves and ridgeline for pitched, hip or gable roofs, but not including the features listed in § 151-24C herein. Figure IV-2 illustrates the methods to measure building height.

Figure IV-2: Building Height

- (ii) For purposes of the RMU District, building height is the vertical distance measured from the average elevation of the finished grade along the exterior facade of the building having the lowest finished grade to the highest point of the coping of a flat roof, to the deck line of mansard/gambrel roofs, or to the point midway between eaves and ridgeline for pitched, hip or gable roofs, but not including the features listed in § 151-24C herein.

B. Height of structures other than buildings

- (1) Height requirements for signs, lighting, landscape screens, and all other structures or objects for which a dimensional height requirement is established by this chapter shall be measured as the vertical distance from the average sidewalk or site grade at the structure or object's foundation to its highest point, as illustrated in Figure IV-3, unless otherwise specified by this chapter. The creation of berms, mounds or other devices, or increasing the height of existing berms or mounds, for the purpose of increasing a structure's height is prohibited.

Figure IV-3: Structure Height

C. Height exceptions

- (1) The height limitations of this chapter shall not be applicable to the following:

- (a) Spires and belfries; cupolas and domes not intended for human occupancy; water or cooling towers; skylights; mechanical penthouses for heating, cooling or ventilation equipment (provided they are set back 20 feet from the front building facade); railings for open-air rooftop decks; stair bulkheads and elevator shafts; ventilators; electronic equipment; air-conditioning units; chimneys and smokestacks, all of which in their aggregated coverage occupy no more than 20 percent of the roof area of the building of which they are an integral architectural or mechanical element. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended, and shall not detract from the visual appearance of the building as determined by the Planning Board.
- (b) Solar collectors.
- (c) Monuments.
- (d) Flagpoles, radio or television antennas, and similar structures, any of which shall be restricted to a maximum height of 60 feet above average finished grade at its base.
- (e) Public utility poles, transmission towers and wires, which shall be restricted to a maximum height of 75 feet above average finished grade at their base.
- (f) Wireless telecommunications facilities, subject to the height restrictions of § 151-67V.
- (g) Water tanks and standpipes.
- (h) No structure or other exception to the height limitations set forth herein shall be used as a place for habitation or for signage or advertising not otherwise authorized by this chapter.

D. Distances. Unless otherwise specified, all distances referenced herein that apply to a required separation between certain uses shall be measured horizontally by following a straight line, without regard to intervening buildings, from the nearest point of the parcel upon which the subject use is to be located to the nearest point of the parcel or the land use district boundary line from which the use is to be located.

§ 151-25. Accessory structures.

A. Permanent Accessory Structures.

- (1) Unless otherwise specified in this chapter, accessory structures shall meet the setback and height standards for accessory buildings in the district in which they are located as set forth in Tables 5 to 11, unless the Planning Board determines that due to a structure's height and size, additional setbacks are required.
- (2) Accessory structures not attached to a principal building shall be located no less than one (1) foot from the principal building in order to be considered an accessory structure; otherwise it shall be considered part of the principal building and shall be subject to all of the requirements for a principal building.

(3) No more than three accessory buildings shall be permitted on any lot in the R and VR Districts, and on any lot in residential use in any district.

B. Portable accessory structures. A single portable accessory structure with a maximum gross floor area of 80 square feet may be installed or constructed and used on any lot without the issuance of a building permit or certificate of occupancy, provided that:

- (1) The structure does not have a permanent foundation.
- (2) The structure is not served by any utility such as electricity, gas or plumbing.
- (3) The structure does not exceed 10 feet in height.
- (4) The structure is never used for human habitation.
- (5) All other requirements of this chapter related to accessory structures are fully met.

§ 151-26. EXTERIOR STAIRWAYS TO UPPER FLOORS

Exterior stairways leading to any floor or story above the ground floor shall be located on the rear wall in preference to either side wall, and shall in no instance be located on any wall fronting the street.

ARTICLE V: BUILDING DESIGN AND INFILL STANDARDS

§ 151-27. PURPOSE AND INTENT

The purpose of this Article is to ensure that construction of new buildings, and expansions and renovations of existing buildings, harmonize with the scale and character of neighboring buildings, and create a pedestrian-friendly street environment that encourages walking, energy conservation, and public health. The standards in this Article are not meant to stifle innovative design or creativity. Instead, they are intended to serve as the minimum standards necessary to ensure that new development and redevelopment is consistent with the well-established character of the Village and the purposes described herein.

§ 151-28. APPLICABILITY

- A. Unless otherwise specified herein, the provisions of this Article apply to all construction, expansion or renovation of principal buildings in the R, VR, VMU, and VC Districts, and to the construction of new linear buildings in the CMU District. This Article does not apply to routine maintenance or repair of a structure required by normal wear and tear that does not involve a change in design, size, building materials, or outward architectural appearance of the structure.
- B. For districts that are exempt from these standards, the provisions of this Article should be used as design guidelines for new construction since they outline building practices that are traditional to the Village.

§ 151-29. GENERAL STANDARD: COMPATIBILITY OF INFILL, ADDITIONS, AND RENOVATIONS

With the exception of new linear buildings in the CMU District, infill construction, building additions and renovations shall be designed to be consistent with the prevailing setbacks, heights, building mass and bulk as existing buildings on the same block face to the maximum extent practicable in order to preserve the established character of the block face. Furthermore, building characteristics such as roof pitches, gables, porches, and other exterior elements shall conform to the buildings on the same block face to the maximum extent practicable as determined by the Planning Board.

§ 151-30. PREVAILING SETBACKS AND BUILDING PLACEMENT

- A. New buildings shall be compatible with the siting pattern of neighboring buildings as seen from the street. Maintaining a uniform setback of buildings along the street provides a sense of enclosure which enables the street to function as a pedestrian-scaled outdoor room, a fundamental component for a vibrant pedestrian life. To maintain a harmonious street front, the front yard setback and, in the case of corner lots, the side street setback, of the principal building from the street shall be consistent with the prevailing setback on the block face as follows:
 - (1) The build-to line for principal buildings shall be consistent with the setback of 80 percent of existing principal buildings on the same block face (the “prevailing setback”), as illustrated in Figure V-I. The foregoing shall not apply to linear buildings in the CMU District.

- (2) Principal buildings on corner lots shall have two build-to lines, one on each block face. The foregoing shall not apply to linear buildings in the CMU District.
- (3) All principal buildings shall front a street right-of-way.
- (4) The front facade of principal buildings shall be built parallel to the street or to the tangent of a curved frontage line.

Figure V-1: Example of Prevailing Setback



§ 151-31. FRONTAGE BUILD-OUT

- A. In the VC District, a minimum of 80 percent frontage build-out is required along a primary street and, in the case of a corner lot, a minimum of 30 percent frontage build-out is required along a side street.
- B. Up to 50 percent of the width of the primary or secondary façade may be counted as meeting the frontage percentage requirement even though it may be set back up to 10 feet further from the front lot line than that façade's principal plane. The location of the façade's principal plane is not changed by façade extensions such as bay windows, awnings, porches, balconies, stoops, or galleries, or by upper stories that are closer to or farther from the lot line.
- C. For parcels that may contain multiple buildings in different phases in the VC District, an overall Illustrative Sketch, showing proposed building locations and site circulation, shall be prepared to ensure that the frontage build-out is being met as closely as possible. These buildings will not be required to be built out all at once, and may be phased over time. The Illustrative Sketch is subject to future modifications as long as the intent of this standard continues to be met; this will be evaluated by the Planning Board as each individual project phase is designed.

§ 151-32. FOUR-SIDED DESIGN

- A. Each building shall incorporate a similar level of architectural detailing on all sides that are visible from a public street. Blank walls void of architectural details or other variation are prohibited.

§ 151-33. ARTICULATION OF WIDE BUILDINGS

- A. With the exception of theaters, all commercial and mixed-use buildings with a primary facade greater than 40 feet in width in the VMU and VC Districts, and all linear buildings in the CMU District, shall be designed to appear as a group of attached buildings with a change of architectural expression as follows:
- (1) The facade shall include vertical elements with a 20 to 30 foot on-center spacing, to divide the facade into a series of smaller components. No individual component shall have a horizontal width of more than 30 feet. To make components of the building appear as individual buildings, components shall be distinguished from one another through two or more of the following:
 - (a) Variations in roof form, or roof or parapet height of two feet or more.
 - (b) A change in the number of floors.
 - (c) Changes to the cornice height, to storefront cornices, and/or to expression lines.
 - (d) Variations in windows, window trim, building materials and texture (not just a change in color).
- B. Maximum building width in the VR District shall be as specified in Table 6.

Figure V-2: Example of Articulation of a Wide Building



§ 151-34. ROOF FORMS

- A. In the VR, and VMU Districts, and the portion of the R District that is located in the H-O District, the major roof ridge of the principal building shall be either parallel or perpendicular to the street, consistent with the predominant pattern of 80 percent of other principal buildings on the same block face.
- B. In the VC District, new principal buildings shall have flat roofs, mansard roofs, or roofs with a slope of less than 15 percent from horizontal, consistent with the predominant pattern of existing buildings in the district. In the case of flat roofs and roofs with a slope of less than 15 percent, a parapet shall be constructed along each facade facing a public street.

- C. On existing buildings, original roof forms, profiles, and cornices shall be maintained to the maximum extent practicable.
- D. False mansard-style roofs shall be prohibited.

§ 151-35. MAIN BUILDING ENTRANCES

- A. Every principal building shall feature a visually prominent main building entrance on the primary facade. The main building entrance shall include one or more operating pedestrian entry doors.
- B. The main building entrance shall directly face and be clearly visible from a street. The Planning Board may approve a main building entrance facing a public space that includes a central garden or courtyard, when that public space opens directly onto the street.
- C. In the case of corner lots, buildings shall use design elements to emphasize the importance of both streets, but shall be designed and oriented with an emphasis on the primary street.
- D. The location of the main building entrance on the building facade shall be emphasized with at least two or more of the following techniques: awning, portico, archway, or similar projection that provides architectural interest and protection from the weather for pedestrians; projecting or recessed entry; outdoor features such as seat walls or landscaping; other comparable techniques.
- E. The main building entrance shall be prominently located, easily identifiable, related to the human scale, and contribute to the overall design intent.
- F. There shall be a pedestrian connection (sidewalk or path) between all main building entrances and the closest sidewalk (or street if there is no sidewalk).
- G. To the maximum extent practicable, the main building entrance on mixed-use and non-residential buildings shall be at grade or shall seamlessly integrate accessibility for persons with disabilities into the design of the building.
- H. Building entrances for mixed-use buildings shall differentiate entrances for residential and commercial uses, with the entrances for the commercial uses given greater prominence.

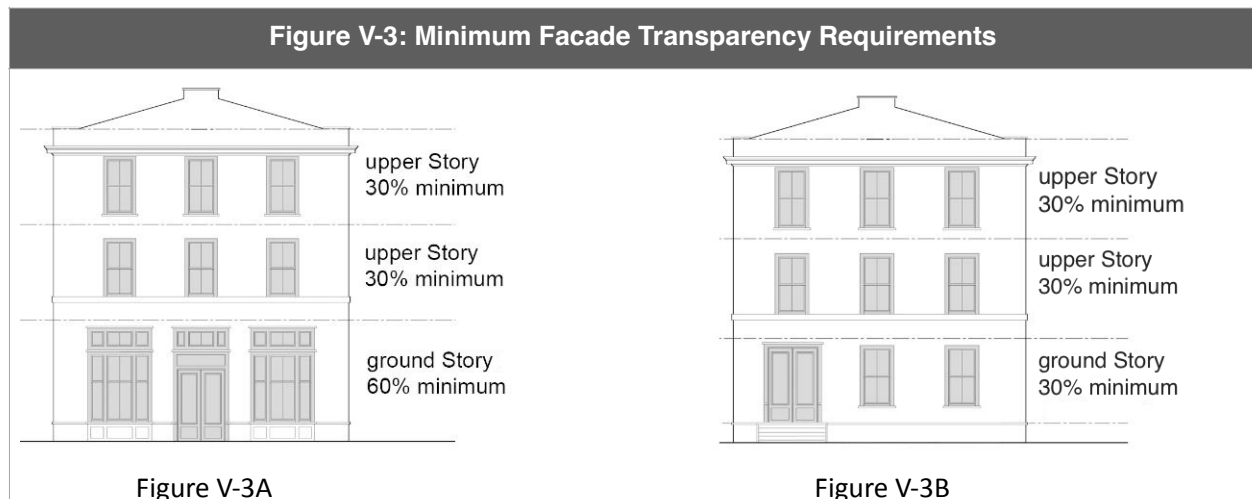
§ 151-36. WINDOWS

- A. With the exception of transom windows and attic windows, all windows shall be vertically proportioned (taller than they are wide). Vertically proportioned window openings appear to be structurally supported, and they help to exaggerate the height of a building and more evenly distribute light to the interior of the structure.
- B. To maximum extent practicable, upper story windows shall be vertically aligned with windows and doors on the ground floor, including shopfront windows, as illustrated in Figure V-3. Windows on any given floor facing a primary street shall be symmetrically placed, and all windows except shopfront windows shall be the same size.
- C. For building reconstruction or renovation, original window and door arrangements shall be preserved to the maximum extent practicable.

- D. Window replacements shall match, to the maximum extent practicable, existing window size, style and configuration.
- E. Windows and doors shall not be boarded up, unless required by the Code Enforcement Officer.

§ 151-37. FACADE TRANSPARENCY

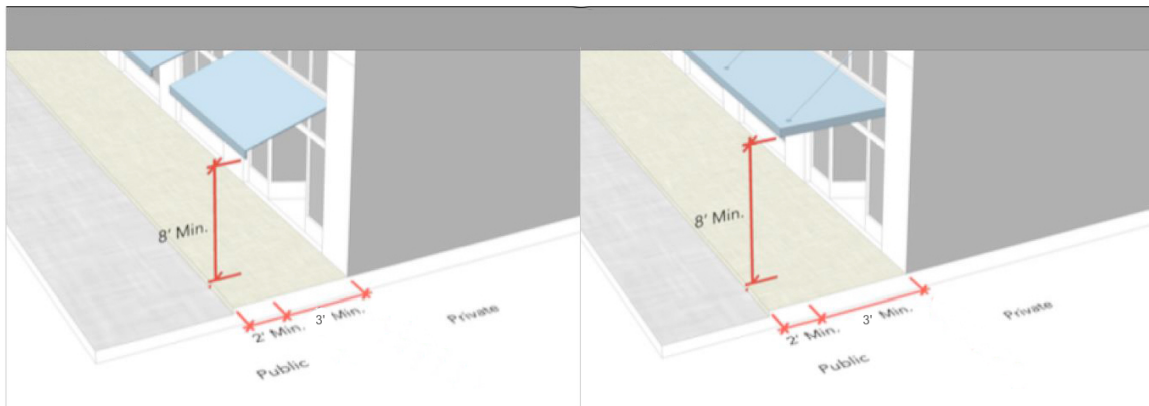
- A. Facade transparency is the minimum percent of a street-facing facade that must be comprised of transparent windows and doors. The percentage of transparency shall be calculated per story within the area between finished floor and finished ceiling of the story, and shall be a total percentage of transparent windows and doors along that portion of the facade, as illustrated in Figure V-3. Facade transparency shall be maintained without interior or exterior obstructions that limit visibility, including but not limited to temporary window signs comprising more than 10 percent of the glass, interior shelving, or window coverings (excluding window shades or blinds) during hours of business operation.
- B. In the VC District and for linear buildings in the CMU District, all front building facades that face a State road shall meet the minimum facade transparency requirements listed below and as illustrated in Figure V-3A, unless the structure was originally designed and constructed for residential use, in which case the existing window pattern shall be retained:
 - (1) Minimum building facade transparency for ground story: 60 percent.
 - (2) Minimum building facade transparency for upper stories: 30 percent.
- C. In the VC District, all front building facades that face any street other than a State road shall meet the minimum facade transparency requirements listed below and as illustrated in Figures V-3A and B, unless the structure was originally designed and constructed for residential use, in which case the existing window pattern shall be retained:
 - (1) Minimum building facade transparency for ground story: 30 percent or 60 percent
 - (2) Minimum building facade transparency for upper stories: 30 percent.



§ 151-38. AWNINGS

- A. Awnings shall be continuous above openings below. Breaks in awnings shall coincide with breaks in facade openings below.
- B. Awnings shall be self-supporting. No support poles may be located in the right-of-way.
- C. Awnings may extend into a required setback.
- D. Awnings may encroach over the public right-of-way, provided they extend no closer than 2' to the street edge or curb. Awnings that encroach over the public right-of-way require approval of the public entity that has control over the right-of-way.
- E. Awnings over shopfronts shall be a minimum of 3' in depth as measured from the front building facade, and shall have a minimum underside vertical clearance of 8' measured from the sidewalk, as illustrated in Figure V-4.
- F. Awnings on multi-story buildings shall not extend in height above the window sill of the next story above. Awnings on single-story buildings shall not extend in height above the cornice of the building.
- G. Awnings shall not be internally illuminated or backlit.
- H. Awnings may be retractable (or have the appearance of a traditional retractable awning), in which case they shall be made of traditional (canvas-like) materials, or they may be a structured cantilevered shed roof made of solid materials. In either case, awnings shall have a traditional design and color. High-gloss or plasticized fabrics are prohibited.
- I. Rounded and hooped awnings are prohibited.

Figure V-4: Awning Measurements



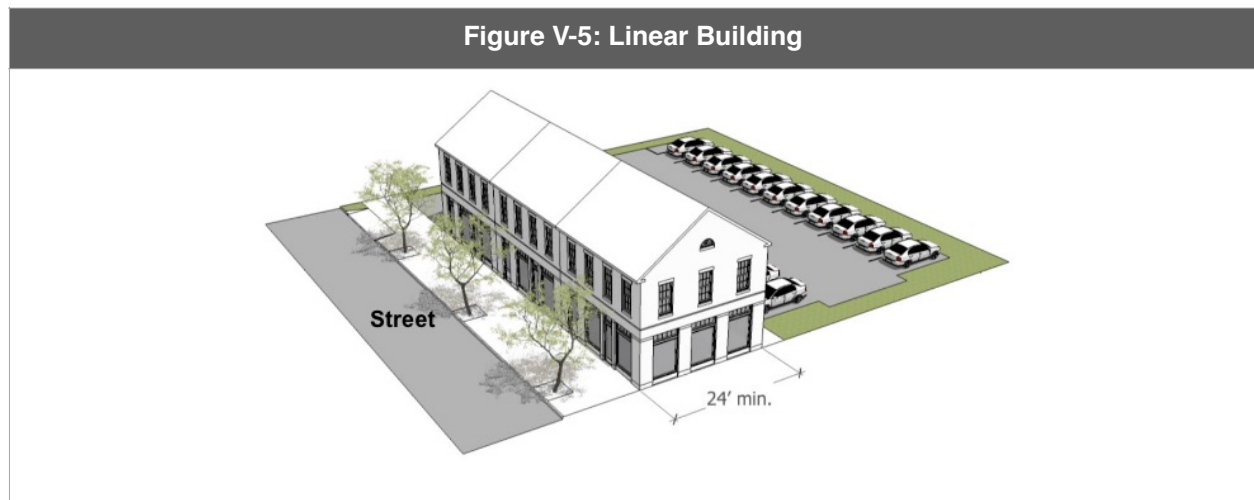
§ 151-39. SIDING AND TRIMWORK

- A. Original architectural trimwork and detailing shall be preserved to the maximum extent practicable.
- B. All new siding shall be installed in a manner that preserves original trimwork, such as window crowns, corner boards, dentils, modillions, brackets, ornamental cornices, or other design features of distinction.

- C. In the VMU and VC Districts, building elevations fronting or visible from public streets shall be clad with stone, brick, cementitious siding, and/or wood.
- D. New buildings shall include trimwork such as window crowns, corner boards, dentils, modillions, brackets, ornamental cornices, or other design features appropriate to the architectural style of the building.

§ 151-40. ADDITIONAL STANDARDS FOR LINEAR BUILDINGS

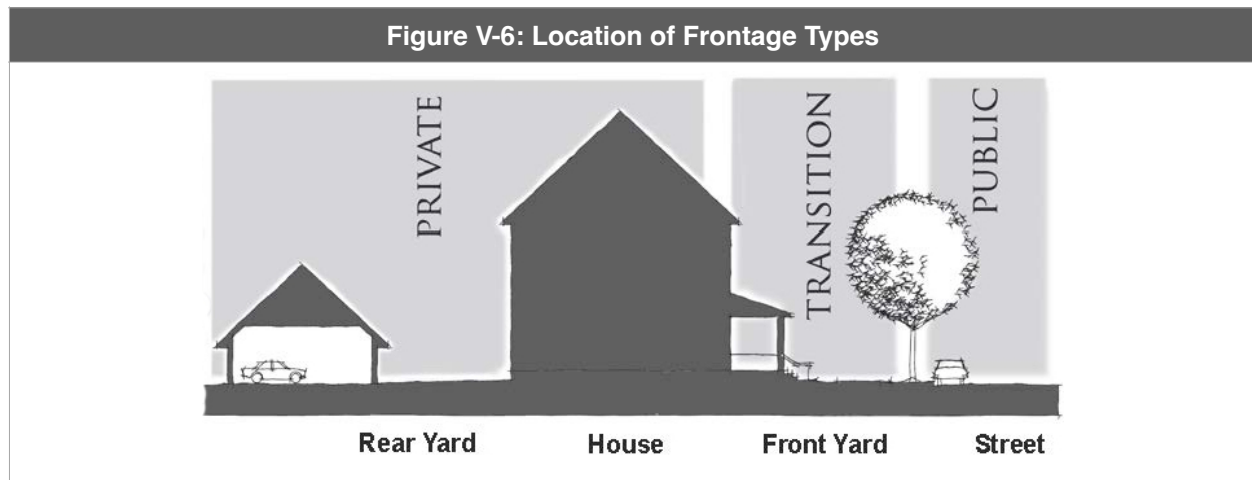
- A. Linear buildings in the CMU District shall meet the following additional standards:
 - (1) Linear buildings are permitted on properties with frontage on Route 9.
 - (2) Linear buildings shall be configured and located to define street edges and access and egress drives, and to mask parking lots. The following shall apply:
 - (a) No parking shall be permitted in the front yard or in the side yard.
 - (b) The entire area between the primary facade and the street curb shall be surfaced with an impervious material such as concrete, flagstone, brick or asphalt to permit pedestrian access and outdoor dining, with breaks permitted only for tree wells for street trees.
 - (3) Linear buildings shall be a minimum of 24' deep, as illustrated in Figure V-5, and shall have a minimum of 2 stories and a maximum of 3 stories.
 - (4) As an incentive to construct linear buildings along the Route 9 street frontage to “zip the strip” in conformance with the Greenway Guide C1, the off-street parking requirement for uses located in linear buildings shall be the same as for the VC District, as listed in Table 18.



§ 151-41. FRONTAGE TYPES

- A. This section establishes the allowed frontage types for each zoning district. Frontage types are building elements located on the front facade of the principal building and in the area between the front facade and the front or side street lot line. Frontage types create the transition between the public street and the private realm, as illustrated in

Figure V-6. They establish the physical and functional relationship between the street and the private lot, and support an active pedestrian environment.



B. Frontage types set forth in this section include: Porch, Stoop, Shopfront, Officefront, and Gallery. Required frontage types for all principal building facades that face a street are listed below and summarized in Table 12. Specific standards for each frontage type are provided in the attached Tables 13 to 17;⁵ all buildings and sites where frontage types are required shall be designed, built and maintained per the applicable requirements of these Tables.

- (1) In the R, VR, and VMU Districts, either a Porch or a Stoop is required on principal building frontages that face a street. Porches are typical for frontages that face a primary street, while Stoops are typical for frontages that face a side street. All other frontage types are prohibited.
- (2) In the RMU District, either a Porch or a Stoop is required on all principal residential buildings, whether they face a street or not. All other frontage types are prohibited.
- (3) In the VC District, Shopfronts are required on all facades that face a State road. A Shopfront may also include a Gallery. All other frontage types are prohibited, with the exception of buildings that were originally constructed as single-family or two-family dwellings, which shall have frontage types as required for the R, VR, and VMU Districts. In the VC District, for facades that face all other roads, either a Shopfront (with or without a Gallery), an Officefront, or a Stoop is required. All other frontage types are prohibited.
- (4) In the CMU District, Shopfronts are required on the facades of linear buildings that face a State road. A Shopfront may also include a Gallery. All other frontage types on the facades of linear buildings that face a State road are prohibited. No frontage types are required or prohibited for other facades or for back buildings.
- (5) No frontage types are required or prohibited for any buildings in the B District or for any commercial buildings in the RMU District.

⁵ Tables 13 to 17 are included as Attachment 4 to this chapter.

TABLE 12: FRONTAGE TYPES								
FRONTAGE TYPE	ZONING DISTRICT Key: R = required; NP = not permitted; N/A = not applicable							
	R	VR	RMU	VMU	VC	CMU		B
						Linear Building	Back Building	
Porch	R	R	R*	R	NP	NP	N/A	N/A
Stoop	R	R	R*	R	R**	NP	N/A	N/A
Shopfront	NP	NP	N/A	NP	R	R	N/A	N/A
Officefront	NP	NP	N/A	NP	R**	NP	N/A	N/A
Gallery	NP	NP	N/A	NP	R***	R***	N/A	N/A
* For residential uses only.								
** Not permitted on frontages that face a State road.								
*** Only permitted in conjunction with Shopfront.								

ARTICLE VI: STREETSCAPES, PARKING, LANDSCAPING, LIGHTING

§ 151-42. APPLICABILITY

All development and redevelopment in all zoning districts in the Village shall comply with the following standards. If the provisions of this section conflict with the provisions of Article V (Building Design And Infill Standards), the provisions of Article V shall apply.

§ 151-43. STREETSCAPE STANDARDS

A. **Purpose.** The purpose of this section is to provide a safe and walkable environment with a network of relatively narrow, tree-lined, interconnected streets with sidewalks and paths, that offer multiple routes for motorists, pedestrians, and bicyclists, and to provide for the connections of those streets and sidewalks to existing and future developments. The intent is to reduce the number and length of automobile trips and related greenhouse gas emissions by encouraging walking and bicycling, and by providing for shorter and more direct routes between destinations.

B. Streetscape Standards.

(1) Unless otherwise provided in this chapter, the following streetscape standards shall be required in the VC and VMU Districts; in all other districts these standards shall apply to the maximum extent practicable:

- (a) A sidewalk at least five feet in width shall be provided along each public street and shall align and link with existing and future potential sidewalks and pedestrian pathways. This area shall be unobstructed by utility poles, fire hydrants, benches or any other temporary or permanent structures.
- (b) To provide a buffer between pedestrians on the sidewalk and traffic on the street, a tree lawn at least four feet wide shall be located between the sidewalk and the street. An exception shall be made where the sidewalk extends from the back of the curb or street to the building frontage in the VC District and in front of linear buildings in the CMU District, in which case tree wells a minimum of 4 feet by 4 feet shall be provided.
- (c) To provide shade and to buffer pedestrians from vehicles on the road, street trees shall be planted in the tree lawn or tree well as applicable, as provided in § 151-45E.

(2) All streets, sidewalks, and walkways shall comply with the Public Rights of Way Accessibility Guidelines (PROWAG).

§ 151-44. OFF-STREET PARKING, ACCESS, AND LOADING

A. Facilities required.

- (1) Except as provided in § 151-44B herein, all structures and land uses hereafter erected, enlarged, moved, created, established, changed in intensity, or substantially altered shall be provided with the amount of off-street parking and loading facilities required by the terms of this section to meet the needs of persons occupying or making use of

such structures or land. A permit for the erection, replacement, reconstruction, extension, or substantial alteration of a structure or the development of a land use shall not be issued unless off-street parking and, where required, loading facilities shall have been shown on a plan in accordance with the requirements set forth in this section, and such required parking and loading facilities shall be completed before a certificate of occupancy shall be issued.

- (2) Required off-street parking facilities which, after development, are later dedicated to and accepted by the Village shall be deemed to continue to serve the uses or structures for which they were originally provided.

B. Waiver of parking and loading requirements. Structures and land uses in the VC District built prior to 1965 shall not be subject to the parking and loading requirements set forth in this section, provided that any on-site parking and loading facilities now existing to serve such structures or uses shall not in the future be reduced, except to the extent where they exceed such requirements, in which case they shall not be reduced below such requirements. This waiver of the parking and loading requirements of this section shall also apply to changes of use in said existing structures, and to the reconstruction of a building with the same building footprint and number of stories in the VC District. In the event that any building is proposed to be enlarged or increased in gross floor area so as to create a need for a greater number of parking spaces than are currently existing, such additional spaces, which shall be calculated based on the added square footage only, must be provided concurrently with the building enlargement.

C. Operation and maintenance of off-street parking and loading facilities. Required off-street parking and loading facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Such off-street parking and loading facilities shall be deemed to be required in association with the structure or land use, shall be reserved at all times for those persons who occupy, are employed at, or make use of such structures and land uses, and shall not thereafter be reduced or encroached upon in any manner. 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 for in this section.

D. Parking location.

- (1) Required off-street parking spaces shall be provided on the same lot as the structure or land use to which they are accessory, except that off-street parking for non-residential uses in the VC, VMU, and CMU Districts may be provided, in whole or in part, on a contiguous lot or a lot located not more than 400 feet from the property on which the use is occurring, measured in a straight line from the closest property boundary, provided that a legal instrument, satisfactory to the Village Attorney and filed in the Dutchess County Clerk's office, assures the continued existence of the parking facility to serve said structures or land uses as long as they may exist, and provided that the other lot also contains at least one principal use, and the off-site parking to be utilized does not constitute required parking for such principal use(s). However, in no event shall parking permitted by this subsection for a non-residential use be located in any residential district.

- (2) Parking is prohibited in the front yard and side street yard in all zoning districts, with the exception of parking in a private driveway serving a single-family dwelling, as set forth in subsection L herein.
- E. **Two or more uses on the same lot.** Where two or more different uses occur on a single lot, the total number of parking spaces to be provided shall be the sum of the requirements of each individual use on the lot, unless modified by the Planning Board in accordance with subsection I herein.
- F. **Conveyance of land.** Where, because of limitations of size, dimensions or topography of a lot, an applicant for a non-residential use finds it is impractical to provide all or a portion of the off-street parking spaces required by subsection H herein, said applicant may grant and convey to the Village of Wappingers Falls, and the Village Board, at its discretion, may accept, appropriately located and developed land for non-residential parking as a permitted use equivalent, provided that said land is permanently dedicated to the Village.
- G. **Dimensions of parking spaces.** All off-street parking spaces, whether located in a parking lot or not, shall be dimensioned as required in subsection K(3) herein.
- H. **Required number of off-street parking spaces.**
- (1) Except as otherwise provided in this chapter, the minimum number of off-street parking spaces listed for each use in the attached Table 18⁶ shall be required and shall be construed to include those off-street parking spaces necessary to accommodate persons with disabilities in accordance with ADA requirements.
 - (2) Area calculations are based on gross square footage unless otherwise specified.
 - (3) Where the application of the requirements of Table 18 results in a fractional number of 0.5 or greater, the required number of spaces shall be rounded up to the next highest whole number.
 - (4) For any use for which a parking standard is cited in Table 18 as “per site plan review,” the Planning Board shall establish the required minimum parking requirement based upon: (1) standards set forth herein for uses with similar characteristics; (2) parking utilization data gathered or provided from similar uses; and/or (3) a parking study or parking reference guide in general use. The Planning Board’s decision shall be based the location of the site, existing traffic congestion and parking levels, and the anticipated timing and volume of parking demand for the use.
- I. **Parking requirement modifications.**
- (1) On-street parking. In the VC District only, existing on-street parking that is legally permitted along the lot frontage(s) may be applied toward the minimum parking requirement of the principal non-residential uses on the lot. Where such on-street parking spaces are not delineated, one (1) parking space may be credited for each 20 feet of parking area located parallel and abutting such lot frontage. Where on-street parking spaces are delineated, each such space counts as one required parking space.

⁶ Table 18 is included as Attachment 5 to this chapter.

- (2) Shared use parking. In the VMU, VC, CMU, and B Districts, principal uses that are located on the same lot or share a common property boundary and have different peak parking demands or operating hours may share parking, provided that:
 - (a) The applicant must demonstrate to the satisfaction of the Planning Board that the uses have different peak-hour parking demands or that the total parking demand at one time would be adequately served by the total number of parking spaces proposed.
 - (b) A recorded instrument, satisfactory to the Planning Board Attorney, documenting the joint use shall be required.
- (3) Land banked (deferred) parking. For buildings and uses established after the effective date of this chapter, the Planning Board may permit construction of a portion of required off-street parking spaces to be land banked (deferred) until such time as the Planning Board deems them to be needed, subject to the following conditions and requirements:
 - (a) Properties in all zoning districts except the R and VR Districts are eligible for land banked parking.
 - (b) A maximum of 50 percent of the total required off-street parking spaces may be land banked.
 - (c) The area set aside for land banked parking shall not count towards, or be included in, the calculation of the required greenspace.
 - (d) The Planning Board reserves the right to require the current property owner to construct all or a portion of the land banked parking spaces at any time.
 - (e) The land banked parking shall be shown on the site plan, which shall contain the following information:
 - (i) The location of land banked parking, which shall be in an area that is suitable for future parking, and shall fully comply with the requirements of this chapter.
 - (ii) The interim use of the land banked area. Land banked parking shall be set aside as landscaped open space. No permanent buildings or roofed structures shall be located on any area that is dedicated for land banked parking.
 - (iii) An off-street parking calculation table indicating the total number of required spaces and the proposed number of parking spaces to be land banked.
 - (iv) A note stating that the Planning Board reserves the right to require the current property owner to construct a portion or all of the land banked parking spaces at any time.
 - (f) A legal agreement, satisfactory to the Village Attorney, shall be submitted by the applicant and filed in the Dutchess County Clerk's office to ensure that the land banked parking spaces shall be effectively maintained as landscaped open space until such time the land bank spaces are constructed, and to require said construction upon requirement by the Planning Board.

J. **Electric Vehicle Charging Stations.** Any site plan for a multi-family residential use that proposes ten or more dwelling units, or a nonresidential use that proposes 20 or more off-street parking spaces, shall provide for the installation and use of one or more electric vehicle charging stations (EVCS) in accordance with the following:

- (1) Multi-family residential uses shall include at least one non-proprietary EVCS per ten dwelling units.
- (2) Non-residential uses shall provide at least one Level 2 or Level 3 non-proprietary EVCS for every 20 required off-street parking spaces.
- (3) In the event that the Planning Board determines that the applicant has demonstrated good cause, the Planning Board may waive the installation of some or all of the EVCS facilities otherwise required by this subsection. In such case, the Planning Board may require that a sufficient number of spaces be provided with conduit and such other equipment as may be necessary to enable EVCS to be installed in the future with minimal inconvenience or disturbance of parking areas.
- (4) An electric vehicle parking space shall be counted when calculating the number of parking spaces required by subsection H herein.
- (5) All EVCS shall comply with the design criteria of § 151-68F(2).

K. **Parking Lots.** The following requirements are applicable to all parking lots.

- (1) Design of parking lots.
 - (a) Site design shall minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties, and pedestrian safety.
 - (b) The following are some examples of techniques used to minimize the impacts of driveways and parking lots:
 - (i) Break large parking lots into multiple smaller ones.
 - (ii) Minimize the number and width of driveways and curb cuts.
 - (iii) Share driveways with abutting lots.
 - (iv) Locate parking in less visible areas of the site.
 - (v) Locate driveways so they are visually less dominant.
 - (vi) Provide special pavers or other surface treatments to enhance and separate pedestrian areas from vehicle maneuvering and parking areas.
 - (vii) Continue sidewalks across driveways to provide a visual cue to drivers to expect pedestrians.
- (2) Surfacing, grading, drainage and maintenance of parking lots.
 - (a) All required parking facilities, regardless of size, shall be graded, surfaced, drained and maintained throughout the duration of their use so as to comply with the New York State Stormwater Management Design Manual, as amended from time to time, and/or Chapter 131 (Stormwater Management) of this Code, or other acceptable stormwater management practices as deemed suitable by the Village

Engineer to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands. Parking lot surfacing requirements shall be established by the Planning Board, with particular consideration given to the number of vehicles accommodated and the proposed intensity and season(s) of use. The use of permeable paving materials is encouraged for use in parking lots, especially for overflow or peak period parking, and parking spaces in excess of the requirements of this section. Surfacing, grading, and drainage shall facilitate groundwater recharge by minimizing impervious pavement and runoff whenever possible. Oil traps may be required for larger paved parking lots.

(b) The maximum grade within a parking lot shall not exceed 5 percent.

(3) Dimensions.

(a) Unenclosed parking spaces and access aisles shall comply with the following minimum dimensions:

TABLE 19: VEHICLE SPACE REQUIREMENTS			
PARKING ANGLE	0°	60°	90°
Space Width	9'	9'	9'
Space Length	22'	18'	18'
1-way Aisle Width	18'	18'	22'
2-way Aisle Width	24'	24'	24'

(b) Parking spaces that are bordered by walls or columns on one or both sides shall be at least 10 feet wide and shall otherwise conform with Table 19.

(c) If the degree of angled parking provided is not listed above, the parking space size and aisle width shall be determined by the Village Engineer.

(d) All parking lots shall comply with the “2010 ADA Standards for Accessible Design” issued by the Department of Justice pursuant to the ADA, or such later standards as may be adopted, and the Building Code of New York State.

(4) Demarcation of parking spaces.

(a) Markings. Off-street parking spaces shall be marked by painted lines a minimum of four inches in width and maintained in clearly visible condition. Signs or markers shall be used, as required by the Planning Board, to ensure efficient and safe circulation within the lot, and to indicate entrances and exits. Vehicle parking spaces for persons with disabilities must be identified with the appropriate sign and be visible at all times of the year, regardless of plant growth or similar conditions.

(b) Overhangs, curbs and wheel stops. The front or rear overhang of any parked vehicle shall not encroach upon any pedestrian walkway or required setback or buffer area. The Planning Board may require curb or wheel stops to prevent vehicles from overhanging pedestrian paths, sidewalks, or property boundaries, and to protect fencing, landscaping, and other screening devices from damage.

Breaks in curbs may be provided to allow for drainage into landscape areas to absorb stormwater.

- (5) Landscaping, screening, and buffering. All parking lots shall comply with the landscaping, screening and buffering standards in § 151-45.
- (6) Lighting. Parking lot lighting shall comply with the outdoor lighting standards in § 151-46.
- (7) Tandem parking. Except as provided in this paragraph and in subsection L(1)(c) herein, parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without moving any other motor vehicle; tandem parking is prohibited. However, tandem parking may be allowed to meet some or all of the required parking for a use, at the discretion of the Planning Board, provided that an attendant is present to move vehicles at all times when tandem parking is utilized, and a written guarantee, satisfactory to the Village attorney and Code Enforcement Officer, has been filed with the Village ensuring the same.
- (8) Mechanical parking.
 - (a) Mechanical parking lifting a maximum of two vehicles shall be allowed as an accessory use in all zoning districts.
 - (b) Mechanical parking lifting three or more vehicles shall be allowed as an accessory use by special use permit in all zoning districts.
 - (c) Mechanical parking shall be fully enclosed and shall not be permitted in a front or side yard.
- (9) Traffic and pedestrian circulation.
 - (a) All required off-street parking facilities shall have vehicular access from a street, alley, driveway, or cross-access easement.
 - (b) Applicants for non-residential uses, including mixed-use development, shall provide interconnected parking lots within and between abutting lots via cross-access driveways or service roads to minimize curb cuts, reduce turning movements onto roadways, and encourage safe and convenient traffic circulation, unless they can demonstrate that interconnection is not feasible. Where such cross access is proposed, the Planning Board shall require written agreements, easements and/or deed restrictions, satisfactory to the Planning Board Attorney, for the creation and maintenance of such access.
 - (c) As determined by the Planning Board, applicants shall provide clearly delineated pedestrian walkways within and between abutting lots, as well as crosswalks of paving, brick paver, bituminous brick pattern stamping, or painted ladder-style striping to connect parking lots to building entrances and improve safe passageway for pedestrians.

(10) Turnaround Areas.

- (a) Each parking space shall be provided with adequate area for approach, turning and exit of a vehicle having an overall length of 18 feet without the need to use any part of a public street, public right-of-way, or public sidewalk.
- (b) Parking shall be arranged to permit vehicles to exit the parking lot without backing onto any public street, public right-of-way, or public sidewalk.
- (c) No off-street loading space, including any truck loading bay, ramp or dock, shall be designed or arranged in a manner that trucks must use any part of a public right-of-way to back into such space.

(11) Snow storage. All surface parking lots shall provide on-site snow storage area(s) sized to accommodate expected snowfall and located to ensure that fencing, landscaping, and other screening devices are protected from damage. No snow shall be permitted to be stored in any area designated for parking, or for vehicular or pedestrian access. The location of such snow storage areas shall be indicated on the site plan and shall be appropriately related to the storm drainage system.

(12) Bicycle Parking Standards. Applicants shall provide bicycle parking to encourage transportation by bicycle, unless they can demonstrate such parking is not feasible. Facilities for bicycle parking shall comply with the following:

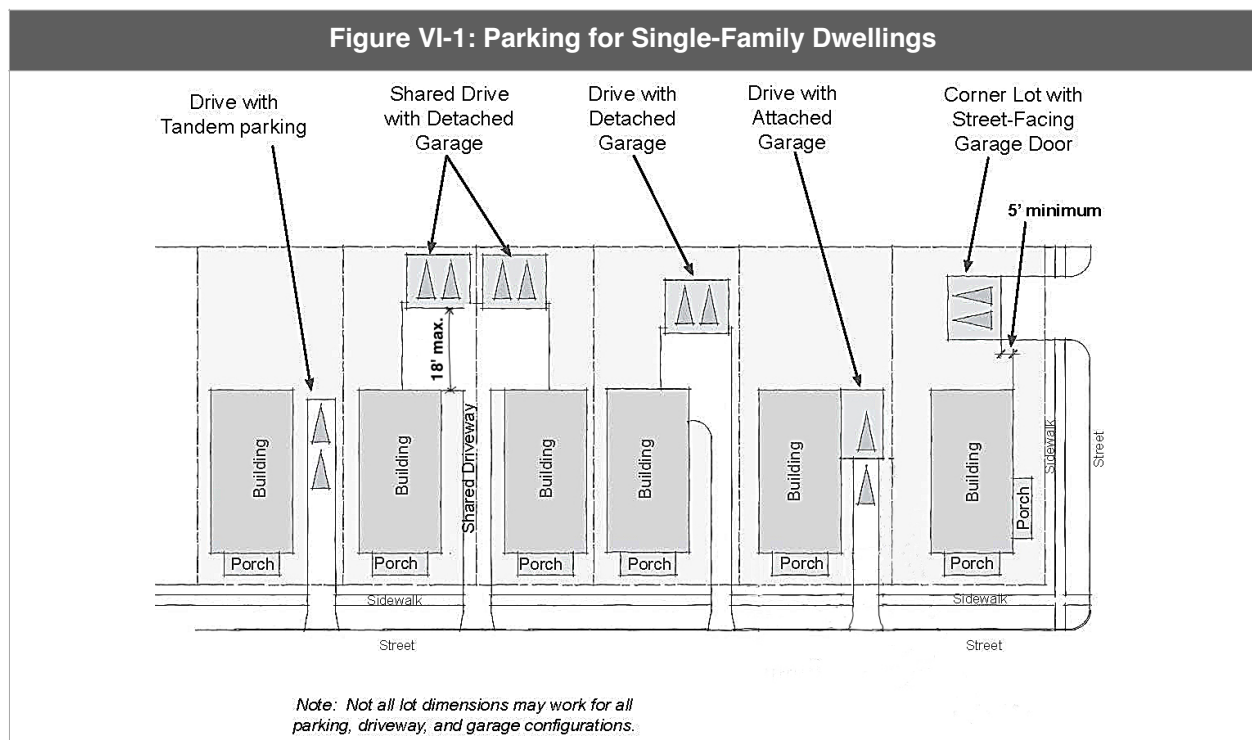
- (a) Short-term and long-term bicycle parking shall be provided at the rate recommended by Walk Bike Dutchess Appendix C: <https://www.dutchessny.gov/Departments/Transportation-Council/Docs/bppappendixc.pdf>.
- (b) Bicycle racks for short-term parking shall be located in highly visible areas as close to the principal building entrance as possible.
- (c) Long-term bicycle parking shall be provided by a secure, sheltered facility. At a minimum, this could be a covered bicycle rack area.
- (d) Bicycle racks shall be positioned out of walkway areas and shall be located to avoid potential conflict with parking and circulation of motor vehicles.
- (e) Bicycle racks shall support the frame of a bicycle upright in two places.
- (f) Bicycle racks shall enable the bicycle frame and one or both wheels to be secured through use of a "U" type lock.
- (g) Bicycle racks shall be securely anchored to an approved hard surface.
- (h) A two foot by six foot space is required to accommodate two bicycles.
- (i) Parallel bicycle racks shall have a minimum on-center spacing of 30 inches. Spacing of 48 inches is optimal.

L. Parking and Driveways on Residential Lots.

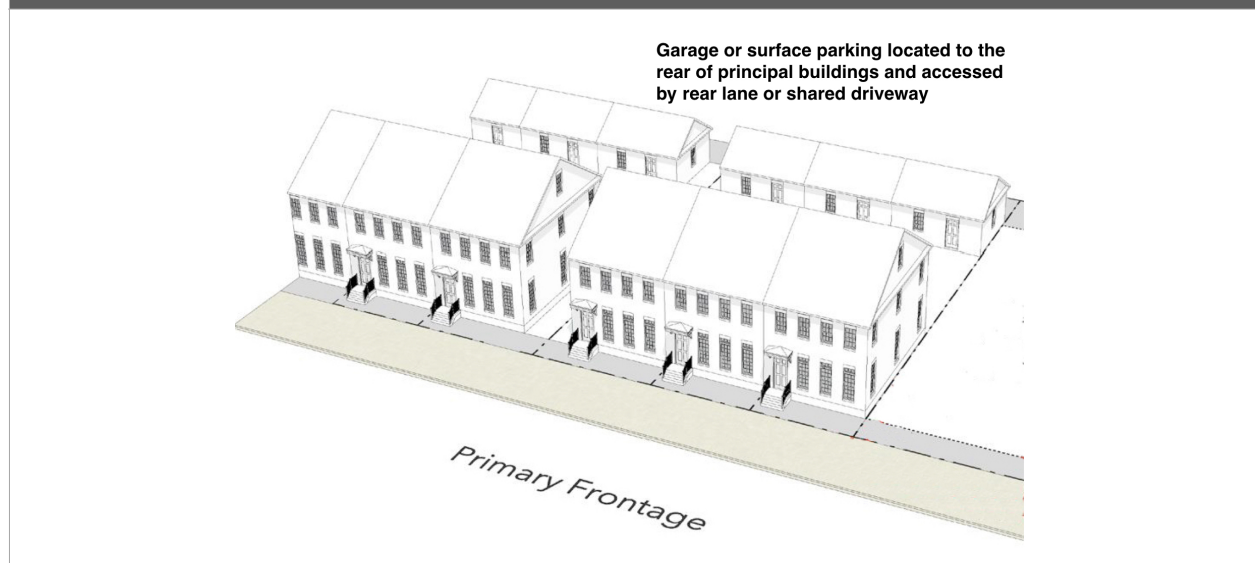
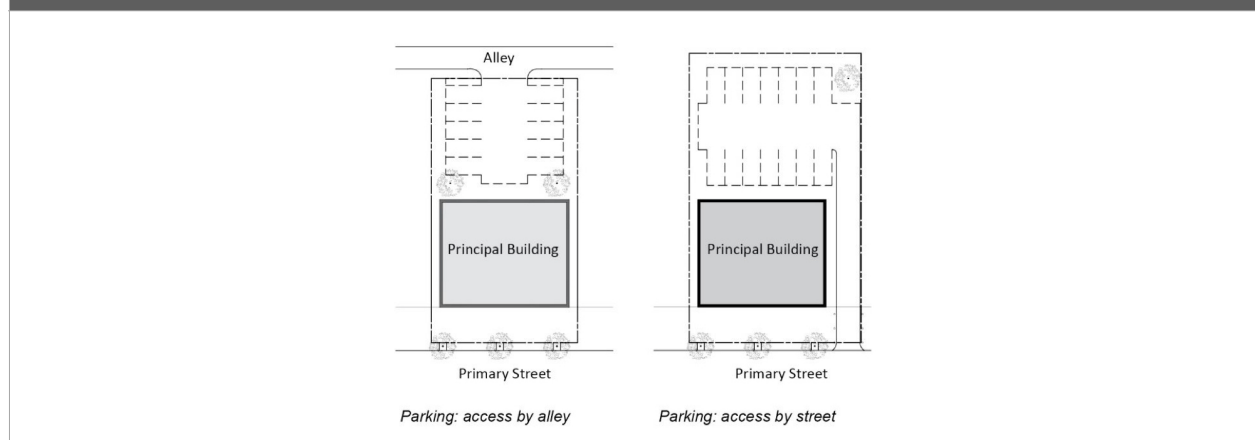
(1) Parking location.

- (a) Garages may be considered as meeting the off-street parking requirement for single-family, two-family, three-family, multi-family, and townhouse dwellings.

- (b) For single-family dwellings, areas which may be considered as meeting off-street parking requirements also include a private driveway.
- (c) Tandem parking is allowed for single-family dwellings and for permitted accessory uses to such dwellings, as illustrated in Figure VI-1, and shall not encroach onto the public right-of-way, including the sidewalk. The width of driveways that accommodate tandem parking shall be governed by subsection L(2)(b) and (c) herein.
- (d) Garages, whether detached or attached, shall meet the setback requirements of Tables 5 to 11, with the exception of garages located on Liss Road which shall meet the required setback for a principal building.
- (e) Parking shall be located as illustrated in Figure VI-1, with the exception that a private driveway shall only be permitted for parking for single-family dwellings.



- (f) Off-street parking for two-family, three-family, multi-family, and townhouse dwellings shall be accessed by a shared driveway or alley and shall be located behind the principal building(s), as illustrated in Figures VI-2 and VI-3, for all districts except the RMU District, where off-street parking may be located in front of the principal building(s) if the parking area or garage is set back a minimum of 100 feet from public rights-of-way, and is effectively screened year-round from public rights-of-way by intervening landform and evergreen vegetation.

Figure VI-2: Location of Parking for Two-Family and Townhouse Dwellings**Figure VI-3: Parking Located Behind Principal Building, Accessed by Alley or Shared Driveway**

(2) Driveway Design.

- (a) Curb cuts serving driveways used to access individual single-family and two-family residential lots shall not exceed 12 feet in width. Once the driveway extends into the lot beyond the public sidewalk, it shall narrow to a driveway width that complies with subsections (b) and (c) below.
- (b) Driveways accessory to a single-family and two-family dwelling shall not exceed 12 feet in width.
- (c) A driveway apron, the width of the garage, as measured from the exterior garage walls, is permitted to extend for a distance of 18 feet, as measured perpendicular, from the garage to allow vehicular access to the garage before tapering back to the maximum permitted driveway width, as illustrated in Figure VI-1.

