

VILLAGE OF VOORHEESVILLE  
ZONING LAW

Contents

ARTICLE I TITLE AND PURPOSE ..... 4

A. Short Title ..... 4

B. Enactment and Authority ..... 4

C. General Intent..... 4

D. Purpose..... 4

ARTICLE II DEFINITIONS..... 6

ARTICLE III ESTABLISHMENT OF DISTRICTS ..... 29

A. Zoning Map and Districts ..... 29

B. Copies of Zoning Map ..... 29

C. Interpretation of District Boundaries: ..... 29

D. Classes: ..... 30

E. District Objectives and Land Use Controls ..... 30

F. District Purposes ..... 30

ARTICLE IV DISTRICT REGULATIONS..... 33

A. Permitted Uses ..... 33

B. Prohibited Activities ..... 39

ARTICLE V LOT DIMENSIONS ..... 40

A. Table of Dimensions..... 40

B. Lot Requirements..... 42

C. Additional Regulations by District ..... 43

ARTICLE VI GENERAL REGULATIONS FOR ALL DISTRICTS ..... 52

A. General Standards ..... 52

B. Front Yards ..... 52

C. Height regulations..... 53

D. Individual lot sewage disposal systems ..... 53

E. Regulation of Wetlands..... 54

F. Stormwater..... 55

G. Flood Damage Prevention..... 56

H. Change in Use and Change in Tenancy ..... 57

ARTICLE VII SUPPLEMENTARY REGULATIONS ..... 58

A. Proposed Streets..... 58

B. Green Construction ..... 58

C. Subdivision Design: Conservation and Traditional Neighborhood Design..... 58

D. Two-Family Homes ..... 59

E. Multi-Family Dwellings..... 60

F. Senior Housing..... 61

G. Affordable Housing – Reserved..... 62

H. Home Occupations..... 62

I. Bed and Breakfasts ..... 63

J. Essential Service Buildings..... 64

K. Mixed Use Buildings ..... 64

L. Temporary Businesses ..... 65

Adopted May 28, 2019

M.	Accessory Uses and Structures .....	65
N.	Temporary structures .....	66
O.	Signs.....	67
P.	Fences.. ..	70
Q.	Lighting.....	70
R.	Noise... ..	71
S.	Parking and off-street loading.....	71
T.	Swimming pools .....	74
U.	Storage of Mobile Homes, Motor Homes, Recreational Vehicles, Boats, Trailers and Trucks	75
V.	Urban Farms.....	76
W.	Solar Facilities .....	79
X.	Outdoor furnaces/boilers.....	84
Y.	Demolition .....	84
Z.	Telecommunication towers.....	85
AA.	Regulating adult entertainment .....	104
ARTICLE VIII NON-CONFORMING USES .....		106
ARTICLE IX SPECIAL USE PERMITS.....		108
A.	Authorization to Grant or Deny Special Uses.....	108
B.	Applications for special use.....	108
C.	Procedures.....	109
D.	Lapses and Expiration.....	111
E.	Renewal of Permit.....	111
F.	Existing Violation. ....	111
G.	Deemed to be conforming.....	112
H.	Expansion of Special Use. ....	112
I.	Factors for Consideration.....	112
J.	Additional Conditions.....	113
ARTICLE X SITE PLAN REVIEW .....		114
A.	Purposes. ....	114
B.	Types of Proposals Requiring Site Plan Review: .....	114
C.	Requirements for a Site Plan: .....	114
D.	Administration .....	117
E.	General Criteria for Site Plan Review .....	121
F.	Specific Site Development Criteria. ....	123
ARTICLE XI PLANNING COMMISSION.....		126
A.	Appointment of Members and Terms.....	126
B.	Board Composition. ....	126
C.	Voting Procedures.....	127
D.	Decisions.....	127
E.	Conflicts.....	128
F.	Appeals. ....	128
ARTICLE XII ZONING BOARD OF APPEALS.....		129
A.	Purpose.....	129
B.	Membership. ....	129
C.	Training and attendance requirements. ....	129
D.	Vacancy in office. ....	130
E.	Removal of members. ....	130
F.	Chairperson.....	130