- (d) Single lane driveways to townhouse dwellings and a multi-family residential structure or group of structures shall not exceed 12 feet in width. Double lane driveways to townhouse dwellings or multi-family residential structure or group of structures shall not exceed 20 feet in width.
- (e) Number of driveways. Single-family and two-family dwellings shall be permitted no more than one driveway and one curb cut per lot.
- (f) Grades.
 - (i) The maximum grade for any new driveway accessory to a single-family dwelling shall be 12 percent, except where the approving authority has determined that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of a driveway with a grade greater than 12 percent should be permitted. Any such increase shall be the minimum required, and in no case shall such driveway grade be permitted to exceed 15 percent.
 - (ii) The maximum grade for a new driveway accessory to residential uses other than single-family dwellings shall not exceed 7 percent, except that the approving authority shall have the same power to permit increased grades here as in subsection (f)(i) above. In no case shall the driveway grade for a residential use other than single-family dwellings exceed 10 percent.
 - (iii) Notwithstanding the maximum permitted grades specified in subsection (f)(i) above, no driveway serving a single-family dwelling shall have a grade in excess of 4 percent within 35 feet of the center line of the traveled way of the street or within 10 feet of the public right-of-way, whichever measurement results in the greater distance. The approving authority may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.
- (g) Driveway length. Any driveway that exceeds 250 feet in length shall provide vehicle pull-off areas a minimum of 12 feet in width at intervals no less than every 250 feet.
- (h) Common driveways.
 - (i) Common driveways shall be permitted to serve two adjacent detached single-family dwellings, provided that each lot has sufficient physically accessible road frontage to allow for construction of a fully compliant, separate driveway for each dwelling unit. The approving authority in its discretion may waive the requirement for physically accessible road frontage in the event of a practical difficulty or unreasonable hardship affecting a particular property.
 - (ii) Common driveways shall not be permitted unless the owners of the individual parcels to be served by a common driveway shall have entered into reciprocal easements and an agreement covering access, use and maintenance of the common driveway, satisfactory to the Planning Board Attorney.
- (3) Parking of commercial vehicles.

- (a) Commercial vehicles, as defined in this chapter, are prohibited from parking outdoors on a lot containing a single-family, two-family, three-family, multi-family, or townhouse dwelling. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services.
- (b) Class 2 vehicles, as classified by the United States Federal Highway Administration and as illustrated in Appendix A, and small trailers, shall be permitted subject to the following:
 - (i) Only two Class 2 vehicles shall be allowed to be stored or parked outdoors on a residential lot. The number of small trailers shall not be restricted.
 - (ii) The Class 2 vehicles and small trailers must be in operable condition.
 - (iii) Storage or parking of Class 2 vehicles and small trailers shall meet the parking location requirements of subsection 151-44D herein. If stored in a driveway, the vehicle and trailers shall, when feasible, be located behind the front building line of the house.
 - (iv) The Class 2 vehicles or trailers shall be located as inconspicuously as practicable on the lot, and shall be effectively screened by intervening landform, dense evergreen vegetation, or fencing from any abutting residential property.
 - (v) The Class 2 vehicles or trailers shall not have signs, pictures or illustrations extending upward, downward or outward from any part of the vehicle or trailer.

M. Off-Street Loading.

- (1) Off-street loading facilities shall be provided for any use that distributes or receives materials or merchandise by trucks or other commercial vehicles, unless it is demonstrated to the satisfaction of the Planning Board that the use does not require a dedicated loading area, for example, due to the presence of on-street loading areas nearby, or to the presence of designated off-street parking spaces that may be used for loading if such loading activity is limited to specific off-peak hours.
- (2) For structures and land uses in the VC District in existence as of 1964, refer to § 151-44B above.
- (3) All off-street loading spaces shall be located on the same lot as the use served. No off-street loading spaces may project into a public right-of-way. No off-street loading space is permitted in a front yard.
- (4) Any required off-street loading space shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length, exclusive of aisle and maneuvering space, and have a minimum vertical clearance of 15 feet.
- (5) Loading docks and service access areas shall be located in a manner that minimizes visual intrusion on public spaces and ensures pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation.

- (6) In the VC and CMU Districts, loading docks, overhead doors and other service entrances are prohibited on street-facing facades.
- (7) Loading docks and service areas shall be screened as required in § 151-45J.
- (8) Buildings on abutting lots shall be sited to the maximum extent practicable to allow shared access to loading docks through the use of common loading zones or service roads.

§ 151-45. LANDSCAPING, SCREENING, AND BUFFERING

A. Purpose. The purpose of this section is to:

- (1) Promote a healthy environment by providing shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff management, erosion control, and reductions in noise, glare, and heat island effects;
- (2) Provide visual buffering from streets, buffering of potentially incompatible land uses, and generally enhance the quality and appearance of the Village; and
- (3) Encourage the preservation of existing trees and vegetation that offer environmental, aesthetic, habitat, sustainability, and economic benefits to the Village and its citizens.

B. General Landscape Standards.

- (1) New plantings shall consist primarily of native species and hybrids of native species requiring minimal irrigation, fertilization and maintenance. Invasive species as listed in 6 NYCRR 575.3 and 6 NYCRR 575.4 are prohibited.
- (2) All plant material shall be hardy to the Village region, suitable for the site, free of disease and insects, and shall conform to the American Standard for Nursery Stock of the American Nursery and Landscape Association for the quality and installation of that plant.
- (3) In all areas where landscaping is required or proposed, the landscaping plan shall show that a minimum of 75 percent of the landscaped area will be covered by living materials, rather than mulch, bark, gravel, stone or other non-living material, within three years from the date of approval of the plan.
- (4) The use of synthetic vegetation (plastic plants, etc.) shall not be used to meet any of the required landscaping, screening, or buffering standards.
- (5) Landscape areas shall be designed to be drought tolerant to the maximum extent practicable.
- (6) All landscaped areas adjacent to parking lots, streets and other vehicular ways shall be protected from vehicular encroachment by curbs or wheel stops as required by the Planning Board. Curbs shall be provided with openings to accommodate surface collection of stormwater runoff in vegetated swales and detention facilities.
- (7) Existing trees and vegetation left on the site may be used to meet the standards of this section in lieu of new plantings, subject to approval by the Planning Board.
- (8) All landscaping required by this section shall be properly maintained by the owner of record throughout the duration of the use(s) on the lot.

C. Size of Plantings. Unless otherwise specifically noted, the minimum plant size of required landscaping at time of planting shall be as follows:

TABLE 20: MINIMUM PLANT SIZE AT TIME OF PLANTING	
PLANT TYPE	MINIMUM SIZE
Large deciduous shade tree with a mature height greater than 30 feet	2½-inch caliper, measured six inches above the ground, as specified by the American Standard for Nursery Stock
Medium deciduous shade tree with a mature height between 12 and 30 feet	Four feet in height, measured as specified by the American Standard for Nursery Stock
Small deciduous tree with a mature height of 12 feet	Four feet in height, measured as specified by the American Standard for Nursery Stock
Evergreens	Six feet in height, measured as specified by the American Standard for Nursery Stock
Shrubs	Five-gallon container size

D. Plant Material Spacing.

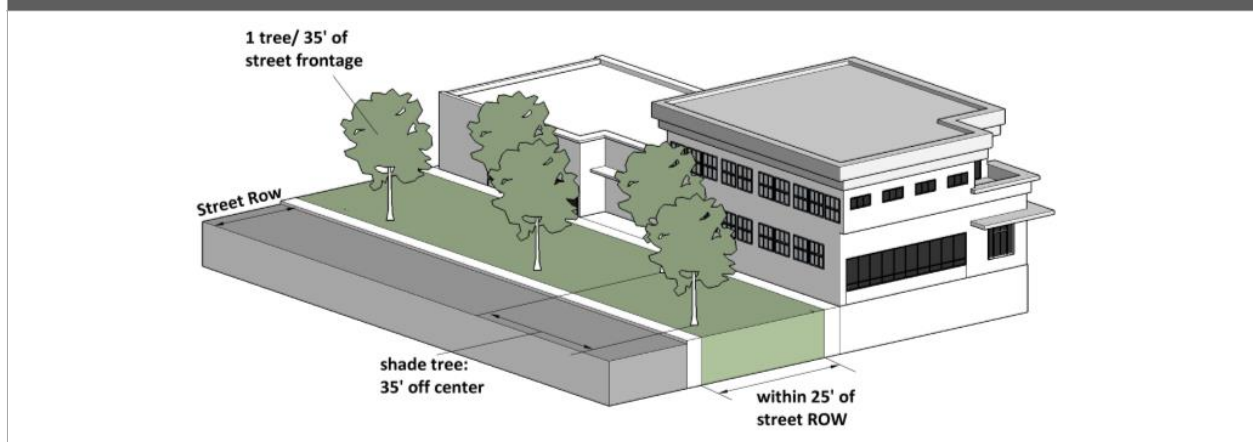
- (1) A minimum three-foot radius shall be provided free of trees or shrubs around fire hydrants, valve vaults, hose bibs, manholes, and fire department connections.
- (2) Where tree planting requirements are based on linear street frontage, areas occupied by driveways shall be included when calculating the number of trees required to be planted, and the spacing may be adjusted to accommodate specific site conditions, such as building entrances, driveways and street corners as well as by the species of trees planted.

E. Street trees and Lot Frontage Landscaping.

- (1) General provisions.
 - (a) All street trees shall be deciduous trees.
 - (b) Multiple species of street trees of similar size and canopy shape should be used on each street.
 - (c) Street trees shall be hardy varieties, tolerant of soil compaction and salt, drought resistant, and free of objectionable droppings such as seed pods and sap. Examples may be found in the [Cornell University Recommended Urban Trees Publication](#), among other resources.
- (2) Where a sidewalk and a tree lawn between the sidewalk and the street or curb exists or is proposed, at least one shade tree shall be planted in the tree lawn per 35 linear feet of street frontage, as illustrated in Figure VI-4. Required trees shall be planted with 35 foot on-center spacing to the maximum extent practicable. Where the planting of shade trees would interfere with overhead electric power lines, at least one ornamental tree with a mature height of 12 feet shall be planted per 20 feet of street frontage.

Figure VI-4: Street Trees With Sidewalk

- (3) Where a sidewalk does not exist, one shade tree shall be planted with 35 foot on-center spacing and within 25 feet of the street right-of-way to the maximum extent practicable, as illustrated in Figure VI-5.

Figure VI-5: Street Trees Without Sidewalk

- (4) Where the sidewalk extends from the back of the curb to the lot line or building frontage, tree wells shall be installed in the sidewalk to allow planting of one shade tree per 30 feet of linear street frontage. To provide a level surface for pedestrians while preventing soil compaction around trees, tree wells in sidewalks five feet wide or less shall be covered with a tree grate. The tree grate shall be level with the sidewalk or adjacent surface, and shall have an expandable opening for the tree trunk as illustrated in Figure VI-6, where the center rings of the tree grate can be removed later to accommodate tree growth. At the Planning Board's discretion, pervious pavement may be substituted for a tree grate if its permeability is equal to that of a tree grate and it is level with the sidewalk or adjacent surface.

Figure VI-6: Example of a Tree Grate



- (5) All plantings in the public right-of-way require approval of the public entity that has control over the right-of-way. Plantings deemed unsafe or impracticable by the agency due to slope, utility, maintenance, location, visibility, alignment, or other factors are not required to be installed in those locations, but the Planning Board may require substitute landscaping be installed elsewhere on the property.
- (6) In addition to the provisions for street trees in subsections (1) through (5) above, where the principal building is located more than 20 feet from the front lot line, a minimum of 20 percent of the area between the front lot line and the front building facade shall be landscaped with vegetative cover, trees and/or shrubs for all multi-family and non-residential structures in all zoning districts, with the exception of the VC and CMU Districts. In the CMU District in locations where there is no linear building, a minimum 20 foot wide landscaped area shall be provided abutting the right-of-way; pedestrian facilities may be permitted within the landscaped area.
- (7) In addition to the provisions for street trees in subsections (1) through (5) above, the following standards shall apply to any lot containing a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse that is located more than 20 feet from the front lot line:
 - (a) No more than 20 percent of the area between the principal building and the street shall be covered with impervious surface, and the remainder of such areas shall be landscaped with vegetative cover, shrubs, trees, or other pervious treatment.
 - (b) The foregoing notwithstanding, a walkway of up to five feet in width shall be permitted to cross the area between each street frontage at the principal building or accessory structure, and one driveway a maximum of 10 feet in width shall be permitted to cross the area between one street frontage to a principal or accessory structure, even if the walkway(s) and driveway would result in more than 20 percent of the applicable yard having impervious surfaces.

F. Side and Rear Lot Line Buffers

- (1) In all zoning districts, a landscape buffer shall be provided along each side and/or rear lot line where the principal structure will contain a multi-family dwelling or any non-

residential use, and the abutting property is in a residential district or contains a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse.

- (2) The landscape buffer shall be provided on the applicant's property and shall comply with one of the following, as determined by Planning Board:
 - (a) The landscape buffer area shall be at least eight (8) feet wide and shall be planted with large evergreen shrubs and/or evergreen trees with spacing designed to minimize sound, light, and noise impacts year-round, and to provide 80 percent opacity within one year of planting along the full required width and length of the buffer; or
 - (b) An opaque wall or fence meeting the requirements of subsection I below shall be installed in a landscape buffer area at least four feet wide, with three shrubs per 25 linear feet of lot line installed on the side of the fence facing the single-family dwelling, two-family dwelling, three-family dwelling, or townhouse.

G. Parking Lot Landscaping

- (1) All plantings in and adjacent to parking lots shall be hardy varieties, tolerant of soil compaction and salt, drought resistant, and free of objectionable droppings such as seed pods and sap.
- (2) All parking lots containing 10 or more parking spaces in all zoning districts except the VC District shall provide the following:
 - (a) At least one (1) shade tree shall be planted on the perimeter of the parking lot for every 10 cars or fraction thereof.
 - (b) At least one (1) shade tree shall be provided in the interior of the parking lot (in tree islands or bioretention areas) for every 10 cars or fraction thereof.
 - (c) Such trees and landscaped areas shall be arranged and designed so as to provide definition to traffic circulation aisles and to entrances and exits, and shall be of such type and location as will provide the maximum of shade without interfering with sight lines or impeding the safe flow of traffic.
- (3) Any curbs installed at the edges of required perimeter and interior landscaped areas shall have openings that allow drainage from the pavement to enter and percolate through the landscaped areas.
- (4) Screening.
 - (a) Where a parking lot for five (5) or more vehicles abuts a lot in a residential district or a lot containing a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse, the parking lot shall be screened from the adjacent district or use in accordance with one of the two options in subsection F(2) above.
 - (b) A parking lot servicing a multi-family dwelling or any non-residential use shall be screened from all public streets and public rights-of-way by one or both of the following, located within five feet of the front lot line and in such a manner as not to impede adequate sight distance at points of egress:

- (i) A decorative wrought-iron-style or picket-style fence between 30 and 42 inches in height.
- (ii) A continuous line of shrubs, between 30 and 48 inches in height at maturity, that provides year-round screening designed to provide 80 percent opacity within one year of planting along the full required length of the buffer.

H. Preservation of Existing Landscaping

- (1) In the event that existing, non-invasive vegetation meets the intent of the screening or landscaping requirements, preserved existing vegetation may be credited towards the landscaping required by this section.
- (2) Existing vegetation used to meet the requirements of this section shall be protected from damage during construction by a fence erected around an area one foot beyond the drip-line of the preserved vegetation, or by other means approved by the Planning Board.
- (3) In the case of existing trees, the trees shall be located within the required landscape area to which they will be credited.
- (4) Trees may be credited only one time, on a one-to-one basis.

I. Fences and Walls

- (1) All fences and walls shall comply with this section and the requirements of any other applicable codes, statutes and regulations including but not limited to the New York State Uniform Fire Prevention and Building Code.
- (2) The height of fences and walls shall not exceed 42 inches in a front yard or in a side yard forward of the front facade of the principal building, or 72 inches in a rear yard or in a side yard behind the front facade of the principal building, unless otherwise specified in this chapter. Height is measured from the adjacent ground to the highest point, except that decorative posts of a fence or wall may exceed the maximum height by six inches.
- (3) A fence in a front yard shall be no more than 60 percent opaque, except as required otherwise by this chapter.
- (4) Retaining walls over four (4) feet in height shall be designed by a licensed design professional.
- (5) A fence or wall, including all posts, bases, and other structural parts must be located completely within the boundaries of the lot on which it is located.
- (6) No minimum distance shall be required between a fence or wall and a lot line unless otherwise required by the Planning Board or as otherwise required by this chapter.
- (7) No fence or wall shall encroach on any public right-of-way.
- (8) A fence designed to be structurally supported by posts, cross members, or rails on one side only shall be erected with the posts, cross members, or rails on the fence owner's side. The finished side of any fence shall face adjacent properties or any public-right-of-way.

(9) The owner of the fence or wall shall maintain both sides of the fence or wall in good condition.

(10)Materials:

- (a) Any fence intended as a permanent structure shall be constructed of wood, composite, vinyl, chain link, or decorative metal. Chain link fencing is prohibited in any front yard.
- (b) No fence or wall located along the perimeter of any property shall include barbed wire, broken glass, electrification, or other material or device intended to cause injury unless required by state or federal law.
- (c) No fence or wall shall be constructed of scrap or waste materials unless those materials have been recycled or reprocessed into building materials for sale to the public.

J. Screening of Loading and Service Areas

- (1) Where a loading or service area abuts a lot in a residential district or a lot containing a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse, the loading or service area shall be screened from the adjacent district or residential use by:
 - (a) An opaque wall, fence, architectural feature, or architectural extension of the building, six feet in height unless otherwise required by this chapter, that relates to the overall design of the principal structure; or
 - (b) A continuous line of evergreen trees or shrubs, at least six (6) feet high at time of planting, that provides year-round screening and designed to provide 80 percent opacity within one year of planting.

K. Screening of Mechanical Equipment

- (1) Roof-Mounted Mechanical Equipment. Roof-mounted mechanical equipment for any multi-family or non-residential use, not including solar collectors, shall be screened by a parapet wall or similar building feature that is an integral part of and compatible with the building's architectural design and is of sufficient height to screen the mechanical equipment from all sides when viewed from ground level from any public right-of-way, unless the applicant can demonstrate to the satisfaction of the Planning Board that the equipment will be located on the roof so as not to be visible without a parapet. The Planning Board may required line-of-sight drawings to verify the equipment will be properly screened.
- (2) Ground-Mounted Mechanical Equipment.
 - (a) Ground-mounted mechanical equipment shall be screened from ground level view from adjacent and nearby properties and from any public right-of-way, recreation park, or other public space adjacent to the property by landscaping or by decorative wall, fence or architectural extension of the building that incorporates at least one of the primary materials and colors of the principal structure.

(b) The landscaping, wall, fence, or architectural extension of the building shall be of a height equal to or greater than the height of the mechanical equipment being screened, and shall relate to the overall design of the principal structure.

(c) If landscaping is used for screening, the landscaping material shall provide year-round screening and shall be designed to provide 80 percent opacity within one year of planting.

L. **Stormwater Management.** All development and redevelopment in the Village shall comply with the requirements of Chapter 131 (Stormwater Management) of the Village Code.

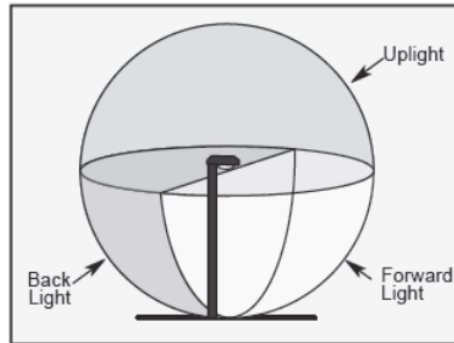
§ 151-46. OUTDOOR LIGHTING

A. Purpose. The purpose of this section is to provide regulations for outdoor lighting that will:

- (1) Ensure that vehicle and pedestrian circulation areas, parking lots, public gathering spaces, approaches to buildings, and other areas have adequate, but not excessive, outdoor illumination to promote safety and utility at night.
- (2) Provide adequate light for safety and utility while minimizing light pollution, glare, light trespass, and dramatic contrasts between lit and unlit areas that may interfere with the enjoyment, health, safety and welfare of Village residents and visitors.
- (3) Reduce sky glow that degrades the night-time visual environment.
- (4) Improve the night-time aesthetics of site, landscape, and architectural design.
- (5) Protect the natural environment from the adverse effects of nighttime lighting, and minimize disruptions to nocturnal animal behavior, particularly migratory birds and other species.
- (6) Conserve energy and reduce greenhouse gas emissions to the greatest extent possible in accordance with the Village's pledge to be a New York State "Climate Smart Community."

B. Definitions. The following terms shall, for the purpose of this section, have the meanings herein indicated:

BUG RATING – An IESNA rating system of the Backlight, Uplight and Glare (forward) light distribution of an outdoor light fixture.

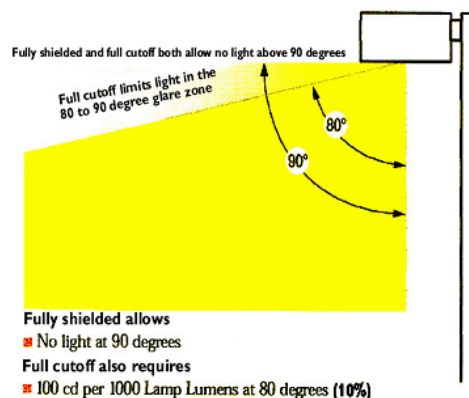
Figure VI-7: Backlight, Uplight, and Glare (Forward) Light Distribution

CORRELATED COLOR TEMPERATURE (CCT) — A rating of the dominant color tone of a light output from warm (reds and yellows) to cool (blue) expressed in degrees Kelvin (K).

FOOTCANDLE (fc) – The measure of illuminance produced on a surface one foot square from a distance of one foot. One footcandle is equal to one lumen per square foot.

FULL CUT-OFF FIXTURE – An IESNA classification that describes a lighting fixture constructed and installed such that it emits no light at and above an angle of 90 degrees above the horizontal plane, and that reduces glare by limiting maximum light to less than 10 percent of rated lumens between 80 degrees and 90 degrees (the “glare zone”). This applies to all lateral angles around the fixture.

FULLY-SHIELDED FIXTURE – A lighting fixture constructed and installed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane running through the lowest point on the fixture where light is emitted. Fully-shielded fixtures emit no direct uplight but have no limitation on the intensity of light in the region between 80 degrees and 90 degrees above nadir. A fully-shielded fixture has a maximum BUG uplight rating of U0.

Figure VI-8: Fully-Shielded VS. Full Cut-Off Fixture

GLARE – Stray unshielded light striking the eye that may result in: a) nuisance or annoyance such as light shining in a window; b) discomfort causing squinting of the eyes; c) disabling vision by reducing the ability of the eyes to see into shadows; d) reduction of visual performance. Note: As used in this section, this term is not synonymous with the term glare as used in the BUG rating defined above.

IESNA – The Illuminating Engineering Society of North America, the technical and educational authority on illumination.

ILLUMINANCE – The amount of light falling on a surface area. Illuminance is measured in either footcandles (lumens per square foot), or lux (lumens per square meter). One footcandle equals 10.76 lux, although for convenience, 10 lux commonly is used as the equivalent.

LAMP – A device for producing light.

LIGHTING FIXTURE – A complete lighting unit consisting of one or more lamps, together with the parts designed to distribute the light (reflector, lens, diffuser), position and protect the lamp(s), and connect the lamp(s) to the power supply, but not including the support assembly (pole or mounting bracket). Also referred to as a “luminaire.”

LIGHT POLLUTION – Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, and impacts on the nocturnal environment.

LIGHT TRESPASS – Light from an artificial light source that is cast beyond the boundaries of the property on which the lighting fixture is sited. Light trespass includes glare from a direct light as well as spill light.

LUMEN – A unit of measure used to quantify the amount of light produced by a lamp (as distinct from “watt,” a measure of electrical power consumption) in a given period of time.

LUX – A metric unit of measure used to quantify the amount of light produced by a lamp. One lux is equivalent to one lumen per square meter, which is equal to approximately 1/10 footcandle.

OUTDOOR LIGHTING – The illumination of an outside area or object by any man-made device located outdoors that produces light by any means, whether attached to poles, buildings, structures, the earth, or in any other location, and any associated lighting control equipment.

OUTDOOR LIGHTING FIXTURE – A lighting fixture installed outdoors, either permanently or portable, used for illumination, decoration, or advertisement. Such devices shall include but are not limited to lighting fixtures used to illuminate: buildings and structures, including overhangs and canopies; parking lots; streets and driveways; sidewalks, paths and walkways; recreational areas; landscape lighting; architectural lighting; signs; product display and service areas; and security lighting.

REPLACEMENT – The installation of a new lighting fixture in place of an existing fixture, and/or the installation of a new lighting housing or head to an existing pole, bracket, wall, tree or other structure. Replacement does not mean the changing of light bulbs or lamps in a fixture for the same or lower wattage bulbs.

SEASONAL HOLIDAY LIGHTING – Lighting displayed during and around a federally recognized holiday or Village festival on a seasonal basis.

SECURITY LIGHTING – The minimum amount of outdoor lighting necessary to illuminate points of entry into or exit from a structure, exterior walkways, or outdoor storage areas for purposes of night-time safety. Security lighting shall not include any lighting that is primarily for aesthetic or advertising purposes and does not directly contribute to the safety or security of the premises, such as signs, parking lot lighting, display lighting, architectural lighting or landscape lighting.

SKY-GLOW – The brightening of the sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky-glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

TEMPORARY LIGHTING – Lighting installed and operated for periods not to exceed 60 days and not operated again for at least 30 days.

UNIFORMITY RATIO – The ratio of the average lighting level to the minimum lighting level for a given area.

C. Applicability.

(1) New and Replacement Lighting. The provisions of this section shall apply to all outdoor lighting installed after the effective date of this chapter, including the installation of new outdoor lighting fixtures and the replacement of existing outdoor lighting fixtures.

(2) Nonconforming Lighting. The provisions of this section shall apply to all lighting installed prior to the effective date of this chapter that does not conform to the requirements herein (nonconforming lighting), as follows :

(a) Changes to Existing Lighting (without establishment of a new use or a change in use).

(i) For a lot of 0.5 acre or less, if any outdoor lighting is changed, all lighting shall be brought into conformance with this section.

(ii) For a lot greater than 0.5 acre, single or cumulative modification or replacement of 50 percent or more of installed nonconforming outdoor lighting fixtures existing as of the effective date of this chapter.

(b) New Uses or Changes of Use.

(i) For a lot containing a single use, whenever a new use of the property is commenced or the use on the property is changed, all outdoor lighting on the property shall be brought into compliance with this chapter before a Certificate of Occupancy is issued for the new or changed use.

(ii) For a property containing more than one use:

(a) If a majority of the uses or structures on the property are new or changed in one application, all outdoor lighting on the property shall be brought

into compliance with this chapter before a Certificate of Occupancy is issued for any new or changed use.

(b) If the cumulative effect of changes or additions to the uses on a property is such that a majority of the uses on the property have changed since the enactment of this chapter, all outdoor lighting on the property shall be brought into compliance with this chapter before a Certificate of Occupancy is issued for any new or changed use.

(c) Major Additions. If a major addition occurs on a lot, lighting for the entire lot shall comply with the requirements of this chapter. For purposes of this section, an increase of 25 percent or more of additional dwelling units, gross floor area, seating capacity, or parking spaces, either by a single addition or by cumulative additions after the effective date of this chapter, shall be deemed to be major additions.

(d) Resumption of Use after Abandonment. If any lot contains a single use with nonconforming lighting, and that use is abandoned for a period of one year or more, then all outdoor lighting shall be brought into compliance with this section before any further use of the lot may commence.

(e) Amortization. In addition to the foregoing provisions, all nonconforming lighting shall be brought into compliance with the provisions of this section on or before three years from the effective date of this section, such time being deemed sufficient to amortize the cost thereof.

D. Exempt Outdoor Lighting. Notwithstanding any other provision herein, the following outdoor lighting shall be exempt from the provisions of this section:

- (1) Lighting that is required by federal or state laws or regulations.
- (2) Emergency lighting, as needed by police, fire, medical, utility or other emergency service.
- (3) Temporary lighting for construction sites, provided that such lighting is discontinued immediately upon completion of the construction work necessitating said lighting, and provided that such lighting is the minimum lighting needed, does not create glare or extend beyond the property line.
- (4) Lighting of a single-family dwelling lot that is not part of a site plan or outdoor lighting plan for any other common or public area, provided that such lighting is directed downward, and is aimed to prevent light trespass on adjacent properties.
- (5) Low voltage seasonal holiday lighting and decorations that are displayed for not more than 60 consecutive days nor more than 60 total days in any one year.
- (6) Low voltage decorative white string/rope lights on a building as long as such lights are not prohibited by subsection E(5) herein.
- (7) Low voltage landscape lighting for single-family dwellings that is aimed away from adjacent properties and is directed downward.

- (8) Solar-powered lights of five watts or less per fixture used in residential landscaping applications and to illuminate walkways.
- (9) Temporary lighting for theatrical or performance areas.
- (10) Underwater lighting in swimming pools and other water features.
- (11) Lighting of public art, monuments and statuary that has been permitted or otherwise approved by the Village, provided lighting is properly aimed and shielded to contain light to the art feature and not create glare onto any public right-of-way or adjacent or nearby properties.
- (12) Other Village, County or State lighting installed for the benefit of public health, safety, and welfare.
- (13) Lighting for a properly displayed U.S. flag, provided the flag standard does not exceed the maximum permitted building height for that district, the light has a maximum of 650 lumens of light output, a maximum color temperature of 2700K, and is properly aimed and shielded to contain light to the flag and standard and not create glare onto any public right-of-way or adjacent or nearby properties.

E. Prohibited Outdoor Lighting.

- (1) Uplighting is prohibited, with the exception of a properly displayed U.S. flag as provided in subsection D(13) above. All lighting, including but not limited to externally lit signs, displays, buildings, structures, streets, parking lots, recreational areas, landscaping, and other objects lit for aesthetic, security or other purposes, must be lit from the top and shine downward.
- (2) Search lights, strobe lights, klieg lights, laser source lights, or any similar high intensity light are prohibited, except for use in emergencies by police, fire or medical personnel or at their direction.
- (3) The use of mercury vapor and low-pressure sodium lamps is prohibited.
- (4) Neon/LED tube or rope lighting used to outline or highlight a building or a building's features is prohibited.
- (5) Any lighting that flashes, blinks, scintillates, revolves, rotates, flickers, fades, fluctuates, moves, runs, or that uses electrical pulsation, or that does not maintain a stationary and constant intensity, color, or direction at all times is prohibited, with the exception of motion-activated security lighting.

F. Plan Submission. Any application that requires Planning Board approval pursuant to this chapter and that involves outdoor lighting fixtures shall include the following:

- (1) Plans indicating the number, location, height, orientation, type of lighting fixture, and lighting levels of all proposed and existing outdoor lighting fixtures;
- (2) Manufacturers' cut sheets of all proposed lighting fixtures indicating BUG rating or IESNA cut-off classification, color temperature (Kelvin), and motion-activated control devices;

- (3) Photometric data, such as that furnished by manufacturers, or similar documentation, showing the angle of cut-off or light emissions; and
- (4) Additional information that the Planning Board determines is necessary, including, but not limited to an iso-lux plan indicating levels of illumination in footcandles, at ground level, and a calculation of average lighting levels and the uniformity ratio of the various areas of site that will be illuminated.

G. General requirements for all zoning districts.

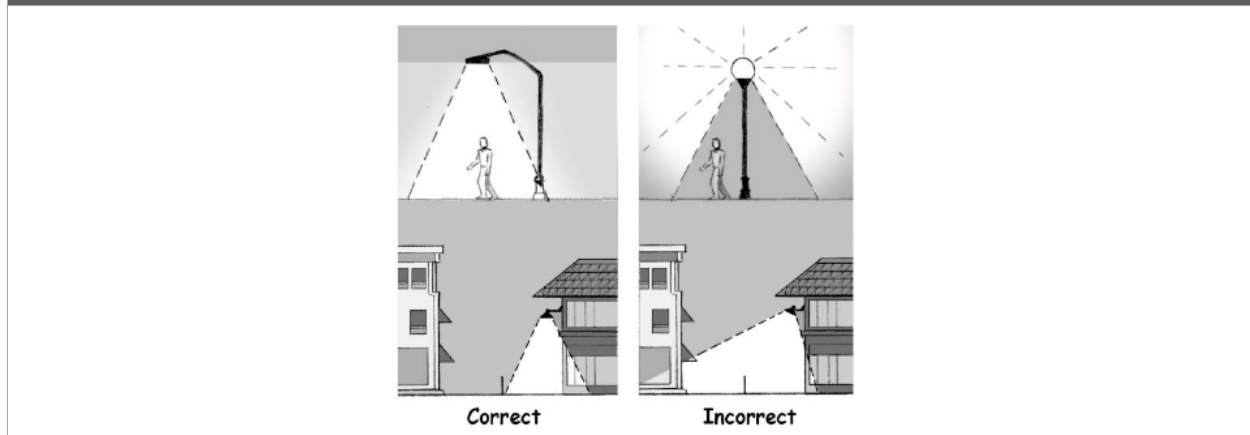
- (1) Full Cut-Off Fixtures. Except as may be specified elsewhere in this chapter, all outdoor lighting fixtures shall be full cut-off fixtures with a maximum BUG upright rating of U0 to prevent sky glow, glare and light trespass. Fixtures that do not have a BUG rating shall be identified by the IESNA as full cut-off fixtures or shall have the International Dark-Sky Association (IDA) Fixture Seal of Approval. Examples of full cut-off fixtures are illustrated below in the right-hand column of Figure VI-9 as a guide to fixture selection.

Figure VI-9: Prohibited (left) and Permitted (right) Outdoor Lighting Fixtures



- (2) Light trespass and Backlight/Glare. Light trespass onto adjacent properties shall not exceed 0.25 footcandle at the property line. This footcandle value, however, shall not be used as a criterion for assessing Backlight and Glare control. For fixtures with a BUG rating, the Village Engineer shall determine whether outdoor lighting will result in backlight or glare based on the BUG “Backlight” and “Glare” rating of the lighting fixture, the distance of the lighting fixture from the property boundary, and the fixture mounting height.
- (3) Lighting control.
- Fixture installation. All outdoor lighting fixtures shall be installed in a horizontal position as designed in order to meet the definition of full cut-off.
 - Direction of outdoor lighting. All outdoor lighting shall be designed, located, installed, fitted, shielded, and directed so as not to present a hazard to drivers or pedestrians, by impairing their ability to safely traverse, and so as not to create a nuisance by projecting or reflecting objectionable light onto an adjacent use or property. See Figure VI-10.
 - Time limits for outdoor lighting. For all non-residential uses, all outdoor lighting, except for security lighting, shall be turned off no later than one hour after the close of business and shall remain off until one hour before the business reopens. Security lighting is encouraged to be motion-activated controlled. The foregoing shall not apply to properties that have only one outdoor lighting fixture.

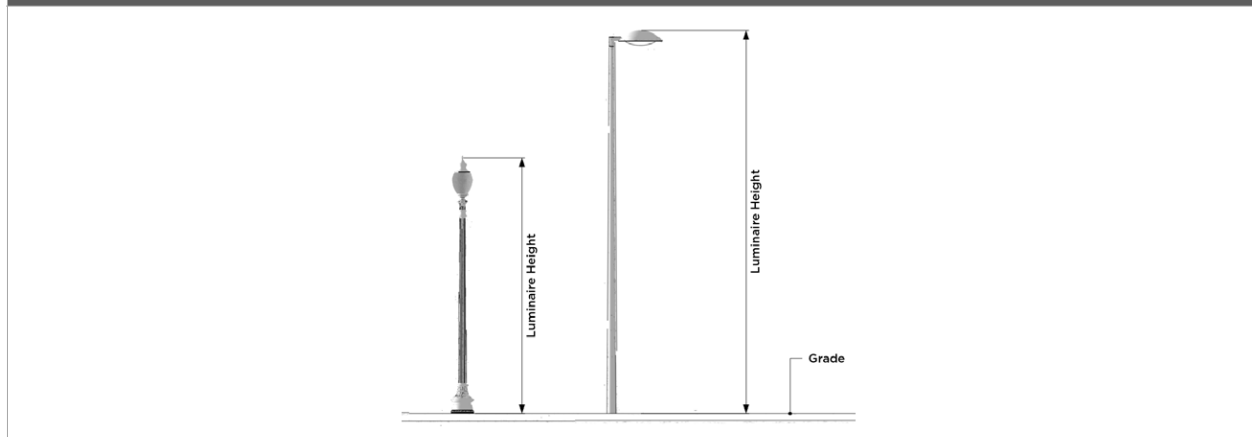
Figure VI-10: Lighting Control



- (4) Illuminance and uniformity. Lighting levels shall comply with the latest published recommendations of the IESNA and the following:
- Parking lots in all zoning districts shall have a maximum average lighting level of one footcandle. Parking lot lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level.
 - Pedestrian walkways, main building entrances and other security areas shall have lighting levels of no more than one (1) footcandle.

- (c) Lighting levels under gasoline station canopies shall have a maximum average lighting level of 5 footcandles.
- (d) The uniformity ratio (average to minimum) shall not exceed 3/1 for parking and traffic areas, or 4/1 for pedestrian areas.
- (e) Design should establish a hierarchy of lighting to assure a smooth transition from bright areas to those with subdued lighting.
- (f) An exception to the maximum permitted lighting levels shall be made for ATM machines. Minimum lighting levels for ATM machines shall comply with the New York State ATM Safety Act but shall not exceed the standards set forth therein.
- (5) Color temperature. LED light sources shall have a maximum color temperature of 2700K.
- (6) Maximum Lighting Height. In order to promote a pedestrian scale in the public realm and to minimize glare and light trespass onto adjacent properties, the following shall apply to the height of outdoor lighting fixtures:
 - (a) The maximum allowable height of a freestanding pole-mounted lighting fixture shall be 15 feet in all zoning districts, with the exception of the CMU and B Districts, where the maximum height shall be 20 feet. See Figure VI-11.
 - (b) In all zoning districts, the maximum allowable height of a building- or structure-mounted lighting fixture other than a freestanding pole-mounted fixture shall be 15 feet.
 - (c) For the purposes of these regulations, the height of a lighting fixture shall be the vertical distance from the finished grade of the ground directly below the center line of the lighting fixture to the highest part of the fixture. The creation of berms, mounds or other devices, or increasing the height of existing berms or mounds, for the purpose of increasing a structure's height is prohibited.

Figure VI-11: Freestanding Pole-Mounted Lighting Fixture Height



- (7) Electrical feeds. Electrical feeds to lighting fixtures and standards shall be run underground, not overhead.

(8) Canopies. Lighting fixtures installed under canopies, building overhangs, roof eaves, or similar structures shall be flush-mounted or recessed into the ceiling of the canopy or overhang, and shall be equipped with flat- or recessed-lenses that do not protrude below the canopy or overhang ceiling. Shielding shall be provided by the fixture itself; shielding by surrounding structures, such as canopy edges, is not permitted.

(9) Signs. Additional requirements for external and internal sign illumination are provided in Article VII.

H. Maintenance. Lighting fixtures shall be maintained so as to always meet the requirements of this section.

ARTICLE VII: SIGNS

§ 151-47. PURPOSE AND INTENT

- A. The purpose of this Article is to promote the public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. More specifically, this Article is intended to protect property values; protect and improve the local economy and quality of life by enhancing the appearance of the Village; encourage signs as an effective means of communication while preventing visual clutter that will detract from the aesthetic appeal of the Village; maintain and enhance the Village's appearance by regulating the location, number, type, quality of materials, size, illumination, and maintenance of signs; preserve the significant historic character of the Village; restrict signs that may create a nuisance to nearby properties, violate privacy, or create hazards or unreasonable distractions or obstructions for pedestrians or drivers; provide clear and unambiguous sign standards that enable fair and consistent enforcement; and ensure that the constitutionally guaranteed right of free speech is protected.
- B. It is the intent of the Village to comply with all applicable laws, statutes, regulations, and federal and state court decisions regarding the regulation of signs, and not to engage in any form of content-based regulation of sign messages prohibited by federal or state constitutions, statutes, or court decisions.

§ 151-48. SUBSTITUTION

Anything in this Article to the contrary notwithstanding, any sign permitted by this Article may display a noncommercial message and all signs bearing a noncommercial message are deemed to be on-premises signs.

§ 151-49. APPLICABILITY

No sign shall be erected, placed, affixed, constructed, altered, relocated, replaced, enlarged, modified, or reconstructed in any zoning district except in accordance with the provisions stated herein.

§ 151-50. SIGN PERMIT REQUIRED

Except as otherwise stated herein, all signs require Planning Board approval and issuance of a sign permit from the Code Enforcement Officer. No permit shall be issued until the Code Enforcement Officer determines that such sign is in accordance with the requirements contained in this Article and will not violate any building, electrical or other applicable code of the Village of Wappingers Falls. This subsection shall not be construed to require a permit for the repainting, cleaning, and other routine maintenance or repair of a sign for which a permit has previously been issued, provided the sign is not altered in any way.

§ 151-51. GENERAL PROVISIONS

- A. **Placement and Design.** Signs within the Village shall comply with the following general placement and design criteria:

- (1) All signs shall have a harmonious relationship to the building to which they relate and the architectural and historic character of Village in terms of size, shape, materials, color, texture, lighting and the like.
- (2) Signs shall not cover or obscure architectural details.
- (3) Signs shall be placed so as to be sensitive to signage of adjacent businesses.
- (4) Whenever feasible, multiple signs should be combined into one to avoid clutter.
- (5) Colors shall be used with restraint and excessive brightness shall be avoided.

B. Sign Materials.

- (1) Permanent signs shall be constructed of sturdy, durable materials such as wood, metal, plastic or composite, and other similar materials. Sign structures shall be constructed of durable materials such as wood, concrete, metal, brick, or other similar materials. Interior-grade wood, unfaced plywood, unfinished wood, cardboard, styrofoam, and similar materials are not permitted for permanent signs or sign structures.
- (2) Paper, cardboard, and similar materials subject to rapid deterioration shall be limited to temporary signs.
- (3) Fabric materials shall be limited to awnings, banner signs, and flags.

C. Sign Illumination.

- (1) In all districts except the CMU District, internally illuminated, backlit, and neon/LED tube signs are prohibited. Any sign that is permitted to be illuminated shall only be externally illuminated, with the lighting fixtures mounted on top of or above the sign and directed downward. The light source shall be fully-shielded as required by § 151-46 to prevent sky glow, and shall be directed at the sign in such a manner as to prevent the casting of glare or direct light upon roadways and surrounding properties, and the distraction of motor vehicle operators or pedestrians in the public right-of-way.
- (2) In the CMU District, only the following internally illuminated signs are permitted:
 - (a) Wall signs and freestanding signs are permitted channel lit letters that are internally illuminated and/or backlit, including standard lit letters, reverse or “halo” lit letters, and front/backlit letters (a combination of standard lit and halo lit), as illustrated in Figure VII-1.

Figure VII-1: Channel Lit Letters



(b) Freestanding signs are additionally allowed internally illuminated cabinet signs where the light shines through translucent plastic panels. The background of the internally illuminated cabinet shall be completely opaque.

(c) Neon/LED tube signs, subject to § 151-54A(8) herein.

(3) In all other respects, sign lighting shall comply with § 151-46 of this chapter.

D. Computation of Sign Area.

- (1) **Generally.** Sign area is calculated as the entire area within a continuous perimeter comprising all of the display area of the sign, including the sign frame, trim or molding by which the sign is enclosed, where such features exist, or the outer edge of the signboard where none exist, and including all of the elements of the matter displayed but not including the support structure provided that no copy or any of the aforementioned sign face criteria are displayed on, or designed as part of, the sign support structure. See Figure VII-2.

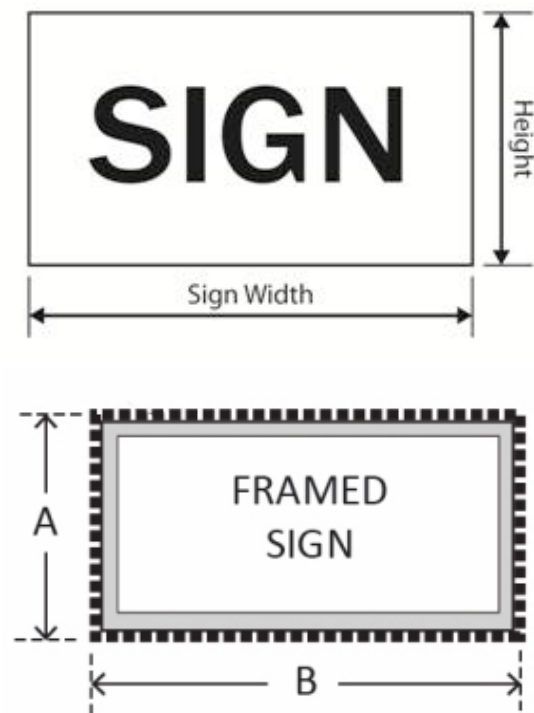


Figure VII-2

- (2) **No sign board or irregularly shaped signs.** When a sign consists of individual letters, symbols, figures, logos, numbers, illustrations, or other devices, or where the overall shape of the signboard is curved, spherical or irregular, sign area shall be measured within a continuous perimeter of not more than 8 straight lines drawn perpendicular encompassing all of said individual letters, symbols, figures, logos, numbers, illustrations, or other devices, or irregularly shaped signboard together with any background material, frame, trim or molding, and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface, or object upon which or against which it is placed. See Figures VII-3 and VII-4.



Figure VII-3

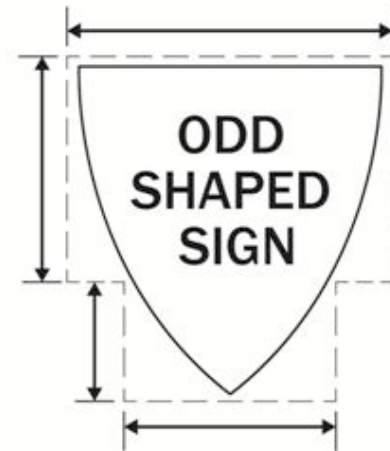


Figure VII-4

- (3) **Multi-Panel Signs.** The total sign area of multi-panel signs includes the vertical and horizontal spacing between signs. See Figure VII-5.

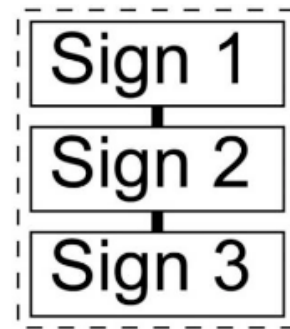


Figure VII-5

- (4) **Double-Faced Signs.** The area measurement of a double-faced sign, where the two sign faces coincide and are either parallel or the angle between them is 20° or less, shall be the area of one sign face only. If the faces are of unequal area, then sign area is equal to the area of the larger face. See Figure VII-6.

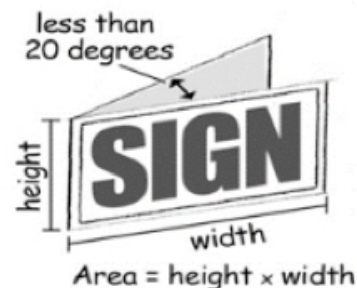


Figure VII-6

(5) **V-Shaped Signs.** The area measurement of a V-shaped sign, where the angle between the two sign faces is greater than 20°, shall be measured based on both sign faces. See Figure VII-7.

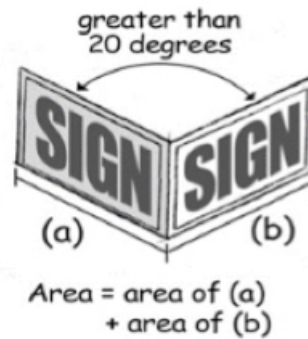
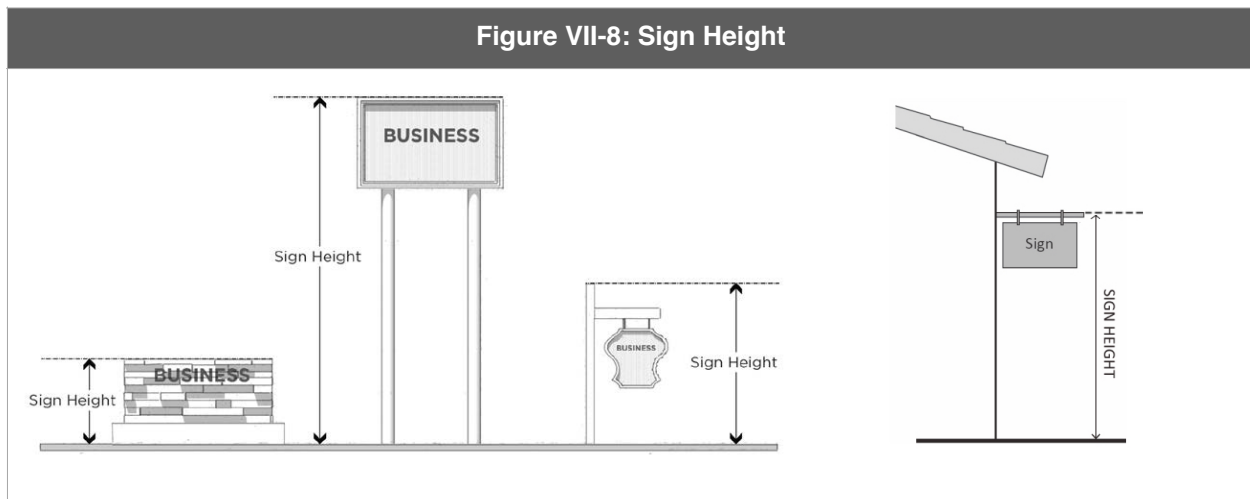


Figure VII-7

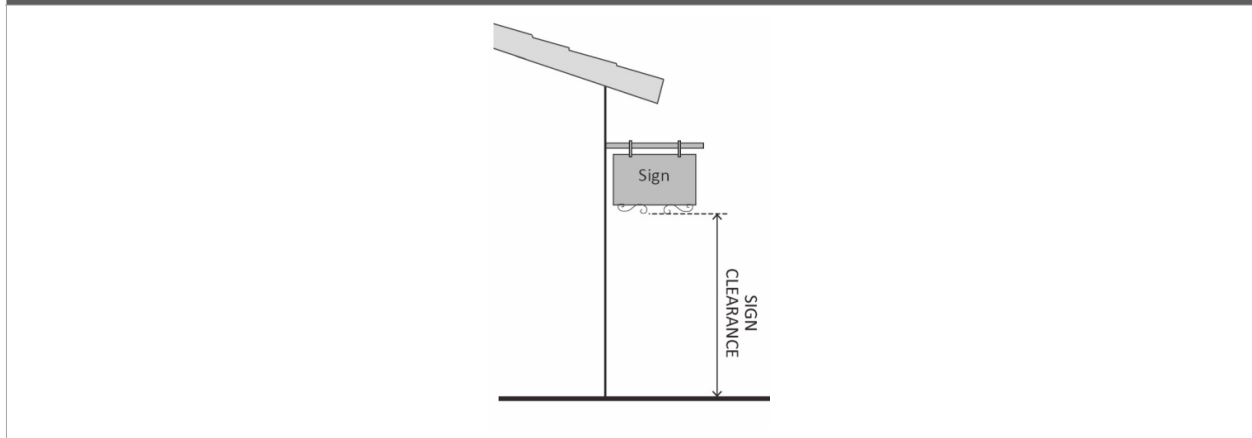
E. Computation of sign height and sign clearance.

- (1) The height of a sign shall be measured as the vertical distance from the average sidewalk or site grade directly below the sign to the highest point of the sign, including support structures and ornamentation. See Figure VII-8. The creation of berms or mounds intended to increase a sign's height is prohibited.



- (2) Sign clearance is the vertical distance between the bottom of the sign face or structural element that is not affixed to the ground and the nearest point on the surface under it. See Figure VII-9.

Figure VII-9: Sign Clearance



§ 151-52. PERMANENT SIGNS

A. Number of Signs.

- (1) Principal nonresidential uses in the R and VR Districts are permitted a maximum of one permanent sign, subject to the provisions of subsection B herein. For properties in the VR District with frontage on Route 9D, principal nonresidential uses shall be permitted one additional sign, which may be either a wall sign or window sign. Regardless of the number of uses on a property, no more than one freestanding sign is permitted per lot.
- (2) Nonresidential uses in the RMU, VMU, VC, CMU and B Districts are permitted a total of three (3) permanent signs per establishment, subject to the provisions of subsection B herein. Freestanding signs shall be included in this total, including multi-panel signs. Regardless of the number of uses on a property, not more than one freestanding sign is permitted per lot. An exception shall be made for parcels in the CMU District that exceed 125,000 square feet in size and contain more than one establishment. In that instance, a freestanding sign shall be permitted at each of up to two of the property's NYS Department of Transportation- or Village-approved curb cuts; however only one such sign shall be a pylon sign.

B. Types of Signs.

(1) Freestanding Signs.

- (a) Generally. Table 21 identifies which forms of freestanding signs are allowed for nonresidential uses in each zoning district, and the size and height standards that apply to them.
- (b) Multi-Panel Sign. Where there is more than one establishment on the property, a freestanding sign may be a multi-panel sign as illustrated in Figure VII-5 above.
- (c) Setbacks. All freestanding signs shall be located a minimum of 10 feet from all property lines, and shall be located so as not to impair visibility for motorists as required by § 151-21B.

(d) **Materials.** The support structures of freestanding signs shall be constructed of the same or similar materials and colors as the building.

(e) **Landscaping.** The Planning Board may require landscaping, not including grass, at the base of all freestanding signs.

TABLE 21: PERMISSIBLE FREESTANDING SIGNS							
DISTRICT	R	VR	RMU	VMU	VC	CMU	B
Monument Sign	Not Allowed	Allowed	Not Allowed	Allowed	Not Allowed	Allowed	Allowed
Maximum Sign Area	—	12 sf. ¹	—	12 sf. ¹	—	48 sf. ¹	48 sf. ¹
Maximum Sign Height	—	5 ft.	—	5 ft.	—	6 ft.	6 ft.
Post-and-Arm Sign	Allowed	Allowed	Allowed	Allowed	Not Allowed	Not Allowed	Not Allowed
Maximum Sign Area	12 sf.	12 sf.	12 sf.	12 sf.	—	—	—
Maximum Sign Height	8 ft.	8 ft.	8 ft.	8 ft.	—	—	—
Pylon Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed
Maximum Sign Area	—	—	—	—	—	36 sf. ²	—
Maximum Sign Height	—	—	—	—	—	15 ft.	—
¹ When the sign area is 12 sf. or less, and the sign height is 5 ft. or less, a two-post sign may be substituted for a monument sign.							
² For parcels in the CMU District that exceed 125,000 square feet in size, maximum sign area shall be 75 sf.							

(2) Attached Signs.

(a) **Generally.** Table 22 identifies which forms of attached signs are allowed for nonresidential uses in each zoning district, and the standards that apply to them.

(b) **Location.** Signs shall only be attached to the ground floor of the building, with the exception of window signs which may be located on the floor that is occupied by the use it advertises.

TABLE 22: PERMISSIBLE ATTACHED SIGNS							
DISTRICT	R	VR	RMU	VMU	VC	CMU	B
Awning Sign	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed
Maximum Sign Area	—	—	—	1 sf. per linear ft. of primary building facade or establishment space, up to a max. of 30 sf.			
Maximum Sign Height	—	—	—	Only awnings over ground floor doors or windows may contain signs.			
Additional Requirements	<ul style="list-style-type: none">Awning signs shall be affixed flat to the surface of the awning valance only. The valance shall be a maximum of 1 ft. tall with lettering a maximum of 9 in. tall. The valance shall be made of the same material and shall be the same color as the awning. See § 151-38 for more requirements for awnings.A maximum of one sign per awning is permitted.An awning sign shall not be internally illuminated.						
Projecting Sign	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Maximum Sign Area	5 sf.	9 sf.	5 sf.	9 sf.			
Maximum Sign Height	In a single-story building, the uppermost part of the sign shall not be higher than the fascia and/or cornice, or a maximum of 15 ft., whichever is lower. For multi-story buildings, sign brackets shall be mounted no higher than the sill of the second floor window.						
Minimum Sign Clearance	10 ft.						
Additional Requirements	<ul style="list-style-type: none">No sign shall project more than 4 ft. from the building facade to which it is attached. See Figure VII-10.A sign may project over the public ROW, if allowed by the public entity that has control over the ROW.A projecting sign shall be located at least 10 ft. from any other projecting sign.Signs shall be securely anchored.						
Wall Sign	Allowed	Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed
Maximum Sign Area	0.5 sf. per linear ft. of primary building facade, up to a max. of 30 sf.		—	2 sf. per linear foot of primary building facade, up to a maximum of 24 sq. ft.		2 sf. per linear foot of primary building facade, up to a maximum of 30 sq. ft. ¹	
Maximum Sign Height	See B(2)(b) above		—	See B(2)(b) above			
Additional Requirements	<ul style="list-style-type: none">Where the design of a building facade incorporates a specific area for a wall sign, the sign shall be located in this area and shall not extend beyond it, as illustrated in Figure VII-11.In a single-story building, the uppermost part of a wall sign shall not extend above the eaves of the building on which it is mounted, as illustrated in Figure VII-12.Sign face shall not project more than 8 in. from the wall surface.No sign shall extend any distance beyond the building wall in any direction.No sign shall cover windows or other architectural details.						
¹ For parcels in the CMU District that exceed 125,000 square feet in size, maximum sign area shall be 1 sf. per linear foot of primary building facade, up to a maximum of 80 sf.							
Window Sign	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Maximum Sign Area	25 percent of the total glass area of the window on which the sign is displayed.						
Maximum Sign Height	May only be located in a window on the floor that is occupied by the use it advertises.						

Figure VII-10 Projecting Signs

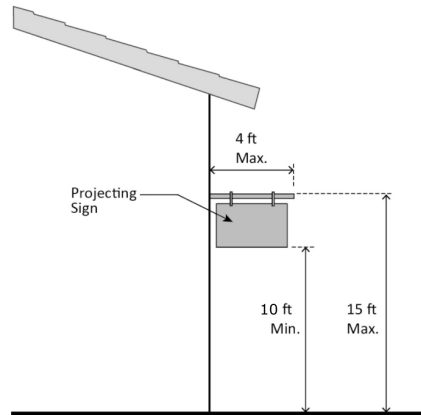


Figure VII-11: Location of Wall Sign

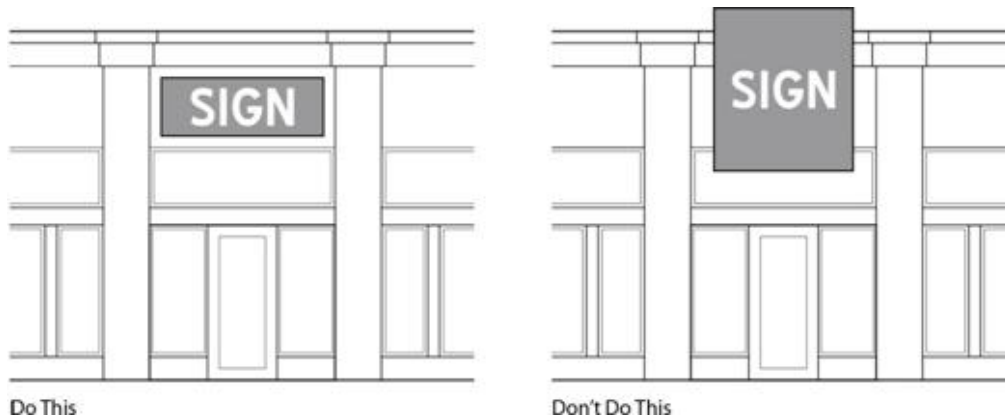


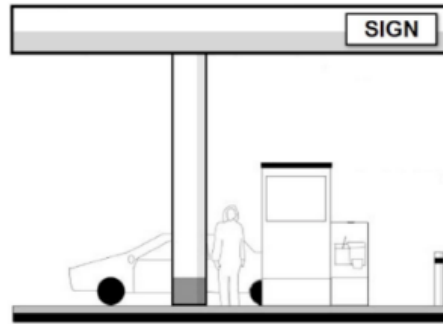
Figure VII-12: Location of Wall Sign on Single-Story Building



- (3) **Manual Changeable Copy Signs and Electronic Message Signs.** Manual changeable copy signs and electronic message signs are prohibited for all uses in all zoning districts with the exception of the following:

- (a) Gasoline Stations. Manual changeable copy is permitted for gasoline stations subject to the following:
 - (i) Changeable copy shall be permitted on one sign only (with the exception of signs required by any law, order or governmental regulation on fuel pumps).
 - (ii) The changeable copy shall not increase the amount of permitted sign area or sign height, and shall only be incorporated into a freestanding sign otherwise permitted in the district.
 - (iii) Changeable copy shall not exceed a maximum of 6 square feet in area.
 - (iv) In the CMU District, an electronic message sign may be substituted for a manual changeable copy sign subject to all of the standards in § (3)(a) above and the following:
 - (i) The electronic message sign shall only be permitted on a monument sign.
 - (ii) All electronic message sign display components shall be monochrome with a minimum pitch resolution of 16 mm spacing or better (*i.e.*, 10 mm, 12 mm, etc.)
 - (iii) The light intensity of an electronic message sign shall not exceed 0.3 footcandles over ambient lighting conditions, as determined by a photometric plan presented at the submission of a site plan application. All electronic message signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurements.
 - (iv) The electronic message sign shall contain static messages only. The message shall not change more frequently than once per day. Each message shall transition to the next message instantaneously, without transitions or frame effects between messages, such as flashing, rotating, scintillating, blinking, strobe illumination, or other effects.
- (b) Places of Worship, Schools, Non-Profit Organizations, and Theaters. Manual changeable copy is permitted for places of worship, schools, non-profit organizations, and theaters. The changeable copy area shall be a maximum of 12 square feet in area, shall not increase the amount of permitted sign area or sign height, and shall only be incorporated into a freestanding sign otherwise permitted in the district.
- (c) Order station signs, as provided in subsection B(5) herein.
- (4) **Gasoline Station Signs.** The following are specific to gasoline station signs:
 - (a) No signs shall be permitted on gasoline station canopies, with the exception of the CMU District where a maximum of two of the three permitted permanent signs may be located on a canopy as long as each sign is a maximum of nine (9) square feet in size, and no sign extends above or beyond the canopy, as illustrated in Figure VII-13.

Figure VII-13: Gasoline Station Canopy Sign



- (b) Any sign not required by law to be located on a fuel pump shall be included in the calculation of the number of permitted permanent signs.
- (c) No signs, logos or trademarked colors shall be permitted on garbage cans.
- (d) A note shall be included on the site plan stating that animated signs are prohibited.
- (5) **Order Station Signs.** Drive-through food service establishments in the CMU District shall be permitted two outdoor signs located at order stations, in addition to the permitted permanent signs outlined in subsection A(2) above if determined necessary by the Planning Board subject to the following:
 - (a) Maximum Area: one sign shall be a maximum of 16 square feet and one sign shall be a maximum of 8 square feet.
 - (b) Maximum Height: 6 feet.
 - (c) Location and Screening:
 - (i) Order station signs that are not attached to the principal building shall be oriented so that light and sound impacts are directed away from any adjacent lot in the R District or any adjacent property in existing residential use.
 - (ii) Order station signs may be located to the rear of the establishment with no screening required. If located where visible from a public right-of-way, as determined by the Planning Board, or in a side yard, screening is required in the form of a wall or fence and/or an appropriate amount of landscape planting to effectively screen the order station signs from view of the adjacent right-of-way or property to the maximum extent practicable. Where screening is not possible, the Planning Board may require that such signs use manual changeable copy rather than electronic message signs.
 - (d) Subject to Planning Board approval, order station signs may incorporate manual changeable copy signs or electronic message signs as long as such signs do not increase the amount of permitted sign area or sign height, and subject to the following:

- (i) Signs shall change no more than 4 times per day. Turning an order station sign off shall not constitute a “change.” Each message shall transition to the next message instantaneously, without transitions or frame effects between messages, such as flashing, rotating, scintillating, blinking, strobe illumination, or other effects.
 - (ii) Signs shall be turned off when the business is closed, and shall have a dark screen when turned off.
 - (iii) Signs shall only be one-sided.
 - (iv) Signs shall have a dark background with light lettering.
 - (v) The light intensity of an electronic message sign shall not exceed 0.3 footcandles over ambient lighting conditions, as determined by a photometric plan presented at the submission of a site plan application. All electronic message signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurements.
 - (vi) A note shall be included on the site plan stating that animated signs are prohibited.
- (e) Canopies. Drive-through canopies shall be permitted, provided they do not contain any signage other than height-warning signs. See also § 151-68E.
- (6) **Directional and Directory Signs.** The Village of Wappingers Falls finds that signs that assist vehicles and pedestrians to negotiate a site are necessary for safe access and egress of a site and safe travel within the site. Safely directing traffic is a compelling governmental interest. Accordingly, the Village permits on-site non-illuminated directional and directory signs, as follows. These signs shall be in addition to permitted permanent signs.
- (a) Directional signs. The Planning Board may approve directional signs, as defined in this chapter, at site access drives in all zoning districts. In addition, the Planning Board may approve directional signs in the interior of a site for lots in the RMU, CMU and B Districts where there are multiple changes of direction and/or multiple buildings or tenants if the Planning Board determines such directional signs are necessary for safety. Each such sign shall be subject to the following:
 - (i) Maximum Number, Site Access Drive: 1 per vehicle direction per site access drive.
 - (ii) Maximum Number, Interior Site: As determined necessary for safety by the Planning Board.
 - (iii) Maximum Area: 2 square feet.
 - (iv) Maximum Height: 5 feet.

(b) Interior Directory Signs in the RMU, CMU and B Districts. The Planning Board may approve directory signs in the interior of a site for lots in the RMU, CMU and B Districts where there are multiple buildings or tenants if the Planning Board determines such directory signs are necessary for safety. Each such sign shall be subject to the following:

(i) Maximum Area: 6 square feet.

(ii) Maximum height: 5 feet.

(iii) Setbacks: At least 25 feet from any adjacent right-of-way and outside of any required setback for a principal building in the district in which the sign is located, except in no case shall the sign be less than 10 feet from the side property line.

§ 151-53. TEMPORARY SIGNS

A. **Permit required.** A temporary sign shall not be erected or displayed prior to obtaining a temporary sign permit from the Code Enforcement Officer, and shall be removed on or before the expiration date of the temporary sign permit authorizing said sign. Planning Board approval is not required for temporary signs. Types of temporary signs that are not listed in this section or in §151-54A are prohibited in all zoning districts.

B. General standards.

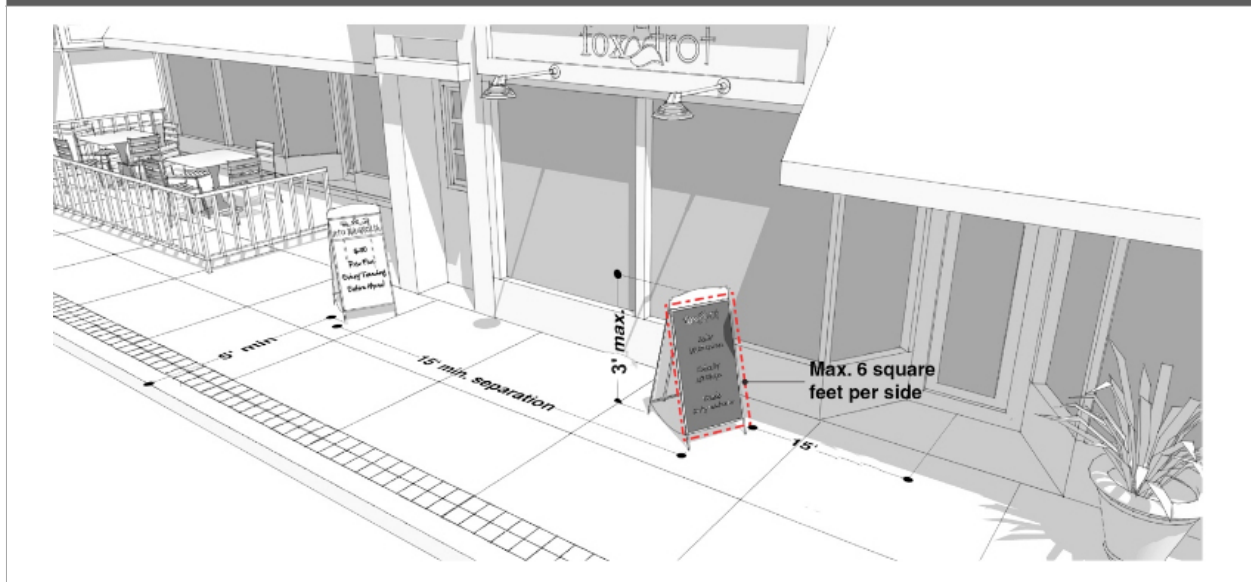
- (1) The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used as a subterfuge to circumvent the regulations that apply to permanent signs. Unless otherwise provided herein, temporary signs may be displayed for a maximum of 30 consecutive days. The Code Enforcement Officer may approve one extension of up to two weeks for good cause shown. All temporary signs that relate to a specific event or activity shall be removed within seven days of the event or activity to which they relate.
- (2) All temporary signs that are not affixed to a building shall be set back a minimum of 10 feet from all property boundaries, unless otherwise specified herein.
- (3) No temporary sign shall be placed so as to impair visibility for motorists, or interfere with pedestrian or vehicular circulation, or obstruct sight lines (see § 151-21B).
- (4) All temporary signs shall be located on private property, and shall be fully located on the property to which the sign permit is issued.
- (5) Temporary signs shall not be illuminated.

C. Types of temporary signs:

- (1) **A-frame Signs.** A-frame signs are permitted for nonresidential uses in the VMU, VC, and CMU Districts, and for places of worship and non-profit clubs in the R and VR Districts, subject to the following:
 - (a) Maximum number: 1 per ground-floor establishment.
 - (b) Maximum Area: 6 square feet.
 - (c) Maximum Height: 3 feet.

- (d) **Minimum Separation:** A minimum 15 foot separation is required between all A-frame signs. See Figure VII-14.
- (e) **Location:** Must be placed within 15 feet of the main entrance to the establishment, and must not interfere with pedestrian traffic or violate the standards of accessibility as required by the ADA or other accessibility codes and standards. A-frame signs may be placed in the public right-of-way but shall not reduce the open portion of the sidewalk to less than five feet clear of all obstructions. A placement plan shall be submitted that shows the general location of the A-frame sign.
- (f) **Design Standards:**
 - (i) Shall be of sufficient weight or design to prevent its movement in the wind.
 - (ii) The frame shall be constructed of wood or metal, and the sign face shall be constructed of wood, metal, chalkboard or dry erase board. Plastic signs and sign copy is prohibited.
 - (iii) Changeable copy shall not be permitted except for chalkboard or dry erase typefaces utilized for handwritten messages.
- (g) **Display Period:** Shall only be displayed during business hours. Sign must be stored indoors at all other times.
- (h) **Permit Time Period:** Permit shall be valid from January 1 to December 31. A new sign permit application must be applied for on or after January 1 of each year.

Figure VII-14: A-frame Signs



- (2) **Banner Signs.** Banner signs are permitted for all nonresidential uses in all zoning districts subject to the following:
 - (a) **Maximum Number:** 1 per establishment.
 - (b) **Maximum Area:** 16 square feet, with the exception of the CMU District where the maximum area shall be 24 square feet.

- (c) Location: Shall not be mounted above the ground story of the building, and shall be secured along all 4 sides of the banner unless hung from a pole in which case it shall be tethered on two sides.
- (d) Display Period: Shall only be displayed during business hours.
- (e) Additional Requirements: Application for a permit for a banner sign may be made only 4 times during any calendar year, with no permits being approved consecutively. A minimum of 30 days shall expire before a new application for a permit for a banner sign will be accepted.
- (f) Permit Time Period: Maximum of 30 consecutive days.

(3) Seasonal Signs.

- (a) Maximum number: 1 per establishment.
- (b) Maximum Area: 16 square feet when not affixed to a building; 24 square feet when affixed to a building.
- (c) Materials: May be constructed of fabric, plywood, or other light material and does not need to be permanently mounted.
- (d) Permit Time Period: Maximum of 3 months.

(4) Site Signs.

- (a) Maximum number: 1 per street frontage.
- (b) Maximum area: 12 square feet in all districts with the exception of the CMU District where the maximum area shall be 24 square feet.
- (c) Maximum Height: 5 feet in all districts except the CMU District where maximum height shall be 8 feet.
- (d) Not allowed on parcels with existing residential uses, unless in mixed-use buildings.
- (e) Permit Time Period:
 - (i) Vinyl or plastic sign face: maximum of 30 days per year.
 - (ii) Metal or plywood sign face: maximum of 6 months per year; may be extended by the Code Enforcement Officer for good cause shown.

(5) Yard Signs.

- (a) Maximum Number: 4 in all districts, except the CMU District where 1 per access drive is permitted.
- (b) Maximum Area: 4 square feet per sign.
- (c) Maximum sign height: 4 feet.
- (d) Permit Time Period: Maximum of 30 days. Application for a permit for a yard sign may be made only 4 times during any calendar year, with no permits being approved consecutively. A minimum of 30 days shall expire before a new application for a permit for a yard sign will be accepted.

§ 151-54. SIGNS THAT DO NOT REQUIRE A SIGN PERMIT

A. No sign permit is required for the following signs, provided that such signs comply with all standards applicable to that type of sign, and the applicable standards of this subsection, and provided the sign is not greater in size than the minimum size required by law. Signs that do not require a permit shall not be included in the number of permitted signs for the use.

- (1) Signs required by any law, order or governmental regulation.
- (2) Official and legal notice signs that are issued or endorsed by any court, public body, person, agency, or officer in performance of a public duty, or in giving any legal notice, including signs that are required to be posted to give notice of pending action pursuant to this chapter.
- (3) Warning signs for the safety of the general public not exceeding 4 square feet in area and mounted not more than 6 feet above grade unless affixed to a canopy. The Code Enforcement Officer shall have the discretion to determine that a warning sign that is not in compliance with this paragraph is warranted and will not require a permit.
- (4) Traffic control signs and other signs related to public safety that the Village or another jurisdiction installs or requires a developer to install.
- (5) One non-illuminated sign not exceeding 2 square feet in area affixed to a dwelling unit. However, this shall not be construed to permit the display of signs when otherwise prohibited or restricted by private restrictions related to the dwelling unit.
- (6) Historical markers, monuments, or commemorative signs as recognized by local, state or federal authorities.
- (7) One non-illuminated sign or tablet per building, of four square feet or less, when cut into the masonry surface of the building, or when constructed of bronze or other incombustible material and attached to the surface of a building.
- (8) One neon/LED tube sign per establishment in the CMU District only. Such sign shall be a maximum of two square feet in area, shall only be permitted within the interior of a window, shall not flash or move, and shall be turned off at night.
- (9) Temporary non-illuminated window signs that do not exceed 10 percent of the area of any individual window surface and that, collectively do not cover more than 10 percent of the total window area by floor of the applicable structure (exclusive of any window signage or notices required under federal, state, or local law). Such signs are allowed on ground floor windows facing a primary street only.
- (10) One non-illuminated sign a maximum of one square foot in area, that is affixed to a building door that is not visible from a public right-of-way.
- (11) Signs that are being carried by people (however, such signs are not exempt if they are set down or propped on objects).
- (12) Temporary noncommercial signs a maximum of 6 square feet in sign area and a maximum of 3 feet in height. The aggregated sign area of all temporary noncommercial signs shall not exceed 30 square feet.

(13) Seasonal holiday decorations that are displayed for not more than 60 consecutive days nor more than 60 total days in any one year.

(14) Bumper stickers on vehicles.

(15) One temporary non-illuminated sign per lot frontage on premises for sale, lease or exchange, a maximum of 4 square feet in sign area and, if freestanding, a maximum of 6 feet in height.

(16) Flags that do not convey a commercial message, do not exceed 32 square feet in area, and are affixed to a flagpole. No more than two flags per lot.

§ 151-55. PROHIBITED SIGNS AND DESIGN ELEMENTS

A. **Prohibited Signs.** All signs not expressly permitted by this Article are prohibited in all zoning districts, including without limitation the following signs and design elements:

(1) Abandoned signs.

(2) Animated signs.

(3) Balloons, inflatable signs, streamers, spinners, pennants and other attention-getting devices made of lightweight fabric or similar material, designed to rotate or move with the wind, that direct, promote, or that are otherwise designed to attract attention.

(4) Banners, except as may be expressly permitted as a temporary sign in § 151-53C(2).

(5) Moving signs.

(6) Neon/LED tube signs, except as may be expressly exempt in § 151-54A(8).

(7) Off-premises signs.

(8) Portable signs.

(9) Roof signs.

(10) Search lights when used as attention-attracting devices for commercial uses.

(11) Signs with flashing, blinking, scintillating, revolving, rotating, flickering, fading, fluctuating, moving or running lights, or that use electrical pulsation, or any artificial light which does not maintain a stationary and constant intensity, color, and direction at all times.

(12) Signs with more than two sign faces.

(13) Signs that emit audible sound, odor, or visible matter such as smoke and steam.

(14) Signs that are a traffic hazard because they simulate or imitate (in size, color, lettering, or design) any traffic sign or signal.

(15) Snipe signs.

(16) Vehicle signs.

B. **Other Prohibited Signs.** Other signs may be prohibited in certain districts. See § 151-52 (Permanent Signs) and § 151-53 (Temporary Signs) for requirements.

C. Prohibited Content.

- (1) The following content is prohibited without reference to the viewpoint of the individual speaker:
 - (a) Text or graphics of an indecent or immoral nature and harmful to minors;
 - (b) Text or graphics that advertise unlawful activity;
 - (c) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats; or
 - (d) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words “Stop,” “Yield,” “Caution,” or “Danger,” or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
- (2) The narrow classifications of content that are prohibited by this subsection are either not protected by the United States or New York State Constitutions, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the Village Board that each paragraph of this subsection (*i.e.*, subsection C(1)(a), (b), (c), and (d) above) be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or New York State Constitutions.

§ 151-56. PERMIT APPLICATION AND PROCEDURES

- A. Application and Fee.** Application for a sign permit shall be filed with the Code Enforcement Officer upon forms prescribed by the Village, and shall be accompanied by the following to be deemed complete:
- (1) A fully dimensioned and scaled plan showing the lot frontage, building frontage, and the location, dimensions, and type of all existing and proposed signs. For freestanding signs, the plan shall show the distance from the right-of-way and property boundaries. For attached signs, a building elevation shall be submitted showing placement of any sign.
 - (2) A fully dimensioned and scaled elevation drawing of any proposed sign, showing sign type, height, materials, color, design, structure, sign area, and type of illumination, if proposed.
 - (3) Information regarding the type of construction, sign supports and electrical details.
 - (4) Additional information as is needed to demonstrate compliance with this Article for the proposed sign type.
 - (5) Payment of the applicable fee in accordance with the Fee Schedule established by the Village Board.

B. Permit application review and time limits.

- (1) Upon receipt of a complete sign permit application, the Code Enforcement Officer shall forward the application to the Planning Board for review, when required.
- (2) If a project is subject to site plan review, proposed signs shall be reviewed as part of the site plan application.
- (3) If the Planning Board conducts a review of proposed sign(s) that are not included in site plan review, it shall approve, approve with modifications, or deny the application within 62 days unless extended by mutual agreement with the applicant.
- (4) Where Planning Board review is not required, the Code Enforcement Officer shall grant or deny the permit application within 30 days of the receipt of a complete application.

C. Issuance or denial of permit.

- (1) With the exception of signs for which site plan approval by the Planning Board and/or a variance from the Zoning Board of Appeals is required, the Code Enforcement Officer, upon the filing of an application for a sign permit, shall examine the plans, specifications, locations and other data submitted as part of said application. If the Code Enforcement Officer determines that the application is complete and the proposed sign meets the requirements of this Article and any local or state building, electrical or other adopted code of the Village of Wappingers Falls or the State of New York, the Code Enforcement Officer, shall, within 10 days of the date said application was received, issue a permit for the erection of the proposed sign. If the Code Enforcement Officer determines that the application is not complete or the proposed sign does not meet the requirements of this Article or any local or state building, electrical or other adopted code of the Village of Wappingers Falls or the State of New York, the Code Enforcement Officer shall, within 10 days of the date said application was received, issue a written notice to the applicant stating the deficiencies of the application and the reason for the refusal to issue a sign permit.
- (2) In the event a sign requires site plan approval from the Planning Board, and/or a variance from the Zoning Board of Appeals, the Code Enforcement Officer shall not issue the sign permit until the required Board approvals have been granted.

D. Sign Permit Expiration. A permit issued for an approved sign shall be valid for six months from the date the permit is issued. If the sign is not installed before the expiration of six months, a new permit shall be required.

E. Compliance with Sign Permit. All signs shall be installed in accordance with a sign permit. When a sign permit has been issued by the Village, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of said permit without prior approval from the Code Enforcement Officer.

F. Inspections. Signs for which permits have been issued shall be inspected during and at completion of construction by the Code Enforcement Officer, and at such times as deemed necessary by the Code Enforcement Officer. Authority for and time of such inspections shall be as follows:

- (1) Inspection by Code Enforcement Officer. The Code Enforcement Officer is hereby empowered to enter or inspect any building, structure or premises in the Village upon which or in connection with which, a sign is located, for the purpose of inspection of the sign, its structural details and electrical connections, and to ensure compliance with the provisions of this chapter. Such inspections shall be carried out during business hours, unless an emergency exists.
- (2) Construction inspections. The person constructing, or erecting a sign for which a permit is required shall notify the Code Enforcement Officer at all stages of construction that require inspection, and inspections shall be held as follows:
 - (a) A footing inspection for all freestanding signs shall be required.
 - (b) A final structural inspection shall be required at completion of the work on all types of signs.
 - (c) A final electrical inspection shall be required on all signs containing electrical components and wiring to be connected to an electrical energy source.

§ 151-57. MAINTENANCE REQUIREMENTS

- A. Every sign displayed within the Village, including exempt signs, shall be maintained in good condition at all times as provided in this section or as determined by the Code Enforcement Officer. The Code Enforcement Officer shall be authorized to inspect signs to ensure they are adequately maintained and in compliance with this Article. If upon inspection, the Code Enforcement Officer determines a sign to be in violation of this Article, the Code Enforcement Officer may order the sign to be painted, repaired or removed by the property owner. Any deficiency shall be corrected within 30 days of receiving an order to remedy pursuant to Chapter 114 of the Village Code, unless otherwise determined by the Code Enforcement Officer. A sign in good condition shall meet the following criteria:
 - (1) Signs shall display a message. Signs that do not display a message for a period of 30 consecutive calendar days or more are abandoned. See § 151-58A.
 - (2) All sign copy shall be clearly legible.
 - (3) All graffiti on a sign shall be removed.
 - (4) All parts, portions, units and materials composing a sign, together with the frame, background, surface, support or enclosure therefore, shall be maintained in a safe condition, painted, and adequately protected from weathering with all braces, bolts and structural parts and supporting frames and fastenings reasonably free from deterioration, rot, rust, and loosening so that they do not create a hazard to persons or property or constitute a nuisance.
 - (5) Plastic, acrylic, fabric and other similar materials shall not be broken, cracked, torn or faded.
 - (6) No sign shall stand with bent or broken sign faces, broken supports, loose appendages or struts.

- (7) Signs that are designed to be level, whether temporary or permanent, shall be installed and maintained in a level position.
- (8) No sign shall have weeds, trees, vines, or other vegetation growing upon it or obscuring its view from the street from which it is to be viewed, unless such vegetation is part of an approved landscape plan.
- (9) All lighting, where permitted, shall be fully functional and no sign shall stand with only partial illumination.

§ 151-58. REMOVAL OF SIGNS

- A. **Abandoned signs.** Whenever the use of a building or premises by a business or occupation is discontinued for at least 30 consecutive calendar days, then the sign(s) pertaining to that business or occupations shall be determined to be abandoned and shall be removed. The Code Enforcement Officer shall give written notice to the last named owner of the real property where the sign is located and the permit holder, if any, at the permit holder's last known address of record, who shall, unless good cause is shown, remove the sign within 30 days from the date of the written notice. If no action is taken by the owner or permit holder within said time period, the Code Enforcement Officer may cause the sign to be removed. At the sole discretion of the Village, the reasonable and necessary costs incurred for removal shall be charged against the real property from which the sign was removed, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Village.
- B. **Temporary signs.** If any temporary sign is not removed by the expiration of the time limit noted on the application, the Code Enforcement Officer, after seven days' written notice to the permit holder to remove such sign(s) (computed from the date of mailing), and after failure of the permit holder to do so, will cause said sign(s) to be removed at the owner's expense.
- C. **Unsafe signs.** The Code Enforcement Officer may cause any sign that, by virtue of its physical nature and condition, poses an immediate and serious threat to persons or property to be removed immediately and without notice.

§ 151-59. NONCONFORMING SIGNS

- A. Any nonconforming signs that are located on property that is the subject of subdivision, special use permit and/or site plan application, certificate of appropriateness, certificate of occupancy, non-violation letter, or other permit, approval, entitlement, or authorization from the Village of Wappingers Falls shall be brought into compliance with this section prior to the issuance of any such approval, letter, certificate or permit.
- B. All signs in existence as of the effective date of this chapter but which do not conform to the provisions herein are nonconforming and shall be brought into compliance with the provisions of this section within three years from the effective date of this chapter, such time being deemed sufficient to amortize the cost thereof. Any sign made nonconforming by any future amendment to this chapter shall be brought into compliance with the provisions of this section within three years from the effective date of such amendment.
- C. A nonconforming sign due to be terminated pursuant to this section may be allowed to remain for a specified period of time upon application for a special sign permit from the

Planning Board. Such special sign permit shall not be granted unless the Planning Board finds that removal of the nonconforming sign would cause serious financial harm to the property or business owner and provide limited advantage to the public.

D. In making this determination the Board shall consider:

- (1) The appearance of the nonconforming sign;
- (2) The nature and degree of the sign's nonconformity;
- (3) The detriment caused by the nonconforming sign;
- (4) The character of the neighborhood;
- (5) The cost and date of investment in the sign;
- (6) Life expectancy of the investment;
- (7) Amount of investment realized at the effective date of the chapter;
- (8) Salvage value of the sign, if any;
- (9) The ability of the landowner to amortize the cost of the investment over a period of use; and
- (10) Whether an additional reasonable amount of time is needed by the owner to amortize the owner's investment.

E. The special permit application procedures and time lines shall guide the process for a special sign permit.

F. The special sign permit may be renewed for an additional specified period of time subject to Planning Board approval.

§ 151-60. VIOLATIONS.

Any sign that is erected after the effective date of this chapter without obtaining a required permit is declared to be unlawful and a public nuisance. All violations of this Article shall be subject to enforcement remedies, penalties, and abatement as provided by this chapter.

§ 151-61. SIGNS PERMITTED BEFORE EFFECTIVE DATE

If a permit for a sign has been issued in accordance with all Village ordinances in effect prior to the effective date of this chapter, and provided that construction is begun within six months of the effective date of this chapter and diligently pursued to completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions of this chapter regarding nonconforming signs.

§ 151-62. RELIEF FROM DECISIONS

- A. Any person or persons jointly or severally denied a permit for a sign or aggrieved by any determination of the Code Enforcement Officer in the enforcement of this Article may appeal the denial or determination to the Zoning Board of Appeals in accordance with Article XIII of this chapter within 30 days after rendition of the denial or determination.

- B. Any person or persons jointly or severally aggrieved by any decision of the Planning Board relating to a sign permit may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules 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 as therein provided within thirty (30) calendar days after the filing of the Board's decision in the Office of the Clerk.

ARTICLE VIII: OVERLAY DISTRICTS

§ 151-63. AQUIFER AND WELLFIELD PROTECTION OVERLAY DISTRICT

- A. **Purpose.** It is in the overall public interest to preserve the quality and quantity of the Village's water resources to ensure a safe and adequate water supply for present and future needs. Accordingly, the Village of Wappingers Falls seeks to protect its wellfields, aquifer, and water treatment facility property through delineation of the Aquifer and Wellfield Protection Overlay (AWP-O) District, as shown on the Zoning Map set forth in § 151-13 of this chapter.
- B. **Applicability.**
- (1) The provisions of this section apply to the AWP-O District as shown on the Zoning Map, which shall be used to determine the boundary of the AWP-O District. In case of a question or dispute as to the exact location of a boundary on a specific parcel of land, the Village may retain a qualified hydrogeologist at an applicant's expense to make such a determination in the field. An applicant may challenge the Village's determination by retaining a qualified hydrogeologist to make such determination independently. In the event of such a challenge, the Village's hydrogeologist shall review the report of the applicant's hydrogeologist at the applicant's expense and shall make the final determination as to the location of the specific boundary. Any such boundary delineation shall not, by itself, effect a change in the AWP-O District as shown on the Zoning Map. The Zoning Map may only be changed by action of the Village Board as provided in Article XV.
 - (2) Within the AWP-O District, all of the underlying land use district rules shall remain in effect except as specifically modified by this § 151-63. In case of a conflict between this § 151-63 and the underlying use regulations, the more restrictive shall control. Nothing in this § 151-63 shall be construed to allow uses that are not permitted by the underlying zoning district.
- C. **Definitions.** The following terms shall, for the purpose of this section, have the meanings herein indicated:

AQUIFER — A consolidated or unconsolidated geologic formation, group of formations or part of a formation capable of yielding a significant or economically useful amount of groundwater to wells, springs or infiltration galleries.

CHLORIDE SALT — Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixes of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. A bulk quantity of chloride compounds means a quantity of one thousand pounds or more but does not include any chloride compounds in a solid form – including granules, which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

FERTILIZER — Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients to plants.

GROUNDWATER — Water contained in interconnected pores and fractures in the saturated zone in an aquifer.

HAZARDOUS SUBSTANCE — Any substance, including any petroleum by-product, which may cause harm to humans or the environment when improperly managed. A complete list of all hazardous substances except for petroleum by-products can be found in 6 NYCRR Part 597.3 Tables 1 and 2 and amendments thereto.

HAZARDOUS WASTE — See 6 NYCRR Part 371 and amendments thereto for the identification and listing of hazardous wastes.

HERBICIDE — Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, as defined in Environmental Conservation Law § 33-0101 and amendments thereto.

PESTICIDE — Any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant, and being those substances defined as pesticides pursuant to Environmental Conservation Law § 33-0101 *et. seq.* and amendments thereto.

PETROLEUM — Oil or petroleum of any kind and in any form including but not limited to oil, petroleum fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, and kerosene, as defined in 6 NYCRR Part 597.1(b)(12) and amendments thereto.

POLLUTANT — Any material or byproduct determined or suspected to be hazardous to human health or the environment.

RADIOACTIVE MATERIAL — Any material that emits radiation.

SOLID WASTE — Generally refers to all putrescible and non-putrescible materials or substances, except domestic sewage, sewage treated through a publicly owned treatment works, or irrigation return flows, that is discarded or rejected as being spent or otherwise worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, and discarded automobiles, as defined in 6 NYCRR Part 360.2(a) and amendments thereto.

WELL — Any present or future artificial excavation used as a source of public water supply which derives water from the interstices of the rocks or soils which it penetrates including bored wells, drilled wells, driven wells, infiltration galleries, and trenches with perforated piping (but excluding ditches or tunnels) used to convey groundwater to the surface

WELLHEAD BUFFER — The area within a radius of 200 feet from any existing or proposed public well within the AWP-O District.

WELLHEAD PROTECTION ZONE — A protective zone surrounding or near a wellhead through which aquifer recharge enters the subsurface and flows toward the public water system well.

D. Wellhead buffer.

- (1) The Village wells shall be protected by a circular wellhead buffer with a 200-foot radius from each well.
- (2) Within the wellhead buffer all activities are prohibited except for physical pumping and treatment facilities and controls. The wellhead buffer area shall not be used for any purpose other than public water supply except for non-intrusive recreation uses such as fishing, kayaking, picnicking, playgrounds, nature study, or hiking, as permitted by the District Schedule of Uses. The wellhead buffer area shall be posted prohibiting trespass for any purpose except as permitted in this subsection.
- (3) Hazardous substances, such as gasoline, fertilizers, herbicides, pesticides, paints, deicers/salt, motor oil, or antifreeze shall not be stored within the water treatment plant or anywhere on the Village water treatment plant property. Water treatment and laboratory chemicals shall be properly stored and labeled with spill cleanup/containment equipment available to personnel.
- (4) No fueling, maintenance, or washing of vehicles shall be conducted on the water treatment plant property. All vehicles parked on the water treatment plant property must be maintained in good repair to prevent leaks and spills.

E. Wellhead Protection Zone. Water quality of the aquifer that recharges the Village wells shall be protected with a wellhead protection zone, which shall include all of the AWP-O District. The following shall apply to the AWP-O District:

- (1) General provision, non-degradation standard. No use shall be allowed which can be calculated or anticipated to degrade the quality of groundwater or surface water in a manner that poses a potential danger to public health or safety, and no permits or approvals shall be issued for any use which violates this standard. Compliance with applicable standards, requirements, and permit conditions imposed by federal, state, or county agencies shall be deemed to constitute compliance with this standard, unless otherwise defined herein.
- (2) Specific uses and activities prohibited. Within the AWP-O District, the following uses and activities shall be specifically prohibited. If the uses listed below are regulated by any state or federal agency, the definitions of such uses contained in applicable state or federal laws and regulations shall apply.
 - (a) The production, processing and storage of petroleum, and asphalt products.
 - (b) The disposal, storage or treatment of hazardous substances, radioactive material, and hazardous and solid waste material.
 - (c) Construction and demolition landfills as defined in 6 NYCRR Part 360.2.

- (d) Outside storage of any materials which, in the opinion of the Code Enforcement Officer and the Village of Wappingers Falls Superintendent of the Department of Public Works, could contaminate groundwater resources.
- (e) Solid waste management facilities not involving burial, including incinerators, composting facilities, liquid storage, regulated medical waste, transfer stations, recyclables handling and recovery facilities, waste tire storage facilities, used oil, C&D processing facilities, each as defined in 6 NYCRR Part 360.2.
- (f) Chloride salt storage facilities.
- (g) Vehicle repair, body shops, and vehicle salvage.
- (h) Gasoline stations.
- (i) Cemeteries, including animal cemeteries.
- (j) Funeral homes engaging in embalming.
- (k) Dry cleaning plants.
- (l) Photo labs.
- (m) Furniture stripper/painter, metal works, wood preserves.
- (n) Use of pesticides and herbicides on public lands.
- (o) Disposal of pesticides and herbicides, and of water used for pesticide/herbicide make-up or washing of equipment used for application of pesticides and herbicides.
- (p) Use of Wappinger Lake as a source of water for the washing of equipment used in conjunction with pesticide or herbicide application.
- (q) The production, processing and storage of coal, coal tar, petroleum and asphalt products, including but not limited to coke manufacture, illuminating gas production, petroleum refining, bulk gasoline and petroleum products storage, asphalt products, linoleum manufacture, oilcloth manufacture and roofing material manufacture.
- (r) Deicing chloride salt use on public lands, which shall be restricted to the minimum amount needed for public safety as determined by the Village Highway Superintendent.

§ 151-64. HISTORIC OVERLAY DISTRICT

A. Purpose and intent.

- (1) The Village Board finds that there exist within the Village of Wappingers Falls places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction which should be conserved, protected and preserved to maintain the historic architectural character of the Village, to contribute to the aesthetic value of the Village, and to promote the general good, welfare, health and safety of the Village of Wappingers Falls and its residents.

- (2) The Village of Wappingers Falls believes it is important that the aforementioned historic resources be afforded proper recognition by Village residents and be protected for the continuing use and enjoyment of future residents within the community. The Village specifically finds that many of these vital and irreplaceable historic structures have heretofore been afforded recognition, though not protection, through their inclusion in the Wappingers Falls Historic District, which is listed on the National Register of Historic Places. The Village further finds that preservation of Wappingers Falls' historic architectural character will foster civic pride in the beauty and architectural achievements of the past and result in economic benefits to Wappingers Falls by uniformly preserving its heritage and distinctive character.
 - (3) This section is designed to provide for the protection of structures which, by reason of their antiquity, uniqueness, setting, historical association or architectural distinction or quality, have been recognized by their inclusion in the Wappingers Falls Historic District, and in any locally designated historic district, both for their contribution to a strong sense of identity within the community and for the tangible linkages they provide to the Village's historic, architectural, and cultural heritage.
 - (4) The purpose of the Historic Overlay (HO) District is to promote the general welfare by providing for the protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, and sites within the Village that reflect special elements of the Village's historical, architectural, cultural, economic or aesthetic heritage for the following reasons:
 - (a) To foster public knowledge, understanding, and appreciation in the beauty and character of the Village and in the accomplishments of its past;
 - (b) To ensure the harmonious, orderly, and efficient growth and development of the Village;
 - (c) To enhance the visual character of the Village by fostering design of new construction that complements the Village's historic buildings;
 - (d) To provide for the careful evaluation of any proposed action that would cause the alteration or demolition of any historic structure within the district;
 - (e) To protect and promote the economic benefits of historic preservation to the Village, its inhabitants and visitors;
 - (f) To protect property values in the Village;
 - (g) To promote and encourage continued private ownership and stewardship of historic structures; and
 - (h) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- B. **Enabling Authority.** Pursuant to New York General Municipal Law §§ 96-a and 119-dd; Article 14 of the Parks, Recreation and Historic Preservation Law; and § 10 of the Municipal Home Rule Law, it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of historic districts are necessary to promote the cultural, economic and general welfare of the public.

C. Applicability.

- (1) The provisions of this section apply to all new construction within the H-O District, and to all alterations and demolition of any historic structure located within the H-O District. The foregoing shall include any structure so designated on Village-owned property.
- (2) Within the H-O District, all of the underlying land use district rules shall remain in effect except as specifically modified by this § 151-64. In case of a conflict between this § 151-64 and the underlying land use regulations, the more restrictive shall control.

D. Definitions. The following terms shall, for the purpose of this section, have the meanings herein indicated:

ALTERATION — Any exterior change, construction, reconstruction, restoration, removal, or covering over of a structure or exterior architectural feature(s) thereof. “Alteration” shall not include routine maintenance or repair of a structure required by normal wear and tear that does not involve a change in design, building materials, or outward architectural appearance of the structure, nor does it include replacement-in-kind as defined herein. Interior alterations that do not affect the exterior architectural features of the structure are not regulated by this section.

ARCHITECTURAL SIGNIFICANCE — The quality of a structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance, or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

CERTIFICATE OF APPROPRIATENESS — An official form issued by the Planning Board stating that the proposed alteration, new construction, or demolition of a structure is in accordance with the provisions of this section and therefore: 1) the proposed work may be completed as specified in the certificate; and 2) the Code Enforcement Officer may issue any permits needed to do the work specified in the certificate.

CERTIFICATE OF HARDSHIP — An official form issued by the Planning Board when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

DEMOLITION — The act of pulling down, destroying, removing, moving, relocating, or razing a structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing same, including removal of a structure.

DEMOLITION PERMIT — A permit issued by the Code Enforcement Officer authorizing the demolition of a structure or portion thereof.

EMERGENCY DEMOLITION — A demolition authorized pursuant to the New York State Uniform Building Code or Chapter 59 of the Village Code when, after inspection, it is determined by the Code Enforcement Officer or the Fire Chief, after consultation with the Village Engineer, that a structure poses an imminent threat to the health or safety of the community that cannot be adequately mitigated and that immediate demolition is necessary to protect public health and safety.

EXTERIOR ARCHITECTURAL FEATURES — The architectural style, design and general arrangement of the exterior of any structure, including but not limited to the kind and texture of the siding and other building materials and the type and style of the trim, doors, windows, steps, entryways, and other architectural features, but shall not include the light fixtures on any structure as long as such fixtures conform with § 151-46.

HISTORIC SIGNIFICANCE — The quality of a place, site, building, district or structure based upon its identification with historic persons or events in the Village of Wappingers Falls.

HISTORIC STRUCTURE—Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district, including the Wappingers Falls Historic District, or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed in the New York State Register of Historic Places (a listing maintained by the New York State Historic Preservation Office); or
- (4) Individually listed in a local inventory of historic places, or certified as contributing to the historical significance of a district locally designated as historic, by the Village Board.

NEW CONSTRUCTION – The erection or installation of any new structure or any addition to an existing structure that requires a building permit pursuant to Chapter 64 of the Village Code.

REMOVAL OF A STRUCTURE – A type of demolition that involves relocation of a structure or portion thereof to another location on the same lot or on another lot. The removal of a structure shall be considered a demolition even if a demolition permit is not required from the Code Enforcement Officer.

REPLACEMENT-IN-KIND — Replacement-in-kind shall be the replacement of an exterior architectural feature with the same design, size and materials as the original. Repainting a structure that has previously received a certificate of appropriateness with the identical color(s) shall be considered replacement-in-kind.

E. Certificate of appropriateness.

- (1) No person shall carry out any alteration, new construction, or demolition of a structure without obtaining both a certificate of appropriateness from the Planning Board and, when required, a building or demolition permit from the Code Enforcement Officer. The certificate of appropriateness required by this section shall be in addition to, and not in lieu of, any building permit or other approval required by the Village of Wappingers Falls Code.

- (2) The Code Enforcement Officer shall not issue a building or demolition permit for any activity regulated by this section, other than in the case of an emergency demolition as provided in subsection M herein, until the Planning Board has issued a certificate of appropriateness, or subsequently, upon request for review of the disapproval of such certificate of appropriateness, a certificate of hardship.

F. Application procedure.

- (1) The Planning Board is authorized to review and approve, approve with modifications, or disapprove issuance of a certificate of appropriateness.
- (2) An application for a certificate of appropriateness shall be initially submitted to the Code Enforcement Officer and, if deemed sufficient by the Code Enforcement Officer, shall be transmitted to the Planning Board within 7 days of receipt.

G. Application requirements for certificate of appropriateness.

- (1) All applications for a certificate of appropriateness shall be submitted to the Planning Board, in writing, on forms prescribed by the Village, and shall be accompanied by hard copies of all required materials in a number as required by the Planning Board, together with an electronic file of all submitted materials in a format prescribed by the Village. Additional copies may be required due to review and referral requirements set forth in NYS Village Law, General Municipal Law, or Environmental Conservation Law.
- (2) In order to be considered complete, an application for a certificate of appropriateness shall include the following information, except as may be waived by the Planning Board on a case-by-case basis due to the nature of the specific request:
 - (a) Location and Tax Parcel ID number(s) of property, and name, mailing address, email address, and telephone number of owner and applicant, if different.
 - (b) A complete description of the proposed work adequate to provide a full understanding of the work to be done.
 - (c) Photographs and a brief description of any structure proposed to be altered, expanded, or demolished, including approximate date of construction, name of architect if known, historic and/or architectural significance, and a description of the setting, including related grounds, accessory buildings and structures and property boundaries.
 - (d) Construction drawings, materials list, and samples of all building materials and colors to be used.
 - (e) Past 10 years' chronology of the use, occupancy and ownership of the property.
 - (f) Any other information specific to the alteration, new construction or demolition, required by the Planning Board to make a determination on the application for a certificate of appropriateness, including data to demonstrate compliance with the criteria for approval set forth in subsection I herein below.