Adopted May 28, 2019

G.	Zoning Board of Appeals Clerk and Public Record. ....	130
H.	Board of Appeals procedure. ....	130
I.	Permitted Action by the Zoning Board of Appeals. ....	134
J.	Imposition of Conditions. ....	135
K.	Relief from Decisions. ....	136
L.	Strict Construction. ....	136
M.	Other Provisions of New York State Village Law.....	136
ARTICLE XIII ADMINISTRATION AND ENFORCEMENT.....		137
A.	Building Inspector, Code Enforcement Officer .....	137
B.	Conservation Advisory Council.....	138
C.	Building Codes.....	138
D.	Building Permit.....	139
E.	Certificate of Compliance .....	142
F.	Penalties .....	143
ARTICLE XIV AMENDMENTS .....		144
ARTICLE XV SEPARATE VALIDITY .....		144
ARTICLE XVI INTERPRETATION, CONFLICT WITH OTHER LAWS .....		144
ARTICLE XVII REPEALER .....		144
ARTICLE XVIII EFFECTIVE DATE .....		145
Appendix A. Approved Street Trees.....		146
Maps.....		147

## **Local Law \_\_\_\_\_ of 2019**

A local law enacting a new Zoning Law for the Village of Voorheesville

Be it enacted by the Village Board of the Village of Voorheesville, Albany County, New York, as follows:

### **ARTICLE I TITLE AND PURPOSE**

#### **A. Short Title**

This local law shall be known and may be cited as the "Zoning Law of the Village of Voorheesville."

#### **B. Enactment and Authority**

This local law is hereby adopted and may from time to time be amended to promote and to protect the health, safety and general welfare of the public in accordance with the grant of power established under Article 7 of the New York State Village Law.

#### **C. General Intent**

This local law is intended to direct the physical growth and development of the Village of Voorheesville. The development and growth policies contained within this local law have been established through a comprehensive planning process, which involved a careful and deliberate review of the present and reasonably foreseeable needs of the community. .

#### **D. Purpose**

The purpose of this local law is to exercise the Village's right to protect its citizens by controlling the use of land to protect the public health, safety and general welfare, and to carry out locally established goals and objectives in accordance with the Village of Voorheesville Comprehensive Plan and for the following purposes:

- 1.) To promote the health, safety, morals and the general welfare of the community.
- 2.) To maintain the Village's traditional small-town character, which includes, but is not limited to well-kept, quaint, peaceful, and quiet neighborhoods, historic structures, and streetscapes as described in the Village of Voorheesville Comprehensive Plan.
- 3.) To encourage housing options that are affordable for all generations, to increase opportunities for mixed uses in business locations, and to control the scale and intensity of new housing to ensure consistency with the Village's character and infrastructure capacity.
- 4.) With reasonable consideration of the character of each district and its peculiar suitability for particular uses, to conserve the value of property and encourage the most appropriate use of the land in the Village.

Adopted May 28, 2019

- 5.) To facilitate the safe and adequate provision of transportation, water, sewage, schools, parks and other public requirements and infrastructure.
- 6.) To enhance the protection of vital open spaces and natural resources including the Vly Creek, floodplains, and wellhead protection areas.
- 7.) To promote walkability, biking, and pedestrian linkages between all locations within the Village.
- 8.) To lessen congestion on streets, roads and highways.
- 9.) To secure safety from fire, flood, panic and other dangers.
- 10.) To prevent overcrowding of land.
- 11.) To provide adequate light and air.
- 12.) To be a supportive and business-friendly community.
- 13.) To enhance and promote the Main Street Business District.

Adopted May 28, 2019

## **ARTICLE II DEFINITIONS**

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this local law. Words used in the present tense shall include the future; the singular number shall include the plural, the plural the singular; and the word "building" shall include the word "structure." The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used. The word "shall" is mandatory and not optional. The word "abut" shall include the words "directly across from."

**Accessory Apartment** - A studio or single bedroom created within a single-family dwelling which contains no more than 25% of the total gross floor area of such dwelling and is designed to maintain and respect the single-family character of the dwelling.