- (g) For a proposed demolition, plans for the redevelopment of the property, including:
 - (i) A redevelopment plan for the property that provides for a replacement or rebuilt structure for the structure being demolished or relocated, indicating in sufficient detail the nature, appearance and location of all replacement or rebuilt structures; or
 - (ii) For property to remain vacant, a restoration plan for the property following demolition including a description of the materials, grading, landscaping, and maintenance procedures to be utilized to ensure that the restoration conforms to the approved plan and that landscaping survives in a healthy condition; and
 - (iii) When applicable, a treatment plan for any walls of adjacent buildings exposed as a result of the demolition.
- (h) A Short or Full Environmental Assessment Form as required by the Planning Board pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR Part 617. If demolition is proposed in conjunction with the alteration or new construction of a structure, the Environmental Assessment Form shall consider both actions.

H. Determination of Code Enforcement Officer. Upon submission of a complete application, the Code Enforcement Officer shall determine:

- (1) Whether the proposed work constitutes routine maintenance and repair, or replacement-in-kind, for which a certificate of appropriateness is not required.
- (2) Whether the proposed work requires a certificate of appropriateness from the Planning Board under the provisions of this section.

I. Criteria for approval of a certificate of appropriateness.

- (1) General criteria. The Planning Board shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the property itself, the district, or neighboring properties in such district.
- (2) Alteration. In reviewing an application for a certificate of appropriateness for the alteration of a structure, the Planning Board shall determine whether the proposed alteration is appropriate, based on the following standards:
 - (a) Insofar as possible, the proposed alteration shall retain exterior architectural features of the structure which contribute to its historic character as seen from the public right-of-way or other public spaces, or which contribute to the overall character and integrity of the H-O District.
 - (b) Historic features shall be altered as little as possible.
 - (c) Alteration of the structure shall be compatible with its historic character. The Planning Board shall be guided, where appropriate, by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- (d) In applying the principle of compatibility, the Planning Board shall consider the following factors:
 - (i) The general design, character and appropriateness of the proposed alteration to the structure;
 - (ii) The scale of the proposed alteration in relation to the structure and the district;
 - (iii) Texture and materials, and their relation to similar features of the structure and similar structures of the same historic period and style;
 - (iv) Visual compatibility, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm or spacing of properties along the street, including consideration of setback and the treatment of yard areas; and
 - (v) The importance of the structure and its architectural or other features to the historic significance of the property, the H-O District, or other structures on the lot.
 - (vi) The history, use, occupancy and ownership of the property.
 - (vii) Information and/or testimony as to the appropriateness or inappropriateness of the proposed alteration in connection with the purpose and intent of this section.
- (3) New construction. Criteria for approval of a certificate of appropriateness for new construction.
 - (a) New construction shall be compatible with the historic district in which it is located and shall not detract from the historic significance of the property, district or adjacent structures within the district or from the community character of the H-O District. In applying the principle of compatibility, the Planning Board shall consider the following factors:
 - (i) The general design, character, appropriateness and visual compatibility of the proposed new construction in relation to the property itself, adjacent structures, and the neighborhood.
 - (ii) The scale of proposed new construction in relation to adjacent structures and the neighborhood.
 - (iii) The proposed texture and materials, and their relation to similar features of adjacent structures.
 - (iv) The visibility of the property from adjacent structures, and the neighborhood.
 - (v) Information and/or testimony as to the appropriateness or inappropriateness of the proposed structure in connection with the purpose and intent of this section.
 - (b) Nothing herein shall prohibit the Planning Board from granting a certificate of appropriateness for new construction of a structure of exceptional architectural merit if the Planning Board finds, in writing, that the exceptional architectural

merit of the new structure outweighs any visual impacts on nearby regulated structures.

- (c) Additions to Existing Structures. Compatible additions that do not compromise the character of the historic building or destroy significant architectural features are appropriate within the H-O District. While additions may reflect the point in time of their construction, they should respect the architectural character and fabric of the historic building and its surroundings as follows:
 - (i) The material, style, and detail of design of additions should be compatible with the original structure.
 - (ii) Additions should be located, designed and constructed so that the character-defining features of the original structure are not obscured, destroyed, damaged or radically changed.
 - (iii) The size and scale of additions should be limited so that the integrity of the original structure is not compromised.
 - (iv) Changes in height that alter the character and scale of the existing structure to accommodate an addition are not appropriate.
 - (v) Site disturbance for construction of additions should be minimized to reduce the possibility of destroying site features and/or existing trees.
 - (vi) Stone walls, natural rock formations or other cultural features should be retained and incorporated into proposed plans to the maximum extent practicable.
- (4) Building design. To facilitate implementation of the foregoing provisions for alteration and new construction, the Village Board may adopt a Pattern Book with illustrations and information on development patterns and architectural character in the Village. In such case, the applicant shall demonstrate to the satisfaction of the Planning Board that the proposed project is consistent with the Village of Wappingers Falls Pattern Book. Terms used throughout the Pattern Book that imply guidelines or recommendations shall be interpreted to mean required standards. For instance, the word "should" shall be interpreted to mean "shall;" the words "recommended" and "encouraged" shall be interpreted to mean "required."
 - (a) The Planning Board may waive any requirement of the Wappingers Falls Pattern Book upon written request from an applicant. When determining whether to grant a requested waiver, the Planning Board shall consider the existing natural and constructed features of the site and the impact of the waiver on the historic character of the neighborhood and the H-O District.
 - (b) Any conditions of approval imposed by the Planning Board to ensure compliance with the Wappingers Falls Pattern Book may be incorporated into a deed restriction and/or a plat or site plan notation, to the extent required by the Planning Board.
- (5) Demolition. Criteria for approval of a certificate of appropriateness for demolition.

- (a) In reviewing an application for a certificate of appropriateness for the demolition of all or a portion of a structure, the Planning Board shall consider whether:
 - (i) The structure is of such architectural or historic significance that its demolition would be to the detriment of the public interest.
 - (ii) Retention of the structure in its current form and/or at its present location is important to the Village's history or character or to the cohesiveness and character of the H-O District.
 - (iii) The structure is of such old and unusual or uncommon design, texture and material that it could be reproduced only with great difficulty, or not at all.
 - (iv) Retention of the structure would help preserve and protect an historic place or area of historic interest in the Village.
 - (v) Retention of the structure would promote the general welfare by maintaining real estate values and encouraging interest in American history and architecture.
 - (vi) Whether throughout the review process the applicant has consulted cooperatively with the Planning Board, local preservation groups and other identified interested parties in a diligent effort to seek an alternative that would result in preservation of the structure.
 - (b) In order to approve the issuance of a certificate of appropriateness for demolition, the Planning Board shall find that the demolition will not result in a significant avoidable diminution of the historic character of the neighborhood and that one or more of the following additional criteria have been met:
 - (i) The structure or portion of the structure to be demolished is in such condition that its preservation or restoration would not be feasible.
 - (ii) In the case of removal or demolition of a portion of a structure, the historic characteristics of the remaining portion of the structure will remain intact.
 - (iii) After considering the interests of the public and the owner, the benefits of demolition outweigh any reasonable interest in preserving the building.
- J. **Planning Board review procedure.** Upon receipt of a complete application for a certificate of appropriateness, the Planning Board shall either schedule a public hearing or render its decision in accordance with the time frames below.
- (1) Public hearing and notice. Within 62 days of the receipt of a complete application, the Planning Board shall hold a public hearing on the certificate of appropriateness if a public hearing is deemed necessary by the Board, unless the time period is extended by mutual agreement between the applicant and the Planning Board.
 - (2) In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and/or the potential for environmental impact.
 - (3) Applicants may request a public hearing.

- (4) No application for a certificate of appropriateness may be disapproved without a public hearing.
- (5) Public hearing notice:
 - (a) The Planning Board shall mail notice of the public hearing to the applicant at least ten days before such hearing, and shall give public notice of said hearing in an official newspaper of the Village at least five days prior to the date of the public hearing. The Village shall charge the applicant the actual cost of mailing and publishing the notice, or a reasonable fee related thereof, for satisfying this requirement.
 - (b) Additionally, the Planning Board shall provide notice of the public hearing, including data regarding the substance of the application, to the applicant, who shall mail the notice to the owners of all property lying within 200 feet of the property lines of the property involved in such application at least 10 calendar days prior to the hearing. The applicant shall provide a certificate of mailing to the Planning Board prior to the public hearing.
 - (i) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Village.
 - (ii) Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in either granting or denying a certificate of appropriateness.
 - (c) For applications that meet the criteria of § 239–nn of the General Municipal Law, the Planning Board shall give notice, either by mail or by electronic transmission, to the clerk of the adjacent municipality at least ten days prior to any public hearing.
- (6) Required referral. Prior to taking action on the certificate of appropriateness, the Planning Board shall refer a complete application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Dutchess County Department of Planning and Development for its review and recommendation. No action shall be taken by the Planning Board on the application for a certificate of appropriateness until a recommendation has been received from the County Planning Department or 30 days have elapsed since said Department received the complete application.
- (7) The Planning Board shall comply with the State Environmental Quality Review Act (SEQRA).
- (8) Agency and consultant review. In its review of an application for a certificate of appropriateness, the Planning Board may consult with other local, county or state agencies or officials, and its designated private planning and engineering consultants and legal counsel. Reasonable costs incurred by the Planning Board for professional review or other extraordinary expense in connection with the review of a proposed special use permit shall be borne by the applicant and are in addition to any

administrative fees charged by the Village, as outlined in Chapter 72 of the Village Code.

- (9) Planning Board action. Within 62 days of the close of the public hearing or within 62 days after the receipt of a complete application by the Planning Board where no public hearing is required, the Planning Board shall act by resolution to either approve, approve with modifications, or disapprove the issuance of a certificate of appropriateness, unless the time period is extended by mutual agreement between the applicant and the Planning Board.

- (a) Conditions. The Planning Board, in granting any approval, shall have the authority to impose such reasonable conditions and restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this section.

- (b) A copy of the decision shall be filed in the Village Clerk's office and mailed to the applicant within five business days of the Planning Board's action. If the Planning Board denies approval of the application for a certificate of appropriateness, the applicant may apply for relief, in accordance with the procedures set forth in subsection K herein, on the grounds that the determination results in an economic hardship.

- (10) The Code Enforcement Officer and a member of the Planning Board will each conduct a site visit to verify that all improvements have been completed in accordance with the approved Certificate of Appropriateness before a Certificate of Occupancy is issued by the Building Department.

K. Certificate of Hardship. An applicant whose certificate of appropriateness has been denied may apply for relief on the grounds of hardship.

- (1) No person who has been denied a certificate of appropriateness shall carry out any alteration, new construction, or demolition of a structure without obtaining both a certificate of hardship from the Planning Board and a building or demolition permit from the Code Enforcement Officer.

- (2) Planning Board review procedure. The Planning Board review procedure for a certificate of hardship shall be the same as for a certificate of appropriateness as outlined in subsection K herein, except that a public hearing shall be required.

- (3) In order to prove the existence of hardship, the Planning Board must find that:

- (a) In the absence of the requested hardship determination, the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

- (b) In the case of a proposed demolition, the applicant shall establish that:

- (i) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

- (ii) Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and

- (iii) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
 - (iv) The requested relief, if granted, will not alter the essential character of the neighborhood; and
 - (v) The alleged hardship has not been self-created through neglect and waste, thereby permitting the property to fall into a serious state of disrepair.
- (4) The applicant shall consult in good faith with the Planning Board, the New York State Historic Preservation Office, preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (5) The Planning Board shall take into consideration the economic feasibility of alternatives to alteration, new construction, or demolition, and balance the interest of the public in preserving the structure or portion thereof and the interest of the owner in alteration, new construction, or demolition.
- (6) The Planning Board may require that the applicant make submissions concerning any or all of the following information before it makes a determination of hardship:
- (a) Estimate of the cost of the proposed alteration, new construction, or demolition, and an estimate of any additional cost that would be incurred to comply with the recommendation of the Planning Board for changes necessary for the issuance of a certificate of appropriateness.
 - (b) A report from a licensed engineer or architect, with demonstrated qualifications and experience in rehabilitation, regarding the structural condition of any structures on the property and their suitability for rehabilitation.
 - (c) Estimated market value by a licensed appraiser of the property in its current condition; after completion of the proposed alteration, new construction, or demolition; after any changes recommended by the Planning Board; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 - (d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation, regarding the economic feasibility of rehabilitation or renovation for reuse of a structure proposed for demolition.
 - (e) Amount paid for the property, the date of purchase, the party from whom purchased, a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 - (f) If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation and annual cash flow before and after debt service, if any during the same period.
 - (g) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

- (h) All appraisals obtained within the previous two years by the owner or applicant in connection with purchase, financing, or ownership of the property.
 - (i) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years, including testimony and relevant documents regarding: any real estate broker or firm engaged to sell or lease the property; reasonableness of price or rent sought by the applicant; or any advertisements placed for the sale or rent of the property.
 - (j) Feasibility of alternative uses for the property that could earn a reasonable economic return.
 - (k) Real estate taxes for the previous two years and assessed value of the property according to the two most recent assessments.
 - (l) Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
 - (m) Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property.
 - (n) Any other information deemed necessary by the Planning Board to make a determination of economic hardship.
- (7) Planning Board decision:
- (a) The Planning Board shall make a decision within 62 days of the close of the public hearing, unless the time period is extended by mutual agreement between the applicant and the Planning Board.
 - (b) If the Planning Board finds that the applicant's burden of proof has not been met, the Planning Board shall deny the application for a certificate of hardship.
 - (c) If the Planning Board finds that without the issuance of a certificate of appropriateness all reasonable use of, or return from, the property will be denied to a property owner, then the Planning Board shall issue a certificate of hardship approving the proposed work.
 - (d) The decision of the Planning Board shall be in writing and shall state the reasons for granting or denying the hardship application. In granting a certificate of hardship, the Planning Board shall grant the minimum terms deemed necessary and adequate to address the hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. In granting any approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this section.
- L. **Expiration.** Certificates of appropriateness and of hardship for demolition shall be valid for one (1) year from the date of approval and shall expire if:
- (1) A complete application for either a building permit or, in the case of a certificate of hardship, an application for a demolition permit is not submitted to the Code

Enforcement Officer within one year of the date of approval of the certificate of appropriateness or hardship.

- (2) Work authorized under a building permit or demolition permit is not commenced and diligently pursued through the completion of construction or demolition within six months of the issuance of the permit, unless said time frame is extended by the Code Enforcement Officer.
- (3) Upon prior written request to the Planning Board, including a statement of justification for the requested time extension, the Planning Board may grant one extension of up to one year.

M. Emergency Demolition. Nothing in this section shall prevent the emergency demolition of a structure.

N. Property maintenance. No owner or person with an interest in real property included within the H-O District shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and Chapter 114 (“Property Maintenance”) of the Village Code.

O. Relief from decisions. Any person or persons jointly or severally aggrieved by any decision of the Planning Board relating to a certificate of hardship may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules 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 as therein provided within thirty (30) calendar days after the filing of the Board’s decision in the Office of the Clerk.

§ 151-65. MANUFACTURED HOME OVERLAY DISTRICT

A. Purpose. These location and development standards for manufactured home parks are intended to provide a quality residential environment for residents of manufactured home developments and ensure compatibility with adjacent neighborhoods.

B. Applicability.

- (1) These standards apply to the development of manufactured home parks in the Manufactured Home Overlay (MH-O) District, as shown on the Zoning Map set forth in § 151-13 of this chapter.
- (2) These standards are intended to supplement and implement federal and state statutes, rules, and regulations governing manufactured homes and are not, in any way, to be construed as superseding or replacing said federal and state statutes, rules, and regulations. Manufactured home parks within the Village must comply with all applicable federal and state statutes, rules, and regulations and local ordinances. If local ordinances conflict with other applicable federal and state statutes, rules, and regulations, the stricter standards shall apply.
- (3) Within the MH-O District, all of the underlying land use district rules shall remain in effect except as specifically modified by this § 151-65.

- C. **Number of homes per lot.** More than one manufactured home may be placed on a lot in the MH-O District. This supersedes the requirements of § 151-17.
- D. **Dimensional standards.** The following dimensional standards shall apply to the MH-O District and shall supersede the dimensional standards of the underlying zoning district:
- (1) The minimum site area for a Manufactured Home Park shall be 20,000 square feet.
 - (2) The maximum permitted density shall be calculated at one dwelling unit per 3,000 square feet of site area.
 - (3) The minimum front, side, and rear yard setback shall be 10 feet.
- E. **Greenspace.** All greenspace within a manufactured home park shall be landscaped in a manner that will enhance the residential character of the manufactured home park and the surrounding neighborhood, and shall be maintained, including regular irrigation, mowing, removal of weeds, and trimming and pruning as necessary.
- F. **Manufactured homes.** All manufactured homes shall be subject to the following standards:
- (1) All proposed manufactured homes shall be constructed after June 15, 1976 and shall bear the date of manufacture and an “insignia of compliance” indicating compliance with the Federal Manufactured Home Construction and Safety Standards.
 - (2) The installation of the manufactured home shall conform to the requirements of the New York State Health and Building Codes and the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 - (3) All towing hitches, wheels, running lights, and other towing related equipment shall be removed within 30 days after installation of the manufactured home.
 - (4) All roof areas shall have gutters with runoff draining through piped connections to the manufactured home park storm drainage system, if applicable.
 - (5) Manufactured homes and manufactured home decks shall have a metal, wood, or other suitable skirting, as determined by the Planning Board, which shall enclose the area from the bottom of the floor line of the manufactured home to the ground. The skirting shall be properly ventilated and attached, designed to blend with the color of the manufactured home exterior, and shall be installed within 30 days of the installation of the manufactured home.
 - (6) One storage shed shall be allowed for each manufactured home. Storage sheds shall not exceed 100 square feet of gross floor area, and shall be located adjacent to, and designed as an integral part of, the manufactured home, deck, or carport.

ARTICLE IX: SUPPLEMENTARY STANDARDS

§ 151-66. GENERAL

The uses listed in Table 4: District Schedule of Uses shall be subject to such exceptions, additions, or modifications as provided herein by the following supplementary regulations.

§ 151-67. PRINCIPAL USES

A. Reserved.

B. Animal Grooming.

- (1) Hours of operation shall be limited to 7:00 a.m. to 8:00 p.m. "Hours of operation" shall include those hours when animals are brought to and from the establishment.
- (2) Any building housing animals shall be located at least two hundred (200) feet from any residential district boundary or land in residential use, including residential use in a mixed-use building. If soundproof construction is used, normal district setbacks and bulk regulations shall apply.
- (3) Animal noises and odors shall not be detectable at the property boundary.
- (4) No outdoor dog runs or animal kennels shall be permitted.
- (5) No overnight boarding of animals shall be permitted.
- (6) Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Village of Wappingers Falls and the Dutchess County Department of Behavioral and Community Health.

C. Animal Hospital or Veterinarian.

- (1) All facilities must meet all applicable licensing requirements of the state.
- (2) A kennel for overnight stay of injured or sick animals being treated by the veterinarian may be allowed as accessory to a veterinarian, and shall comply with the provisions of § 47-13 of the Village Code.

D. Animal Kennel.

- (1) All animal kennels shall comply with the provisions of § 47-13 of the Village Code.

E. Assisted Living Facility.

- (1) Purpose. The Village Board recognizes that there is a community need to provide housing facilities for older citizens who do not need skilled nursing care but do require support and assistance with their daily living in a monitored, home-like setting. It is the intent of this section to permit development of assisted living facilities for senior citizens, to ensure that such developments provide the basic services and facilities to accommodate residents' needs and to minimize detrimental effects on neighboring properties.
- (2) Assisted living residence units shall comply with the following:

- (a) Except for the necessary staff and their families, the occupancy of an assisted living residence unit shall be limited to two individuals, at least one of whom must be 60 years of age or older.
 - (b) No dwelling units shall be allowed in a basement.
 - (c) All assisted living units shall have access through interior corridor only.
 - (d) Assisted living units shall not contain cooking facilities.
 - (e) Units shall not be used as apartments for transient tenants.
 - (f) Units shall not contain more than two bedrooms, a separate living area and bathroom and shall not be connected by interior doors in groups of more than two. At least 60 percent of the units must be either studio or one-bedroom units.
- (3) Common areas/ancillary services shall be permitted and shall comply with the following:
- (a) The assisted living residence shall provide, in the same building or in a separate structure, a main kitchen and dining area.
 - (b) The assisted living residence may provide, in the same building or in separate structures, the following: a small staff kitchen/dining area; small pantry areas with a sink, microwave oven and refrigerator in the common areas for use by residents and guests; recreation rooms; lounges; rehabilitation facilities; exercise rooms; laundry rooms; medical infirmary; beauty salon; housekeeping services and transportation services, but only to the extent that these uses meet the needs of the residents of the facility. Such uses shall not be available or open to the general public. This list is meant to be illustrative and not exclusive.
 - (c) Not more than one dwelling unit is permitted to be occupied by a project superintendent or site manager and his/her family.
 - (d) Accessory structures and uses. Facilities necessary to meet the proper maintenance, security, storage and utility needs of the development are permitted.
- (4) Development standards. Assisted living residences shall be subject to the following standards as well as other applicable standards of this chapter:
- (a) Minimum lot area: 5 acres.
 - (b) Minimum yards:
 - (i) Front: 50 feet, unless the zoning district requires a greater setback
 - (ii) Side: 25 feet
 - (iii) Rear: 35 feet
 - (c) The minimum distance from the building to any interior driveway/parking area shall be 25 feet from an assisted living unit bedroom.
 - (d) A minimum of 30 percent of the site shall be greenspace, which may include recreational areas such as walking paths, gazebos, and outdoor seating areas.

(e) Any outdoor sitting areas or walking paths shall be well-defined by walls, fences, hedges or planting designed to impart a sense of containment or security and to provide group privacy.

(f) Parking shall comply with § 151-44.

F. **Bar or Tavern.** No bar or tavern shall be located within 200 feet of any residential district boundary or adjacent to any lot that contains a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse.

G. **Cannabis Retail Dispensary.**

(1) Purpose. The purpose of this section is to provide regulations permitting the establishment of licensed, authorized cannabis retail dispensaries within the Village.

(2) Required approvals.

(a) No person or entity shall sell or distribute cannabis products, or hold itself out as an organization licensed by New York State for such sale or distribution, unless it has complied with Articles 3 and/or 4 (as applicable) of the New York Cannabis Law and this Zoning Law, and is licensed by the New York State Office of Cannabis Management.

(b) A licensed cannabis retail dispensary shall be allowed only after the granting of a special use permit and site plan approval by the Planning Board, subject to the requirements set forth in this section.

(c) A special use permit authorizing only a licensed medical cannabis dispensary or an adult-use retail dispensary shall not be deemed to include the other use.

(3) Licenses and permits. A special use permit issued pursuant to this section shall be conditioned on the permittee obtaining and maintaining all required state and local licenses and/or permits and complying with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a cannabis retail dispensary that is not properly licensed.

(4) Limitation of Approval.

(a) A special use permit authorizing the establishment of a cannabis retail dispensary shall be valid only for the site on which the cannabis retail dispensary has been authorized by such special use permit. Relocation of a dispensary to a different site shall require a new special use permit. A separate special use permit shall be required for each premises from which a licensed cannabis retail dispensary is operated.

(b) Upon the revocation or expiration without renewal of the NYS license or registration for a cannabis retail dispensary, the special use permit shall terminate, and a new special use permit shall be required prior to issuance of a certificate of occupancy.

- (5) Application requirements. In addition to any other application requirements for uses that require a special use permit and site plan approval, an application for a cannabis retail dispensary shall contain, at a minimum, the following information:
- (a) Description of activities. A narrative detailing the type and scale of all activities that will take place on the site.
 - (b) Context Map. A map identifying, at a minimum, the location of the proposed establishment, the locations of all other cannabis retail dispensaries within the Village, and the location of any nearby school, place of religious worship, park, playground, playing field, or place of business which caters to minors, with measured distances provided sufficient to demonstrate that the location of the proposed establishment complies with the standards of subsection (7) below.
 - (c) Building Elevations and Signage. Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. The Planning Board may require perspective drawings and illustrations of the site from public ways and abutting properties.
- (6) Location Standards. A cannabis retail dispensary shall be allowed only in the Commercial Mixed Use (CMU) District, subject to any limitations set forth in the regulations of that district.
- (7) Buffer Zones.
- (a) As further defined by § 119.4 of the NYS Cannabis Law, and unless otherwise modified by the NYS Cannabis Control Board, no cannabis retail dispensary shall be located:
 - (i) On the same road and within two hundred (200) feet of the entrance of a building occupied exclusively as a place of religious worship;
 - (ii) On the same road and within five hundred (500) feet of the entrance of a building occupied exclusively as a school; or
 - (iii) On the same road and within five hundred (500) feet of a structure and its grounds occupied exclusively as a public youth facility.
 - (b) The measurements in this subsection shall be taken in a straight line from the center of the nearest entrance of the premises proposed to operate as a retail dispensary to:
 - (i) The center of the nearest entrance of the place of religious worship; and
 - (ii) The center of the nearest entrance of the nearest building on the school grounds; and
 - (iii) The center of the nearest entrance of the nearest building of a public youth facility; or if no entrance exists, the nearest structure of such public youth facility; or if no structure exists, the nearest point of the grounds of the public youth facility's legally defined property boundary as registered in the Dutchess County clerk's office; or if no clear delineation of grounds exists, the

nearest point of equipment, the primary purpose of which is reasonably expected to be used by children seventeen (17) years of age or younger.

- (c) For purposes of this subsection, the “entrance” shall mean a main door regularly used to give ingress to the general public. Such definition shall not include cellar doors, back and side doors, delivery entrances, emergency exits, or a door which has no exterior hardware, or which is used solely as an emergency or fire exit or for maintenance purposes, or which leads directly to a part of a structure not regularly used by the general public or patrons.
 - (d) For a retail dispensary that is proposed to be located in a multi-story building, the entrance shall mean the main building entrance, as defined in the preceding subsection, at the road level.
 - (e) If the place of religious worship, nearest building on the school grounds, public youth facility, or the proposed retail dispensary is situated on a corner lot, such structure is considered to be on both roads of the intersection, whether or not there is an entrance to the structure on both roads.
- (8) Specific standards.
- (a) A cannabis retail dispensary shall comply with all aspects of New York State Cannabis Law.
 - (b) Unless otherwise permitted by New York State regulations, a cannabis retail dispensary shall be located only in a secure, permanent building and not within any mobile facility, and all dispensing of cannabis products shall be conducted within the building.
 - (c) The building and site shall be designed to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building’s interior.
 - (d) The cannabis retail dispensary shall not have opaque, unwelcoming ground-floor façades that may detract from other retail activity in the district. Where interior activities must be screened from public view, opaque façades should be minimized, and where they are necessary they should include changing art displays or other measures to provide visual interest to the public.
 - (e) Signs shall be affixed to a building or permanent structure, and may not be located on vehicles owned, leased or utilized by registered organizations. Signs shall not depict cannabis, cannabis products or paraphernalia, or the imagery or action of smoking or vaping. In all other respects, signage shall conform to Article VII of this chapter and the requirements of state laws and regulations governing such facilities.
 - (f) All lighting, including security lighting, shall comply with § 151-46 of this chapter.
 - (g) The hours of operation of a cannabis retail dispensary shall be limited to Monday through Saturday from 9:00 am to 9:00 pm, and Sunday from 11:00 am to 6:00 pm, or as otherwise established by the Planning Board as a condition of the

special use permit, but in no case shall the Planning Board permit a cannabis retail dispensary to operate between 2:00 am and 8:00 am, nor shall the Planning Board restrict the operation of a cannabis retail dispensary to fewer than seventy (70) hours a week, unless the operator agrees to do so.

- (h) No smoking, burning, vaping, or consumption of any cannabis product shall be permitted on the dispensary premises.
- (i) Cannabis retail dispensaries shall not have drive-through service.
- (j) No outside displays or storage of cannabis products, related supplies or promotional materials shall be permitted.

H. Child Day-Care Center.

- (1) A child day-care center shall be allowed in all zoning districts subject to special permit and site plan review in accordance with Articles X and XI herein, and the following:
 - (a) In the R and VR Districts, a minimum lot size of 0.5 acre is required, and the parcel must have frontage on a State road.
- (2) A child day-care center must have an active outdoor play area of 100 square feet per child.
- (3) Outdoor play areas must be located in the side or rear yard and shall be appropriately fenced in or otherwise protected from roads or nearby properties.
- (4) No outdoor play equipment may be placed within 10 feet of any property line, fence or structure.
- (5) The Planning Board may require that a child day-care center provide a pickup/drop off area. When a day-care center is part of a multi-tenant retail center, the pickup/drop off area shall not interfere with vehicle circulation in the parking lot, including but not limited to the drive aisles.
- (6) Off-street parking shall be provided as set forth in § 151-44. Child day-care centers must provide parking for persons with disabilities as required by New York State building codes.
- (7) Child day-care centers shall be operated and maintained in accordance with applicable laws, rules and regulations, including § 390 of the Social Services Law of the State of New York.
- (8) The owner and/or provider of a child day-care center shall provide a copy of the license or registration certificate from the New York Office of Children and Family Services, along with a copy of the liability insurance certificate to the Village of Wappingers Falls Planning Board as a condition of approval.

I. Club, Not-for-Profit.

- (1) Any food and beverage service provided by a club, including alcohol, shall be served on the premises to dues-paying members and their guests only.
- (2) Sleeping facilities are prohibited.

J. Community Residential Facility.

- (1) The location, design, and operation of a community residential facility must not alter the residential character of the structure. No structural or decorative alteration that alters the residential character of an existing residential structure used for a community residential facility is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.
- (2) The facility must comply with all building, fire safety, and health code requirements, and shall meet all Village, state, and federal regulations.
- (3) The dimensional and design standards applicable to a building occupied by or constructed for a community residential facility shall be the same as those dimensional and design standards applicable to the type of structure being constructed or occupied (*e.g.* single-family dwelling, two-family dwelling, three-family dwelling, townhouse, or multi-family dwelling).

K. Convenience Store.

- (1) In the VMU District, a convenience store shall have a maximum gross floor area of 2,000 square feet, and shall not be permitted to sell gasoline.
- (2) No outdoor display of merchandise shall be permitted.
- (3) All vending and ice machines shall be located within the building.
- (4) Rooftop heating, ventilation, air conditioning or refrigeration units shall be directed away from adjacent residential properties.

L. Laundromat.

- (1) In the VC District, a laundromat shall only be permitted on a parcel that does not have frontage on a State road.
- (2) Any laundromat shall demonstrate to the satisfaction the Village of Wappingers Falls Water Board that adequate water supply is available to serve the use.
- (3) Laundromats shall be self-service, but may include laundry drop-off service.

M. Live-Work Dwelling.

- (1) In the VR District, a live-work dwelling shall be allowed only on a property that has frontage on Route 9D.
- (2) The non-residential use shall be conducted in a manner which does not give the outward appearance of a business (with the exception of a sign as allowed in subsection (3) herein), does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their residential premises, and does not alter the residential character of the property and the neighborhood. Any new construction undertaken to accommodate the live-work activity shall be wholly consistent with the character of a residential premises.
- (3) No sign shall be permitted for a live-work dwelling other than a sign permitted for a dwelling unit as set forth in § 151-54A(5).

- (4) Portions of the building used for residential and non-residential uses shall have a connection between them located inside the building, and the non-residential use may also be accessed from an exterior door.
- (5) The non-residential portion of the live-work dwelling shall not exceed 750 square feet of gross floor area.
- (6) The live-work dwelling shall have no temporary or longer-term outdoor storage of materials or equipment used in connection with the non-residential use.
- (7) If any portion of the non-residential component of the live-work dwelling is open to the public, that portion shall be limited to the ground floor.
- (8) Off-street parking shall be provided as set forth in § 151-44.
- (9) The non-residential portion of the live-work dwelling shall only be used for one of the uses listed below, which shall be conducted by a resident of the building:
 - (a) Museum.
 - (b) Business or professional office.
 - (c) Retail business, but no liquor store, pharmacy, or grocery store.
 - (d) Service business.
- (10) The above notwithstanding, because of parking requirements and the potential for noise, odors, traffic congestion and other issues of land use compatibility, the following uses are specifically prohibited from consideration as non-residential use in a live-work dwelling under this chapter:
 - (a) Ambulance service.
 - (b) Taxi, limousine or similar service with more than one such vehicle used in the service.
 - (c) Vehicle and equipment uses, as defined in this chapter.
 - (d) Boat sales, rental and/or service.
 - (e) Commercial servicing of construction equipment, including but not limited to backhoes, bulldozers and trucks.
 - (f) Beauty salons and barbershops with more than two (2) chairs.
 - (g) Places of worship.
 - (h) Restaurants, bars or taverns, and nightclubs.
 - (i) Dancing, art, martial arts, and similar group instruction activity when serving more than five students per class.
 - (j) Musical instrument instruction for more than two (2) students at one time.
 - (k) Child day-care centers.
 - (l) Personal service establishments, licensed by the New York State Education Department, serving more than one customer at a time.

- (m) Construction companies, building contractors, home builders, or general contractors, with more than one (1) Class 2 commercial vehicle used in the business.
- (n) Landscape contractors with more than one (1) Class 2 commercial vehicle used in the business.
- (o) Animal services, as defined in this chapter.

N. Lodging.

- (1) A lodging facility may be located within one or more buildings on the property.
- (2) A guestroom in a hotel may contain a kitchenette for extended stays.
- (3) All uses integral to the lodging facility shall be clearly accessory to the facility, unless separately allowed as a principal use within the zoning district in which the lodging facility is proposed. Permitted accessory uses to a lodging facility include:
 - (a) Meeting Rooms.
 - (b) Restaurant, cafe or coffee shop open to guests. In the case of a hotel such restaurant, cafe or coffee shop may also be open to the general public.
 - (c) Game and leisure rooms.
 - (d) Personal service businesses.
 - (e) Gift shops.
 - (f) Swimming pools.
 - (g) Outdoor athletic courts.
- (4) Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Village of Wappingers Falls, the Dutchess County Department of Behavioral and Community Health, and the New York State Department of Health or Environmental Conservation.

O. Marina.

- (1) Any marina shall be located in an area where the physical attributes required by marinas already exist.
- (2) All marinas shall include, as appropriate, sufficient parking, parklike surroundings, rest rooms, adequate water supply, adequate sanitary sewage, and trash disposal and recycling facilities.
- (3) All applicable compliance review, permit and/or approval requirements administered by the Village of Wappingers Falls through its Local Waterfront Revitalization Program, Dutchess County Department of Behavioral and Community Health, the New York State Department of Environmental Conservation or Department of State Coastal Management Program, the United States Army Corps of Engineers, or the Federal Emergency Management Agency shall be strictly met.
- (4) Runoff from parking lots, maintenance, fueling, and wash-down areas shall be treated in a manner that prevents oils, grease and detergents from reaching adjacent waters

and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.

(5) Fuel dispensing shall be prohibited.

(6) Any special permit issued for a marina on Wappinger Lake shall comply fully with the standards set forth in Chapter 146 (Wappingers Falls Lake) of the Village Code, and shall include as a condition of approval the additional requirement that a permit must be obtained from the Village Board for the proposed marina prior to either use of the property or the issuance of a certificate of occupancy or of compliance.

P. **Nightclub.** A nightclub shall only be permitted on a parcel with frontage on Route 9 that does not abut a property in a residential district or that contains a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse.

Q. **Parking Structure.**

(1) A parking structure shall meet all of the required setbacks and other dimensional standards for a principal building for the zoning district in which it is located.

(2) A parking structure in all districts, with the exception of the B District, shall include a building liner on the ground floor along all frontages adjacent to a public street. The building liner shall include a conditioned space at least 15 feet deep, measured from the exterior wall facing the street, to accommodate non-residential uses along the entire street frontage, except as is necessary to provide space for vehicular entrance and egress to the structure from the street. The conditioned space may be used for any non-residential use allowed in the zoning district in which the parking structure is located except for parking. The ground floor that faces a public street shall meet the primary façade transparency requirements of § 151-37 for the zoning district in which the parking structure is located.

(3) For parking structures with roof-top open-air parking, a five-foot parapet wall is required to screen views of parked vehicles. The parapet wall shall be an integral part of the building's architectural design and shall be included in the maximum permitted height of the parking structure.

(4) Where parking structures front on public streets, facade design and screening elements such as decorative grillwork, louvers, or translucent materials shall be used to mask the interior circulation ramps and views of parked cars below the hoodline, and to create the illusion of horizontality along the street. Opaque or semi-opaque façade materials shall extend at least three feet in height above the vehicle parking surface.

(5) Parking structures shall be designed to minimize blank facades through architectural detailing and landscape.

(6) Any vehicle exit barrier, including but not limited to a gate or payment booth, shall be located at least 20 feet inside the exterior wall of the parking structure.

(7) The Planning Board may require the installation of pedestrian safety devices such as convex mirrors or other warning devices if it determines that there would be a significant risk to public health or safety without the installation of those devices.

R. Post Office.

- (1) A post office in the VC District shall not exceed 1,000 square feet of gross floor area.

S. Schools, Studio or Vocational.

- (1) Driver-education schools with training in commercial truck driving shall not be permitted in the VC, VMU and B Districts.

T. Self-Storage Facility.

- (1) All storage shall be kept within an enclosed building.
- (2) Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover and other flammable materials, the repair, construction or reconstruction of any boat, engine, motor vehicle or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank or any boat or vehicle incorporating such components, is prohibited within any structure on the parcel of land designated as a self-service storage facility.
- (3) The storage of feed, fertilizer, grain, soil conditioners, pesticides, chemicals, explosives and other caustic, hazardous or toxic materials, asphalt, brick, cement, gravel, rock, sand and similar construction materials, inoperable vehicles, or bulk storage of fuels is prohibited within any structure on the parcel of land designated as a self-service storage facility.
- (4) It is unlawful for any owner, operator or lessee of any facility or portion thereof to offer for sale or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units, or to permit the same to occur upon any area designated as a self-service storage facility. An exception shall be made for the sale of abandoned property accordance with New York Lien Law § 182 or other applicable law or regulation.
- (5) No public address system shall be allowed.
- (6) In addition to the provision of parking in driving lanes adjacent to the storage building(s), off-street parking spaces shall be provided as set forth in § 151-44. Required parking spaces and driving lanes shall not be rented or used as vehicular storage.
- (7) Doorways or garage doors shall not face a public right-of-way, recreation park, or other public space.

U. Vehicle and Equipment Uses.

- (1) The following shall apply to all vehicle and equipment uses:
 - (a) With the exception of signs, all structures associated with vehicle and equipment uses shall be setback a minimum of 25 feet from all property lines. The preceding setbacks shall supersede the setbacks specified in the District Schedule of Area and Bulk Regulations.

- (b) All major vehicle repair and service work shall be performed entirely within a fully enclosed building. The foregoing is not intended to be construed as meaning that the doors on any repair shop must be kept closed at all times.
 - (c) Any vehicle awaiting repair or stored on site shall be provided with an adequately sized drip pan to prevent fluids from draining onto the site.
 - (d) All equipment, merchandise, supplies, automobile parts, dismantled vehicles, unregistered or inoperable vehicles, and similar articles shall be stored within a fully enclosed structure.
 - (e) Each vehicle offered for sale shall be permitted to display signs from inside the vehicle only. Such vehicles shall use no other writing, advertising or devices on or near the vehicle to attract attention.
 - (f) No more than one (1) abandoned, discarded or junk vehicle, all as defined in Chapter 141 of the Village Code, shall be located on the premises for more than 60 days, unless vehicle towing service is a permitted accessory use in the district, in which case the standards of § 151-68O shall apply.
 - (g) The site layout shall eliminate the necessity of any vehicle backing into a public right-of-way.
 - (h) Automobile vacuum cleaners shall only be permitted accessory to a vehicle wash.
- (2) In addition to the standards of subsection (1) above, the following standards shall apply to specific vehicle and equipment uses:
- (a) Vehicle Service Facility and Gasoline Stations.
 - (i) No such establishment shall be located within 200 feet of any school, place of worship, public library, theater, hospital, park, playground, or other public gathering place designed for occupancy by more than 50 people.
 - (ii) No more than one vehicular entrance to and one vehicular exit from the site from a public street shall be permitted. If the site entrance and exit are combined in one curb cut, said curb cut shall have a maximum width of 25 feet, unless determined otherwise by the Planning Board based on a recommendation from the Village Engineer, and the maximum width of curb cuts for one-way traffic shall similarly be determined by the Board. No curb cut shall be located closer than 15 feet to any side lot line. For establishments located on a corner lot, only one curb cut per street frontage is permitted, unless site characteristics require an alternative, as deemed appropriate by the Planning Board.
 - (iii) Gasoline or flammable oils in bulk shall be stored fully underground, in accordance with New York State DEC Part 614 Regulations, and may not be located closer than 25 feet to any lot or public right-of-way.
 - (iv) No abandoned, discarded or junk vehicles, all as defined in Chapter 141 of the Village Code, may be stored or parked outdoors on the premises. Only vehicles that have been or are waiting to be serviced may be stored or parked outdoors.

- (v) No vehicle may be stored or parked outdoors for longer than 15 calendar days once repair is complete or while waiting to be repaired, except in instances where necessary repair parts have been ordered and delivery is awaited. All such vehicles shall be suitably screened with walls, fencing or plantings, or a combinations of these, to obscure them from view from neighboring properties and from any public right-of-way, recreation park, or other public space.
 - (vi) Notwithstanding any provision of § 151-45I and § 151-45J to the contrary, the establishment shall be screened along the side and rear lot lines by an opaque wall or fence of at least 72 inches in height and no more than 96 inches in height.
 - (vii) In addition to other landscaping requirements established by this chapter, suitable year-round buffering and landscaping shall be provided in all rear and side yards through a mix of deciduous and evergreen planting.
 - (viii) The Planning Board shall determine whether fuel pumps should be located to the rear of the building.
 - (ix) No fuel pump or associated canopy structure shall be located within 25 feet of any lot line.
 - (x) No exterior audible and/or visual electronic devices such as loudspeakers, video and television screens, animated signs, and similar instruments shall be permitted.
 - (xi) Fuel pump canopies shall have sloped, mansard, or hip roofs.
 - (xii) Fuel pump canopies may not be internally illuminated. Lighting of canopies is permitted on the underside of the canopy roof only, and lighting fixtures shall be recessed into the canopy ceiling consistent with the requirements of § 151-46.
- (b) Vehicle Wash.
- (i) All structures shall be located a minimum of two hundred (200) feet from a zoning district boundary.
 - (ii) Vehicle stacking/drying spaces, off-street parking and loading shall be provided in accordance with the requirements of § 151-44.
 - (iii) Evidence of an adequate long-term source of public or private water shall be submitted to show that water usage will not affect surrounding properties.
 - (iv) Automobile vacuum cleaners shall not be permitted in a front yard.

V. Wireless Telecommunications.

- (1) Purpose. The Village recognizes the increased need and demand for wireless communications transmitting facilities. Often these facilities require the construction of a communications tower. The intent of these provisions is to protect the Village's interest in siting telecommunications facilities in a manner consistent with sound land use planning by:

- (a) Minimizing visual effects of facilities through careful design, siting, landscaping and screening.
 - (b) Avoiding potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
 - (c) Maximizing use of existing towers, buildings, and structures.
 - (d) Allowing wireless service providers to meet their technological and service objectives for the benefit of the public.
- (2) Required approvals.
- (a) Lease approval. On Village-owned property in any zoning district, a telecommunications facility is permitted upon execution of a lease with the Village and upon the issuance of a building permit. For any property owned by the Village, all leases must be approved by a majority vote of the Village Board and must address relevant issues of safety, height, aesthetics, setbacks, future expansions of the facility, and co-location. A telecommunications facility on Village-owned property does not require review or approval from the Planning Board.
 - (b) Site plan approval. Installation of telecommunications antennas and supporting facilities that do not include the construction of a new tower is permitted in the CMU District only, upon site plan approval from the Planning Board in accordance with Article XI.
 - (c) Special permit and site plan approval. Installation of a new telecommunications tower is allowed in the CMU District only, subject to a special permit and site plan approval from the Planning Board in accordance with Articles X and XI.
- (3) Development standards.
- (a) Setbacks.
 - (i) To safeguard the general public and adjacent properties, the minimum setback of all telecommunications towers and antennas from adjacent property lines shall be the height of the tower and antennas plus ten feet.
 - (ii) The required setback may be decreased in those instances when the applicant has submitted plans for a tower designed to minimize damage to adjacent property in the event of a structural failure. Supporting facilities and guy anchors must comply with the minimum setback requirements of the zoning district.
 - (b) Safety.
 - (i) A road turnaround and two parking spaces must be provided to assure adequate emergency and service access.
 - (ii) All towers and guy anchors, if applicable, must be enclosed by a fence not less than six feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism. Electrified fence, barbed or razor wire shall be prohibited.

- (iii) The applicant must comply with all applicable state and federal regulations including, but not limited to Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) regulations.
- (c) Height.
- (i) Towers. The height regulations otherwise applicable in the underlying district do not apply to wireless telecommunications towers, provided that the applicant submits sufficient information to justify the proposed height as the minimum necessary to achieve its coverage objectives.
 - (ii) Building- and structure-mounted antennas. Telecommunications antennas mounted on buildings or structures shall be restricted to a maximum height of 60 feet above the average finished grade of the building or structure, or the building or structure height, whichever is less, unless the applicant submits sufficient information to justify a greater height as the minimum necessary to achieve its coverage objectives.
- (d) Design and siting.
- (i) The Planning Board may require that the tower be designed and sited so as to avoid, if possible, application of FAA lighting and painting requirements, it being generally understood that a tower should not be artificially lighted, except as required by the FAA.
 - (ii) Telecommunications towers, antennas, and supporting facilities must be situated in a manner that minimizes their proximity and visibility to residential structures.
 - (iii) Every effort shall be made to conceal telecommunications towers, antennas, and supporting facilities within or behind architectural features to limit their visibility from public ways and residential uses while still allowing them to perform their designated function.
 - (iv) Telecommunications antennas mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
 - (v) Telecommunications antennas mounted on a building must blend in with the existing building's architecture and, if over five square feet, must be painted or shielded with material that is consistent with the design and materials of the building.
 - (vi) Antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the colors of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - (vii) A tower must be either blue/gray in color, have a galvanized finish or be colored appropriately to the extent that the tower is as unobtrusive as possible, unless otherwise required by the FAA. Accessory facilities should maximize use of building materials, colors, and textures designed to blend with the natural surroundings.

- (viii) No tower may contain any signs except signs displaying contact information and safety instructions. Such signs must not exceed five square feet in surface area.
 - (ix) Landscape and screening. The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and accessory structures to the extent possible from adjacent residential property. Existing trees and vegetation shall be preserved to the maximum extent practicable.
- (4) Preference for Village-owned sites. All telecommunications towers, antennas, and supporting facilities erected, constructed or located within the Village must comply with the following requirements. A proposal for the facility will not be approved unless the Planning Board finds that the antenna planned for the proposed facility cannot be accommodated on an existing structure located on Village-owned property within a one-mile radius of the proposed facility due to one or more of the following:
- (a) The antenna would exceed the structural capacity of the existing structure, as documented by a qualified professional engineer, and the Village has refused to reinforce, modify, or replace the structure to accommodate the planned or equivalent antenna.
 - (b) The antenna would cause interference materially impacting the usability of other existing antennas at the structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing structures within the search radius cannot accommodate the antenna at a height necessary to function reasonably as documented by a qualified professional engineer.
 - (d) Other reasons that make it infeasible to locate the antenna upon an existing structure.
- (5) Co-location requirements. A proposal for a new telecommunications tower will not be approved unless the Planning Board finds that the antenna planned for the proposed tower cannot be accommodated on an existing tower or structure within a one-mile radius of the proposed tower due to one or more of the following:
- (a) The antenna would exceed the structural capacity of the existing tower or structure, as documented by a qualified professional engineer, and the existing tower or structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
 - (b) The antenna would cause interference materially impacting the usability of other existing antenna at the tower or structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing towers or structures within the search radius cannot accommodate the antenna at a height necessary to function reasonably as documented by a qualified professional engineer.

- (d) Other reasons that make it infeasible to locate the antenna upon an existing tower or structure.
- (e) Any proposed tower shall be designed, structurally and electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is 100 feet in height or more, or for at least one additional user if the tower is 60 feet in height up to 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (6) Exemptions. The following are not subject to these provisions:
 - (a) Antenna used solely for residential household television and radio reception.
 - (b) Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location.
- (7) Existing facilities. Telecommunications towers, antennas, and supporting facilities in existence that do not conform to or comply with these regulations are subject to the following provisions:
 - (a) Telecommunications towers, antennas, and supporting facilities may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with these regulations.
 - (b) If telecommunications towers, antennas, and supporting facilities are damaged or destroyed due to any reason or cause whatsoever, the facility may be replaced or restored to its former use, location, and physical dimensions without complying with these regulations, provided, however, that if the cost of repair would be ten percent or more of the cost of a new facility of like kind and quality, then the facility may not be repaired or restored except in full compliance with these regulations.

§ 151-68. ACCESSORY USES

A. General Standards Applicable to All Accessory Uses.

- (1) All accessory uses and structures must be clearly subordinate to the principal structure(s) and principal use(s) on the property.
- (2) All accessory structures shall comply with the dimensional standards of § 151-25.
- (3) An accessory use may not begin operation before a permitted principal use begins operation on the property.
- (4) An accessory structure may not be constructed before a permitted principal structure is constructed on the property.

B. Accessory Dwelling Units. Accessory dwelling units shall be allowed by special permit as an accessory use in the R and VR Districts, provided that the following standards are met:

- (1) An accessory dwelling shall be allowed as an accessory use to a detached single-family dwelling only.
- (2) An accessory dwelling may be located within the principal building or within an accessory building.
- (3) No more than one accessory dwelling shall be allowed per parcel.
- (4) The parcel on which the accessory dwelling is located shall have a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet.
- (5) An accessory dwelling shall be clearly incidental and subordinate to the principal dwelling and shall not change the single-family residential character of the property or the neighborhood.
- (6) Any additional exterior entrances which may be created for an accessory dwelling located within a principal building shall be located at the side or rear of the building.
- (7) The property owner must occupy either the principal or accessory dwelling on the premises, and the special permit for the accessory dwelling shall be in effect only so long as either the principal dwelling or the accessory dwelling is occupied by the owner of record as their primary residence. If the owner of the single-family dwelling resides in a location other than the premises for a period of more than 180 days in a one-year period, the special use permit shall become null and void, and the premises shall revert to its original permitted use which existed immediately prior to the issuance of the permit.
- (8) The gross floor area of the accessory dwelling shall not exceed 35 percent of the gross floor area of the principal building, or 650 square feet, whichever is the more restrictive.
- (9) The accessory dwelling shall have a maximum of one bedroom.
- (10) Adequate off-street parking for both the accessory dwelling and the principal dwelling shall be provided as set forth in § 151-44.
- (11) The accessory dwelling shall have safe and proper means of egress, clearly marked for the purpose of emergency services.
- (12) Stairways leading to any floor or story above the ground floor for an accessory dwelling located in a principal building shall be located within the walls of the building wherever practicable. Exterior stairways shall be located on the rear wall in preference to either side wall. In no instance shall an exterior stairway be located on any wall fronting a street.
- (13) If the water supply and/or sanitary sewage disposal is from a private source, approval shall be granted by the Dutchess County Department of Behavioral and Community Health for any required on-site sanitary or water supply system, or, as may be applicable, certification through either the Health Department or a licensed professional engineer retained by the applicant that the existing on-site water supply and sewage disposal facilities are sufficient to accommodate the additional demands of the accessory apartment on the residential premises where such conversion or new construction is proposed.

(14) An accessory dwelling shall not be permitted on the same lot as a short-term rental or a Class 2 home occupation.

(15) The provisions of the New York State Uniform Fire Prevention and Building Code shall apply to the accessory dwelling.

C. Boarders or Lodgers. Boarders or lodgers shall be permitted as an accessory use to a single-family or two-family dwelling in any zoning district, provided that the following standards are met:

(1) The boarder or lodger shall reside within the same dwelling unit as the resident-owner. Boarders or lodgers in premises owned by parties not actually residing therein is prohibited. Further, non-owners, tenants, lessees or renters of premises shall not maintain boarders or lodgers.

(2) The number of boarders or lodgers permitted in the dwelling unit of the resident-owner is limited to two.

(3) In addition to parking required for the residence, at least one additional off-street parking space shall be provided for each room offered for rent.

(4) No room shall be rented for less than 30 consecutive days.

D. Craft Beverage Pub.

(1) No craft beverage pub shall be located within 200 feet of any residential district boundary or adjacent to any lot that contains a single-family dwelling, two-family dwelling, three-family dwelling, or townhouse.

E. Drive-through Facility.

(1) A drive-through facility shall only be allowed in the CMU District. However, it shall not be allowed on any property in the CMU District that abuts the R District.

(2) No part of a drive-through lane may be located within 100 feet of a residential property.

(3) Stacking for a minimum of four vehicles per lane or bay shall be provided, and the applicant shall demonstrate to the satisfaction of the Planning Board that the proposed stacking lanes will be adequate to accommodate anticipated customer use without vehicles backing up onto public highways.

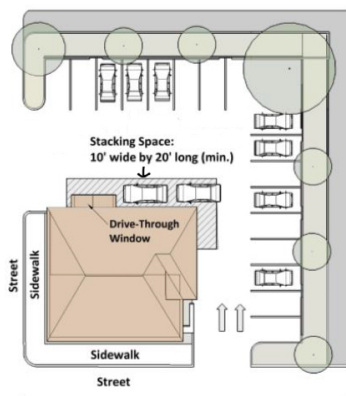
(4) Drive-through stacking lanes shall have a minimum width of ten feet, as measured from the outermost point of any service window or bay entrance to the edge of the driveway, and a minimum length of 20 feet per vehicle. In the case of a recessed service window, the measurement shall be taken from the building wall.

(5) All drive-through lanes shall be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots shall not route exiting traffic into adjacent residential neighborhoods.

(6) Drive-through canopies shall be permitted provided they do not contain any signage other than height-warning signs needed for safety. They shall be painted to be coordinated with the building, and shall be a maximum of 10.5 feet tall.

- (7) The main entrance to the principal commercial use to which the drive-through is accessory must face the street. On a corner lot, the Planning Board shall determine which street the shopfront shall face.
- (8) All parking shall be located to the rear or side of the principal building.
- (9) No drive-through window shall be permitted in a front yard. Drive-through windows shall only be located on the side or rear of the building.
- (10) All signs shall comply with sign standards in Article VII.
- (11) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be audible beyond the lot line of the property or, if the site is a leased portion of a property, from the leased area.
- (12) No exterior electronic devices such as video and television screens, animated signs, and similar instruments shall be permitted. Electronic message signs shall be permitted for order station signs subject to the provisions of § 151-52B(5).
- (13) An illustrative example of the appropriate configuration of building with a drive-through is shown on Figure VIII-1.

Figure VIII-1: Drive-Through Building Configuration



F. Electric vehicle charging station.

- (1) Applicability.
 - (a) Electric vehicle charging station(s) (EVCS) with a Level 1 or Level 2 charging level shall be permitted in all zoning districts as an accessory use to a single-family dwelling, two-family dwelling, three-family dwelling, multi-family dwelling, or townhouse to serve the occupants of the dwelling(s).
 - (b) EVCS with a Level 2, Level 3 or greater charging level shall be permitted as an accessory use to any nonresidential use in the RMU, VMU, VC, CMU, and B Districts, subject to site plan approval and the design criteria of subsection (2) herein.
 - (c) Refer to § 151-44J for thresholds when EVCS are required.

- (2) Design Criteria. The following criteria shall be applied to the location and design of all EVCS associated with any nonresidential use and multi-family dwellings with ten or more dwelling units:
- (a) Parking. EVCS shall be located in an existing or proposed parking space developed in accordance with the provisions of § 151-44.
 - (b) Location. Unless required by subsection (2)(k) herein, EVCS shall not be located in the most convenient or prime parking spaces that would encourage use by non-electric vehicles.
 - (c) Equipment shelters. Above-ground electric vehicle charging equipment shall be contained in a Milbank enclosure or equivalent equipment shelter.
 - (d) Cord management. EVCS shall be provided with a cord management system that keeps cords and connectors off the ground when not in use. Cords shall be retractable or the EVCS shall include a place to hang the cord and connector sufficiently above the pedestrian surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
 - (e) Design and screening. Facilities should be able to be readily identified by electric vehicle users, but be compatible with the character and use(s) of the site. The Planning Board may require screening of electric vehicle charging equipment with fences, walls and/or evergreen vegetation.
 - (f) Equipment protection. Adequate protection of electric vehicle charging equipment, such as concrete-filled steel bollards, shall be used. Curbing may be used in lieu of bollards if the electric vehicle charging equipment is setback a minimum of 24 inches from the face of the curb.
 - (g) Pavement markings. No pavement markings or colored pavement shall be permitted other than what is required for standard and accessible parking spaces, and an electric vehicle symbol a maximum of 8½ square feet in size. The standard pavement markings indicating the parking space for the EVCS shall be painted green, unless the space is an accessible parking space.
 - (h) Number. Unless the Planning Board determines otherwise, no more than 10 percent of the total number of parking spaces that are required to serve the use(s) on the property may be electric vehicle parking spaces that are exclusively proprietary to a specific brand of vehicle.
 - (i) Signs.
 - (i) In addition to any signs required by law and the posting of the information in the following paragraph (ii), each EVCS also may include one (1) sign, a maximum of one square foot in size. Said sign shall be incorporated into or affixed to the charging station and shall not be a separate stand-alone sign; it shall not be an illuminated sign; shall not require a sign permit; and shall not be included in the total number of permitted signs for the lot or use to which the charging station is accessory.

- (ii) The following information shall be posted on all EVCS: voltage and amperage levels; hours of operations if time limits or tow-away provisions are to be enforced; usage fees; safety information; and contact information for reporting when the equipment is not operating properly or other problems.
- (iii) No audio message or audible devices such as loudspeakers and similar instruments shall be permitted.
- (iv) A small LED-type screen/key pad shall be permitted on the EVCS for contact information, status, and payment purposes only.
- (v) No other signs on the EVCS or for the electric vehicle parking space shall be permitted, including but not limited to animated signs, electronic message signs, off-premise signs, or any other type of advertising, other than as may be required by law.
- (j) Lighting. EVCS shall not be internally illuminated, with the exception of the LED screen/key pad permitted in subsection (iv) above, nor shall any external illumination be attached to the EVCS.
- (k) Accessibility. EVCS shall be sited so as not to reduce or impede the accessible features of the site, including but not limited to accessible parking spaces, access aisles and routes, as required by the NYS Uniform Code. Accessible EVCS shall comply with the requirements of the NYS Uniform Code.
- (l) Maintenance. Electric vehicle charging stations shall be properly maintained in all respects, including the functioning of the charging equipment. Charging stations no longer in use shall be removed immediately.

G. Family Day Care Home and Group Family Day Care Home. Subject to the regulations of the Department of Social Services under Social Services Law § 390, and its implementing regulations, a family day care home or a group family day care home is a permitted use in all zoning districts provided the facility shall be operated and maintained in accordance with all applicable laws, rules and regulations. The owner and/or provider of a family day care home or group family day care home shall provide a copy of the license or registration certificate from the New York Office of Children and Family Services to the Village of Wappingers Falls.

H. Home Occupation.

- (1) Purpose. The conduct of small-scale, low-impact home occupations shall be permitted as an accessory use on residential premises under the provisions of this section. It is the intent of this section to:
 - (a) Ensure the compatibility of home occupations with other permitted uses;
 - (b) Maintain and preserve the historic character of the Village; and
 - (c) Allow residents to engage in gainful employment on their properties while avoiding excessive noise, traffic, nuisance, fire hazard, and other possible adverse effects of non-residential uses in residential districts and adjacent to residential uses.

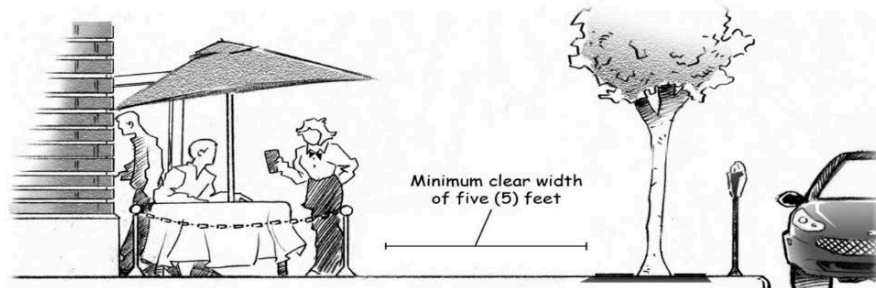
- (2) A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business (with the exception of a sign as allowed in subsection (10) herein), does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their residential premises, and does not alter the residential character of the property or the neighborhood. Any new construction undertaken to accommodate the home occupation activity shall be wholly consistent with the character of a residential premises.
- (3) A home occupation may only be conducted within a dwelling unit which is a residence of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use.
- (4) For purposes of this chapter:
 - (a) A home occupation shall be classified as a Class 1 Home Occupation if conforms to the provisions of this section and it:
 - (i) Occurs fully within the dwelling unit;
 - (ii) Employs no non-resident employees;
 - (iii) Has no temporary or longer-term outdoor storage of materials or equipment used in connection with the home occupation;
 - (iv) The volume of clients or guests who visit the home occupation is less than six per day; and
 - (v) The volume of truck deliveries or truck traffic to the home occupation is less than one per day averaged over a week.
 - (b) All other home occupations shall be classified as Class 2 Home Occupations, which may only be authorized by special use permit in accordance with Article X of this chapter.
 - (c) A Class 2 Home Occupation may employ a maximum of one (1) non-resident employee.
- (5) Number of home occupations permitted.
 - (a) For all dwelling types except detached single-family dwellings, each dwelling unit shall be permitted a single Class 1 home occupation only. No Class 2 home occupations shall be permitted.
 - (b) For detached single-family dwellings, not more than two home occupations, (either two Class 1 home occupations, or one Class 1 and one Class 2 home occupations), may occur on a single lot, with subsections (5), (9), (10) below applying to either a single home occupation or the aggregate of the two home occupations occurring on the lot.
- (6) Size of home occupations.

- (a) A home occupation that is located wholly within a dwelling unit shall occupy no more than 500 square feet of gross floor area or 25 percent of the gross floor area of the dwelling on the premises, whichever shall be the more restrictive.
- (b) A home occupation that is located partially or entirely within an accessory structure shall occupy no more than a total of 500 square feet of gross floor area.
- (7) Except for articles produced on the premises and other articles customarily associated with the product made or the service provided on the premises, no stock-in-trade shall be displayed or sold on the premises nor shall any item be available for rental.
- (8) Outdoor storage of equipment or materials used in the home occupation may be authorized for a Class 2 home occupation, but shall not be permitted in the front yard of the premises, shall meet the setback requirements for accessory buildings in the zoning district in which it is located, shall occur as inconspicuously as practicable on the lot, and shall be effectively screened year round from a public road and any adjacent residential property by intervening landform, evergreen vegetation, or fencing, in addition to other screening and landscaping requirements. No hazardous materials shall be permitted to be stored.
- (9) One (1) off-street parking space per non-resident employee shall be provided, and a maximum of two off-street parking spaces shall be permitted to serve all home occupations on the lot.
- (10) No sign shall be permitted for a home occupation other than a sign permitted for a dwelling unit as set forth in § 151-54A(5).
- (11) No sharing, letting or subletting of space for use by non-residents of the dwelling unit in the conduct of their profession, trade or business shall be permitted.
- (12) In no case shall a home occupation be open to the public earlier than 8:00 a.m. or later than 8:00 p.m.
- (13) The home occupation shall meet the environmental performance standards of § 151-18.
- (14) A special permit granted for a Class 2 home occupation shall expire when the occupation changes or the property is sold.
- (15) The above notwithstanding, because of parking requirements and the potential for noise, odors, traffic congestion and other issues of land use compatibility, the following uses are specifically prohibited from consideration as a permitted (Class 1) or special permit (Class 2) home occupation under this chapter:
 - (i) Ambulance service.
 - (ii) Taxi, limousine or similar service with more than one such vehicle used in the service.
 - (iii) Vehicle and equipment uses, as defined in this chapter.
 - (iv) Boat sales, rental and/or service.

- (v) Commercial servicing of construction equipment, including but not limited to backhoes, bulldozers and trucks.
 - (vi) Beauty salons and barbershops with more than one (1) chair.
 - (vii) Places of worship.
 - (viii) Restaurants, bars or taverns, and nightclubs.
 - (ix) Dancing, art, martial arts, and similar group instruction activity when serving more than three (3) students per class.
 - (x) Musical instrument instruction for more than two (2) students at one time.
 - (xi) Child day-care centers.
 - (xii) Personal service establishments, licensed by the New York State Education Department, serving more than one customer at a time.
 - (xiii) Construction companies, building contractors, home builders, or general contractors, with more than one (1) Class 2 commercial vehicle used in the business.
 - (xiv) Landscape contractors with more than one (1) Class 2 commercial vehicle used in the business.
 - (xv) Animal services, as defined in this chapter.
- I. **Outdoor Dining.** Outdoor dining shall be allowed as an accessory use to a restaurant, bar or tavern, or craft beverage pub, provided that the following standards are met:
- (1) All outdoor dining shall be shown on an approved site plan.
 - (2) Outdoor dining shall not interfere with pedestrian circulation and access to building entrances or parking spaces and access aisles.
 - (3) All planters, posts with ropes, railings, fences and similar enclosures must be temporary, self-supporting, removable and not exceed a height of 30 inches.
 - (4) Awnings, and patio umbrellas shall be permitted, and the colors of such features shall complement the building colors where the establishment is located.
 - (5) No additional signage of any kind shall be permitted, including but not limited to signage affixed to temporary structures or accessories associated with outdoor dining.
 - (6) Decks and patios, tables, chairs, planters, and other elements of street furniture shall be compatible with the architectural character of the building where the establishment is located.
 - (7) No standing room service shall be permitted.
 - (8) Outdoor service bars, as defined in this chapter, shall be permitted.
 - (9) No music that can be heard beyond the lot lines of the property on which the outdoor dining is located shall be permitted.
 - (10) No containers for trash shall be placed on the outdoor dining area.

- (11) The outdoor dining area shall be kept clean and litter-free.
- (12) Sidewalk dining. Sidewalk dining is a specific type of outdoor dining that occurs in a designated area of a public sidewalk where patrons may sit at tables while consuming food and beverages purchased from the associated eating or drinking establishment. Sidewalk dining shall comply with all of the provisions for outdoor dining outlined above and the following:
- (a) The sidewalk dining area must be located adjacent to the property of a lawfully operating restaurant, bar or tavern, or craft beverage pub and shall be under the control of said establishment.
 - (b) At least 5 feet or 50 percent of the total sidewalk width, whichever is greater, shall be maintained free of tables and other obstructions outside the sidewalk dining area to ensure a clear pedestrian passageway along the sidewalk, as illustrated in Figure VIII-2.
 - (c) All sidewalk dining in the public right-of-way requires approval of the public entity that has control over the right-of-way.
 - (d) All fixtures and furnishings must be of a temporary nature, and must be brought in and stored or stacked and secured during nonoperational hours. No permanent or fixed seating shall be permitted.

Figure VIII-2: Clear Pedestrian Passage Outside Sidewalk Dining



J. Refuse enclosures.

- (1) All outdoor storage of trash and recycling containers, including cans, carts, and dumpsters, accessory to multi-family dwellings and non-residential uses shall be screened from public view and adjacent properties in a refuse enclosure as follows:
 - (a) Refuse enclosures shall be fully enclosed on three sides by a solid fence or wall made of durable materials a minimum of 72 inches and a maximum of 96 inches in height, unless otherwise required by the Planning Board. The remaining side of the enclosure shall include solid gate(s) or door(s), the same height as the enclosure, that can be securely closed. Trash and recycling containers within the enclosure shall not exceed the height of the enclosure. All enclosures shall be

adequately maintained so that access gates or doors function and the walls or fences does not fall into disrepair.

- (b) Refuse enclosures shall not be located in the front yard and shall meet all applicable setback requirements for accessory structures set forth in § 151-25 for the zoning district in which they are located.
- (c) Refuse enclosures must be located on the parcel on which the waste is generated.
- (d) Refuse enclosures shall not displace any required off-street parking spaces.
- (e) Refuse enclosures shall be architecturally compatible to the principal structure(s) and constructed using similar or compatible materials and colors.
- (f) The Planning Board may require that refuse enclosures be screened with vegetation.

K. Satellite Dishes and Antennas. Satellite dishes and antennas, such as ham radio, CB, and shortwave antennas, shall be permitted as a customary accessory use for nonprofit, noncommercial purposes in any zoning district, provided that the following standards are met:

- (1) Any antenna, whether attached to a building or freestanding structure, shall not exceed 35 feet in height measured vertically from the established average grade directly below the antenna, and its setback from all adjacent property lines shall be a minimum of 35 feet or the height of the antenna plus ten feet, whichever is greater.
- (2) No ground-mounted or pole-mounted satellite dish or antenna shall be located in a front yard.
- (3) No building-mounted dish antenna shall be mounted on the front facade of the building or on a roof facing a public right-of-way.
- (4) Dish antennas shall be screened by intervening vegetation or landform from adjacent property lines or public rights-of-way to minimize their visibility to the extent practicable without adversely affecting the operation of the dish antenna.
- (5) Any ground-mounted or pole-mounted antenna shall be:
 - (a) Properly anchored, adequately grounded and connected to its receiver by underground wiring; and
 - (b) Designed and located, to the extent practicable, to minimize visual impact on the adjacent property and public rights-of-way, with black mesh preferred for dish antennas due to its significantly reduced visual impact.

L. Short-Term Rentals. A short-term rental shall be permitted where allowed in the District Schedule of Uses, provided that the following standards are met:

- (1) Permit required. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease, or advertise for rent or lease, any property as a short-term rental without first having obtained a short-term rental permit pursuant to Chapter 124 of the Village Code.

- (2) Short-term rental shall only be permitted as an accessory use to a detached single-family dwelling.
- (3) Short-term rental shall only be permitted within a principal building, not an accessory building.
- (4) Short-term rental shall not be permitted on the same lot as an accessory dwelling unit or a Class 2 home occupation.
- (5) The single-family dwelling shall be resident's primary residence and the resident shall reside in the dwelling during the rental. The dwelling shall retain at least one bedroom for the exclusive use of the occupant(s) of the principal dwelling unit to which the short-term rental is accessory.
- (6) Unhosted short-term rental is prohibited in the Village.

M. Solar Collectors. Solar collectors shall be permitted as a customary accessory use in any zoning district, provided that the following standards are met:

- (1) With the exception of the H-O District, the preferred location for solar collectors is on the roof of a structure.
- (2) For building-mounted solar collectors the following shall apply:
 - (a) To minimize their overall visibility, solar collectors and their support structures, shall match the surrounding building fabric in color whenever possible.
 - (b) For a building-mounted solar collector installed on a sloped roof, the solar collector shall be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of eight inches between the roof and edge or surface of the system. The highest point of the solar collector shall not exceed the highest point of the roof to which it is attached.
 - (c) For a building-mounted solar collector installed on a flat roof, the highest point of the collector shall be permitted to extend up to two feet above the surface of the roof or the parapet, whichever is higher. The solar collector shall be set back from the roof edge, and the angle and height of the collector shall be adjusted to minimize visibility to the maximum extent practicable.
 - (d) Roof-mounted solar collectors shall be arranged in a pattern that matches the general shape and configuration of the roof on which they are mounted.
 - (e) Conduits shall be run through the roof or building, and skirting shall be installed around the solar collectors to hide the underlying mounting frames and improve appearance.
- (3) For ground-mounted solar collectors the following shall apply:
 - (a) Ground-mounted solar collectors are prohibited in a front yard, and shall not project closer to a fronting street than the principal building on the lot.
 - (b) Ground-mounted solar collectors shall be considered accessory structures and shall meet all applicable setback requirements for accessory structures set forth in § 151-25 for the zoning district in which they are located.

- (c) The height of a ground-mounted solar collector shall not exceed 12 feet when oriented at maximum tilt.
 - (d) Ground-mounted solar collectors shall be located so as not to impede the solar access of an adjacent property.
 - (e) Ground-mounted solar collectors shall be screened from adjacent properties and from any public right-of-way, recreation park, or other public space to the maximum extent practicable.
 - (f) Ground-mounted solar collectors shall be designed with an anti-reflective coating and positioned so as not to project unreasonable glare onto any property in residential use.
- (4) All solar collectors shall comply with the New York State Uniform Code, as amended, and any additional electrical and safety regulations adopted by the State of New York.
- (5) All exterior electrical lines shall be placed in conduit and buried underground.
- (6) In the H-O District, solar collectors shall require a Certificate of Appropriateness from the Planning Board and shall be located as follows:
- (a) Ground-mounted solar collectors are preferable to location on an historic building, as long as they are located to minimize their visibility from a public right-of-way, and are screened from public viewing locations to the maximum extent practicable through the use of architectural features, earth berms, landscaping, fencing, or other screening, to harmonize the solar collector with the character of the property and surrounding neighborhood.
 - (b) In cases where new buildings or new additions to historic buildings either exist or are proposed, it is preferable to locate solar collectors on the new construction.
 - (c) If ground-mounted solar collectors cannot be accommodated and the site does not include new construction the following shall apply:
 - (i) Solar collectors shall be placed in areas that minimize their visibility from a public right-of-way. The primary façade of an historic building is often the most architecturally distinctive and publicly visible, and thus the most significant and character defining. To the maximum extent practicable, solar collectors shall not be placed on street-facing walls or roofs, including those facing side streets. Preferred locations for solar collectors are below and behind parapet walls and dormers or on rear-facing roofs.
 - (ii) The installation of solar collectors shall not require alterations to significant or character-defining features of an historic structure, such as existing rooflines or dormers, nor shall they obstruct views of significant architectural features, such as overlaying windows or decorative details.
 - (iii) The use of solar roof tiles, laminates, glazing, and other technologies that require the removal of intact historic fabric or that permanently alter or damage such fabric shall be prohibited.

N. **Swimming Pools.** Swimming pools shall be permitted as a customary accessory use in any zoning district, provided that the following standards are met:

- (1) Any outdoor swimming pool as defined in this chapter, shall be subject to the safety measures prescribed by the New York State Uniform Fire Prevention and Building Code.
- (2) A swimming pool must be erected on the same lot as the principal structure.
- (3) A swimming pool shall only be permitted in the rear yard.
- (4) All swimming pools must be located a minimum of five feet from any side and rear lot line.
- (5) Each pool shall be equipped with an integral filtration system, and filter pumps or other mechanical devices shall be so located, constructed, and operated as to not interfere with the peace, comfort, and repose of the occupant of any adjoining property. This requirement does not apply to temporary pools with non-rigid walls designed to be filled by garden hoses rather than a piped water connection, provided that the pool is not designed to contain water more than 18 inches deep.
- (6) No lighting or spotlighting shall be permitted that is capable of projecting light beyond the boundaries of the lot on which said pool is located.

O. **Vehicle Towing Service.** Vehicle towing service shall be permitted as an accessory use to a vehicle service facility in the CMU District, provided that the following standards are met:

- (1) A maximum of three tow trucks may be parked or stored on the property at any one time.
- (2) No vehicles of any kind shall be permitted to be parked or stored in the front yard.
- (3) All vehicle parking and storage areas, service yards, refuse enclosures, and other areas that tend to be unsightly shall be suitably screened to obscure them from view from both neighboring properties and public rights-of-way by use of walls, fencing or planting, or combinations of these, with all such enclosures being compatible in material, texture and color with the principal building or buildings on the property.

§ 151-69. TEMPORARY USES

A. **Fair, festival or similar event (on premises).** Nothing in this chapter shall be construed as prohibiting a place of worship, school, civic association or similar nonprofit organization from holding a fair, festival or similar event for a period not exceeding five days upon its own premises or upon the premises of another such organization, the profit from which event is for the sole benefit of said applicant or other designated noncommercial beneficiary.

B. **Farmers' Market.** Farmers' markets are permitted as a temporary use in the VC and CMU Districts and on any parcel owned by the Village of Wappingers Falls in any zoning district, provided that the following standards are met:

- (1) Farmers' markets shall be open no longer than 16 hours per week.

- (2) There shall be no offensive odors or dust, and there shall be no permanent outdoor storage of materials or equipment.

C. Private Garage and Yard Sale. Nothing in this chapter shall be construed as prohibiting private garage and yard sales, provided that the following standards are met:

- (1) No such sale shall last longer than three consecutive days.
- (2) No premises shall be the site of more than four such sales within one calendar year.
- (3) All sales shall be conducted on the owner's property. Multiple-family sales are permitted, provided that the sale is held on the property of one of the active participants.
- (4) The provisions of Article VII of this chapter notwithstanding, a maximum of three yard signs shall be permitted, each no larger than six square feet, posted no more than seven calendar days before the start date and must be removed within 24 hours after the end date.
- (5) A permit for the private garage or yard sale shall be obtained from the Village Clerk pursuant to Chapter 87 of the Village Code.

D. Temporary Construction Office or Yard. A construction office or yard is permitted as a temporary use in any zoning district, provided that the following standards are met:

- (1) The temporary construction office or yard shall be located on the property where construction is occurring, and shall be permitted from the time a building permit is approved until 30 days after a Certificate of Occupancy is issued.

E. Temporary Portable Storage Container.

- (1) Portable storage containers are prohibited upon a lot in residential use, including residential use in a mixed-use building, or upon a vacant commercial lot, except where the containers provide necessary storage for an active construction project, are necessitated by an unforeseen and uncontrollable event, or to assist in moving in or out of a residence.
- (2) A portable storage container shall not be placed on any property more than two times per calendar year and not more than 30 days at a time. The Code Enforcement Officer may approve an extension for good cause shown.
- (3) All portable storage containers shall be securely closed when not in use. No materials, property, or goods shall be stored outside of a container during the hours between sunset of one day and sunrise of the next day, except if the container is being used in conjunction with construction, and in such case only construction materials may be left outside of the container.

F. Temporary Real Estate Sales/Leasing Office. A real estate sales/leasing office shall be permitted as a temporary use in any zoning district, provided it shall be located on the property being sold or leased, and shall be limited to the period of offering for sale or lease, but not exceeding two years.

G. Temporary/Seasonal Sales. Temporary/seasonal sales are permitted as a temporary use in any zoning district, provided that the following standards are met:

- (1) Seasonal sales are allowed only as accessory to non-residential uses.
- (2) A minimum lot size of 5 acres is required in the R District.
- (3) In the VR and VMU Districts, temporary/seasonal sales are only allowed on parcels with frontage on Route 9D.

ARTICLE X: SPECIAL USE PERMIT

§ 151-70. GENERAL REQUIREMENTS

- A. The special uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein (in addition to all other requirements of this chapter) to mitigate land use or nuisance concerns that may arise from such uses and to assure the proposed use is in harmony with the intent of this chapter and will not adversely affect the neighborhood. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- B. All uses identified as requiring a special use permit in the District Schedule of Uses in Article III of this chapter shall be subject to review and approval of the Planning Board.
- C. A special use permit application shall be initially submitted to the Code Enforcement Officer and, if deemed sufficient by the Code Enforcement Officer, transmitted to the Planning Board for a special use permit in accordance with the standards and procedures set forth in this Article. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer except upon authorization of and in full conformity with plans approved and conditions imposed by the Planning Board.
- D. In accordance with the District Schedule of Uses, certain uses requiring the issuance of a special use permit are additionally subject to site plan review and approval.

§ 151-71. GENERAL STANDARDS

- A. In authorizing any special permit use, the Planning Board shall take into consideration the public health, safety and general welfare, and the comfort and convenience of the public in general, and that of the immediate neighborhood in particular. The Planning Board shall also take in strict account the supplementary standards set forth in Article IX for certain uses, applicable regulations found in Articles V and VI, and the following general objectives for any use requiring authorization from the Planning Board:
 - (1) The location, scale, height, and design of any new or existing building(s) to be occupied by the use, the layout of new buildings on the site, and the size of the site in relation to the use shall not change the established character of the street or neighborhood setting and shall be in harmony with the orderly development of the district in which the proposed use would be located.
 - (2) The location, design and height of walls, fences, outdoor signs, and outdoor lighting; the nature and extent of screening and landscaping; and the nature and intensity of intended operations of the use shall not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Examples of measures of potential impacts due to the nature and intensity of operations include, but are not limited to, traffic generation, hours of operation, size and scale, noise, odor, dust, vibration, glare, smoke, environmental hazards, and other nuisances.

- (3) The use shall be carried out in a manner compatible with its environmental and historic setting and with due consideration to the protection of natural and cultural resources.
- (4) The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns that are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes.
- (5) All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall comply with §151-45 and shall include the preservation of existing trees to the extent practicable.
- (6) Entrance and exit driveways and vehicular circulation on site shall be laid out so as to achieve maximum safety and shall not adversely affect pedestrian traffic.
- (7) All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection, and sufficient water supply and appurtenances for fire-fighting purposes shall be provided.
- (8) Adequate water supply and sewage disposal facilities shall be provided in full accordance with the requirements of the Village of Wappingers Falls and the Dutchess County Department of Behavioral and Community Health, with sufficient engineering documentation provided to allow the Village and the County to assess the adequacy of any existing facilities which are proposed for continued or expanded use.
- (9) The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community. In evaluating cumulative impacts the Planning Board will consider the proximity of other special permit uses, particularly those similar to the use proposed.
- (10) The Planning Board shall impose additional conditions and safeguards upon the special permit as may be reasonably necessary to further the general objectives of this chapter to the maximum extent practicable, and to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.

§ 151-72. SPECIFIC STANDARDS

In addition to the general standards stated above and the site plan design criteria and review considerations stated in Article XI of this chapter, the supplementary standards for uses found in Article IX shall be complied with for the particular special permit use.

§ 151-73. APPLICATION FOR SPECIAL USE PERMIT

- A. All applications for a special use permit shall be submitted to the Planning Board, in writing, on forms prescribed by the Village, and shall be accompanied by hard copies of all required materials in a number as required by the Planning Board, together with an electronic file of all submitted materials in a format prescribed by the Village. Additional

copies may be required due to review and referral requirements set forth in NYS Village Law, General Municipal Law, or Environmental Conservation Law.

B. In order to be considered complete, an application for special use permit shall include the following information, except as may be waived by the Planning Board on a case-by-case basis due to the minor nature of the specific request:

- (1) A written statement describing the proposed use.
- (2) A sketch plan which depicts the overall site layout and building locations, parking areas, access and egress locations, setbacks and buffer areas, lighting, landscaping, signage, and the location and extent of existing development on adjacent parcels.
- (3) Preliminary building plans and elevations illustrating proposed building construction and alteration, including an indication of exterior materials, textures and colors.
- (4) Address of the property and Tax Parcel ID number.
- (5) Name and address of the applicant and of the owner of record, if different. If the applicant is not the owner of record, a letter of authorization from the owner shall be required.
- (6) Current zoning classification(s) of the property.
- (7) A Short or Full Environmental Assessment Form as required by the Planning Board pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR Part 617.
- (8) Payment of the applicable fee in accordance with the Fee Schedule established by the Village Board, and the escrow deposit in accordance with Chapter 72 of the Village Code.
- (9) Any other information deemed helpful by the applicant or necessary by the Planning Board to explain the nature of the proposed use and its consistency with the standards established by this chapter for special permit uses.

§ 151-74. PROCEDURES FOR SPECIAL USE PERMIT REVIEW

A. The Planning Board shall review and act on all special permit uses in accordance with the procedure specified herein:

- (1) Public hearing and notice. Within 62 days of the receipt of a complete application, the Planning Board shall hold a public hearing on the special use permit application, unless the time period is extended by mutual agreement between the applicant and the Planning Board. The Planning Board shall mail notice of the public hearing to the applicant at least ten days before such hearing, and shall give public notice of said hearing in an official newspaper of the Village at least five days prior to the date of the public hearing. The Village shall charge the applicant the actual cost of mailing and publishing the notice, or a reasonable fee related thereof, for satisfying this requirement.
- (2) Additionally, the Planning Board shall provide notice of the public hearing, including data regarding the substance of the application, to the applicant, who shall mail the notice to the owners of all property lying within 200 feet of the property lines of the

property involved in such application at least 10 calendar days prior to the hearing. The applicant shall provide a certificate of mailing to the Planning Board prior to the public hearing.

- (a) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Village.
- (b) Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in either granting or denying a special use permit.
- (3) For applications that meet the criteria of § 239–nn of the General Municipal Law, the Planning Board shall give notice, either by mail or by electronic transmission, to the clerk of the adjacent municipality at least ten days prior to the public hearing.
- B. Required referral. Prior to taking action on the special use permit, the Planning Board shall refer a complete special use permit application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Dutchess County Department of Planning and Development for its review and recommendation. No action shall be taken by the Planning Board on the special use permit application until a recommendation has been received from the County Planning Department or 30 days have elapsed since said Department received the complete application.
- C. The Planning Board shall comply with the State Environmental Quality Review Act (SEQRA).
- D. Agency and consultant review. In its review of an application for a special use permit, the Planning Board may consult with other local, county or state agencies or officials, and its designated private planning and engineering consultants and legal counsel. Reasonable costs incurred by the Planning Board for professional review or other extraordinary expense in connection with the review of a proposed special use permit shall be borne by the applicant and are in addition to any administrative fees charged by the Village, as outlined in Chapter 72 of the Village Code.

§ 151-75. PLANNING BOARD ACTION

- A. Every decision of the Planning Board with respect to a special use permit application shall be made by resolution within 62 days after the public hearing, unless such time frame is extended by mutual consent of the applicant and the Planning Board. The resolution shall clearly state the decision, including findings, and any conditions attached thereto. Within five business days of the Planning Board's action, a copy of the resolution shall be filed in the Village Clerk's office and mailed to the applicant.
- B. The Planning Board shall not issue a special use permit unless it finds that the proposed use will satisfy the general standards set forth herein and the supplementary standards set forth for the use in Article IX.
- C. The Planning Board 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 specific determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been or are no

longer being complied with. In such cases, a period of 60 calendar days shall be granted for full compliance by the applicant prior to consideration of the revocation of the special use permit.

§ 151-76. EFFECT OF SPECIAL USE PERMIT APPROVAL

- A. In addition to compliance with all other applicable provisions of this chapter and all other local, county and state laws, rules and regulations, no building permit shall be issued for any structure regulated by this Article until such special use permit has received Planning Board approval and a copy of a resolution to that effect has been presented to the Code Enforcement Officer.
- B. No certificate of occupancy 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 Planning Board resolution of special use permit approval and other applicable requirements of this chapter.
- C. Any use for which a special use permit may be granted shall be deemed a conforming use in the zoning district in which it is located, provided that such special use permit shall be deemed to affect only the lot or portion thereof for which such special use permit has been granted.
- D. Unless otherwise provided in this chapter, a special use permit shall run with the land and be transferred to successive property owners, provided that no changes are made to the use, it continues to comply with the conditions of the special use permit, and the permit has not expired or been revoked.
- E. Any special use permit, if granted, shall pertain only to the specific property for which the application was made. Such granted permit does not apply to any other property the applicant may control.

§ 151-77. EXPIRATION OF APPROVAL

- A. A special use permit shall be deemed to authorize only the particular use or uses expressly specified in the permit and shall expire if:
 - (1) The special use permit activity is not commenced and diligently pursued within one year of the date of issuance of the special use permit. Upon prior written request to the Planning Board, received prior to the expiration of the one-year period, including a statement of justification for the requested time extension, the time period for initiation of the special permit use may be extended once for a maximum period of one year from its otherwise specified termination date.
 - (2) In the case where site plan review and approval or the issuance of a building permit is required, vesting of the special use permit may occur through submission within the specified time period of a complete application for either required site plan approval or the issuance of a building permit to carry out all work governed by the special use permit.
 - (3) Said use ceases or is discontinued for any reason for a period of one year (12 consecutive months).

- B. The Planning Board may impose such conditions as it deems appropriate upon the grant of any extension. The granting of an extension of time under this section shall not require a public hearing.

§ 151-78. REVOCATION AND ENFORCEMENT

- A. The Code Enforcement Officer may revoke a special use permit if it is found that there has been a substantial failure to comply with any of the terms, conditions, limitations and requirements imposed by said special use permit, or it violates any applicable regulations of this chapter.
- B. Any violation of the conditions of a special use permit shall be deemed a violation of this chapter and shall be subject to enforcement action as provided in Article XIV herein.

§ 151-79. INTEGRATION OF PROCEDURES

Whenever a particular application or proposed development requires special use permit review and approval by the Planning Board together with site plan and/or subdivision review and approval, the Planning Board shall integrate, to the extent practicable and consistent with applicable law, all required reviews, and shall deem all such reviews part of one and the same action pursuant to the State Environmental Quality Review Act.

§ 151-80. RELIEF FROM DECISIONS

Any person or persons jointly or severally aggrieved by any decision of the Planning Board on a special use permit application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules 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 as therein provided within thirty (30) calendar days after the filing of the Board's decision in the Office of the Clerk.

ARTICLE XI: SITE PLAN REVIEW

§ 151-81. PURPOSE

The purpose of this Article is to provide regulations governing the applicability, submission requirements, and standards for review and design of uses required to obtain site plan approval. The intent is to ensure that the development and use of land does not have an adverse effect on adjacent lands or on the character of the community. Such regulations are designed to protect the community from traffic congestion and conflicts, noise, lighting, odor and other forms of pollution, inappropriate design, flooding, and excessive soil erosion, to ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed, and that its impacts can be mitigated by compliance with reasonable conditions. The regulations are also designed to ensure that new development conforms with the Village's planning goals and objectives, as expressed in its *Comprehensive Plan*.

§ 151-82. APPLICABILITY

- A. The Planning Board is authorized to review and approve, approve with modifications or disapprove site plans. Where site plan approval is required, it shall be obtained prior to the issuance of a building permit or (if no building permit is required) a certificate of occupancy and prior to the commencement of excavation for construction activities. For all uses identified as requiring site plan approval in the District Schedule of Uses in Article III of this chapter, the Code Enforcement Officer shall refer the applicant to the Planning Board for site plan review and approval in accordance with § 7-725-A of NYS Village Law and the more specific design standards and review procedures set forth in this Article. Site plan approval by the Planning Board is required for:
 - (1) The establishment of new uses, a change of use, a change of the intensity of a use, or a change to principal site elements. For example, replacing an existing restaurant with a new restaurant, without changing the intensity of the use, would not be a change of use, but replacing a restaurant with an office would be a change of use. A change of the intensity of a use shall include but not be limited to: an increase in gross floor area, number of dwelling units, guest rooms, or seating capacity; an increase in any unit of measurement which creates the need for an increase in the total number of parking spaces; or a significant increased demand on water supply, sanitary sewage disposal, or stormwater management, as determined by the Village Water Board or Board of Trustees. A change to principal site elements shall include but not be limited to the location, number and configuration of parking spaces; the location and configuration of access and egress points; the location, height, type and intensity of outdoor lighting; the location, type and extent of site landscaping; the location, number, and size of signs; and the location and height of fences, walls and similar improvements.
 - (2) The decision regarding whether site plan review is required shall be made by the Code Enforcement Officer.
 - (3) Site plan approval shall not be required for a change of ownership or tenancy or lessee, or the replacement of an existing use with the same use as long as such change

or replacement will result in no increase in intensity or principal site elements as discussed above.

- (4) Site plan approval shall also be required for any development that is the functional equivalent of a land subdivision but which is structured for ownership purposes as a condominium project or leasehold. In such cases, the Planning Board shall apply all relevant review criteria contained in § 7-728, 7-730, 7-732, and 7-738 of NYS Village Law as well as the provisions of this chapter.

- B. The Village Board may, in consultation with the Planning Board, adopt a Pattern Book or architectural guide with additional illustrations and information on development patterns and architectural character to supplement the design standards of this chapter and aid in its administration. In such case, conformance with the standards of the Pattern Book shall be required for all development in the H-O District. In all other cases, applicants are strongly encouraged to consult the Pattern Book for appropriate architectural design.

§ 151-83. SKETCH PLAN CONFERENCE

- A. A sketch plan conference between the Planning Board and applicant shall be held to initially review the basic site design concept and to generally determine the extent of site plan review necessary for the intended project and the information to be required on the site plan and in accompanying reports.
- B. Prior to the sketch plan conference, the applicant shall provide the following information:
 - (1) A written statement describing what is proposed and, if any physical changes are proposed to the site, a sketch plan, which may be based on either an aerial photograph or a survey, depicting the locations of all existing and proposed buildings, structures, uses, parking areas and other features on the site, and any significant anticipated changes to the existing topography and natural features.
 - (2) An area map, which may be obtained from Dutchess County Parcel Access, keyed to the real property Tax Maps, showing the parcel under consideration for site plan review and all properties, structures, subdivisions, streets and easements within 200 feet of the boundaries thereof.
 - (3) Address of the property and Tax Parcel ID number.
 - (4) Name and address of the applicant and of the owner of record, if different. If the applicant is not the owner of record, a letter of authorization from the owner shall be required.
 - (5) Current zoning classification(s) of the property.
- C. At the sketch plan conference, the Planning Board may waive one or more of the site plan submission requirements, as set forth in the checklist found in § 151-84A of this chapter. The Planning Board may also require that the applicant seek pre-application input from one or more of the persons and agencies cited in § 151-86F of this section.
- D. If the Planning Board determines that the information submitted for sketch plan review is sufficient, it may, at its discretion, accept and approve a site plan application at the sketch plan meeting without requiring additional information.

§ 151-84. APPLICATION FOR SITE PLAN APPROVAL

Within six calendar months of the sketch plan conference, a complete application for site plan approval shall be submitted to the Planning Board, in writing, on forms prescribed by the Village, and shall be accompanied by hard copies of all required materials, including all accompanying reports, drawings and the Environmental Assessment Form, in a number as required by the Planning Board, together with an electronic file of all submitted materials in a format prescribed by the Village. Additional copies may be required due to review and referral requirements set forth in NYS Village Law, General Municipal Law, or Environmental Conservation Law. Such plans shall include the information drawn from the following checklist of items, as determined by the Planning Board, which shall be provided on a drawing certified by a Registered Architect, Professional Engineer, Landscape Architect, or Land Surveyor licensed to practice in New York State, unless such requirement is waived by the Planning Board. The Planning Board is not limited to this list and may request any additional information it deems necessary or appropriate for the review of the application.

A. Site plan checklist.

- (1) Name of the project, including names and addresses of the applicant and the owner of record, if different; name, address, and seal of the person or firm preparing the plan; and a signature block for the Planning Board and, if applicable, the Dutchess County Department of Behavioral and Community Health. If the applicant is not the owner of record, a letter of authorization from the owner shall be required.
- (2) North arrow, date and scale of the plan, with the scale to be not less than one inch equals 50 feet.
- (3) An area map keyed to the real property Tax Maps, showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof.
- (4) Accurate boundaries of the property plotted to scale, including reference to the specific data sources.
- (5) The zoning classification(s) of property and within 200 feet of the site's perimeter shall be drawn and identified on the site plan, as well as any overlay districts that apply to the property, including exact zoning boundary if the property is in more than one district.
- (6) The names of all owners of record of lands adjacent to or directly opposite the applicant's property.
- (7) The location of structures, uses and facilities on adjacent properties within 100 feet of the subject property boundary.
- (8) The location and boundaries of existing natural features including soil types and soil characteristics; steep slopes in excess of 15 percent; depth to bedrock and the location of rock outcrops; depth to groundwater; single trees eight or more inches in diameter at breast height (dbh) located within any area where clearing will occur; existing vegetation and forest cover; lakes, ponds, watercourses, wetlands, floodplains, aquifers; and drainage and runoff patterns.

- (9) The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, setback measurements, all exterior entrances, frontage types, and all proposed additions and alterations.
- (10) A Zoning Legend indicating the required and proposed dimensional standards for the district(s) in which the property is located in accordance with Article IV (Building Design and Infill Standards).
- (11) Floor plans.
- (12) Building elevations at a scale of one-quarter inch equals one foot ($\frac{1}{4}'' = 1'$) for all exterior facades of the proposed structure(s) and/or alterations or expansions of existing facades, showing design features, including the additional design features as outlined in Article V (Building Design and Infill Standards), and indicating the type and color of materials to be used. Building elevations shall depict the location of roof-mounted mechanical equipment.
- (13) Visual simulations showing proposed buildings in the context of the neighborhood.
- (14) A table containing the following information:
 - (a) Estimated area of structure used and intended to be used for particular uses, such as dwelling units, retail, office, storage, etc.;
 - (b) Number of dwelling units and bedrooms;
 - (c) Estimated number of current and future employees;
 - (d) Maximum seating capacity, where applicable; and
 - (e) Number of parking spaces existing and required for existing and proposed uses.
- (15) The location of all existing and proposed public and private ways, off-street parking and loading areas, access and egress drives, snow storage areas, sidewalks, ramps, curbs, paths, bicycle racks, walls and fences. Information should include profiles and cross sections of roadways and sidewalks showing grades and widths.
- (16) Pedestrian, bicycle and vehicle connections to adjoining properties.
- (17) Traffic flow patterns within the site and within 100 feet of the site. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas.
- (18) A landscaping plan and planting schedule, including the number, size (at time of planting), type, and location of all proposed trees, shrubs, ground covers, and other vegetation, as required by § 151-45 of this chapter.
- (19) Location and proposed planting of all buffer areas, including existing vegetative cover and that portion that will be preserved, as required by § 151-45 of this chapter.
- (20) Information on all outdoor lighting as required by § 151-46 of this chapter.
- (21) Information on all proposed signs as required by Article VII (Signs) of this chapter.
- (22) The location of outdoor storage for equipment and materials, if any, and the location, type, design, and screening details of all refuse enclosures.

- (23)The location and screening details of roof-mounted and ground-mounted mechanical equipment.
 - (24)The location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems shall be described, including location, design and construction materials.
 - (25)The location of all existing and proposed utility systems, including telephone, cable, and internet, and all energy distribution facilities including oil, electric, gas, geothermal, wind, solar, and other alternative systems.
 - (26)The location, size and design of the storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, manholes, and drainage swales.
 - (27)The location of fire and other emergency zones, including the location of fire hydrants or the nearest alternative water supply for fire emergencies.
 - (28)Grading and drainage plan, showing existing and proposed contours at an appropriate interval specified by the Planning Board, with two-foot contour intervals and soils data generally required on that portion of any site proposed for development or where general site grades exceed 5 percent or there may be susceptibility to erosion, flooding or ponding. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one-hundred year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filing is required, showing the approximate volume in cubic yards.
 - (29)Erosion and sedimentation control plan to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
 - (30)Where appropriate, the Planning Board may require soil logs, percolation test results, and storm runoff calculations.
 - (31)Plans for disposal of construction and demolition waste, either on site or at a New York State approved solid waste management facility.
 - (32)Estimates of noise generation and compliance with Chapter 100 of the Village Code.
 - (33)Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.
 - (34)Measures proposed to reduce energy consumption and greenhouse gas emissions.
 - (35)Other information that may be deemed necessary by the Planning Board.
- B. Waivers. The Planning Board may waive or allow deferred submission of any of the information required in subsection A above, as it deems appropriate to the application. Such waivers shall be discussed in the course of regular meetings. The Planning Board shall include a written record of waivers granted by the Board in the permanent record of the property.

- C. Required fee and supporting materials. An application for site plan review and approval shall not be considered complete until accompanied by the applicable fee in accordance with the Fee Schedule established by the Village Board, the escrow deposit in accordance with Chapter 72 of the Village Code, and the following supporting materials:
- (1) A copy of the deed to the property as most recently filed and/or a copy of the executed contract of sale.
 - (2) A copy of each covenant, easement or deed restriction in effect or intended to cover all or part of the tract.
 - (3) Written offers of easement to the Village of Wappingers Falls or other public agencies for purposes of stormwater drainage, utility rights-of-way, etc.
 - (4) Identification of all necessary permits and approvals from federal, state, county or local agencies, and proof of Special Permit and/or variance approvals if applicable.
 - (5) A Short or Full Environmental Assessment Form as required by the Planning Board pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR Part 617.

§ 151-85. SITE PLAN DESIGN CRITERIA

- A. In reviewing site plans, the Planning Board shall consider whether the project complies with criteria set forth below. The Planning Board shall also consider whether the proposed project is consistent with the Village of Wappingers Falls *Comprehensive Plan*, the *Greenway Compact Program and Guides for Dutchess County*, and any Pattern Book or architectural guide that may be adopted by the Village Board to supplement the design standards of this chapter and aid in its administration.
- (1) General considerations. The Planning Board shall consider:
- (a) Compatibility of building design with existing characteristics of the neighborhood, including consideration of nearby historic or architecturally significant properties.
 - (b) Adequacy and arrangement of pedestrian access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian safety and convenience.
 - (c) Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting, landscaping, and signage.
 - (d) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between the applicant's and adjoining lands, including concern for the maximum retention of existing vegetation.
 - (e) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (f) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, roads widths, pavement surfaces, dividers, channelized structures and other controls.

- (g) Location, arrangement, appearance and sufficiency of off-street parking and loading facilities.
 - (h) Adequacy of stormwater and drainage facilities.
 - (i) Adequacy of water supply and sewage disposal facilities.
 - (j) Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.
 - (k) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion or in the vicinity of wetlands or similar natural features.
 - (l) Adequacy of energy efficiency and energy conservation measures proposed to reduce energy consumption and greenhouse gas emissions.
- (2) Layout and Design.
- (a) To the maximum extent practicable, development shall be located to preserve the natural features of the site and to avoid wetlands, steep slopes, significant wildlife habitats and other areas of environmental sensitivity.
 - (b) All structures in the plan shall be integrated with each other and with adjacent structures and shall have convenient access between adjacent uses.
 - (c) Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in layout and placement of buildings, architecture, design, massing, materials, proportion, texture and color, and shall harmonize with traditional elements in the architectural fabric of the area. Building components such as windows, rooflines and pitch, doors, eaves and cornices shall be compatible with historic structures in the Village.
 - (d) Roof-mounted and ground-mounted mechanical equipment shall be screened from public view using materials harmonious with the building or shall be located where they are not visible from any public ways.
 - (e) The Planning Board shall encourage the creation of landscaped parks or squares easily accessible by pedestrians.
 - (f) Trademarked architecture which identifies a specific company by building design features shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of the Village and any Pattern Book or architectural guide adopted by the Village Board.
 - (g) Adverse impacts on historic and cultural resources shall be minimized.
 - (h) Newly installed utility service systems, and service modifications necessitated by exterior alterations, shall be installed underground. When feasible, existing aboveground utility service systems shall be placed underground.
- (3) Landscape, buffering and site treatment.
- (a) Where possible, natural or existing topographic patterns which contribute to the beauty and character of a development shall be preserved.