**Accessory Use or Structure** - A subordinate use, occupancy, tenancy or building customarily incidental to the principal use, occupancy, tenancy or building, located upon the same lot occupied by the main occupancy, tenancy or building, including garages, solar collection devices, and lawn and garden storage sheds not classified as buildings. Such structures shall not be located closer than 10 feet to the principal structure.

**Adaptive Reuse** - The development of a new use for an existing, older building or structure or for a building originally designed for a different purpose. When an existing building is changed, renovated or adapted from a prior use to a new use.

**Addition** - An extension or increase in floor area or height of a building or structure.

**Advertising Signs** - As the words are used in this law, mean only those signs, structures, advertising medium or device which advertise or call attention to any business article, product or service sold or dispensed on the lot where such sign is located.

**Adult Entertainment:** An establishment having as a substantial or significant portion of its stock in trade books, magazines, periodicals, or other printed matter, or photographs, films, videos, slides, compact discs, or other visual representations, which are characterized by the exposure or emphasis of sexual activities which are for sale, rental, or viewing on or off the premises or which show material or expose patrons to specified sexual activities or anatomical areas including an adult cabaret, an adult theater, an adult motion picture theater, or an adult massage establishment. An adult massage establishment shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or those persons licensed to perform such activities by the State of New York.

**Affordable Housing** - Housing that costs no more than 30% of the buyer's income for principal, interest, taxes, and insurance.

**Agent of Owner** - Any person who can show written proof that he/she is acting for the lot owner. The owner's designated agent.

**Agriculture** – See Urban Farm.

Adopted May 28, 2019

**Alley** – A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation. Alleys may also be referred as “rear lanes.”

**Alteration of a Structure or Building** – Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a building, electrical, gas, mechanical, or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation or requires a permit.

**Ambient Noise** – The normal or existing level of noise from existing conditions or activities at a given location.

**Antenna** - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio, television, wireless and microwave communications. The frequencies of these waves generally range from 10 hertz to 300,000 megahertz.

**Antenna Array** - means one or more antennas used to provide wireless service.

**Aquifer**- A saturated, permeable, geologic material capable of yielding amounts of water sufficient for private and public use.

**Auto (Car) Wash** – A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and may employ some hand labor. Also includes self-service washing facilities.

**Auto Sales** - An area or building, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

**Average Lot Size** - The average size of all lots to be subdivided from a lot. Use of an average lot size instead of a minimum lot size in the R-A District allows for easier protection of open spaces. Lots subdivided using an average lot size reduce individual lot areas and bulk requirements but the number of lots remains the same as permitted without lot averaging.

**Bed and Breakfast Dwelling Facility** - A residential lodging, in an owner-occupied dwelling facility, offering at least two and no more than five sleeping rooms without kitchen facilities, for a daily fee, accommodating up to 10 transient lodgers, for a period not to exceed 14 consecutive days. This facility may serve breakfast to lodgers only.

**Billboards** - A sign or structure which directs attention to an idea, product, business activity, service or entertainment, which is conducted, sold or offered elsewhere than upon the lot on which such sign is situated. A directional sign shall not be considered as a billboard.

**Bona Fide Complaint** - Bona fide complaint shall mean a complaint made by or on behalf of a Village of Voorheesville resident or landowner, or adjacent resident, business owner, or landowner affected by such condition or activity complained of. Said complaint shall be in writing and signed by the complainant. The complaint shall contain sufficient information as to location and nature of condition or activity complained of to enable the Code Enforcement Officer to investigate such condition/activity.

Adopted May 28, 2019

**Buffer** - A portion of land, normally lying adjacent to a lot line, which is used to mitigate any negative impacts a land use or activity may have on neighboring land. With a buffer, improvements, consisting of landscaping, fencing, earth mounding, or other similar devices are typically installed and maintained.

**Boarding House or Lodging House** - As the words are used in this law, means an owner-occupied dwelling in which one or more paying guests are boarded or lodged. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit. A Boarding House or a Lodging House is not considered a short-term rental.

**Building** - Any structure having a roof supported by columns or walls, or party walls used or intended to be used for the shelter or enclosure of persons, animals or property. Any structure used or intended for supporting or sheltering any use or occupancy as defined in the Building Code.