- (b) Existing trees eight or more inches in diameter at breast height shall be protected and preserved to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees. The preservation of mature plant species, hedgerows, wetlands and woodlots shall be encouraged and included as a design element in the development of the site.
 - (c) Landscape plantings of shrubs, ground cover and shade trees, as well as perennials and annuals and other materials such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian-scale spaces and to maintain landscape continuity within the community.
 - (d) Grades of walks, parking spaces, patios and other paved areas shall provide an inviting appearance.
 - (e) Landscaped treatment shall be provided to enhance architectural features, to strengthen vistas and visual corridors, and to provide shade.
 - (f) Unity of design shall be achieved through repetition of certain plant varieties and other materials and by coordination with adjacent developments.
 - (g) Plant material shall be selected for interest in its structure, texture and color, and in consideration of its ultimate growth pattern.
 - (h) In locations where plants may be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards or other devices.
 - (i) All plantings shown on an approved site plan shall be maintained in a vigorous growing condition throughout the duration of the use.
 - (j) For additional landscaping requirements, including landscaping of parking lots, see § 151-45 of this chapter.
- (4) Lighting. Outdoor lighting shall conform to the requirements set forth in § 151-46 of this chapter.
- (5) Signs.
- (a) Every sign shall conform to the requirements set forth in Article VII of this chapter, and shall be well-proportioned in its design and in its visual relationship to buildings and surroundings.
 - (b) Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
 - (c) The colors, materials and lighting of every sign shall be restrained and shall be harmonious with the building and site to which it principally relates.
 - (d) Signs of a prototype design and corporation logos shall conform to the criteria for all signs within the Village of Wappingers Falls.
- (6) Parking, circulation, and loading.

- (a) Roads, driveways, sidewalks, off-street parking and loading spaces shall be safe and shall encourage pedestrian movement.
 - (b) Vehicular, pedestrian, and bicycle connections within and between abutting lots shall be provided as required by § 151-44K(9).
 - (c) Pedestrian circulation shall be separated, to the maximum extent practicable, from motor vehicle circulation. Appropriate sidewalks or walkways shall be provided on the site and its approaches as deemed necessary by the Planning Board.
 - (d) Facilities shall be provided, where deemed applicable by the Planning Board, for bicycle travel within the site and to adjacent areas, and for short-term and long-term parking of bicycles, which shall conform to the requirements of § 151-44K(12).
 - (e) Off-street parking and loading standards in § 151-44 shall be satisfied.
 - (f) All access from and egress to public highways shall be approved by the appropriate highway department, including Village, county, and state.
 - (g) All “places of public accommodation,” as defined in the ADA, shall comply with the requirements of that act concerning on-site circulation and access.
 - (h) All buildings shall be accessible by emergency vehicles.
 - (i) In developments where a link to places of worship, shopping areas, trails, recreational areas and other public facilities is feasible, or where a trail connection is recommended on the Wappingers Falls Greenway Trails Map, a trail corridor shall be reserved on the approved site plan for this purpose.
- (7) Reservation of parkland or fee in lieu thereof. For any site plan containing new dwelling units, pursuant to NYS Village Law § 7-725-a(6), the Planning Board shall determine whether suitable park(s) of adequate size to meet the recreation requirements of the new residents can be properly located on the site and if so, require that land be reserved for this purpose. If the Planning Board finds that suitable park(s) cannot be located on the site, it shall require the payment of a recreation fee in accordance with the Village’s Fee Schedule. Prior to the Chair of the Planning Board signing the approved site plan, the applicant must pay the requisite recreation fee.
- (8) Storm drainage. The proposed development shall be so designed as to provide for proper surface water management through a system of controlled drainage. All drainage plans shall be reviewed and approved by the Village Engineer. Drainage of the site shall recharge groundwater to the extent practical. The rate of surface water flowing off site shall not increase above pre-development conditions and shall not adversely affect drainage on adjacent properties or public roads.
- (9) Miscellaneous standards.
- (a) Buildings and other facilities shall be designed, located, and operated to avoid causing excessive noise on a frequent or continuous basis.

- (b) Applicable requirements for proper disposal of construction and demolition waste shall be satisfied, and any necessary permits or agreements for off-site disposal shall be obtained.
- (c) No materials shall be placed below the finished grade of a site other than utilities, sand, gravel, rocks, and soil that are uncontaminated by any solid waste or hazardous materials. Materials that were previously contaminated and have been reconditioned shall not be permitted under this subsection, except that decontaminated material may be used as a base for road or parking lot construction, provided that such decontaminated material does not pollute groundwater or surface water.
- (d) Facilities to handle solid waste, including compliance with recycling requirements, shall be easily accessible, secure and properly screened in accordance with § 151-68J.
- (e) The project shall not adversely impact the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.

§ 151-86. PROCEDURES FOR SITE PLAN REVIEW

- A. Following review of submitted formal application items, the Planning Board shall determine the application's completeness. Once the application is determined to be complete by the Planning Board, it shall be deemed received, and the Planning Board shall either schedule a public hearing or render its decision in accordance with the time frames below.
- B. If the Planning Board is conducting a special permit review as part of a site plan review, the Planning Board shall refer to additional criteria in Article X.
- C. Public hearing and notice.
 - (1) Within 62 days of the receipt of a complete application, the Planning Board shall hold a public hearing on the site plan if a public hearing is deemed necessary by the Planning Board, unless the time period is extended by mutual agreement between the applicant and the Planning Board.
 - (2) In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and/or the potential for environmental impact.
 - (3) Applicants may request a public hearing.
 - (4) Public hearing notice:
 - (a) The Planning Board shall mail notice of the public hearing to the applicant at least ten days before such hearing, and shall give public notice of said hearing in an official newspaper of the Village at least five days prior to the date of the public hearing. The Village shall charge the applicant the actual cost of mailing and publishing the notice, or a reasonable fee related thereof, for satisfying this requirement.

- (b) Additionally, the Planning Board shall provide notice of the public hearing, including data regarding the substance of the application, to the applicant, who shall mail the notice to the owners of all property lying within 200 feet of the property lines of the property involved in such application at least 10 calendar days prior to the hearing. The applicant shall provide a certificate of mailing to the Planning Board prior to the public hearing.
 - (i) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Village.
 - (ii) Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in either granting or denying a site plan application.
- (6) For applications that meet the criteria of § 239–nn of the General Municipal Law, the Planning Board shall give notice, either by mail or by electronic transmission, to the clerk of the adjacent municipality at least ten days prior to any public hearing.
- D. Required referral. Prior to taking action on the site plan, the Planning Board shall refer a complete site plan application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Dutchess County Department of Planning and Development for its review and recommendation. No action shall be taken by the Planning Board on the site plan application until a recommendation has been received from the County Planning Department or 30 days have elapsed since said Department received the complete application.
- E. The Planning Board shall comply with the State Environmental Quality Review Act (SEQRA).
- F. Agency and consultant review. In its review of an application for site plan approval, the Planning Board may consult with Building Department Staff, the Superintendent of Highways, the Village Water Board, the Village Board, the Dutchess County Department of Behavioral and Community Health, other local and county officials, and its designated private planning and engineering consultants and legal counsel, in addition to representatives of state agencies, including but not limited to the State Department of Transportation, the State Health Department, the Department of Environmental Conservation, and the Office of Parks, Recreation, and Historic Preservation. 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 borne by the applicant and are in addition to any administrative fees charged by the Village, as outlined in Chapter 72 of the Village Code.

§ 151-87. PLANNING BOARD ACTION

- A. Within 62 days of the close of a required public hearing or within 62 days after the receipt of a complete application by the Planning Board where no public hearing is required, the Planning Board shall act by resolution to either approve, approve with modifications, or disapprove the site plan application, unless the time period is extended by mutual agreement between the applicant and the Planning Board.

- B. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairperson to sign the site plan upon the applicant's compliance with the submission requirements stated therein. If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.
- C. Filing of decision. A copy of the resolution shall be filed in the Village Clerk's office and mailed to the applicant within five business days of the Planning Board's action.

§ 151-88. SUBMISSION REQUIREMENTS FOR SIGNING

- A. Within six calendar months after receiving approval of a site plan, with or without modifications, the applicant shall submit hard copies of the site plan to the Planning Board in a number as required by the Planning Board, together with an electronic file in a format prescribed by the Village, for signing. The site plan submitted for signing 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:
 - (1) Record of application for and approval status of all necessary permits from federal, state and county officials.
 - (2) Detailed sizing and final material specification of all required improvements.
 - (3) An estimated project construction schedule and, if a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate.
 - (4) Proof of payment of all fees, including the recreation fee when required, and of the Planning Board's reasonable review costs.
- B. Upon signing the site plan, the Planning Board shall forward a copy of the approved site plan to the Village Clerk, the Code Enforcement Officer, and the applicant. The Code Enforcement Officer may then issue a Building Permit or (if no building permit is required) a Certificate of Occupancy if the project conforms to all other applicable requirements.

§ 151-89. PERFORMANCE GUARANTY

No certificate of occupancy or certificate of compliance shall be issued until all improvements shown on the approved site plan are installed, or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified within § 7-725-A of NYS Village Law, and shall generally cover limited elements of the work, *e.g.*, final asphalt paving or landscaping, that cannot be completed due to seasonal constraints, and the applicant shall subsequently be prepare and submit the required list of features indicating compliance with the approved site plan or an as-built drawing, as required in § 151-90B. The amount and sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Village Attorney,

the Village Engineer, and other local officials or the Planning Board's designated private consultants.

§ 151-90. INSPECTION OF IMPROVEMENTS AND AS-BUILT PLANS

- A. The Code Enforcement Officer shall be responsible for the inspection of site improvements, including coordination with the Village Engineer and other local officials and agencies, as may be appropriate, and shall grant a certificate of occupancy or certificate of compliance upon a finding that the project, as built, complies in all material respects with the site plan. Reasonable and necessary costs incurred by the Village for inspections by the Village Engineer or other appropriate professionals shall be in addition to the costs associated with site plan review, and shall be reimbursed to the Village by the applicant in accordance with Chapter 72 of the Village Code.
- B. Within 60 days after the certificate of occupancy or certificate of compliance has been issued, the applicant shall submit a list of features indicating compliance with the approved site plan, or an as-built drawing if required by the Code Enforcement Officer.

§ 151-91. EXPIRATION OF APPROVAL Planning Board approval of a site plan shall expire if any of the following circumstances occurs:

- A. The site plan is not submitted for signature by the Planning Board Chairperson within six months of the Planning Board's resolution of site plan approval, with or without conditions.
- B. A complete application for either a building permit or (if no building permit is required) a certificate of occupancy is not submitted to the Code Enforcement Officer within one year of the signing of the site plan by the Chairperson.
- C. Work authorized under a building permit is not commenced and diligently pursued through the completion of construction within six months of the issuance of the building permit, unless said time frame is extended by the Code Enforcement Officer.
- D. Upon prior written request to the Planning Board, including a statement of justification for the requested time extension, the Planning Board may grant one or more extensions, of up to six months each, to:
 - (1) Submit the site plan for signature by the Planning Board Chairperson, upon a finding that an applicant is working toward completion of the conditions of the Planning Board's resolution of site plan approval with due diligence and has offered a reasonable explanation of its inability to complete such conditions and submit a site plan within six months of the approval. No further extensions may be granted if the site plan is not submitted for signature by the Planning Board Chairperson within two years following the approval; and
 - (2) Submit a complete application for either a building permit or (if no building permit is required) a certificate of occupancy to the Code Enforcement Officer, upon a finding that an applicant has offered a reasonable explanation of its inability to apply for a building permit or certificate of occupancy. No further extensions may be granted if the building permit or certificate of occupancy has not been applied for within one year following signing of the site plan by the Planning Board Chairperson.

- E. The Planning Board may impose such conditions as it deems appropriate upon the grant of any extension. The granting of an extension of time under this section shall not require a public hearing.

§ 151-92. INTEGRATION OF PROCEDURES

Whenever a particular application or proposed development requires compliance with another procedure in this chapter, such as special permit review and approval, or with the requirements of Village Code or NYS Village Law relating to subdivisions, the Planning Board shall integrate, to the extent of its authority under law, site plan review as required by this article 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 otherwise stated in this article or in said related regulations or requirements.

§ 151-93. REVOCATION AND ENFORCEMENT OF SITE PLANS

- A. Site plan approval shall be revoked if the permittee violates the conditions of the site plan approval or engages in any construction or alteration not authorized by the site plan approval.
- B. Any violation of the conditions of a site plan approval shall be deemed a violation of this chapter and shall be subject to enforcement action as provided in Article XIV herein.

§ 151-94. RELIEF FROM DECISIONS

Any person or persons jointly or severally aggrieved by any decision of the Planning Board on a site plan approval application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules 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 as therein provided within thirty (30) calendar days after the filing of the Board's decision in the Office of the Clerk.

ARTICLE XII: NONCONFORMITIES

§ 151-95. APPLICABILITY

With the exception of nonconforming signs, which shall be governed by Article VII (Signs), nonconforming outdoor lighting, which shall be governed by § 151-46, and nonconforming telecommunications facilities, which shall be governed by § 151-67V, the following provisions shall apply to all buildings, structures and uses existing on the effective date of this chapter, as well as to any buildings or uses that may become nonconforming by reason of any subsequent amendment to this chapter and/or to the Zoning Map which is a part thereof, and to all complying buildings housing nonconforming uses.

§ 151-96. ROUTINE MAINTENANCE PERMITTED

Nothing in this Article should be read to prohibit the routine maintenance or repair of any structure containing a nonconforming use, or any nonconforming structure.

§ 151-97. NONCONFORMING USES

Except as otherwise provided in this chapter, any lawful nonconforming use in existence on the effective date of this chapter, or on the effective date of any subsequent amendments to this chapter, may be continued indefinitely provided that it is maintained in accordance with all applicable codes, ordinances, regulations or other requirements, but such use shall not be expanded, restored, moved, changed or reestablished except as specifically provided in this Article. Any existing natural or man-made screening of nonconforming uses or structures shall not be removed or replaced without prior authorization of the Code Enforcement Officer. Such screening shall be maintained in a good state of repair.

A. Expansion, replacement, discontinuance or conversion.

- (1) Expansion of use. A nonconforming use may be expanded within an existing structure (if an interior use) or on an existing site (if an exterior use) one time only after the use became nonconforming, provided that the extent of such expansion does not exceed 25 percent of the gross floor area of the structure or of the site dedicated to the nonconforming use, or 25 percent of the combined interior and exterior space devoted to such use, at the time of enactment of this chapter, and provided that the expansion is in strict compliance with the Development Standards set forth for the zoning district in Article IV. Any such expansion shall be preceded by site plan review and approval by the Planning Board in accordance with Article XI of this Chapter.
- (2) Expansion of structure containing a nonconforming use. No building permit shall be issued to permit the increase in gross floor area of a structure containing a nonconforming use unless the nonconforming use is changed to a conforming use or to a less nonconforming use as determined by the Zoning Board of Appeals.
- (3) Replacement. If a nonconforming use is replaced by another use, such use shall be a permitted use in the district in which it is located, unless it is determined by the Zoning Board of Appeals that such replacement use is similar or less nonconforming than the existing use.

(4) **Discontinuance.** If a nonconforming use ceases or is discontinued for any reason for a period of one year (12 consecutive months), such nonconforming use shall expire, be deemed abandoned, and shall not be recommenced, regardless of any intent, expressed or not, to recommence such nonconforming use; any subsequent use on the same lot shall conform to the regulations of the district in which it is located.

(5) **Conversion.** If a nonconforming use is converted to a conforming use, or less nonconforming use as determined by the Zoning Board of Appeals, at any time for any period of time, such nonconforming use shall not be recommenced.

B. Destruction and restoration of structures containing nonconforming uses. If any structure in which a nonconforming use is conducted is hereafter damaged or destroyed, in whole or in part, resulting in the cessation of all or part of the nonconforming use of the structure for a period of more than thirty days, such discontinued nonconforming use shall not be resumed unless application for a building permit to permit the reconstruction of such structure and the associated recommencement of the nonconforming use is sought within one year, and the structure for the nonconforming use is constructed within one additional year. The building permit may be renewed one time prior to its expiration on good cause shown. For the purpose of this paragraph, “sought” shall require submission of all necessary copies of a full and complete application for a building permit, with all required supporting documentation, as certified by the Code Enforcement Officer. If the proposed reconstruction of the structure deviates from what existed prior to the date of the damage or destruction, as determined by the Code Enforcement Officer, then site plan approval pursuant to Article XI shall be required, and such approval also shall be sought within the required period.

§ 151-98. NONCONFORMING STRUCTURES

- A. **Continuation.** The use of any existing lawful nonconforming structure, or any structure for which a valid building permit has been issued at the time of adoption of this chapter, may be maintained.
- B. **Maintenance.** All nonconforming structures shall be maintained in such condition as to not constitute a danger to the health, safety, or general welfare of the public.
- C. **Modification.** A nonconforming structure shall not be added to, enlarged or altered in any manner which increases its nonconformity. A nonconforming structure may be added to, enlarged or altered in any manner which does not increase its nonconformity or make it otherwise nonconforming.
- D. **Relocation.** Should any nonconforming structure be moved for any reason, it shall thereafter conform to the setback regulations for the district in which it is located after it is moved.
- E. **Replacement.** If any nonconforming structure is hereafter damaged or destroyed, in whole or in part, such nonconforming structure may be replaced on its identical footprint, subject to site plan approval from the Planning Board pursuant to Article XI of this chapter, which approval must be sought within one year of the damage or destruction, provided that the structure is not added to, enlarged, or altered in any manner which increases its nonconformity. If such approval is not sought within one year, any

construction must conform to the regulations of the district in which the structure is located. For the purposes of this paragraph, “sought” shall require submission of all necessary copies of a full and complete application for site plan review, as applicable, with all required supporting documentation, as certified by the Code Enforcement Officer. Nothing in the paragraph should be deemed to prohibit, and the Planning Board is hereby expressly authorized to permit, any changes to the structure which make the structure less nonconforming.

§ 151-99. NONCONFORMING LOTS

- A. A new structure may be constructed on any nonconforming lot legally existing prior to the adoption of this chapter, provided that such new structure complies with all of the regulations of the district in which it is located.
- B. Any lawfully existing structure located on a nonconforming lot may be moved, expanded, enlarged or replaced without the need for a variance for lot size, frontage, lot depth or lot width from the Zoning Board of Appeals provided that, following such change, the structure complies with all of the regulations of the district in which it is located.
- C. Two nonconforming lots that are combined into one larger, but still nonconforming lot, shall be afforded the benefit of this section.

§ 151-100. USES NOT AFFECTED BY TRANSFER

No nonconforming use of land or structures shall be lost or in any manner affected solely by reason of a sale or transfer of title to the subject premises.

ARTICLE XIII: ZONING BOARD OF APPEALS

§ 151-101. CREATION, APPOINTMENT, ORGANIZATION, TRAINING

- A. A Zoning Board of Appeals, as heretofore established by the Village Board, shall be maintained in accordance with § 7-712 of NYS Village Law, except as otherwise provided for in the Village Code. Said Board shall consist of five members for staggered terms of five years. Vacancies for the unexpired terms of any members shall be filled for such unexpired period only.
- B. The Village Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing. Pursuant to § 10 of the Municipal Home Rule Law, this chapter supersedes the provisions of NYS Village Law § 7-712(9) in its application to the Village.
- C. The Mayor shall appoint the members of the Zoning Board of Appeals and designate the Chairperson thereof, subject to the approval of the Village Board. In the absence of a chairperson the members of the Zoning Board of Appeals may designate a member to serve as acting chairperson. The Board of Appeals may prescribe reasonable rules, in addition to those provided herein, for the conduct of its affairs. The Village Board may provide for compensation to be paid to said members and to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Village Board for such purpose.
- D. No person who is a member of the Village Board or Planning Board shall be eligible for membership on the Zoning Board of Appeals.
- E. Alternate members shall be appointed to the Zoning Board of Appeals pursuant to the procedures set forth in Chapter 35 of the Village Code. All provisions of state law and of this Article pertaining to member eligibility, vacancy in office, removal, training, continuing education, compensation, and attendance shall also apply to alternate members.
- F. Each member of the Zoning Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties, in accordance with the provisions of § 7-712 of NYS Village Law. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this paragraph. To be eligible for reappointment to such board, such member shall have completed the training promoted by the village pursuant to this subdivision. The training required by this subdivision may be waived or modified by resolution of the Village Board when, in the judgment of such Board, it is in the best interest of the Village to do so. No decision of a board of appeals shall be voided or declared invalid because of a failure to comply with this subdivision.

§ 151-102. POWERS AND DUTIES

Consistent with NYS Village Law §7-712-B, the jurisdiction of the Zoning Board of Appeals shall be both appellate and original, as follows:

A. Appellate Jurisdiction.

- (1) Review of Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village.
- (2) Use variances.
 - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances authorizing the use of land for a purpose which is otherwise not allowed or is prohibited by the terms of this chapter.
 - (b) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (i) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (ii) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (iii) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (iv) The alleged hardship has not been self-created.
 - (c) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Area Variances.
 - (a) The Zoning Board of Appeals, shall have the power, upon an appeal from the decision or determination of the Code Enforcement Officer, to grant area variances from the dimensional or physical requirements of this chapter.

- (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:
 - (i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (ii) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
 - (iii) Whether the requested area variance is substantial;
 - (iv) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district; and
 - (v) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
- (c) The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Imposition of Conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

B. Original Jurisdiction with respect to Nonconforming Uses.

- (1) The Zoning Board of Appeals shall have the power to review any request for change of a nonconforming use to the extent required by § 151-95 of this chapter and to determine whether the proposed use is a similar or less nonconforming use.
- (2) The Zoning Board of Appeals shall have the power to review any request pursuant to § 151-97 to permit the increase of a nonconforming use.

§ 151-103. PROCEDURES. The Zoning Board of Appeals shall act in strict accordance with the procedures specified in § 7-712-A of NYS Village Law and this chapter.

- A. **Meetings.** Meetings shall be held at the call of the Chairperson or at such other times as the Zoning Board of Appeals may determine. A quorum shall consist of a majority of all of the members of the Zoning Board of Appeals as fully constituted, regardless of vacancies or absences. An affirmative vote of the majority of the members of the Zoning Board of Appeals as fully constituted shall be required for all actions of the Board, except that a favorable vote of a majority plus one shall be required if the action taken by the

Zoning Board of Appeals is contrary to an advisory recommendation received from the Dutchess County Department of Planning and Development under the provisions of §§ 239-l and 239-m of the General Municipal Law. The Board shall keep accurate minutes of its proceedings, documenting fully all findings and showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All meetings and deliberations of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law.

B. Filing requirements.

- (1) Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.
- (2) Each order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of the zoning local law shall be filed in the office of such administrative official within five business days from the day it is rendered, and shall be a public record.

C. Assistance to the Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

D. Application and fee. All appeals and applications made to the Zoning Board of Appeals shall be in writing, submitted in number and on forms as may be prescribed by the Zoning Board of Appeals within 60 calendar days of the filing of any action appealed from, and shall be accompanied by the applicable fee in accordance with the Fee Schedule established by the Village Board and escrow in accordance with Chapter 72 of the Village Code. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the ground on which it is claimed that such variance should be granted. Each application shall also be accompanied by Short or Full Environmental Assessment Form as required by the Zoning Board of Appeals pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR Part 617.

E. Public notice and hearing. The Zoning Board of Appeals shall fix a reasonable time and place for a public hearing on such appeal or application, of which hearing date the appellant shall be given notice and at which hearing he or she shall either appear in person or be represented by an agent. Any other interested party may appear at such public hearing in person, by attorney or other agent or submit comments, in writing, for receipt prior to the public hearing. The Zoning Board of Appeals shall additionally provide notice as follows:

- (1) By publishing at least five calendar days prior to the date thereof a legal notice in the official newspaper of the Village.

- (2) By requiring that the Secretary of the Zoning Board of Appeals or other designated Village employee provide notice at least five calendar days prior to the date thereof of the substance of every appeal for a variance together with a notice of the hearing thereon by certified mail, return receipt requested, to the owners of all property lying within 200 feet of the land involved in the appeal. Compliance with this notification procedure shall be certified by the Secretary of the Board or other designated Village employee prior to the public hearing. The Village shall charge the applicant the actual cost of mailing and publishing the notice, or a reasonable fee related thereto, for satisfying this requirement.
- (3) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Village.
- (4) Provided that there has been substantial compliance with this provision, 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 either granting or denying an appeal for a variance from a specific provision of this chapter.

F. Referrals.

- (1) The Zoning Board of Appeals shall refer a full statement of any appeal that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Dutchess County Department of Planning and Development for its review and recommendation. No action shall be taken by the Zoning Board of Appeals on such appeal until an advisory recommendation has been received from the County Planning Department or 30 days have elapsed since said Department received such full statement.
- (2) The Zoning Board of Appeals may additionally refer any application to the Planning Board for its review and recommendation. If referred, the Zoning Board of Appeals shall hold any public hearing open and defer any decision on the application for a period of 30 calendar days to permit comments thereon to be issued by the Planning Board. If no comments are transmitted by the Planning Board to the Zoning Board of Appeals within 30 calendar days from the date of the referral, the Zoning Board of Appeals shall be free to proceed with its review and determination of the application.

G. Decisions. Every decision of the Zoning Board of Appeals shall be made within 62 days of the close of the hearing by the Board and shall set forth the findings on which the decision is based, including record of compliance with the applicable provisions of SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR 617. Every decision shall be by resolution of the Board, with such decision being filed in the office of the Village Clerk within 5 calendar days thereof.

H. Expiration of approval. Unless construction or use is diligently commenced within one calendar year from the date of the granting of a variance, such variance shall become null and void without further hearing or action by the Zoning Board of Appeals. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Code Enforcement Officer, who shall grant such extension if there have been no material changes in the circumstances surrounding the application. If the Code Enforcement Officer is unable to determine whether there have been material changes in the

circumstances surrounding the application, the Code Enforcement Officer shall refer the request for extension to the Zoning Board of Appeals for decision.

§ 151-104. EFFECT OF APPEAL

Unless the Code Enforcement Officer finds there to be an imminent threat to either life or property, an appeal shall stay all proceedings in furtherance of the action which is the subject of the appeal.

§ 151-105. RELIEF FROM DECISIONS

Any person or persons jointly or severally 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 Law and Rules 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 as therein provided within thirty (30) calendar days after the filing of the Board's decision in the office of the Village Clerk.

ARTICLE XIV: ADMINISTRATION AND ENFORCEMENT

§ 151-106. ADMINISTRATION AND ENFORCEMENT

A. Designation of enforcement officer; coordination of application processing; fee.

- (1) The Village Code Enforcement Officer shall administer and strictly enforce all provisions of this chapter except where otherwise specifically provided herein.
- (2) Whenever any permit or other approval by the Village of Wappingers Falls is required hereunder, processing of the application shall be coordinated by the Code Enforcement Officer with the Planning Board, the Zoning Board of Appeals or other responsible persons and agencies in accordance with the requirements of this chapter, Chapter 64 of the Village of Wappingers Falls Code and other applicable Village, county and state regulations governing building construction and the use of land and buildings.
- (3) All applications submitted pursuant to this chapter shall be accompanied by the applicable fee in accordance with the Fee Schedule established by the Village Board.

B. Powers and duties of the Code Enforcement Officer.

- (1) Except as otherwise provided, it shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter and of all rules, conditions and requirements specified hereunder by the Zoning Board of Appeals and the Planning Board.
- (2) The Code Enforcement Officer shall review all applications submitted to the Village of Wappingers Falls pursuant to this chapter and shall either act directly on the application or refer the application to the appropriate agency or person.
- (3) It shall be the duty of the Code Enforcement Officer to issue building permits, in conformance with the requirements of Chapter 64 of the Village Code. It shall be the duty of the Code Enforcement Officer to review building and demolition permits as to the conformance of the intended construction or demolition with the requirements of this chapter.
- (4) Inspection and Reports. The Code Enforcement Officer shall make a written report of each inspection made in connection with his duty in enforcing the provisions of this chapter and shall keep a file of such reports in accordance with the provisions of § 64-15.

C. Permits and Fees.

- (1) Permit required. No structure shall be erected, constructed, enlarged, altered or moved and no land or structures shall be used until a building permit has been issued by the Code Enforcement Officer in conformance with the requirements of Chapter 64. No building permit shall be authorized or issued for a use subject to special permit or site plan until such approval has been obtained from the Planning Board, and the work authorized by such permit shall be in conformity with the plans approved by said Board.

- (2) Fees. The applicant shall be responsible for payment of the applicable fee in accordance with the Fee Schedule established by the Village Board, and the escrow deposit in accordance with Chapter 72 of the Village Code.
- (3) Application for building permit. Any application for a building permit shall be made in conformance with Chapter 64 of the Village Code. Any amendments to the building permit or to the plans and specifications accompanying the same must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Code Enforcement Officer. If the change involves a material change to a site plan, as determined by the Code Enforcement Officer, approval from the Planning Board shall be required prior to the issuance of a new, amended or revised permit.

§ 151-107. Penalties for Offense

- A. Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this chapter and any use of any land or any building which is conducted, operated or maintained contrary to any of the provisions of this chapter shall be and the same is hereby declared to be unlawful. Any owner, lessee, tenant, occupant, architect or builder or the agent of any of them who violates or is accessory to the violation of any provisions of this chapter, as adopted or amended, or who fails to comply with any of the requirements thereof or who erects, constructs, alters, enlarges, converts, moves or uses any building or uses any land in violation of any detailed statement or plan submitted by him or her and approved under the provisions of this chapter, as adopted, shall be guilty of a violation which is an offense punishable by a fine as provided herein.
- B. Notice of violation.
 - (1) Whenever, in the opinion of the Code Enforcement Officer after proper examination and inspection, there appears to exist a violation of any provision of this chapter or of any rule, regulation or condition adopted or imposed pursuant thereto, the Code Enforcement Officer shall serve a written notice of violation on the person or entity committing or permitting the same.
 - (a) Such notice may be served personally or by certified mail addressed to the premises where such violation exists and by posting a copy of the same upon said premises. The notice of violation shall set forth:
 - (i) The nature and details of such violation.
 - (ii) Recommended remedial action which if taken will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.
 - (iii) The date of compliance by which the violation must be remedied or removed.
 - (b) If such violation does not cease within such time as the Code Enforcement Officer may specify, the Code Enforcement Officer shall be authorized to institute such of the actions hereinafter set forth as may be necessary to terminate the violation.
 - (2) The Code Enforcement Officer may extend the date of compliance called for in a notice of violation after written application if, in his or her opinion, there is

- reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.
- C. Certificate of zoning compliance. On re-inspection following the expiration of the date of compliance as specified in the notice of violation, if the violation has been remedied or removed in accordance with the specified remedial action and there is no longer a violation of any provision of this chapter, then a certificate of zoning compliance shall be issued by the Code Enforcement Officer.
 - D. Legal action by the Village. On re-inspection following the expiration of the date of compliance as specified in the notice of violation or as extended in accordance herein, if the remedial action specified has not been carried out and there is still in existence, in the opinion of the Code Enforcement Officer, a violation of a provision of this chapter, then the Code Enforcement Officer may refer the matter to the Village Attorney, who shall thereupon institute appropriate legal action to restrain, prevent, enjoin, abate, remedy or remove such violation and to take whatever other legal action is necessary to compel compliance with this chapter.
 - E. Failure to apply for building permit or certificate of occupancy. Any person who fails to apply for a building permit or certificate of occupancy as required by and in accordance with this chapter and who proceeds to construct, erect, relocate, alter, extend or structurally change a building or part thereof or who subsequently proceeds to occupy or use such building or part thereof or who proceeds to occupy or use or change the use of land shall be required to file the applications and plans and pay double the fees as provided. The Code Enforcement Officer shall inspect or cause to be inspected such building or land and shall issue either a notice of violation or a certificate of occupancy.
 - F. Violations, penalties and injunctions. Any person violating any provision of this chapter may be punished as provided in § 20-2006 of NYS Village Law.

ARTICLE XV: AMENDMENTS

§ 151-108. GENERAL PROVISIONS

This chapter or any part thereof, including both the text and the Zoning Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified, or repealed by the Village Board in the manner provide by §§ 7-706 and 7-708 of NYS Village Law.

§ 151-109. INITIATION

An amendment to this chapter may be initiated in one of three ways:

- A. By the Village Board upon its own motion.
- B. By resolution of the Planning Board, filed with the Village Clerk, wherein certain changes to or a repeal of certain provisions of this chapter are recommended.
- C. By petition duly signed and acknowledged from the owners of at least 50 percent of the street frontage in any zoning district between two or more intersecting streets, requesting an amendment, supplement, change, modification or repeal of the regulations and/or restrictions prescribed for any such district or part thereof, or for a change or modification in such district's boundaries as shown on the Zoning Map. Said petition shall be accompanied by the applicable fee in accordance with the Fee Schedule established by the Village Board, and by the necessary supporting documentation identified on a checklist available from the office of the Village Clerk.

§ 151-110. REPORT OF THE PLANNING BOARD

- A. Every such proposed amendment of text or change in the Zoning Map shall be referred to the Planning Board for a period of 45 calendar days for a report and recommendation thereon before the public hearing provided by NYS Village Law. If the Planning Board fails to report within such time period, the Village Board shall act without such report.
- B. In undertaking such review, the Planning Board shall state its reasons for its recommendation, describing any condition that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the *Comprehensive Plan* for the Village and would be in furtherance of the purposes set forth in this chapter. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

§ 151-111. VILLAGE BOARD PROCEDURE

- A. Public notice and hearing. The Village Board, by resolution adopted at a public meeting, shall fix the time and place of a public hearing on any proposed amendment introduced by the Village Board and cause notice thereof to be given in accordance with § 7-706 of NYS Village Law.

- B. Required referral. The Village Board shall refer a full statement of any proposed amendment introduced by the Board, whether a map amendment or a text amendment, that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law, to the Dutchess County Department of Planning and Development for its review and recommendation. No action shall be taken by the Village Board on such proposed amendment until a recommendation has been received from the County Planning Department or 30 days have elapsed since said Department receive such full statement.
- C. Compliance with SEQRA. Proposed amendments, whether a map amendment or a text amendment, are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Village Board shall make a determination as to the type of action, lead agency status and environmental significance of the proposed amendment in accordance with Article 8 of the Environmental Conservation Law and 6 NYCRR 617. Any action to initiate an amendment of this chapter shall be specifically accompanied by either a Short or Full Environmental Assessment Form as deemed appropriate by the Village Board pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR 617.
- D. Village Board action. After the public hearing and referral to and report by the Planning Board and, where required, the Dutchess County Department of Planning and Development, the Village Board may approve any proposed amendment by a majority vote except that at least five members of the Village Board, *i.e.*, a majority plus one, shall be required if:
 - (1) The action being taken is contrary to the recommendation of the County Planning Department under the provisions of §§ 239-l and 239-m of the General Municipal Law; or
 - (2) In accordance with the provisions of NYS Village Law § 7-708, a written protest against the proposed amendment has been presented to the board signed by the owners of 20 percent or more of the area of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land.
- E. If the action taken is contrary to the recommendation of the Dutchess County Department of Planning and Development, a report setting forth the reasons for the contrary action shall be filed within 30 days thereof with said Department.
- F. Filing requirement. Any amendment approved by the Village Board shall become effective immediately upon its filing with the office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, specifically § 27 of the Municipal Home Rule Law and as provided in NYS Village Law §7-706. The Village Board resolution adopting the amendment shall be entered into the minutes of the Village Board. Such minutes shall describe and refer to any map adopted in connection with such local law or amendment. The Village Clerk shall maintain every map adopted in connection with a zoning local law or amendment.

ARTICLE XVI: DEFINITIONS

§ 151-112. Rules of interpretation. The terms in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- A. The present tense includes the past and future tense, and the future tense includes the present.
- B. The singular number includes the plural number and vice versa, unless the context requires otherwise.
- C. This chapter establishes both mandatory standards and discretionary guidelines. Mandatory standards are typically signified by the words “shall,” “must,” and “will.” They are specific and precise standards that are required to be met in the submitted design. Discretionary guidelines are typically signified by the words “encouraged,” and “discouraged.” They are general design objectives that are applied and interpreted by the Planning Board in the review of development applications. Discretionary guidelines with a greater degree of flexibility are signified by the word “may.” They are ideal guidelines and a project following these guidelines would result in an outcome that is very compliant with the Village’s goals and objectives; however, they are not specifically required to be met.
- D. The terms “must not,” “will not,” “cannot,” and “may not” are prohibiting.
- E. Any gender includes all genders.
- F. The terms “lot” “plot,” “parcel,” “tract of land,” and “premises” shall one include the other; the word “premises” shall include land and buildings thereon.
- G. The terms “occupied” or “used” as applied to any given land or building shall be construed as though followed by the words “or intended, arranged or designed to be occupied or used,” unless the natural construction of the wording indicates otherwise.
- H. All references to time periods of “days” shall mean calendar days unless otherwise indicated.
- I. All references to “single-family dwelling” shall include both detached and attached single-family dwellings unless otherwise indicated.
- J. The term “Village” means the Village of Wappingers Falls; the terms “Village Board,” “Village Clerk,” “Zoning Board of Appeals,” “Planning Board,” “Code Enforcement Officer,” and other designated boards and/or officers mean the respective boards and officers of the Village of Wappingers Falls so designated.
- K. Words not specifically defined shall have their ordinary dictionary meaning as in Webster’s New International Dictionary; construction and building terms not specifically defined shall use New York State Uniform Fire Prevention and Building Code definitions.
- L. Abbreviations:
 - ft. = feet
 - in. = inch

max. = maximum
min. = minimum
sf. = square feet

§ 151-113. DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings herein indicated:

ABUTTING

To be contiguous to; having a lot line, zoning boundary, or wall in common.

ACCESS

The place, means, route or way by which pedestrians, bicyclists and/or vehicles have ingress and egress to a property or use.

ACCESSORY DWELLING

See “accessory dwelling” under “Dwelling/Dwelling Unit.”

ACCESSORY STRUCTURE

See “structure, accessory.”

ACCESSORY USE

A use of land, water, a building or structure or portion thereof that is customarily incidental and subordinate to the principal use and located on the same lot or premises. An accessory use is prohibited without the principal use to which it is related.

ADDITION/ENLARGEMENT

Construction that increases the size of a structure in terms of building footprint, height, or floor area.

ADJACENT

Property that abuts or is directly across a street, private right-of-way, or access easement from the subject property neighborhood or district.

AGRICULTURE

Agriculture shall mean a “farm operation” on “land used in agricultural production,” both as defined in § 301 of the New York State Agriculture and Markets Law.

AMERICANS WITH DISABILITIES ACT (ADA)

Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et. seq.*

ANIMAL SERVICES: ANIMAL GROOMING, ANIMAL HOSPITAL OR VETERINARIAN OFFICE, ANIMAL KENNEL

- (1) **Animal Grooming.** An establishment where animals are bathed, clipped, brushed, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged, but which shall not include overnight accommodations.

- (2) **Animal Hospital or Veterinarian Office.** A facility maintained by or for the use of a licensed veterinarian(s) in the diagnosis, treatment, or prevention of animal diseases wherein the overnight care of said animals is prohibited except when necessary for the medial treatment of the animal.
- (3) **Animal Kennel.** An establishment in which five or more animals (four months of age or older) are housed, rehabilitated, bred, boarded, trained or sold, except for dogs or cats for sale in pet shops or being treated in animal hospitals.

ANTENNA

A device used to transmit and/or receive communications signals.

APARTMENT

See “apartment” under "Dwelling/Dwelling Unit.”

ARCHITECTURAL FEATURE

A feature contributing to the general arrangement of the exterior of a structure, including but not limited to, the type and style of siding, building materials, trim, doors, windows, roof shape, eaves, awnings, pilasters, cornices, wall offsets, and other building articulations.

ASSISTED LIVING FACILITY

A residential care facility that provides housing, meals, personal care and supportive services to persons age 60 and older who are unable to live independently. Services rendered by such facilities shall not include treatment for mental illness or drug or alcohol rehabilitation. Such facility must be licensed by the appropriate state agency having jurisdiction over the licensing of such facilities under applicable state legislation or regulation.

ATM

An automated teller machine linked to the accounts and records of a banking institution and which enables consumers to carry out banking transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and loan payments.

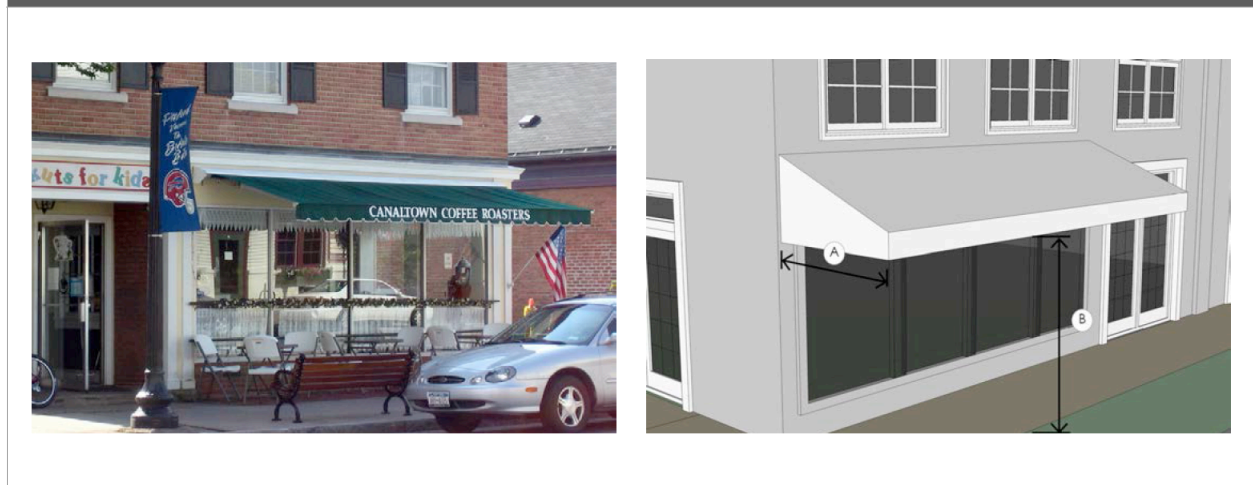
ATTIC

The space enclosed within the roof structure of a building in which more than 50 percent of the gross floor area has a ceiling height less than 5 feet. An attic shall not be considered a “story.”

AWNING

A roof-like projection typically constructed of a durable non-rigid material attached to a framework that extends from and is wholly supported by a building, as illustrated in Figure XVI-1. Awnings are typically erected over a window, doorway, or building front to provide protection from the elements, and they may be raised or retracted to a position adjacent to the building.

Figure XVI-1: Awning

**BACK BUILDING**

See “building.”

BAR OR TAVERN

An establishment, which is not part of a larger restaurant, where alcoholic beverages are sold for on-site consumption and where any food service is subordinate to the sale of alcoholic beverages. The term “bar or tavern” includes the terms “barroom,” “wine bar,” “pub,” “saloon,” “grill,” “public house,” “beer garden,” and similar establishments, but does not include a “nightclub” as defined herein.

BASEMENT

That portion of a building located partially underground, having 50 percent or more of its floor-to-ceiling height above the average grade of the ground adjoining the building. A basement shall be considered a story, whether occupied or not, if more than four feet of the basement is visible above the finished grade at the center-point of building’s primary facade.

BEDROOM

A room in a dwelling marketed, designed, or likely to function primarily for sleeping.

BILLBOARD

See “sign, off-premises.”

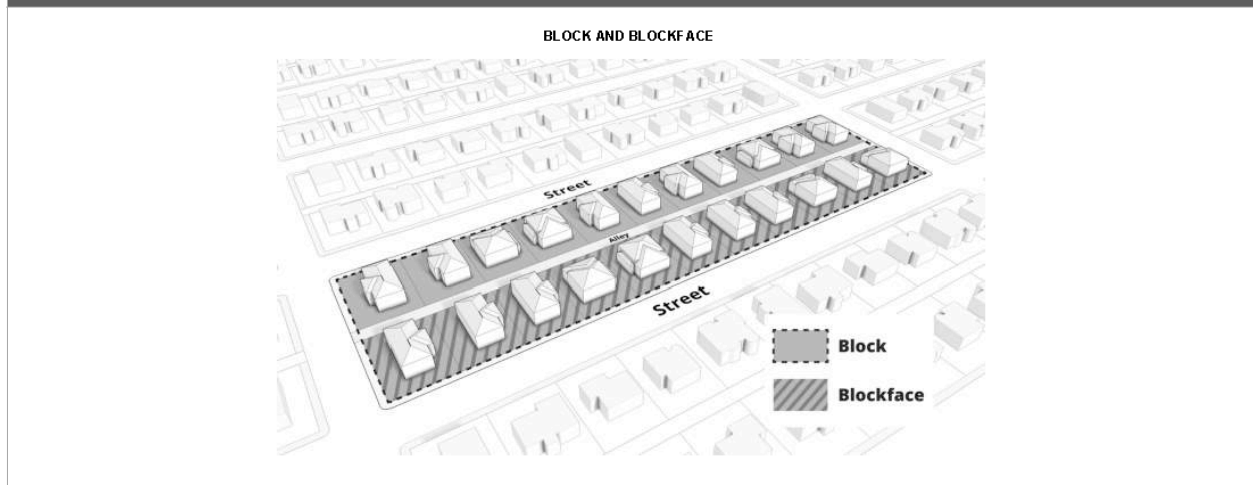
BLOCK

An area of land that is bounded by streets, or a combination of streets and railroad rights-of-way, shorelines of waterways, or municipal boundary lines.

BLOCK FACE

That portion of a block facing the same side of a single street and lying between the closest intersecting streets, as illustrated in Figure XVI-2. The block face provides the context for establishing architectural harmony.

Figure XVI-2: Block and Block Face



BOARDING OR ROOMING HOUSE

A building or part thereof that, for compensation, provides lodging and meals to three (3) or more guests for 30 or more consecutive nights. The term “boarding or rooming house” shall not be interpreted to include lodging or short-term rental as defined herein, or any other type of transient occupancy. The use “boarding or rooming house” is prohibited in the Village of Wappingers Falls.

BUFFER

An area of land with natural or planted landscaping intended to visually and physically separate buildings, uses, or lots from each other.

BUILDING

A structure with a roof supported by exterior walls on all sides, or exterior and party walls, affording shelter to persons, animals, property, or business activities. Where independent units with separate entrances are divided by party walls, each unit is a building. See “Structure.”

- (1) **Back Building.** A building located to the rear of a lot in the CMU District and behind any linear buildings that may be present on site.
- (2) **Building Liner.** A conditioned commercial space a minimum of 15 feet in depth located within the portion of the ground floor of a parking structure that faces a street. A building liner conceals views of parked cars in the parking structure from the street, and provides for commercial uses along the street frontage.
- (3) **Linear Building.** A building designed and located to conceal a parking lot from a street frontage in the CMU District.

BUILDING, ACCESSORY

A building subordinate to the principal building on the same lot and used for purposes customarily incidental to that of said principal building.

BUILDING, ATTACHED

A building attached by a party wall to another building normally of the same type, whether located on the same or a separate lot.

BUILDING FOOTPRINT

The area of the ground covered by a building, including the foundation and all areas enclosed by exterior walls and footings and covered by roofing. The building footprint shall include exterior stairs, covered or uncovered.

BUILDING HEIGHT

See § 151-24A.

BUILDING LINER

See “building.”

BUILDING PERMIT

Official authorization issued by the Code Enforcement Officer to begin construction in accordance with approved plans and in strict compliance with all applicable requirements of this chapter, the New York State Uniform Fire Prevention and Building Code and related laws, rules and regulations.

BUILDING WIDTH

The distance between a building’s two sides measured along the street frontage.

- (1) **Maximum building width** is the largest allowed building width. It ensures that buildings will be appropriately scaled to the neighborhood.

BUILD-TO LINE

A line extending through a lot which is parallel to the street curb or right-of-way and which marks the location along which the front facade of the principal building, excluding allowable encroachments set forth in this chapter, must be placed. The build-to line creates a generally uniform line of building facades along the street.

CANNABIS

As used herein, cannabis shall have the same definition as that found in New York Cannabis Law § 3. Cannabis also may be referred to as “marijuana” or “marihuana.”

CANNABIS CONSUMPTION ESTABLISHMENT, ON-SITE

An establishment that is licensed by the New York State Office of Cannabis Management to allow for the consumption of cannabis products on the premises. The use “on-site cannabis consumption establishment” is prohibited in the Village of Wappingers Falls.

CANNABIS PRODUCTS

Cannabis products means cannabis, concentrated cannabis, and cannabis-infused products, and includes made or manufactured products that contain either cannabis or concentrated cannabis and other ingredients, and are intended for use or consumption.

CANNABIS RETAIL DISPENSARY

An establishment that is licensed by the New York State Office of Cannabis Management to sell or otherwise distribute cannabis products directly to consumers for use off the premises. A cannabis retail dispensary may be licensed to operate as an adult-use cannabis retail dispensary or as a medical cannabis dispensary, or both. A “cannabis retail dispensary” does not include an “on-site cannabis consumption establishment.”

(1) Cannabis Dispensary, Medical. A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to registered practitioners, certified patients, or designated caregivers for medical use in accordance with Title 5-A of Article 33 of the New York Public Health Law and Article 3 of the New York Cannabis Law.

(2) Cannabis Retail Dispensary, Adult-Use. A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to consumers for non-medical use in accordance with Article 4 of the New York Cannabis Law.

CANOPY

A permanent unconditioned structure that serves as an overhanging shelter, with at least one side open for pedestrian and/or vehicular access, as is commonly found over gasoline station fuel pumps and drive-through facilities. Canopies may be attached to and receive support from the wall of a structure, or be freestanding.

CARPORT

A roofed structure, with one or more open sides, used for the storage of motor vehicles.

CEILING HEIGHT

Height from finished floor to finished ceiling of primary rooms on the floor.

CELLAR

That portion of a building located partially underground, having less than 50 percent of its floor-to-ceiling height above the average grade of the ground adjoining the building. A cellar shall not be considered a “story.”

CEMETERY

An area of land and related facilities used for the internment of the dead, and including columbaria mausoleums, and animal cemeteries.

CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF COMPLIANCE

Official certifications issued by the Code Enforcement Officer that a premises conforms to the applicable provisions of this chapter, the New York State Uniform Fire Prevention and Building Code and other applicable regulations, and may be legally occupied or used.

CHANGE OF USE

Any use for an existing site or structure that differs from the existing use, as outlined in the District Schedule of Uses.

CHILD DAY CARE

Non-medical care for and supervision of a child provided on a regular basis away from the child’s residence for fewer than 24 hours per day by someone other than the parent, stepparent,

guardian or relative within the third degree of consanguinity of the parents or step-parents of such child, and including any definition consistent with the New York State Office of Children and Family Services Regulations Section 413 entitled “Child Day Care,” or Social Services Law § 390(1)(a). For purposes of this definition, the phrase “third degree of consanguinity” shall have the same definition as set forth in 18 NYCRR Part 413, *et seq.*, as the same may be amended from time to time. Child day care does not include care provided in:

- A summer day camp, traveling summer day camp or children's overnight camp as defined in the State Sanitary Code;
- A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons or recreation;
- A facility providing day services under an operating certificate issued by the New York State Office of Children and Family Services;
- A facility providing day treatment under an operating certificate issued by the Office of Mental Health or by the Office for People with Developmental Disabilities; or
- A kindergarten, pre-kindergarten or nursery school for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school or program is located on the premises or campus where the elementary or secondary education is provided, or is registered with the New York State Education Department.

The following are types of child day care:

- (1) **Family Day Care Home.** A licensed facility in a private home where an owner-occupant of the residence provides child day care for between 3 and 6 minor children for periods of fewer than 24 hours per day. A family day care provider may, however, care for seven or eight children at any one time if authorized to do so by the Office of Children and Family Services.
- (2) **Group Family Day Care Home.** A licensed facility in a private home where an owner-occupant of the residence provides child day care for between seven to twelve children of all ages, except for those programs operating as a family day care home which care for seven or eight children.
- (3) **Child Day-Care Center.** A licensed facility that is not a residence and that provides child day care for minor children for periods of fewer than 24 hours per day. The following are types of child day-care centers:
 - (a) **Group Day-Care Center.** A licensed child day-care center that provides child day care to 7-12 minor children.
 - (b) **Commercial Day-Care Center.** A licensed child day-care center that provides child day care to more than 12 minor children for periods of fewer than 24 hours per day. Facilities include, but are not limited to, infant centers, nursery schools, preschools, extended day care, and school age child care centers.

CLEAR

When used in the context of measuring a distance between a building wall and a feature such as a porch, or the distance between the ground and a ceiling, the term “clear” refers to the area being free of obstructions such as post, beams, railings, etc.

CLUB, NOT-FOR-PROFIT

Premises of an organization of persons who meet periodically to promote some nonprofit social, educational, athletic, service or recreational objective, and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted, except as provided generally to the membership and purposes of the club. A “not-for-profit club” shall not include a “rod and gun club” or a “recreation facility” as defined herein, nor shall it include organizations with a principal purpose of selling alcoholic beverages to its members or others.

CODE ENFORCEMENT OFFICER

That Village employee appointed by the Village Board and charged with the responsibility of administering and enforcing the Village Code, the New York State Uniform Fire Prevention and Building Code, and related regulations pertaining to the development of structures and the use of land within the Village, and which employee shall be certified as a building official by the New York State Building Codes Council. References to the Code Enforcement Officer may be construed to include the Building Inspector, Zoning Enforcement Officer, or other person appointed to administer and enforce the Village Code and New York State Uniform Fire Prevention and Building Code by the Village Board.

COLLEGES AND UNIVERSITIES

A facility for post-secondary education that grants associates, bachelors, masters, or doctoral degrees, and may include research functions. Includes professional schools (*e.g.* law, medicine, etc.) and technical colleges. Colleges and universities tend to be in campus-like settings or on multiple blocks.

COMMERCIAL VEHICLE

Any vehicle Class 3 or higher as classified by the United States Federal Highway Administration and as illustrated in Appendix A; or any piece of equipment used for earthmoving or construction purposes, such as an excavator, bulldozer, backhoe, loader, dump truck, or trailer other than a “small trailer” as defined herein.

COMMUNITY CENTER

A facility operated by a public or not-for-profit entity that provides recreational programs and meeting rooms that are open to the public and designed to accommodate and serve significant segments of the community.

COMMUNITY RESIDENTIAL FACILITY

A supportive living facility meeting the definition thereof found in § 1.03 of the New York State Mental Hygiene Law, with four to fourteen residents, or a supervised living facility subject to licensure by the Office of Mental Health or the Office for People with Developmental Disabilities, which provides a residence for up to fourteen mentally disabled persons, including

residential treatment facilities for children and youth. A community residential facility shall not be construed to include multiple dwellings under this definition.

COMPREHENSIVE PLAN

That comprehensive plan of the Village of Wappingers Falls setting forth the development policies for the future of the Village and adopted by the Village Board in satisfaction of the requirements of § 7-722 of NYS Village Law.

CONFERENCE CENTER

A facility consisting of meeting rooms, lecture rooms, and display space used for the conduct of business, professional or educational conferences, seminars, or displays, and which may include accommodations for sleeping and eating.

CONVENIENCE STORE

A one-story retail establishment whose primary offering is sale of prepackaged food products, beverages, lottery tickets, newspapers, magazines, tobacco products, household products, and personal items to be consumed primarily off the premises, and which does not include the sale of gasoline.

CRAFT BEVERAGE MANUFACTURING FACILITY

A facility that brews, ferments, or distills alcoholic beverages as a principal use and that includes a tasting room a minimum of 500 square feet in size open to the public where product can be sampled and purchased.

CRAFT BEVERAGE PUB

A bar or restaurant, as defined herein, that includes as an accessory use the brewing, fermenting or distilling of alcoholic beverages for on-site consumption. A craft beverage pub shall not produce more than 70,000 gallons of beverage per year.

CREMATORY

A building or structure which houses facilities for cremation.

CURBSIDE PICKUP

An accessory use to an establishment or service in which off-street parking space(s) located in the establishment's parking lot are designated, with signage, for use by customers who remain in their vehicles while employees of the establishment deliver goods to them. The term "curbside pickup" shall not include "drive-through facility" as defined herein.

CUSTOMARILY INCIDENTAL (synonymous with customary accessory)

Defined for the purposes of the definitions of accessory use and accessory structure, a use or structure which commonly accompanies or is associated with the type of principal land use that is located on the same property. For purposes of this Zoning Law the term "incidental" means the accessory use or accessory structure is minor or subordinate to the principal land use.

DENSITY

Density refers to the number of dwelling units per gross unit of land area, expressed as either acres or square feet. Density is calculated by dividing the gross area of the site by the number of

dwelling units located on the site. The resulting figure shall be rounded to the nearest lower number. The number of dwelling units allowed on a site is based on the presumption that all other applicable standards will be met. The maximum density established for a district is not a guarantee that such densities may be obtained, nor shall the inability of a development to achieve the stated maximum density be considered sufficient justification for varying or otherwise adjusting other intensity or dimensional standards.

DISCONTINUE

To break the continuity of or cease to operate.

DISTRICT OR ZONING DISTRICT

An area or section of the Village described on the Zoning Map established in § 151-13 of this chapter and within which certain regulations and requirements apply under the provisions of this chapter.

DRIVE-THROUGH FACILITY

An accessory use to an establishment or service where, by design of facilities or procedures, patrons make transactions, are entertained, or served in motor vehicles, typically through means of a window, which allows patrons to purchase products or make transactions without leaving their vehicle. Examples of drive-through facilities include drive-through fast-food restaurants, coffee shops, photo stores, pharmacies, bank teller windows or ATMs, dry cleaners, etc., but do not include “curbside pickup,” “gasoline station,” or “vehicle wash,” as defined herein.

DRIVEWAY

A vehicular access way providing ingress and egress to a lot from a street or vehicular use area associated with another use. “Common driveway” is the term employed to identify a like facility that provides shared access to a maximum of two detached single-family dwellings or to two or more commercial premises.

DRY-CLEANING PICK-UP STORE

A service business maintained for the customer pickup and delivery of articles for dry cleaning without the maintenance or operation of any dry cleaning equipment or machinery on the premises.

DRY-CLEANING PLANT

An establishment engaged in cleaning of fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not limited to, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

DWELLING/DWELLING UNIT

A self-contained room or group of internally connected rooms that have sleeping, eating, cooking and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied or intended for one family on a long-term basis. With the exception of a manufactured home, a dwelling unit shall be a minimum of 400 square feet of space. A boarding or rooming house, dormitory, lodging facility, short-term rental or other similar facility for transient occupancy, shall not be deemed to constitute a dwelling unit.

- (1) **Accessory Dwelling.** A self-contained dwelling unit accessory to a detached single-family dwelling having its own exterior entrance and which is subordinate to the principal residence, and shares no kitchen, living, sleeping, or sanitation facilities with the principal residence.
- (2) **Apartment.** A dwelling unit located in a mixed-use building devoted primarily to non-residential use(s).
 - (a) **Ground-Floor Apartment.** A dwelling unit, or any portion thereof, that is located on the ground floor of a building. A hallway, a maximum of six (6) feet wide, with stairs, that leads from an exterior ground-floor door to a self-enclosed dwelling unit on a floor above or below the ground floor shall not be included in this definition.
 - (b) **Upper Floor or Basement Apartment.** An apartment that is located on any story of a building except the ground floor.
- (3) **Attached Single-Family Dwelling.** One of two dwelling units, each owned in fee simple and located on separate lots but joined along a common lot line, each of which dwelling units is totally separated from the other by an unpierced wall extending from ground to roof, with each dwelling unit having a separate entrance from the outside on the ground floor.
- (4) **Detached Single-Family Dwelling.** A detached building containing one dwelling unit located on a single lot, but that does not meet the definition of a “manufactured home.”
- (5) **Live-Work Dwelling.** A dwelling unit that includes a dedicated workspace that is accessible from the living area, and may also be accessible from the outside, reserved for and regularly used by one or more year-round residents of the dwelling unit, and in which the type or size of the work performed is larger or more extensive than that permitted as a home occupation. Typically the work space is below or in front of the residential space.
- (6) **Manufactured Home.** A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards, 24 CFR Part 3280, transportable in one or more sections, which, when erected on site is a minimum of 320 square feet, constructed on a permanent chassis, designed to be used as a single dwelling unit with a permanent foundation, and connected to utilities including for plumbing, heating, and electricity. The term “manufactured home” shall not include any self-propelled recreational vehicle, travel trailers, or modular structures.
- (7) **Multi-Family Dwelling.** A residential structure containing four or more dwelling units, located on a single lot, that does not meet the definition of a “Townhouse.”
- (8) **Townhouse.** A residential structure containing three or more dwelling units, constructed side-by-side, whether located on a single lot or on individual lots, and connected by vertical walls, unpierced, that extend from grade level or below to the top of the structure, with each dwelling unit having a separate entrance from the outside on the ground floor.
- (9) **Three-Family Dwelling.** A residential structure containing three dwelling units, located on a single lot, that does not meet the definition of a “Townhouse.”

- (10)**Two-Family Dwelling.** A residential structure containing two dwelling units located on the same lot that are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common hallway. The term “two-family dwelling” shall not include “accessory dwelling” as defined herein.

EASEMENT

Authorization by one property owner for the use of all or a portion of his or her property by another person for a specific purpose.

ELECTRIC VEHICLE

Any motor vehicle that is registered with the Department of Motor Vehicles that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purposes. For the purpose of this chapter, “electric vehicle” includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle.

ELECTRIC VEHICLE CHARGING EQUIPMENT

An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

ELECTRIC VEHICLE CHARGING LEVELS

The standardized indicators of electrical force, or voltage, at which an electric vehicle’s battery is recharged. Levels 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

- (1) Level 1 is considered “slow” charging, typically requiring an amp breaker of 15 to 20 amps on an AC circuit of 120 volts and a standard outlet.
- (2) Level 2 is considered “medium” charging, typically requiring an amp breaker of 40 to 100 amps on an AC circuit of 240 volts.
- (3) Level 3 (DC Fast Charge and Supercharging) is considered “rapid” charging, typically requiring a dedicated breaker of 60 amps or higher on a three-phase circuit of 480 volts or higher with special grounding equipment. DC Fast Charge uses an off-board charger to provide the AC to DC conversion, delivering DC directly to the car battery.

ELECTRIC VEHICLE CHARGING STATION (EVCS)

A public or private parking space that is served by electric vehicle charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle. An EVCS may be an Electric Vehicle Parking Space, or it may be a space permitted to be utilized by non-electric vehicles.

ELECTRIC VEHICLE PARKING SPACE

Any marked parking space that identifies the use to be exclusively for an electric vehicle.

ENCROACHMENT

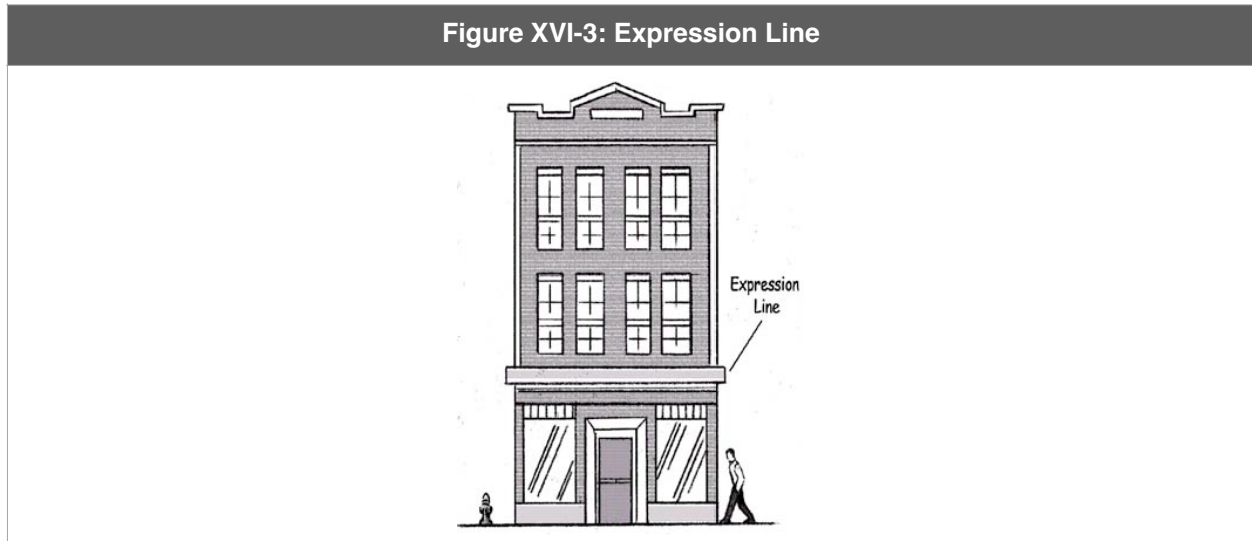
Any architectural feature or structural element, such as an awning, gallery, porch, stoop, balcony, bay window, patio or deck, that breaks the plane of a vertical or horizontal regulatory limit extending into a setback, beyond the build-to-line, into the public right-of-way, or above a height limit.

ESTABLISHMENT

A building or related group of buildings for purposes of the conduct of business located on a single parcel or lot and including one or more uses. Related uses under the same corporate or business name, brand or logo shall be deemed one establishment.

EXPRESSION LINE

A horizontal line on a building expressed by a change of material or a continuous molding projecting outward from the building facade a minimum of two inches and a maximum of one foot in depth, as illustrated in Figure XVI-3.



EXTERIOR WALL

Any wall that defines the exterior boundaries of a building or structure.

FAÇADE

The exterior wall of a building.

- (1) **Front facade.** The facade of a building (excluding allowable encroachments set forth in this chapter) that faces a street on which the building is located.
- (2) **Primary facade.** The front facade of a principal building that faces the primary street. (Synonymous with primary building facade.)
- (3) **Secondary facade.** The front facade of a principal building that faces the side street.

FAMILY

- (1) As used herein, “family” shall mean one of the following:
 - (a) Any number of individuals related by blood, marriage or legal adoption, or in a guardianship or foster care, occupying a single dwelling unit; or
 - (b) Up to four unrelated individuals occupying a single dwelling unit; or
 - (c) Five or more unrelated individuals occupying a single dwelling unit and living together as the functional equivalent of a family.

- (i) For purposes of this subsection, it shall be presumptive evidence that five or more individuals occupying a single dwelling unit who are not related by blood, marriage or legal adoption, or in a guardianship or foster care, do not constitute the functional equivalent of a family. This presumption may be rebutted if such group of individuals exhibits characteristics consistent with the purposes of zoning restrictions in residential districts, utilizing the criteria set forth in subsection B herein.
- (d) Residents of a community residential facility.
- (e) Eight or fewer individuals with disabilities, as that term is defined in 42 U.S.C. § 12102, *et seq.* and its implementing regulations, residing together in a dwelling unit.
- (2) Notwithstanding the provisions of subsection (1)(c) above, a group of unrelated persons numbering five or more shall be considered a family upon a determination by the Zoning Board of Appeals that the group is the functional equivalent of a family pursuant to the criteria enumerated below. Before making a determination under this subsection, the Zoning Board of Appeals shall hold a public hearing. In determining whether individuals living together are the functional equivalent of a family, the following criteria shall be considered:
 - (a) Whether the occupants share the entire dwelling unit and live and cook together as a single housekeeping unit, as opposed to acting as separate boarders.
 - (b) Whether the household has stability akin to a permanent family structure, including the length of stay together among the occupants in a dwelling unit.
 - (c) Whether the household is a temporary living arrangement or a framework for transient living.
 - (d) The presence of minor, dependent children regularly residing in the household and, if school age, enrolled in local schools.
 - (e) The presence of an individual acting as head of household.
 - (f) Proof of sharing expenses for food, rent or ownership costs, transportation, insurance, utilities, and other household expenses.
 - (g) Common ownership of furniture and appliances and the common use of vehicles among the members of the household.
 - (h) Whether the composition of the household changes from year to year or within the year.
 - (i) Whether each of the occupants uses the address of the dwelling for their vehicle registration, driver's licenses, passports, bank accounts, bills, loans, tax returns, voter registration, and other licenses and permits, etc.
 - (j) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

Any determination under this subsection shall be limited to the status of a particular group as a family and shall not be interpreted as authorizing any other use, occupancy or activity. In making any such determination, the Board of Appeals may

impose such conditions and safeguards as the Board of Appeals shall deem necessary or advisable in order to maintain the stability and character of the neighborhood and protect the public health, safety and welfare.

FARMERS' MARKET

A cooperative venture for the seasonal sale of local farm produce and farm products which may or may not be in a completely enclosed building, where, on designated days and times, groups of individual sellers, such as growers of horticultural and agricultural products, artisans of craft products, and food and beverage providers, offer these items for sale, directly to the public, from on-site booths which may or may not be permanent structures.

FENCE OR WALL

A vertical, free-standing structure built outdoors made of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas of land. Free-standing walls are not intended to support any roof.

FITNESS CENTER

An establishment that offers facilities, equipment and programs for exercise, weight loss and/or body development, and which may include any of the following: exercise machines, weight facilities, group exercise rooms, sauna, spa, hot tub or swimming facilities, and indoor sports activities such as tennis, handball, racquetball, basketball, baseball, archery and shooting ranges. Also known as a "health and athletic club." This use shall not include a "not-for-profit club" as defined herein.

FLOOD

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN, ONE-HUNDRED-YEAR

The one-hundred-year floodplain as shown on the latest version of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map(s).

FLOOR AREA, GROSS

The sum of the horizontal areas of the floors on all stories of a building including interior balconies and mezzanines, but excluding exterior balconies, unenclosed porches, stoops, galleries, and attached or built-in garages. All horizontal dimensions of each floor are measured to the exterior face of exterior walls of each such floor, or from the center line of party walls separating two buildings.

FOOD TRUCK

A mobile food service operation located in a licensed motorized vehicle or a movable cart, stand, or trailer and from which food and beverages (pre-packaged or prepared and served from the vehicle or stand) are sold or distributed in individual portions to the general public directly from the food truck for consumption on or off of the premises.

FORMULA BUSINESS

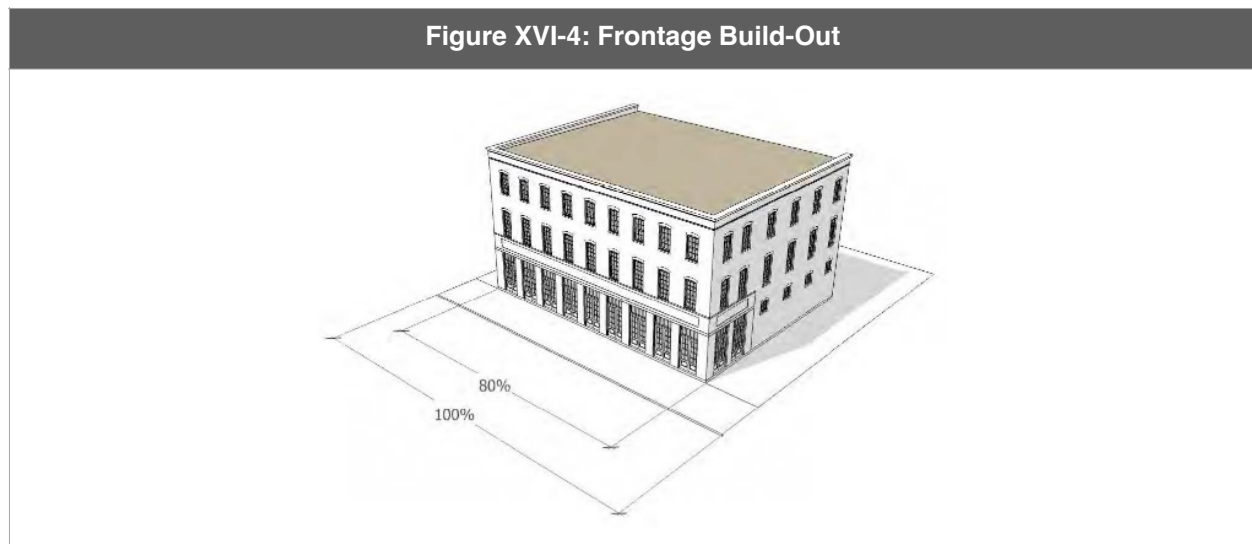
Any use, whether a principal or accessory use, that has or is required by contractual, franchise or other legal arrangements to have, along with twenty or more other businesses located in the United States, the same primary business name, trademark or logo and two or more of the following: 1) distinctive exterior and/or interior design and/or architecture, signage, color scheme, or similar standardized features; 2) the same or standardized employee uniforms; or 3) the same or standardized array of services and/or merchandise.

FRONTAGE

When used in the context of a lot, frontage is the part of the lot that abuts a street. When used in the context of a building, frontage is the part of the building that faces a street. Synonymous with “front facade.” A corner lot shall be deemed to have two frontages: the front yard frontage and the side street yard frontage.

FRONTAGE BUILD-OUT

Frontage build-out is the percentage of the width of a lot that is required to be occupied by its building’s primary façade and, in the case of a corner lot, its secondary facade. Refer to Figure XVI-4.



FRONTAGE TYPES

Building elements that are located on the front building facade and/or in the area between the front façade and the front or side street lot line.

FUNERAL HOME

A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation. A funeral home shall not include a crematory.

GALLERY

See § 151-41 and Table 17.

GAMBREL ROOF

See “mansard roof.”

GARAGE, PRIVATE

A structure or portion thereof, either fully or partially enclosed, designed and intended to be used for the parking or temporary storage of one or more motor vehicles owned and operated by the resident thereof, provided that no business, occupation or service is conducted for profit therein. The term garage shall include a carport.

GARAGE, PUBLIC

See “Parking Structure.”

GARAGE SALE/YARD SALE, PRIVATE

Any temporary sale of new and/or used goods sold from a residence not ordinarily used for or licensed as a commercial retail establishment, and open to the public either by announcement, invitation, or roadside advertisement. Also referred to as porch, lawn, tag or estate sale.

GARDEN-STYLE APARTMENTS AND DWELLINGS

A group of two or more single-family, two-family, three-family, and/or low-rise multi-family dwellings occupying a parcel of land in single ownership and having a substantially landscaped yard or court in common.

GASOLINE STATION

See “vehicle and equipment uses.”

GENERAL MUNICIPAL LAW

The General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws.

GLARE

Stray unshielded light striking the eye that may result in a) nuisance or annoyance such as light shining in a window; b) discomfort causing squinting of the eyes; c) disabling vision by reducing the ability of the eyes to see into shadows; d) reduction of visual performance.

GOVERNMENT ENTITY OR AGENCY

Any department, commission, independent agency or instrumentality of the United States, of New York State, of Dutchess County, and/or the Village of Wappingers Falls, or any other local government.

GRADE, FINISHED

The elevation at which the finished surface of the surrounding lot, either naturally occurring or upon completion of any change in contour, intersects the walls or supports of a building or other structure.

GRADING

Altering surfaces to specified elevations, dimensions, and/or slopes, including stripping, cutting, excavating, filling, stockpiling and shaping or any combination thereof, and including the conditions resulting from any excavation or fill.

GREENSPACE

That area of a lot open to the sky that is not included in the lot coverage, which shall, in accordance with the requirements of this chapter, be properly maintained with a combination of natural (not artificial) lawn, shrubs, trees and other plant covers and related ground covers.

GROSS FLOOR AREA

See “floor area, gross.”

GROUND COVER

Low-growing plants that grow in a spreading fashion to form a more or less solid mat of vegetation, generally planted to provide decorative landscaping or permeable cover for bare earth that prevents soil erosion.

GROUND FLOOR (synonymous with ground story)

The first floor of a building which is located no more than 2 feet below nor 2 feet above the average finished grade at the center-point of the building’s primary facade.

GROUND FLOOR, STREET FRONTAGE. The ground floor of the side(s) of a building that faces the street.

GROUND-MOUNTED

Directly installed in or on the ground and not attached or affixed to an existing structure.

HABITABLE SPACE

A conditioned space suitable for occupancy by one or more persons for living or working.

HOME OCCUPATION

Any limited personal service, professional service or business use customarily conducted within a dwelling or customary accessory building and carried on by the residents thereof, which is clearly incidental and secondary to the use of the premises for residential purposes and does not alter the residential character thereof, and which use shall be fully consistent with the use limitations stated in § 151-68H of this chapter. The term “home occupation” shall not include the operation of “short-term rental” as defined herein.

HOSPITAL

See “medical services.”

HOTEL

See “lodging.”

INFILL

New development or redevelopment of buildings and structures on vacant or underused lots within areas largely surrounded by developed land.

INN

See “lodging.”

JUNKYARD

Any area of land, with or without buildings, used for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials. A junkyard is a prohibited use in the Village of Wappingers Falls.

LIBRARY

A facility operated by a public or not-for-profit entity open to the public and used for the purpose of housing books, manuscripts, exhibits or other educational materials that are used by or loaned to patrons of the facility, but are not normally offered for sale.

LIGHT MANUFACTURING/ASSEMBLY/ARTISAN INDUSTRIES/MAKERSPACE

A facility engaged in manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials uses are unlikely to cause significant impacts such as noise, smoke, fumes, odors, glare, or health and safety hazards on surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing/assembly uses include:

- (1) **Artisan/Craft Product Manufacturing.** An establishment that manufactures and/or assembles small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products, where any retail sales are incidental to the manufacturing activity.
- (2) **Clothing and Fabric Product Manufacturing.** An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see “retail or service business”). Does not include the production of textile fabrics and related materials.
- (3) **Furniture and Fixtures Manufacturing, Cabinet Shop.** A business that manufactures wood and metal household furniture; office furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, and wood and cabinet shops, but not sawmills or planing mills.
- (4) **Handicraft Industries, Small-Scale Manufacturing.** Establishments manufacturing and/or assembling small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; musical instruments; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.
- (5) **Media Production.** Facilities for motion picture, television, video, sound, computer, and other communications media production.
- (6) **Printing and Publishing.** An establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish

newspapers, books and periodicals; establishments manufacturing business forms and binding devices.

LINEAR BUILDING

See “building.”

LOADING SPACE

Any suitably surfaced off-street area, no part of which is located on any street or public right-of-way, available for the loading or unloading of goods and having direct usable access to a street.

LODGING

A building, or portion thereof, in which overnight accommodation is provided for transient occupancy for compensation in accordance with § 151-67N of this chapter, and which does not include short-term rentals as defined herein. The following are types of lodging facilities:

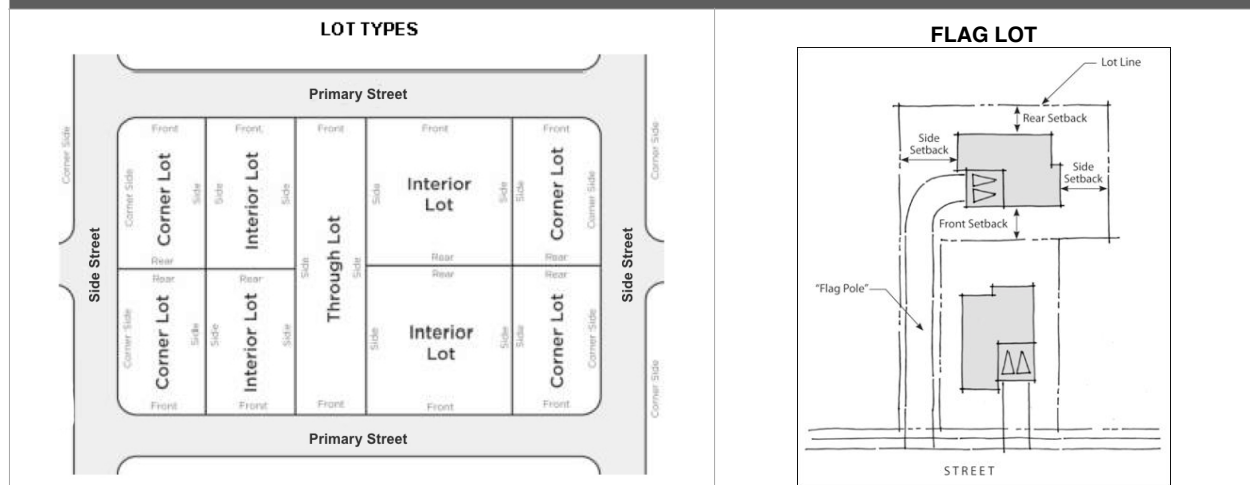
- (1) **Hotel.** A lodging facility with a minimum of 3 guest rooms and an on-site 24-7 host, and where meals may be provided.
- (2) **Inn/Bed-and-Breakfast.** A lodging facility which contains a dwelling unit occupied by an owner or resident manager, and in which there are a minimum of 3 guest rooms and a maximum of 10 guest rooms, and where meals prepared in a kitchen on site are served to guests.

LOT

A single parcel of land, whether or not located in two or more zoning districts or municipalities, having defined boundaries established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit. Also known as a “parcel” or “parcel of land.” The following describes types of lot configurations, which are illustrated in Figure XVI-5:

- (1) **Corner Lot.** A lot abutting two or more intersecting streets, or upon two parts of the same street, where such streets or parts of the same street form an interior angle of less than 135 degrees.
- (2) **Through Lot.** A lot that abuts two streets which do not intersect at the boundaries of the lot.
- (3) **Interior Lot.** A lot abutting a single street, bounded by two interior side lot lines.
- (4) **Flag Lot.** A lot with significantly less than the minimum required lot frontage which generally consists of a narrow private access strip (the “pole”) connecting the buildable rear portion of the lot (the “flag”) to the street.

Figure XVI-5: Lot Types



LOT AREA

The total land area contained within the property boundaries of one lot. Lot area is generally measured in square feet or acres. No part of the area within any public right-of-way is included in the computation of lot area.

LOT, CORNER

See “lot.”

LOT COVERAGE

That portion of a lot, expressed as a percentage, that is or may be covered by the combined area of all buildings, structures, and all other impervious surfaces that prevent or impede the entry of water into the soils, including but not limited to roads, parking lots and parking areas, driveways, sidewalks, walkways, patios, decks, pools, sports courts, tennis courts, and all man-made surfaces regardless of their claimed permeability. The foregoing notwithstanding, the “Porch” frontage type shall not be included in the calculation of lot coverage in the R, VR, and VMU Districts.

LOT DEPTH

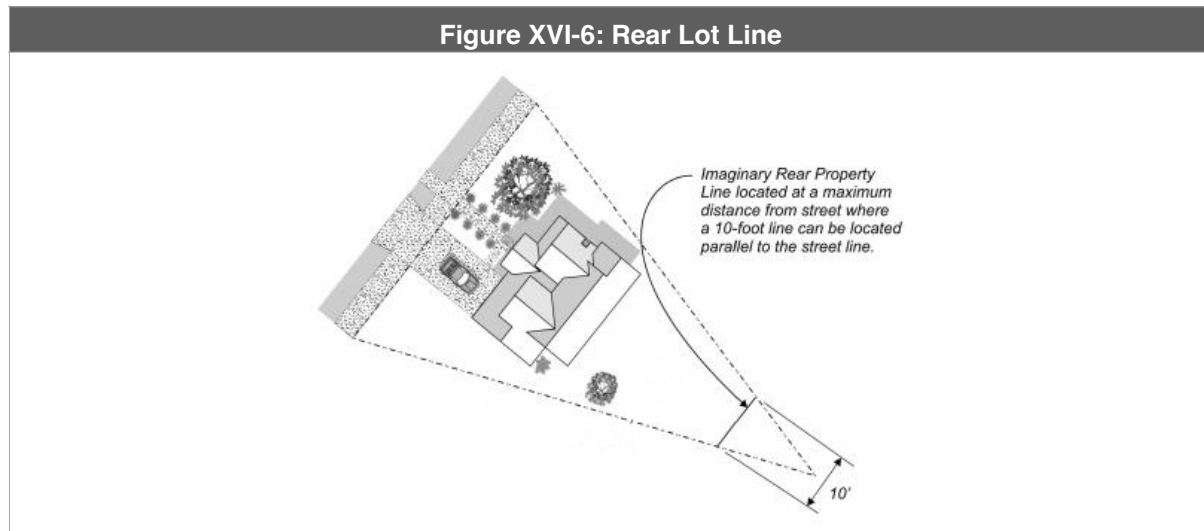
The horizontal distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is the average horizontal distance between the front and rear lot lines.

LOT LINE

A line bounding a lot which divides one lot from another lot or from a street or any other public or private space. Types of lot lines include the following:

- (1) **Front Lot Line.** The lot line separating a lot from the primary street right-of-way.
- (2) **Side Street Lot Line.** The lot line separating a lot from the side street right-of-way. A corner lot has both a front lot line and a side street lot line.
- (3) **Interior side lot line.** On an interior lot, the interior side lot line is perpendicular or approximately perpendicular to the front lot line and abuts the adjacent lot(s).

- (4) **Rear Lot Line.** The lot line opposite and most distant from the front lot line and that does not intersect the front lot line.
- (a) In the case of triangular or otherwise irregularly shaped lots, the rear lot line is an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line, as illustrated in Figure XVI-6.



LOT, MINIMUM AREA OF (synonymous with minimum lot area)

The smallest lot area established by this chapter on which a use or structure may be located in a particular district.

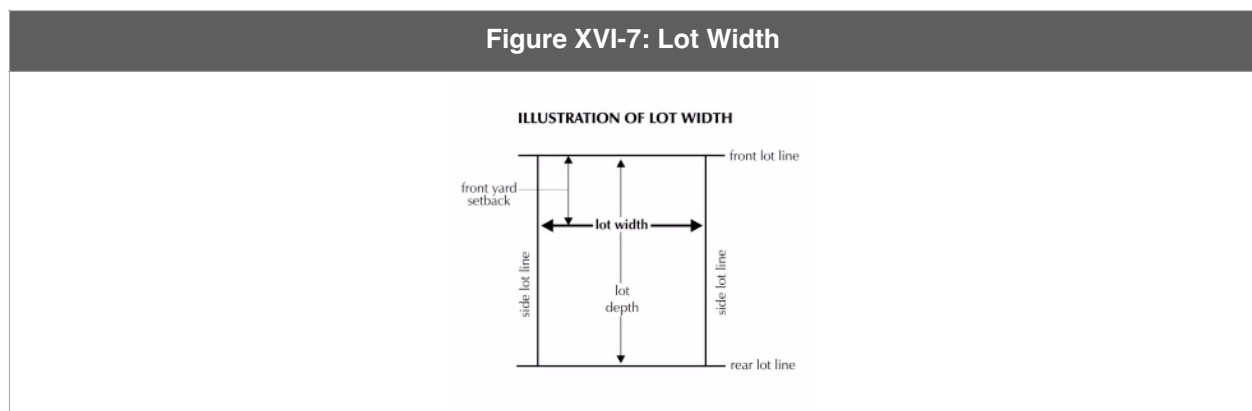
LOT, THROUGH

See "Lot."

LOT WIDTH

The horizontal distance between the side lot lines measured at right angles to its depth at the front setback, or on a corner lot, the horizontal distance between the interior side lot line and side street lot line measured at the front setback. Refer to Figure XVI-7.

- (1) **Maximum lot width.** The largest allowed lot width along the primary street.
- (2) **Minimum lot width.** The smallest allowed lot width along the primary street.



MAIN BUILDING ENTRANCE

The pedestrian entrance to a building located on the primary facade.

MAJOR VEHICLE REPAIR

The repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, such as transmission, drivetrain, auto body work, frame work, welding, painting, upholstering or similar activities.

MAKERSPACE

See “light manufacturing/assembly/artisan industries/makerspace.”

MANSARD ROOF

A roof that has two slopes, where the lower slope is steeper than the upper one. In the case of a mansard roof, the roof is four-sided, as distinguished from a gambrel roof, which has two slopes but is only two-sided. For the purpose of this chapter, a gambrel roof shall be included in the definition of a mansard roof.

MANUFACTURED HOME

See “dwelling, manufactured home.”

MANUFACTURED HOME PARK

A parcel or parcels of land with single control or unified ownership that has been planned and improved for the placement of manufactured homes for residential use as set forth in § 151-65.

MARINA

A small boat harbor or boat basin providing docks and/or boat ramps, and which may include supplies and services for small pleasure crafts and a boat club.

MEDICAL CLINIC OR LAB

See “medical services.”

MEDICAL OR DENTAL OFFICE

See “medical services.”

MEDICAL SERVICES: HOSPITAL; MEDICAL CLINIC OR LAB; MEDICAL OR DENTAL OFFICE

- (1) **Hospital.** A major institution where people receive medical, surgical, or psychiatric treatment and nursing care, primarily on an in-patient basis, including as an integral part of the institution such related facilities as laboratories, outpatient departments, emergency rooms, training facilities, central service facilities and staff offices. The term “hospital” shall not include the terms “nursing home” or “medical clinic or lab” as defined herein.
- (2) **Medical Clinic or Lab.** A facility other than a hospital or medical or dental office where medical, surgical and other personal health care services are provided on an outpatient basis. Examples of these uses include outpatient care facilities, urgent care facilities, and medical laboratories.

- (3) **Medical or Dental Office.** A facility where medical, dental, mental health, and/or other personal health care service are provided to persons on an outpatient basis, and that accommodates no more than four licensed primary practitioners (for example, medical doctors, psychiatrists, psychologists, dentists, chiropractors, etc. other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is instead classified under “medical clinic or lab.”

MIXED-USE BUILDING OR DEVELOPMENT

A building or development that combines two or more types of uses in the same building or on the same site.

MUNICIPAL USE

Any use conducted or service provided by the Village of Wappingers Falls, or any department or agency of the Village of Wappingers Falls, including but not limited to water and sewer, roads, parks, public utilities, and government buildings, but not including fire and police stations and post offices.

MUSEUM

A facility operated by a public or not-for-profit entity open to the public with or without charge, used for the purposes of collecting, preserving, exhibiting, demonstrating or interpreting art, history, culture or scientific objects or ideas, but not including the regular sale or distribution of the objects collected.

NATIONAL REGISTER OF HISTORIC PLACES

The official list of the Nation’s historic places worthy of preservation, as maintained by the National Parks Service.

NATURE OR WILDLIFE PRESERVE

An area of land and/or water that has a predominantly undeveloped character, and that may be pristine, or may have been affected by human activity such as vegetation removal, agriculture, grading or drainage if such areas retain significant natural characteristics, or have recovered to the extent that they contribute to the Village’s natural systems including hydrology, vegetation, or wildlife habitat. The purpose of nature or wildlife preserve is to provide a scenic, aesthetic appearance and/or to protect natural processes and wildlife, provide passive recreational uses, and/or maintain natural vegetation.

NIGHTCLUB

An establishment where alcoholic beverages are sold for on-site consumption and where entertainment is provided, examples of which include live music and/or dancing, and comedy.

NONCONFORMING BUILDING OR STRUCTURE

Any building or structure or part thereof that does not conform to the current dimensional regulations or other requirements for the district in which the building or structure is located.

NONCONFORMING BUILDING OR STRUCTURE, LAWFUL

Any building or structure that was legally established prior to the effective date of this chapter or any subsequent amendments thereto, but that does not conform to the current dimensional regulations or other requirements for the district in which the building or structure is located.

NONCONFORMING LOT

Any lot that was legally established prior to the effective date of this chapter or any subsequent amendments thereto, but that does not conform to the current regulations for the district in which it is located due to the enactment of this chapter, subsequent amendments thereto, or eminent domain.

NONCONFORMING LOT, LAWFUL

Any lot which is made a nonconforming lot by the enactment of this chapter, subsequent amendments thereto, or by eminent domain.

NONCONFORMING USE

Any use of a building, structure or lot which does not conform to the current use regulations for the district in which such use is located.

NONCONFORMING USE, LAWFUL

Any use of a building, structure or lot that was legally established prior to the effective date of this chapter or any subsequent amendments thereto, but that does not conform to the current use regulations for the district in which such use is located.

NURSERY SCHOOL OR PRE-KINDERGARTEN

A school organized for the purpose of educating a group or groups of six or more children fewer than five years of age that is registered with the New York State Education Department. A nursery school or pre-kindergarten is a type of school and is permitted wherever that use is permitted.

OFFICE, BUSINESS OR PROFESSIONAL

A building or part thereof used for the purpose of conducting a business or wherein services are performed involving predominantly administrative, professional or clerical operations, such as offices of attorneys, architects, engineers and similar professions. A business or professional office excludes any other use specifically defined in this chapter.

OFFICE, MEDICAL OR DENTAL

see "Medical services."

OPEN SPACE

An unoccupied space open to the sky on the same lot with a building.

OUTDOOR DINING

An outside area adjacent to an establishment selling food and/or drink on which food and/or drinks are served to patrons of the establishment.

OUTDOOR STORAGE

The storage of materials or equipment outside of any building or structure.

OVERLAY DISTRICT

A district superimposed on one or more established zoning districts and shown on the Zoning Map or described within this chapter, within which are imposed requirements that apply in addition to or in place of the regulations of the underlying zoning district. Development within an overlay district must conform to the requirements of the underlying district as modified by the overlay district.

OWNER

A person or entity that possesses an ownership interest in real or personal property, or, if the ownership of real property is held in trust, the beneficiary of such trust.

OWNER-RESIDENT

An individual who holds an ownership interest in the premises or is the beneficiary of a trust that holds fee title to the premises and who actually lives or dwells in a dwelling unit situated therein.

PARCEL

See “lot.”

PARK, PRIVATE

A privately owned area of land, with or without structures, improved and maintained by a private entity for the express use and enjoyment of its members for active or passive recreation.

PARK, PUBLIC

A publicly owned or controlled area of land, with or without structures, improved and maintained by a government entity for the express use and enjoyment by the general public for active or passive recreation.

PARKING LOT

An off-street open area containing one or more parking spaces with accessways and driveways appurtenant thereto, used for the temporary storage of operable motor vehicles.

PARKING, MECHANICAL

A parking system in which a hydraulic lift transports cars vertically in order to park cars one above the other. The term does not include a “parking structure.”

PARKING SPACE, OFF-STREET

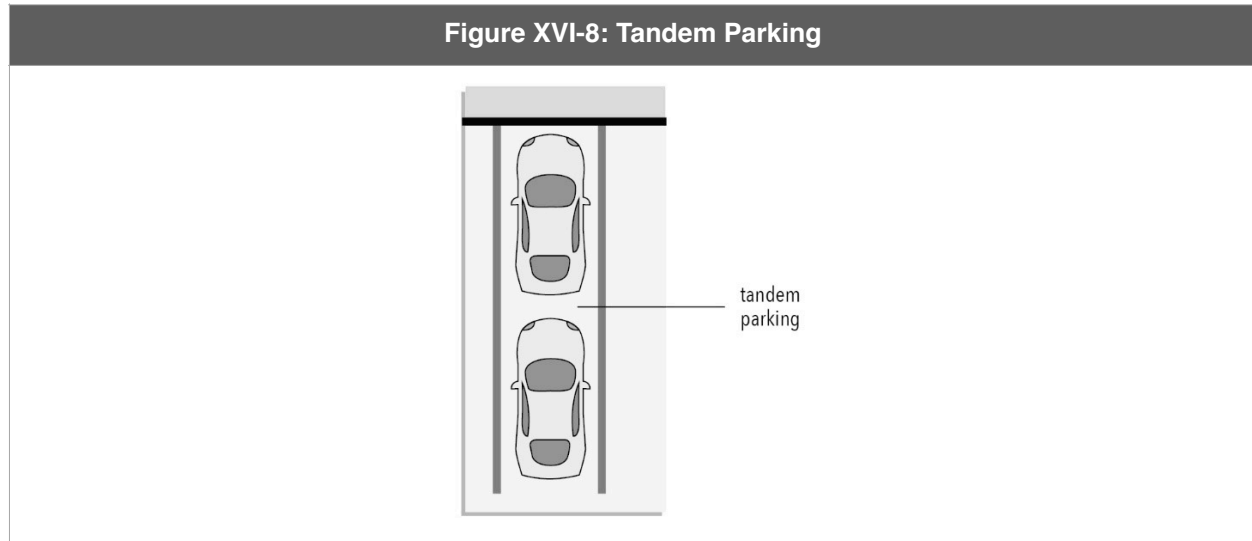
An area of land, not less than 9 feet by 18 feet, excluding accessways and driveways thereto, which is out of the public right-of-way, has a direct and permanent means of access to a street, and is available and adequately improved for the parking or temporary storage of one motor vehicle.

PARKING STRUCTURE

An underground or above-ground structure, or portion thereof, constructed and used for the parking or temporary storage of motor vehicles, available to the general public in return for direct or indirect compensation. A parking structure does not include a private garage.

PARKING, TANDEM

The placement of parking spaces in a parallel line, one in back of the other, such that one or more spaces must be driven across in order to access another parking space or spaces. Refer to Figure XVI-8.



PARTY WALL

A wall common to and separating two buildings, constructed of noncombustible material, with a fire-resistance rating of not less than two hours.

PATIO

An uncovered flat platform of earth with or without a surface material or retaining walls.

PEDESTRIAN CONNECTION

A route between two points intended and suitable for pedestrian use. Pedestrian connections include, but are not limited to, sidewalks, paths, walkways, stairways, and pedestrian bridges.

PERMITTED USE

A specific use noted in the District Schedule of Uses in Article III of this chapter, for which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right.

PERSON

Any individual, firm, partnership, trust, company, association, corporation, two or more persons having a joint interest, Village, state or federal government and any agency thereof, or any other legal entity.

PLACE OF WORSHIP

A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a recognized religious body organized to sustain public worship. Examples include churches, mosques, synagogues, temples, or other places of worship. Accessory uses may include but are not limited to school facilities, parking, caretaker's housing, pastor's housing, group living facilities such as convents or monasteries, community centers, and existing cemeteries.

PLANT NURSERY/GARDEN CENTER

An establishment engaged in the production and sale of plants, trees, and other nursery products, grown either in containers or in the soil on site, including related lawn care, landscaping and gardening products, for retail sales and incidental wholesale trade.

PORCH

See § 151-41 and Table 13.

PORTABLE STORAGE CONTAINER

A semi-trailer, truck box, shipping container, storage pod, or other similar container placed on a property for use as accessory storage. Dumpsters or roll-off containers used for the temporary storage of solid waste shall not be included under this definition.

PUBLIC YOUTH FACILITY

A location or structure owned by a government or government subdivision or agency, that is accessible to the public, where the primary purpose is to provide recreational opportunities or services to children or adolescents of whom the primary population is reasonably expected to be seventeen (17) years of age or younger.

PREMISES

A single lot, plot or parcel of land that has been assigned its own parcel identification number, together with all structures and uses thereon.

PREVAILING SETBACK

The front yard and side street yard setback of 80 percent of existing principal buildings on the same block face.

PRIMARY FACADE

See "facade."

PRIMARY RESIDENCE

The domicile and principal dwelling that a person inhabits and resides in for the majority of the year. If title to the property is not held in the name of a natural person, then the following shall apply: if the property is held in the name of a trust, the person that inhabits the residence must be a grantor or a beneficiary of the trust; if the property is held by an entity other than a trust

(corporation, limited liability company, partnership, etc.), the resident must be a majority owner of the entity.

PRIMARY STREET

See “street.”

PRINCIPAL BUILDING

The building in which the principal use of the lot is conducted. In zoning districts where more than one principal use is permitted on a lot, there may be more than one principal building on the lot.

PRINCIPAL USE

The main or primary purpose or purposes for which land and/or structure(s) are designed, arranged or intended or for which such land use or structure(s) may be occupied or maintained under this chapter.

PROHIBITED USE

Any use which is not listed as a permitted use, special permit use, or permitted accessory or temporary use in the District Schedule of Use Regulations of this chapter shall be considered a prohibited use hereunder in all zoning districts.

PUBLIC UTILITY OR SERVICES, MAJOR

Buildings and facilities for the provision and distribution of public utilities, including without limitation water, sewer, storm drainage, electric, and gas services, by a regulated utility or a public or quasi-public entity, but not including the United States, a State or any political subdivision of a State, of a size and scale found only in scattered sites throughout the Village. This use includes but is not limited to electric transmission lines over 100 kilovolts, electric power substations, gas substations, regional stormwater drainage facilities, water treatment plants, sewer treatment plants, and public utility service centers. This use shall not include hydro-power facilities.

PUBLIC UTILITY OR SERVICES, MINOR

The erection, construction, alteration or maintenance, by public utilities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such entities or for the public health or safety or general welfare, but not including buildings. This use shall include hydro-power facilities.

RECREATION FACILITIES, COMMERCIAL

- (1) **Indoor Recreation Facility.** An establishment that provides recreational activities conducted entirely indoors for a fee or admission charge including: amusement arcades, bowling alleys, roller and ice skating rinks, miniature golf, skateboarding, gymnastics, billiards, paintball, laser tag, and other similar recreations or pastimes.

- (a) **Amusement Arcade.** An establishment or part thereof providing three or more coin-, token- or otherwise operated electronic game machines or amusement devices, located fully indoors, the use of which results in video, electronic or mechanical displays of operations, and including but not limited to the types commonly known as video games, pinball machines, baseball/football arcade games, where the use of such devices is a primary use of the premises. Two or fewer such electronic games or amusement devices are considered accessory to the principal use and shall not be included in the definition of “amusement arcade.”
- (2) **Outdoor Recreation Facility.** A facility, where a fee may be charged, providing recreational activities particularly oriented to and utilizing the outdoor character of an area, and which does not depend on amusement devices or rides. This use may include trails (such as cross-country skiing, hiking, bicycling, and horse trails), and outdoor areas for activities such as soccer, baseball, football, tennis and water-related activities, but shall not include rod and gun clubs, archery ranges, pistol ranges, shooting ranges, and facilities for outdoor use of bikes, jeeps, all-terrain vehicles, go-carts and other similar vehicles.
- (3) **Accessory Uses.** All of the above recreation facility uses may include accessory uses such as a snack bar, café or restaurant, the retail sale of related sports and pastime items, and other support facilities.
- (4) **Exclusions.** Recreation facilities do not include a stadium or arena, nor do they refer to a building, room or area designed or used primarily for the presentation to the general public of plays, dance performances, music or cinema.

RECREATIONAL VEHICLE

A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary living, camping, travel, recreation or sporting purposes. The term “recreational vehicle” shall include but not be limited to travel trailer, pickup campers, camping trailer, boat or snowmobile trailer, converted trucks and buses, and similar vehicles.

REFUSE ENCLOSURE

A walled or fenced structure for trash and recycling containers with one or more gates.

RENOVATIONS

Changes made to a structure that are not merely repairs resulting from normal wear and tear, but involve a change in design, size, building materials, or outward architectural appearance of the structure.

REPAIR

The restoration or replacement of any damaged or deteriorated building, structure or portion thereof, together with any necessary prior dismantlement, provided that no relocation or expansion is effected thereby, and provided further that the cost of such restoration or replacement, computed at the then-prevailing rates, does not exceed an amount equal to 25 percent of the fair market value of the entire building or structure above the foundation thereof.

RESIDENTIAL DISTRICT

The following zoning districts, as established in Article II, shall be deemed residential districts: R, VR.

RESTAURANT (synonymous with cafe, coffee shop)

An establishment where food and drink is prepared and sold for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off--premise consumption ("counter service"), and establishments where customers are served food at their tables for on-premise consumption ("table service"), that may also provide for take-out, but does not include a "drive-through facility," a "bar or tavern," or a "nightclub," which are separately defined and regulated. Any bar area in a restaurant shall be secondary and incidental to food service, and any restaurant that serves alcohol for more than one hour after the normal menu food service has closed shall be classified as a bar or tavern

RETAIL BUSINESS

A shop or store that sells or rents goods or merchandise to the general public for personal or household consumption, but not including sale to another business for resale purposes. A "retail business" shall include an art gallery, but shall not include a "convenience store" or any other use that is specifically defined in this chapter.

RIGHT-OF-WAY

An area of land dedicated, deeded or granted to the public to accommodate public uses such as a portion of a transportation system or public utility system. Examples of "rights-of-way" include transportation routes for motor vehicles, pedestrians, bicycles, and transit, and public utility corridors for water, sewer, and storm water lines, and for power lines and gas lines where adequate public utility easements are not available.

ROD AND GUN CLUB

A group or association of people organized for the purpose of engaging in recreational activities, such as hunting, fishing, target shooting, trapshooting, and skeet shooting on a parcel of land, conducted exclusively by and for club members and their guests, characterized by membership qualifications, payment of fees or dues and a constitution and bylaws. A rod and gun club shall not include a wildlife preserve.

SCHOOL, PRIVATE OR PUBLIC

A public or private academic educational institution, including elementary (kindergarten through 6th grade), middle and junior high schools (7th and 8th grades), secondary and high schools (9th through 12th grades), and facilities that provide any combination of those levels. May also include any of these schools that also provide room and board. Does not include pre-schools/nursery schools and day care facilities (see "Child Day Care").

SCHOOL, STUDIO OR VOCATIONAL

Small-scale facilities that provide individual and group instruction, education and/or training, including tutoring and vocational training in limited subjects, such as: martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment; production studios for individual musicians, painters, sculptors,

photographers, and other artists; business, secretarial, and vocational school; computers and electronics school; driver education school; language school.

SCREENING

A visual barrier including fences, walls, vegetated barriers, and enclosures.

SERVICE BAR

A fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

SERVICE BUSINESS

Establishments that provide personal and commercial services, without outdoor storage needs, including but not limited to:

- (1) **Agency Services.** Establishments that provide services directly to consumers, such as employment agencies, insurance agent offices, real estate offices, and travel agencies.
- (2) **Bank/Financial Services.** Financial institutions, such as banks and trust companies, credit agencies, securities/commodity contract brokers and dealers, security and commodity exchanges, and other investment companies. Includes ATM facilities (see “ATM”).
- (3) **Business Support Services.** Establishment that provide services to other businesses, such as computer-related services, copying, quick printing, and blueprinting services.
- (4) **Personal Services.** Establishments that provide non-medical services to individuals as a primary use, such as barber and beauty shops, tattoo and piercing studios, clothing rental, dry-cleaning pick-up stores, home electronics and small appliance repair, locksmiths, massage (licensed, therapeutic, non-sexual), nail salons, shoe repair shops, tailors and dressmakers, tanning salons. These uses may also include accessory retail sales of products related to the services provided.
- (5) **Exclusions.** A service business shall exclude laundromat, a dry-cleaning plant, and any other use that is specifically defined in this chapter.

SETBACK

See “yards and setbacks.”

SHED

An accessory structure used for storage, not including the storage of a motor vehicle, less than 144 square feet in gross floor area, and a maximum of 15’ high measured from the average grade to the roof’s ridgeline. The term “shed” shall not include a portable storage container as defined herein.

SHOPFRONT

See § 151-41 and Table 15.

SHORELINE

The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams within the Village.

SHORT-TERM RENTAL

A detached single-family dwelling or portion thereof made available for rent or lease, or otherwise assigned, for an occupancy of fewer than 30 consecutive days. The term “short-term rental” does not include dormitories, hotels, inns, bed-and-breakfast establishments, or boarding or rooming houses as regulated by the Village of Wappingers Falls Zoning Law, and does not include the use of any accessory structure(s) for dwelling purposes. The following are types of short-term rentals:

- (1) Hosted short-term rental. A short-term rental where the resident who lives in the dwelling is residing in the dwelling overnight with their guest(s).
- (2) Unhosted short-term rental. A short-term rental where the resident who lives in the dwelling is not present in the dwelling overnight with their guest(s). Unhosted short-term rentals are prohibited in the Village.

SHRUB

A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIDE STREET

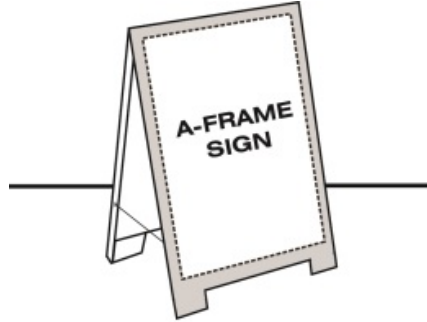
See “street.”

SIGN

Any object or device containing words, letters, numerals, figures, emblems, logos, symbols, trademarks, illustrations, trademark colors, and/or other means of communication when placed in view of the general public and visible to the public right-of-way or other properties, including the sign structure and the sign face area, of which the effect produced is to advertise, announce, communicate, identify, declare, demonstrate, direct, display, and/or instruct potential users of a use, product, business, and/or service.

- (1) **Abandoned Sign.** A permitted sign that was erected on property in conjunction with a particular use which has been inactive or discontinued for a period of 30 consecutive calendar days, or a permitted temporary sign for which the permit has expired.
- (2) **A-frame Sign.** A movable sign shaped like an “A” with a sign panel on one or both sides supported by the sign structure, intended to be placed on a hard surface, most commonly a sidewalk. See Figure XVI-9.

Figure XVI-9: A-frame Sign



- (3) **Animated Sign.** A sign, or any part thereof, which includes changes in illumination or color to depict action or motion, or the optical illusion of action or motion. Animated signs include but are not limited to video screens, televisions screens, plasma screens, and holographic displays, but do not include electronic message signs.
- (4) **Attached Sign.** A permanent sign displayed upon or attached to any part of the exterior of a building, including walls, windows, or awnings.
- (5) **Awning Sign.** A sign that is mounted, painted, printed, or otherwise applied on or attached to an awning. See Figure XVI-10.

Figure XVI-10: Awning Sign



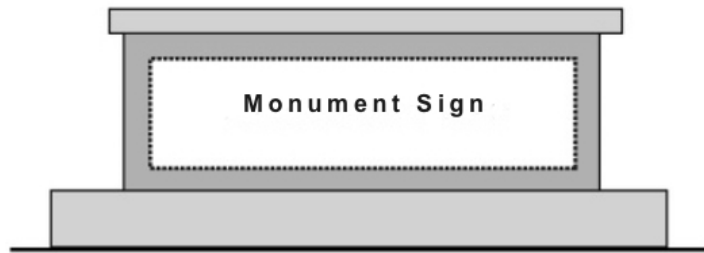
- (6) **Balloon.** Any air or gas filled device used for the purposes of signage or advertising.
- (7) **Banner Sign.** A temporary advertising sign made of cloth, paper or fabric of any kind, with only such nonrigid material for backing.
- (8) **Cabinet sign.** A sign that contains all the sign copy within a single enclosed cabinet or box and which may or may not be illuminated.
- (9) **Canopy Sign.** A sign that is mounted, painted, printed, or otherwise applied on or attached to or forms a part of a canopy.
- (10) **Commemorative Sign.** A sign, tablet, or plaque commemorating or memorializing a person, event, structure, or site.

- (11)**Directional Sign.** An on-premises non-commercial sign whose message is exclusively limited to directing the movement or placement of pedestrian or vehicular traffic. Directional signs shall not contain logos.
- (12)**Directory Sign.** A sign located on the interior of a lot listing the names and/or locations of one or more entities located within a building or group of buildings on the lot.
- (13)**Double-Faced Sign.** A sign designed to be viewed from two directions and which at no point is thicker than 24 inches measured from the exterior surface of each face, and the two faces of the sign coincide and are either parallel or the angle between them is 20° or less.
- (14)**Electronic Message Sign.** A sign or component of a sign that uses illumination systems or other similar electronic components to form a fixed or changing display that is electronically programmed and may be modified by electronic processes.
- (15)**Flag.** A sign made of a fabric type of material secured on one side from a flagpole such that the sign material hangs limply or drooping when not set in motion by the movement of air.
- (16)**Flashing Sign.** Any illuminated or electrical sign on or in which the artificial light is not maintained stationary or constant in intensity and color at all times when such is in use. Any moving, illuminated sign shall be considered a “flashing sign.” This definition shall not include electronic message signs.
- (17)**Freestanding Sign.** A non-portable sign that is mounted on a self-supporting base, post(s), or pole(s) that is erected on or anchored in the ground where no part of the sign is attached to any part of a building. Freestanding signs include monument, post-and-arm, pylon, and two-post signs.
- (18)**Illuminated Sign.** A sign with an artificial source of light incorporated internally or externally for illuminating the sign.
 - (1) **Illuminated Sign, External.** Illumination of a sign or any part thereof by a source of light not contained within the sign itself.
 - (2) **Illuminated Sign, Internal.** A sign or any part thereof which is illuminated by a light source that is contained within the sign itself where the message area is luminous, including cabinet signs, backlit signs, channel-lit letter signs, and neon/LED tubing signs.
 - (3) **Backlit Sign.** An illuminated sign whose lighting source is located behind the letters and where the letters do not transmit any light, but all illumination comes around the dark letters by means of a translucent material.
 - (4) **Neon/LED Tube Sign.** An internally illuminated sign consisting of a transparent tubing usually made of glass which is bent to form letters, symbols, or other shapes through which an electrical voltage is discharged, or in which some other device such as LED tubing is used to simulate a neon tube and neon tube illumination.
- (24)**Inflatable Sign.** An object or device that can be filled with air or gas and constructed so as to resemble an animal, figure or other object when inflated, and is installed outside a

building to attract attention to or to advertise a business, a business location, a service, a product, or an event.

- (25)**Manual Changeable Copy Sign.** A sign or portion thereof on which sign copy can be changed or rearranged manually in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels.
- (26)**Monument Sign.** A freestanding sign constructed on the ground, typically with a continuous footing or foundation, supported entirely by a base structure, and not mounted on one or more poles. See Figure XVI-11.

Figure XVI-11: Monument Sign

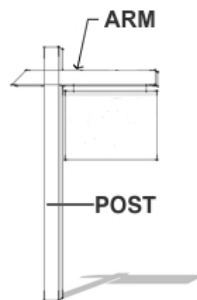


- (27)**Moving Signs.** A sign, or any part thereof, which changes physical position by means of movement or rotation, or that has swinging, spinning or moving parts.
- (28)**Neon/LED Tube Sign.** See “illuminated sign.”
- (29)**Noncommercial Sign.** A sign that does not serve to identify, advertise or promote any business, product, or service.
- (30)**Nonconforming Sign.** A sign lawfully in existence in the Village as of the effective date of this chapter or any subsequent amendments hereto, which does not conform to the requirements of this article.
- (31)**Off-premises Sign.** A sign promoting a land use, business, activity, product or service not located or available upon the premises whereon the sign is located.
- (32)**On-premises Sign.** A sign relating in its subject matter to the premises on which it is located or to products, accommodations or activities available on the premises where the sign is located. A sign bearing a noncommercial message is an on-premises sign.
- (33)**Order Station Sign.** A sign erected in conjunction with a drive-through facility, and generally used to provide service and/or product options and pricing for patrons who remain in a vehicle.
- (34)**Pennant.** A device made of flexible materials, such as cloth, paper or plastic, that may or may not contain copy, and which is installed for attracting attention.
- (35)**Permanent Sign.** A sign constructed of durable materials and affixed, lettered, attached to or placed upon a fixed, non-movable, non-portable supporting structure.

(36)**Portable Sign.** A sign that is designed to be easily moved from one location to another and, when placed, is neither fastened to a permanent structure or building, nor mounted in the ground. This definition shall not apply to A-frame signs or signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

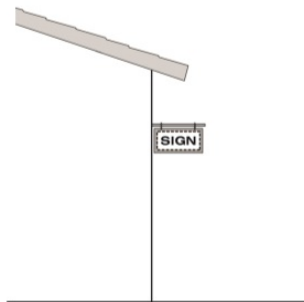
(37)**Post-and-Arm Sign.** A freestanding sign where the sign is suspended from a horizontal support (the arm) that is attached to a vertical support (the post) mounted in the ground. See Figure XVI-12.

Figure XVI-12: Post-and-Arm Sign



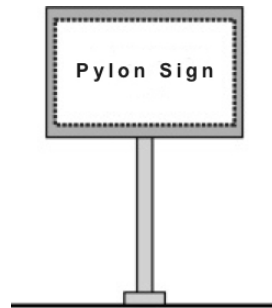
(38)**Projecting Sign.** A sign attached to and projecting from the wall of a building with the display surface of the sign perpendicular to the building wall. See Figure XVI-13.

Figure XVI-13: Projecting Sign



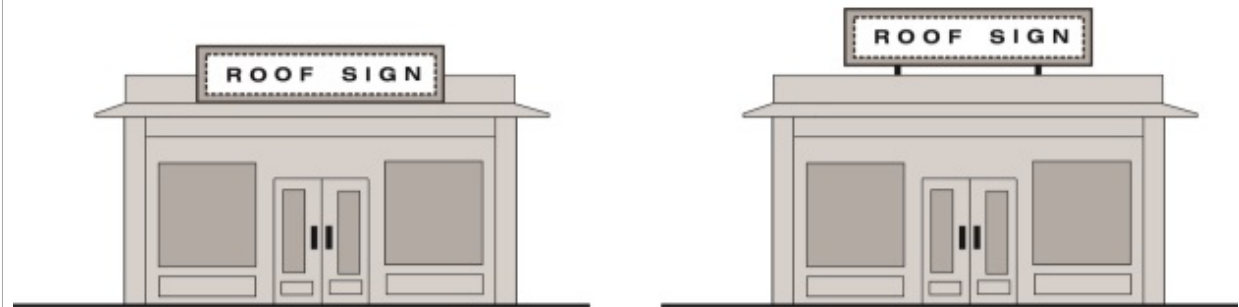
(39)**Pylon Sign.** A freestanding sign that is mounted on a pole so that the bottom edge of the sign face is six feet or more above finished grade. See Figure XVI-14.

Figure XVI-14: Pylon Sign



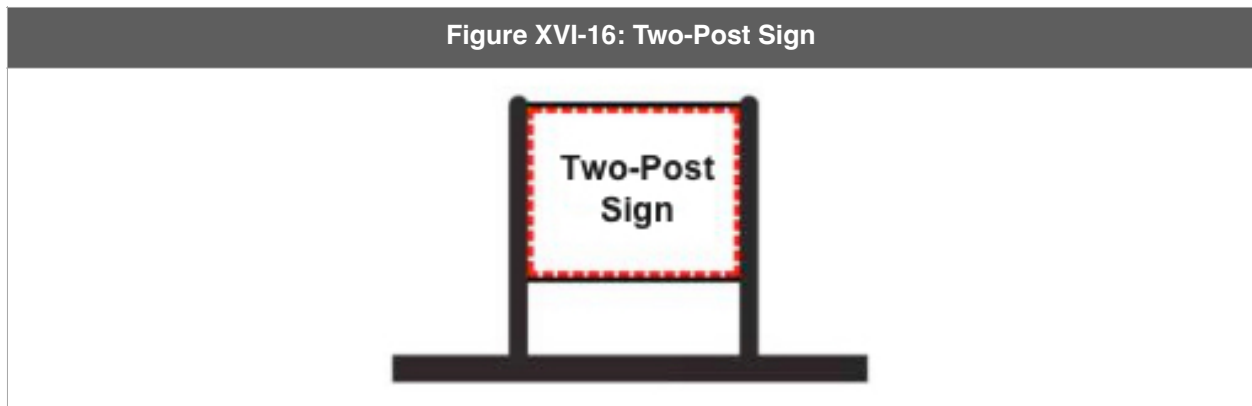
- (40)**Roof Sign.** A sign which is mounted upon the roof of a building, or upon a structure located on the roof of a building such as penthouse walls or mechanical enclosures, or which extends above the top edge of the wall or parapet (whichever is higher) of a flat-roofed building, or above the lowest edge of the eaves of a building with a hip, gambrel, shed, gable, or mansard roof. See Figure XVI-15.

Figure XVI-15: Roof Sign



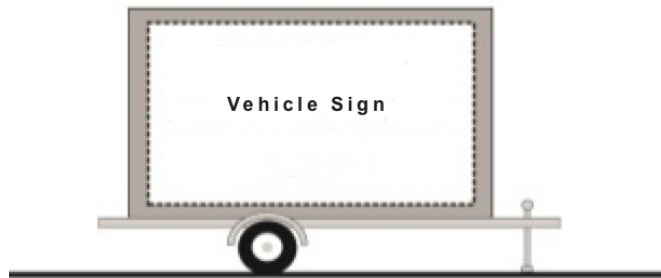
- (41)**Rotating Sign.** Any sign which revolves around one or more fixed areas.
- (42)**Seasonal Sign.** Any sign that is displayed for a specified period of time related to a seasonal business.
- (43)**Sign Alteration.** Any change of sign face, color, size, shape, illumination, position location, construction or supporting structure of any sign.
- (44)**Sign Area.** See § 151-51D of this chapter.
- (45)**Sign Clearance.** See § 151-51E of this chapter.
- (46)**Sign Copy.** The words, letters, numerals, figures, emblems, logos, symbols, trademarks, illustrations, and/or other means of communication which compose the message displayed upon the sign face.
- (47)**Sign Face.** The area or display surface used for the sign copy.
- (48)**Sign Height.** See § 151-51E of this chapter.

- (49)**Sign Message.** The thought or idea conveyed or expressed by the sign copy.
- (50)**Sign Structure.** A structure which is designed specifically for the purpose of supporting a sign, including but not limited to the supports, uprights, braces, wires or components attached to or placed around the sign structure.
- (51)**Site Sign.** A temporary freestanding sign constructed of vinyl, plastic, wood or metal and designed or intended to be displayed for a short period of time.
- (52)**Snipe Sign.** A sign which is attached in any way to a utility pole, tree, fence, or any other similar object on public or private property.
- (53)**Temporary Commercial Sign.** A sign which is displayed before, during or after an event to which the sign relates, which event is scheduled to take place at a specific time and place.
- (54)**Temporary Noncommercial Sign.** A sign bearing a noncommercial message which is displayed before, during or after an event to which the sign relates, which event is scheduled to take place at a specific time and place.
- (55)**Two-Post Sign.** A freestanding sign in which the sign is supported by two side posts. See Figure XVI-16.



- (56)**Vehicle Sign.** A sign attached to, painted on, or displayed on a motor vehicle or wheeled conveyance parked and visible from the public right-of-way, unless said vehicle or wheeled conveyance is used for transporting people or materials in the normal operations of the business. Signs displayed on portable storage containers as defined herein are presumed to be vehicle signs if they are parked in plain view from the right-of-way. See Figure XVI-17.

Figure XVI-17: Vehicle Sign



(57)**Wall Sign.** A sign attached to, painted on, or erected against the outside wall of a building, whose display surface is parallel to the face of the building. See Figure XVI-18.

Figure XVI-18: Wall Sign



(58)**Window Sign, Permanent.** A sign which is permanently applied to, attached to, or projected upon the exterior or interior of a window or a glass door. See Figure XVI-19.

Figure XVI-19: Window Sign



(59)**Window Sign, Temporary.** A sign made of temporary materials and attached to the interior of a window or a glass door.

(60)**Yard Sign.** A temporary portable sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a short period of time.

SMALL TRAILER

See “trailer.”

SOLAR COLLECTOR, BUILDING-MOUNTED

A solar photovoltaic energy or water heating system attached to any part or type of building, such as a wall or roof, on a legally permitted building that is either the principal or an accessory building on a recorded lot.

SOLAR COLLECTOR, GROUND-MOUNTED

A solar photovoltaic energy or water heating system installed directly on the ground and not attached to any existing structure. A ground-mounted solar collector is typically mounted on a pole or series of poles constructed specifically to support the solar collector.

SPECIAL PERMIT USE

A use which is deemed permissible within a given zoning district, but which may exhibit characteristics or create impacts incompatible with other uses provided therein. The special use shall, therefore, be subject to approval by the Planning Board in accordance with the conditions set forth for such use, as well as other applicable provisions of this chapter.

STADIUM OR ARENA

An open or enclosed area where sporting events or contests are held and that provides seating for more than 300 spectators. Stadium use also includes auditoriums and bandshells.

STOOP

See § 151-41 and Table 14.

STORAGE, OUTDOOR

See “outdoor storage.”

STORY

That portion of a building between the upper surface of any floor and the upper surface of the floor next above, or if there is no floor above, then the space between the upper surface of the floor and the ceiling above or the roof rafters if there is no ceiling. Story or stories are an internal measurement of the vertical dimension of a building, as opposed to height which is an external measurement.

STORY, GROUND

See “ground floor.”

STREET

A public or approved private thoroughfare which provides vehicular access to abutting properties.

- (1) **Primary Street.** For lots that front on only one street, that street is the primary street. On a through lot, the primary street is the street from which vehicular access to the lot is provided. On a corner lot, the primary street is the shortest lot line abutting a street. The forgoing notwithstanding, the Code Enforcement Officer and/or Planning Board shall

have discretion to determine which street shall be the primary street based on the purposes and design intent of the district.

(2) **Side Street.** On a corner lot, the side street is the longest front lot line abutting a street.

STREETSCAPE

The elements that constitute the physical makeup of a street right-of-way and that as a group define its character, including building frontage, street paving, sidewalks, and landscaping, including trees and other plantings.

STRUCTURE

Anything constructed, installed, or erected, the use of which requires a permanent or temporary attachment to the ground, attachment to something located on the ground, or placement on the ground. The term “structure” shall include but not be limited to: buildings, sheds, walls, fences, signs, lighting fixtures, swimming pools, poles, and tennis courts, and any fixtures, additions and alterations thereto.

STRUCTURE, ACCESSORY

A structure, the use of which is customarily incidental and subordinate to that of the principal building and/or use and which is attached thereto or is located on the same lot. The use of the accessory structure must be commonly associated with the principal building and/or use and must not change the character of the use or the site. Accessory structures are not for the purpose of human habitation and include tennis courts, swimming pools, carports, buildings such as sheds, barns, garages, studios, greenhouses, pool houses, and playhouses, and such elements as satellite dish antennas, outdoor refuse enclosures, composting bins for household waste generated on the property, rain barrels, and ground-mounted solar collectors.

STRUCTURE, PRINCIPAL

The structure in which the principal use of the lot is conducted. In zoning districts where more than one principal use is permitted on a lot, there may be more than one principal structure on the lot.

SWIMMING POOL

Any artificial body of water or receptacle for water having a depth at any point greater than eighteen inches and used or intended to be used for swimming or bathing and constructed, installed or maintained in or above the ground out of doors. A swimming pool shall be deemed a structure for all purposes under the provisions of this chapter.

TAVERN

See “bar or tavern.”

TECHNOLOGY/RESEARCH FACILITY

A business that engages in research, or research and development, of innovative ideas in technology-intensive fields such as computer software, information systems, communications systems, geographic information systems, multimedia and video technology, or in which scientific research, development and/or experiments are conducted and which meets all

applicable federal, state, county, and Village requirements for the control of emissions and pollutants. Development and construction of prototypes may be associated with this use.

TEMPORARY/SEASONAL SALES

The temporary sale of goods or products associated with a season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place in locations not devoted to such sales for the remainder of the year.

THEATER

A building, or part of a building, designed or used primarily for the presentation to the general public of plays, dance performances, music or cinema.

TOBACCO OR NICOTINE PRODUCT

Any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from any source which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term “tobacco product” excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

TOBACCO PARAPHERNALIA

Any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco or nicotine products. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes; punctured metal bowls; bongs; water bongs; electronic pipes; electronic cigarettes (e-cigarettes); e-cigarette juice; buzz bombs; vaporizers; vape pans; dissolvable liquids; vaporizing liquids, oils or gels; mods; atomizers; vape tanks; coilheads; hookahs; and devices for holding burning material.

TOBACCO STORE

A type of retail business that sells or distributes tobacco or nicotine products and related paraphernalia directly to consumers. Also known as a “smoke shop,” “vape shop,” or similar. A tobacco store shall not include a cannabis retail dispensary, and does not include the sale of cannabis.

TRAILER

Any vehicle not propelled by its own power, drawn or intended to be drawn on public highways by a motor vehicle.

- (1) **Small trailer.** A small trailer is a trailer having a body length, including hitch, not exceeding 14 feet and a body width not exceeding eight feet that is used for recreational purposes or other non-commercial use, such as a boat or snowmobile trailer, a camping trailer, or a trailer for a personal lawnmower.

TREE LAWN

A planting strip located between the sidewalk and the street curb, or between the sidewalk and the street where there is no curb, where street trees are planted.

TOW TRUCK

A motor vehicle equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include a self-propelled recreational vehicle towing another vehicle; or a motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not owned or operated in the furtherance of a commercial enterprise; or a car hauler that is used solely to transport motor vehicles as cargo in the course of a prearranged shipping transaction, or for use in mining, drilling, or construction operations.

TURNAROUND

An area at or near the terminus of a street or driveway, or associated with a parking space, that allows vehicles to turn around so as to obviate the necessity of any vehicle from backing onto a street.

UNDERTAKE

The commencement of a material disturbance of land, including the commencement of road construction, grading, the installation of utilities, clearing of building sites, excavation (including excavation for the installation of foundations, footings and septic systems), or commencement of landscaping or any other material disturbance of land preparatory or incidental to a proposed land use or development or subdivision.

USE

The specific purpose for which land, water or a building or structure is designed, arranged, intended to be or for which it is or may be occupied or maintained. See related definitions of “accessory use,” “nonconforming use,” “principal use,” “special permit use,” and “prohibited use.”

VILLAGE LAW

The Village Law of the State of New York. Also referred to as NYS Village Law.

VEHICLE AND EQUIPMENT USES:

- (1) **GASOLINE STATION.** An establishment where petroleum products are dispensed for retail sales to motor vehicles, and which may include a canopy and/or accessory retail such as a convenience store. The term “gasoline station” shall not include “vehicle towing service” and “vehicle service facility” as defined herein.
- (1) **VEHICLE SALES/RENTAL.** A retail or wholesale establishment selling, leasing, and/or renting new or used motor vehicles. May also include as accessory uses “vehicle service facility” and the incidental sales of parts and accessories. Does not include businesses dealing exclusively in used parts, auto wrecking and/or salvage; the sale of auto parts/accessories separate from a vehicle dealership, or “vehicle towing service” as defined herein.

- (2) **VEHICLE SERVICE FACILITY.** An establishment used for the servicing, repair, rebuilding, or reconditioning of motor vehicle engines, transmissions, or other vehicle parts, and collision services, including body or frame straightening or repair, upholstery, and painting.
- (3) **VEHICLE TOWING SERVICE.** A use accessory to a vehicle service facility that involves the removal and temporary storage of vehicles, but not including disposal, auto wrecking and/or salvage, or accessory storage of inoperable vehicles. The term “vehicle towing service” shall not include gasoline station or “vehicle service facility.”
- (4) **VEHICLE WASH.** An establishment devoted to the business of washing and/or waxing vehicles, whether by automated or manual means, including both self-service and full-service.

WALL, RETAINING

A wall that is more than two feet in height or exceeds 100 square feet in area.

WAREHOUSE

A building or part thereof used for the storage and distribution of goods, wares, merchandise or other commercial goods, substances or articles of any kind. This does not include a “self-storage facility,” “portable storage container,” or “shed” as defined herein, or wholesale or retail sales, or a regional or national distribution center.

WETLANDS

New York State Department of Environmental Conservation designated wetlands, federal wetlands regulated by the United States Army Corps of Engineers, and any locally protected wetlands.

WIRELESS TELECOMMUNICATIONS FACILITY

A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996, and usually consisting of a tower, an equipment shelter, and/or antenna(s).

- (1) Wireless accessory structures are any building or structure serving or being used in conjunction with a telecommunications facility, antenna, or tower and located on the same lot as the telecommunications facility, antenna, or tower. Examples of such structures include base stations, utility, or transmission equipment or storage sheds.
- (2) Wireless communications antenna. An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to whip, panel and dish communications antenna.
- (3) Telecommunications tower is any ground- or roof-mounted pole, spire, structure or combination thereof designed to support antennas, including but not limited to freestanding towers, guyed towers, monopoles, and similar structures.

- (4) Co-location is the placement of wireless telecommunications equipment from two or more different telecommunication service providers on a single telecommunications tower. Co-location shall not be applied to a situation where two or more telecommunications service providers independently place equipment on an existing building.

YARDS AND SETBACKS

A yard is the open space area between the closest point of the front, rear or side wall of a principal building and the nearest lot line. It may be equal to or greater than a setback. See Figure XVI-20.

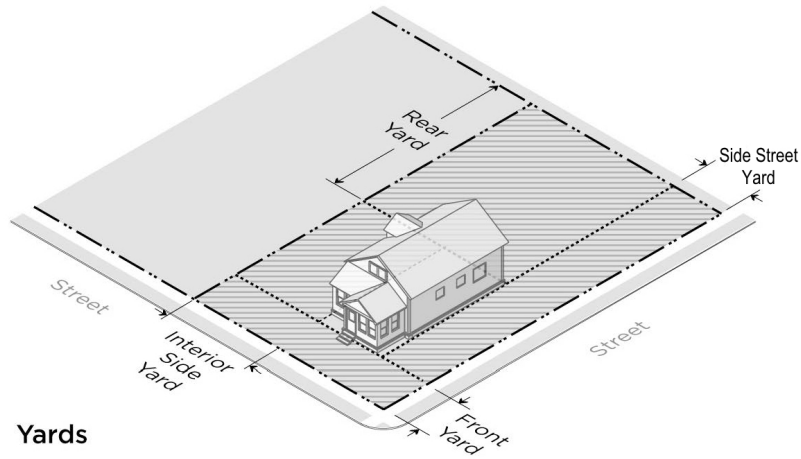
A setback is the required minimum (and in some cases, maximum) distance a building must be located from a lot line. Unless otherwise permitted by this chapter, no portion of a principal building or accessory structure may be located in a setback. See Figure XVI-20.

A build-to line is considered a required setback. A “required yard” is synonymous with a “required setback.”

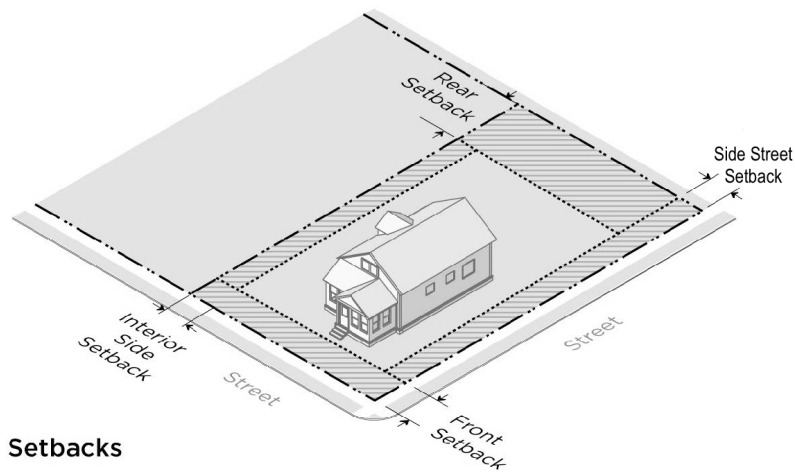
- (1) **Front Yard and Front Setback.** A **front yard** is the yard located between the front lot line and the nearest wall of the principal building on the lot. A **front setback** is the setback along the primary street, the depth of which is the required minimum (and in some cases, maximum) distance between the front lot line and the closest part of a building or structure. The front yard and the front setback extend across the entire width of the lot between side lot lines measured perpendicular to the front lot line
- (2) **Rear Yard and Rear Setback.** A **rear yard** is the yard located between the rear lot line and the nearest wall of the principal building on the lot. A **rear setback** is the setback along the rear lot line, the depth of which is the required minimum distance between the rear lot line and the closest part of a building or structure. The rear yard and rear setback extend between interior side lot lines, measured perpendicular to the rear lot line. In the case of a corner lot, the rear yard and rear setback extend between the interior side lot line and the required side street setback, measured perpendicular to the rear lot line.
- (3) **Interior Side Yard and Interior Side Setback.** An **interior side yard** is the yard located between the interior side lot line and the nearest wall of the principal building on the lot. The **interior side setback** is the setback along the interior side lot line, the depth of which is the required minimum distance between the interior side lot line and the closest projection of a building or structure. The interior side yard and interior side setback extend along the interior side lot line between the front and rear yard and setback, measured perpendicular to the interior side lot line. For townhouse developments, the interior side yard and interior side setbacks are applicable to end units only. For single-family attached dwellings, the interior side yard and interior side yard setback do not apply to the lot line where the party wall is located.
- (4) **Side Street Yard and Side Street Setback.** A **side street yard** is the yard located between the side street lot line and the nearest wall of the principal building on the lot. A **side street setback** is the setback along the side street, the depth of which is the required minimum distance between the side street lot line and the closest projection of a building

or structure. The side street yard and the side street setback extend between the front yard and the rear lot line, measured perpendicular to the side street lot line.

Figure XVI-20: Yards and Setbacks



Yards












































Setbacks

ZONING MAP

The map delineating the boundaries of the various districts established under this chapter, together with all amendments thereto subsequently adopted.

APPENDIX A: FHWA TRUCK CLASSIFICATIONS

Class One: 6,000 lbs. or less					
					
Full Size Pickup	Mini Pickup	Minivan	SUV	Utility Van	
Class Two: 6,001 to 10,000 lbs.					
					
Crew Size Pickup	Full Size Pickup	Mini Bus	Minivan	Step Van	Utility Van
Class Three: 10,001 to 14,000 lbs.					
					
City Delivery	Mini Bus	Walk In			
Class Four: 14,001 to 16,000 lbs.					
					
City Delivery	Conventional Van	Landscape Utility	Large Walk In		
Class Five: 16,001 to 19,500 lbs.					
					
Bucket	City Delivery	Large Walk In			
Class Six: 19,501 to 26,000 lbs.					
					
Beverage	Rack	School Bus	Single Axle Van	Stake Body	
Class Seven: 26,001 to 33,000 lbs.					
					
City Transit Bus	Furniture	High Profile Semi	Home Fuel		
					
Medium Semi Tractor	Refuse	Tow			
Class Eight: 33,001 lbs. & over					
					
Cement Mixer	Dump	Fire Truck	Fuel		
					
Heavy Semi Tractor	Refrigerated Van	Semi Sleeper	Tour Bus		

This chart shows typical vehicle types found in the Federal Highway Administration (FHWA) vehicle classes.

APPENDIX B: REDEVELOPMENT AREA CONCEPT PLANS

1. History and Purpose.

In 2013, the Village of Wappingers Falls was awarded funding from the New York State Department of State through the Brownfield Opportunity Areas (BOA) program to complete a Step 2 Nomination for the BOA program. The Wappingers Falls BOA encompasses the entirety of the Village and is concurrent with the municipal boundary.

Development of the BOA, which was approved in 2020, was based on extensive public participation to gather information regarding the history of the study area, and to understand the public's hopes, concerns and desires regarding future development in the Village. The public participation process included a series of Open Houses, stakeholder and property owner meetings, an economic development site visit, and a series of Steering Committee meetings.

One of the primary objectives of the BOA was to identify specific areas of the community for redevelopment. Based on community input, the BOA Steering Committee identified four priority areas that included vacant parcels or underutilized structures, the redevelopment of which were essential to create the future that residents envisioned for their community. These areas include the Bleachery, the Village Center, the Bain Parcel, and the Upper W. Main Street Corridor. In addition, a concept plan was also developed for a specific site on Upper W. Main Street—the former Thornton's Gas Station.

Concept plans were prepared for each of these areas to articulate the desired vision for their redevelopment as expressed by the community and based on property owners' interest, site visits and analysis. Each of these areas is discussed below, along with the concept plans, which appear at the end of this Appendix. *Applicants and members of the Village Board, Planning Board, and Zoning Board of Appeals should consult these plans for the desired vision of Wappingers Falls' residents as projects are proposed in these areas.*

2. Specific to the Bleachery Area.

The Bleachery Redevelopment Concept Plan seeks to revitalize the former Dutchess Bleachery, a 19th century industrial site originally developed for dyed cloth manufacturing. The site, which is comprised of multiple, privately owned parcels, includes vacant industrial land. The Concept Plan seeks to encourage redevelopment of the site to attract a similar number of people for which the site was originally designed. It also seeks to:

- (1) Provide connectivity to the Village Center with the re-establishment of "Workers Walk."
- (2) Connect with and engage the Wappinger Greenway Trail.
- (3) Encourage boating, outdoor use and the adaptive re-use of the 19th century industrial buildings in a way that encourages events, arts and employment.
- (4) Install recreational assets such as a playground and outdoor entertainment.
- (5) Encourage and develop renewable energy alternatives to encourage job opportunities.
- (6) Work with county government to incorporate private/public partnerships in educational programs with Dutchess Community College.

- (7) Encourage artist/artisan space outfitted with maker space, adequate parking and connection to existing businesses in both the Village Center and the already redeveloped portion of the Bleachery north of the Wappinger Creek.

The Village anticipates that redevelopment of the Bleachery will support new economic development and job opportunities, reestablish connectivity between the site and the Village Center, and increase waterfront recreation opportunities, which in turn will spur additional private investment in the area and increase quality of life for new residents and businesses.

3. Specific to the Village Center Area.

The Village Center Redevelopment Concept Plan focuses on five areas of the downtown:

- **West Main Street:** Enhancement of the popular County Players Theater, combined with the revitalization of vacant storefronts and underutilized parcels, could allow for West Main Street to be transformed into an entertainment district.
- **East Main Street:** As with West Main Street, East Main Street is a primary roadway through the center of downtown. The street has thriving businesses, in addition to community amenities such as the Grinnell Library, Zion Episcopal Church, and Mesier Park. The commercial and community anchors present opportunities to capitalize on existing features through improving pedestrian access, adding off-street parking, and better utilized community space.
- **Mill Street:** Mill Street is a secondary roadway within the Village Center that intersects the west side of East Main Street. The street has several businesses, residences, and a day care facility, in addition to two surface parking lots. The mix of existing uses allows for the improvement of commercial and residential opportunities.
- **Market Street:** Market Street is a secondary roadway within the Village Center that intersects with East Main Street east of Wappinger Creek. It is a primarily commercial street made up of single-use and mixed-use buildings. The existing commercial buildings and proximity to the creek allow for an increase in commercial uses and community space.
- **High Street:** High Street is a residential roadway on the outskirts of the Village Center, terminating at the dam at the end of Wappinger Lake. The residential character of the street allows for additional multi-family dwellings and creating pedestrian connections.

The Village Center has many underutilized parcels, some located on the waterfront, with interesting architecture in a natural landscape setting. With the growing national trend of people moving from the suburbs to walkable downtowns, this area has the potential to attract significant investment, particularly given the presence of the 50-year old community theater at its heart. Input received during the BOA public outreach process indicates that the community theater is a major attraction and an anchor for the business district. It draws visitors from a large region to attend reasonably priced quality performances. Theater patrons may also be interested in visiting local breweries, restaurants, wine bars and shops, as well as patronizing artisans and artists, professional designers, and other businesses. Helping the theater to achieve its goal of growth would be a successful strategy for the betterment of the entire downtown.

4. Specific to the Bain Parcel Area.

The Bain Parcel Redevelopment Concept Plan seeks to address ongoing efforts to increase the amount of recreation and community space in the Village. The Concept Plan also includes enhanced multi-modal connections, parking, and streetscape enhancements. Subsequent to adoption of the BOA, the Village Engineer prepared a Site Plan of the Bain parcel, and the park is currently being constructed. The Bain Parcel Site Plan is included herein.

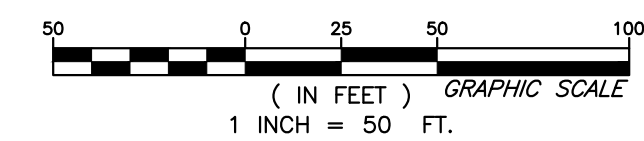
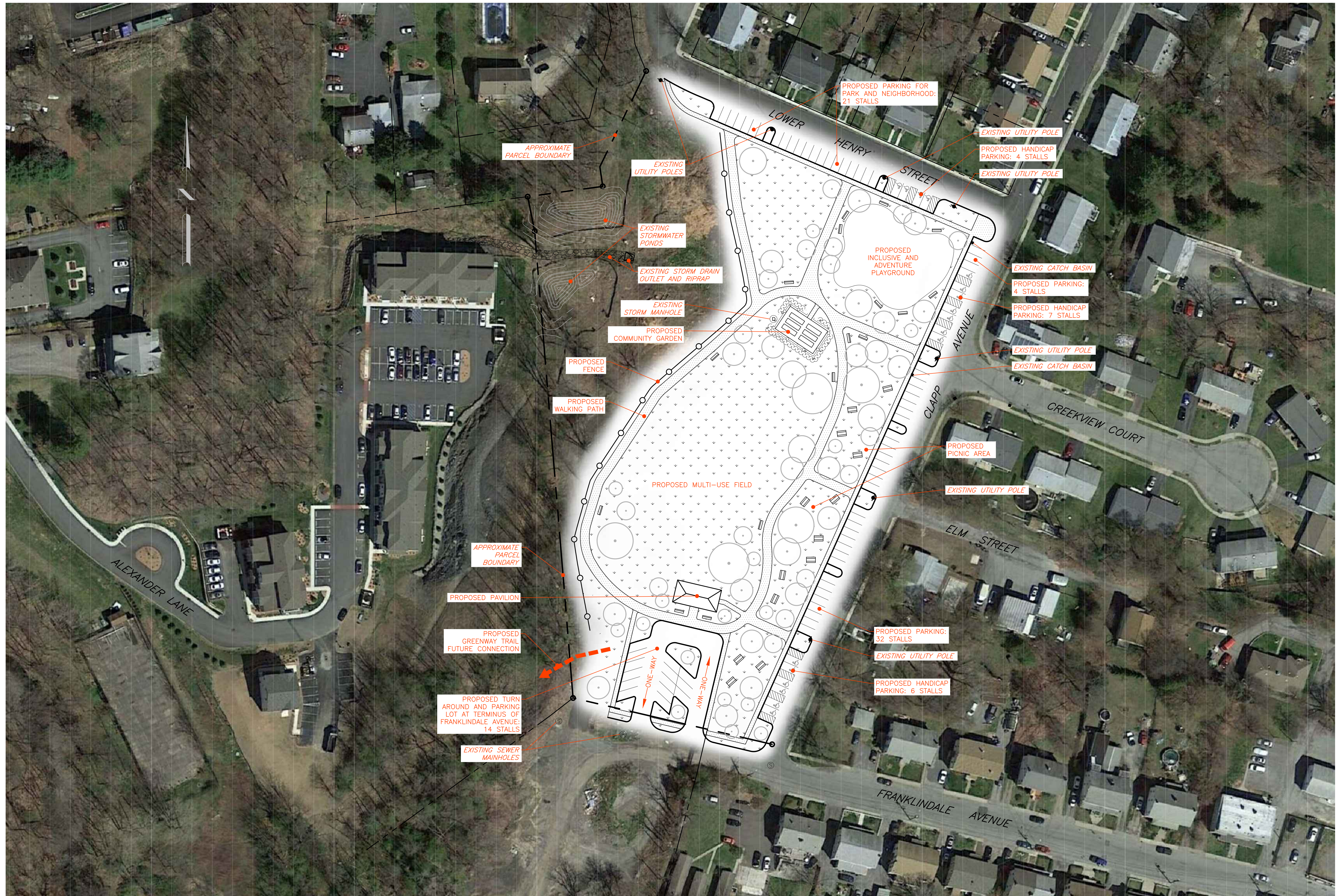
The Bain Parcel is owned by the Village, which allows for greater control of redevelopment opportunities. The Village anticipates that enhanced recreation amenities will help attract additional private investment in the area and increase quality of life for residents and businesses.

5. Specific to Upper West Main Street Corridor and the Former Thornton's Service Station.

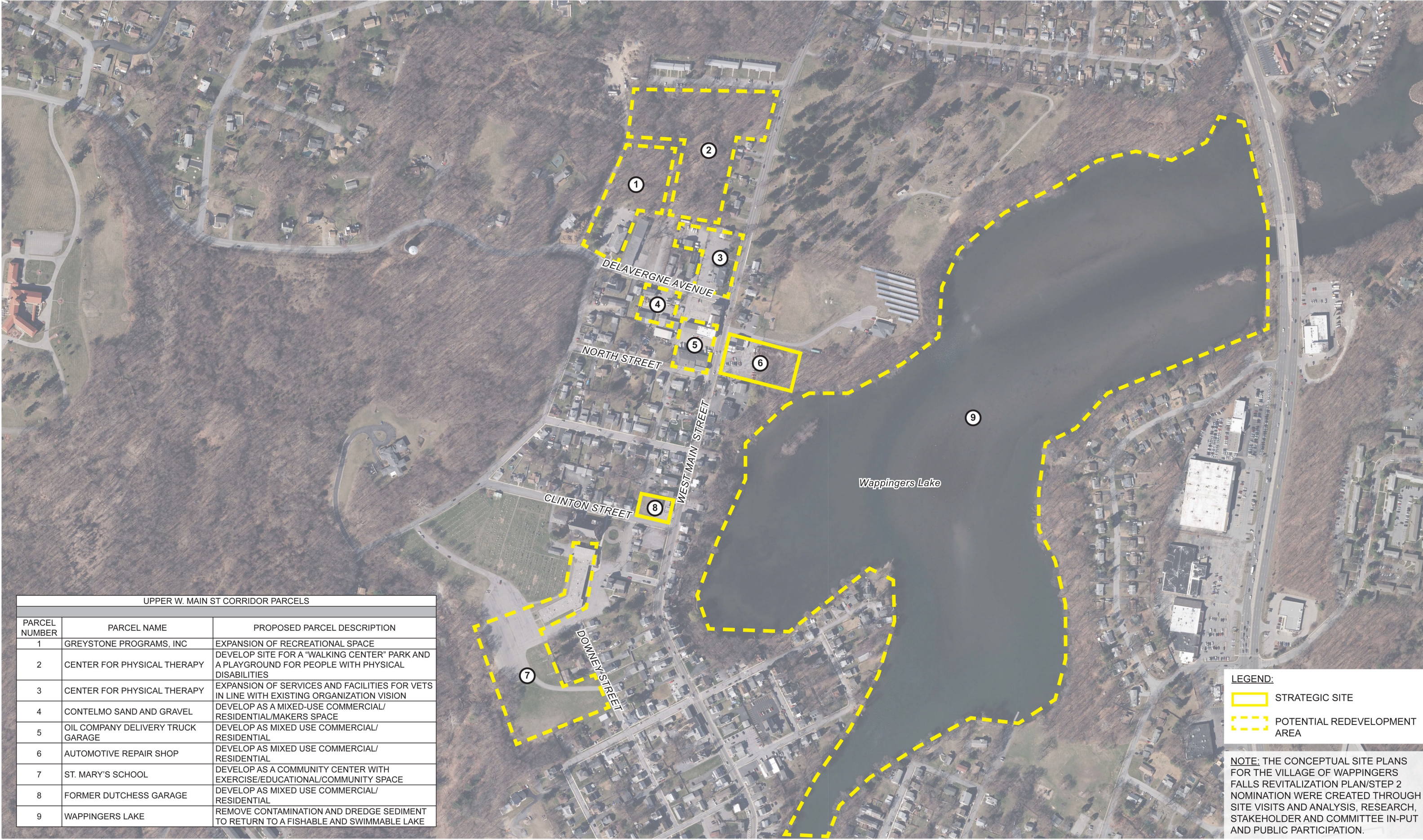
The Upper West Main Street Corridor includes strategic sites and a number of properties that were identified by the BOA Steering Committee as potential redevelopment areas, as shown on the concept plan. Due to restrictive topography and the growth of Route 9D (West Main Street), this area of the community has no access to, and limited views of, the Wappinger Lake and Falls.

The former Thornton's Service Station, located at 2780 West Main Street, is a strategic site capable of utilizing the viewshed of Wappinger Lake and delivering appropriately sized residential units. The concept plan for Thornton's Service Station includes two mixed-use buildings with first floor commercial uses along West Main Street, and a multi-family dwelling at the rear of the property overlooking the waterfront. To advance this concept, a Phase II Environmental Assessment would need to be conducted. Vehicles should be kept out of a 250-foot radius around the existing wellhead. Due to the site's proximity to Wappinger Lake, development should utilize best stormwater management practices.





PROPOSED SITE PLAN
FOR
BAIN PARCEL
VILLAGE OF WAPPINGERS FALLS
DUTCHESS COUNTY, NEW YORK
DATE: 6/26/18



UPPER W. MAIN ST CORRIDOR PARCELS		
PARCEL NUMBER	PARCEL NAME	PROPOSED PARCEL DESCRIPTION
1	GREYSTONE PROGRAMS, INC	EXPANSION OF RECREATIONAL SPACE
2	CENTER FOR PHYSICAL THERAPY	DEVELOP SITE FOR A "WALKING CENTER" PARK AND A PLAYGROUND FOR PEOPLE WITH PHYSICAL DISABILITIES
3	CENTER FOR PHYSICAL THERAPY	EXPANSION OF SERVICES AND FACILITIES FOR VETS IN LINE WITH EXISTING ORGANIZATION VISION
4	CONTELMO SAND AND GRAVEL	DEVELOP AS A MIXED-USE COMMERCIAL/ RESIDENTIAL/MAKERS SPACE
5	OIL COMPANY DELIVERY TRUCK GARAGE	DEVELOP AS MIXED USE COMMERCIAL/ RESIDENTIAL
6	AUTOMOTIVE REPAIR SHOP	DEVELOP AS MIXED USE COMMERCIAL/ RESIDENTIAL
7	ST. MARY'S SCHOOL	DEVELOP AS A COMMUNITY CENTER WITH EXERCISE/EDUCATIONAL/COMMUNITY SPACE
8	FORMER DUTCHESS GARAGE	DEVELOP AS MIXED USE COMMERCIAL/ RESIDENTIAL
9	WAPPINGERS LAKE	REMOVE CONTAMINATION AND DREDGE SEDIMENT TO RETURN TO A FISHABLE AND SWIMMABLE LAKE

LEGEND:

STRATEGIC SITE

POTENTIAL REDEVELOPMENT AREA

NOTE: THE CONCEPTUAL SITE PLANS FOR THE VILLAGE OF WAPPINGERS FALLS REVITALIZATION PLAN/STEP 2 NOMINATION WERE CREATED THROUGH SITE VISITS AND ANALYSIS, RESEARCH, STAKEHOLDER AND COMMITTEE IN-PUT AND PUBLIC PARTICIPATION.