**Building Area** - The aggregate of the maximum cross-sectional area of the buildings on the lot, excluding cornices, eaves or gutters projecting not more than 18 inches, steps, open terraces or other features of an ornamental character.

**Building Code** - Includes the New York State Uniform Fire Prevention and Building Code (Uniform Code) as promulgated pursuant to Article 18 of the New York State Executive Law and the New York State Energy Conservation Construction Code (Energy Code) as promulgated pursuant to Article 11 of the New York State Energy Code as well as the Village of Voorheesville Local Law #4 of 2006.

**Building Envelope** - The space on a lot within which a structure or structures are permitted to be built.. The buildable area of a lot, beyond which no structure may be placed unless specifically allowed by this local law.

**Building Footprint** – The area encompassed by a building’s outer wall at ground level.

**Building Height** - The distance between the average elevation of finish grade adjoining the foundation of a building to the highest part of the structure.

**Building Permit** - Written permission issued by the Code Enforcement Officer for the construction, repair, alteration, of or addition to a structure.

**Building, Principal** - A building in which is conducted the main or principal use of the lot on which said building is situated.

**Bulk Storage** - Materials stored in large quantities that are usually dispensed in smaller units for use or consumption.

**Certificate of Compliance (Occupancy, Use or Completion)** - A document, signed by the Code Enforcement Officer, stating that a structure is in compliance with all provisions of the Building Code in the Village of Voorheesville. A Certificate of Compliance shall be required for any work which is the subject of a Building Permit for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Compliance.

Adopted May 28, 2019

**Change of Use** - The change of use or occupancy of a lot, or buildings, structures, or other improvements on a lot, from either residential, commercial or industrial to one of the other uses, or change in the nature, substance or intensity of the same use, including, but not limited to, changes in the use which require the issuance of a Certificate of Occupancy pursuant to the Building Code. It also refers to any use that substantially differs from the previous use of a building or lot. Chapter 3 (Use and Occupancy Classification) of the New York State Uniform Fire Prevention and Building Code shall be used to define uses that are not specifically defined in this local law. Change of occupancy, tenancy or change of ownership shall not be construed as a change of use.

**Church** – A structure, used by any denomination, whose primary purpose is for worship.

**Clinics** – An institution providing health care services on an outpatient basis for medical care of the sick or injured including such related facilities as laboratories, central services, training and staff offices.

**Club** – a group of persons organized for a social, literary, athletic, political, or some other purpose, and the building or room occupied by such a group.

**Code Enforcement Officer** - Is the officer charged with the enforcement of building, zoning and fire codes in the Village including this local law and the building code, or the officer's deputy (if one has been appointed). The Village of Voorheesville Board of Trustees shall appoint the Code Enforcement Officer. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel.

**Code Enforcement Personnel** - shall include the Code Enforcement Officer and all inspectors.

**Co-location** - means the use of a tower or other structure to support antennas for the provision of wireless services without increasing the height or size of the tower or other structure. For purposes of clarification, any application proposing to increase the height of the structure to be attached to shall be deemed a new tower and not a co-located facility.

**Commercial Impracticability or Commercially Impracticable** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen, and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable."

**Community Building** - Any building used exclusively for public purposes by any department or branch of government; buildings of an institutional nature and serving a public need such as libraries, museums, post offices, police, emergency services and other public services.

**Community Character** - Describes the individual or collective qualities and attributes of the Village's physical, natural, built, unbuilt, and visual landscape that embody or evoke the events, places, traditions, struggles, fashions, movements, and personalities of its past. Community character also describes the unique architectural style and scale of the Village, including proportion, form, and architectural detail.

Adopted May 28, 2019

The physical layout of the community, its landscape patterns, and other elements also contribute strongly to the Village's character.

**Commercial Design Standards** - A set of guidelines to be followed in site and/or building design and development of commercial uses to help maintain the character of the Village and prevent new commercial development from dramatically changing the physical and visual footprint of the community.

**Compatible** - A use of a lot or building(s) that, in terms of development intensity, building area, design, dimensions, occupancy, traffic generation, parking requirements, access and circulation, site improvements, and public facilities and service demands, is consistent with and similar to the existing community character and traditional neighboring uses; and which use does not significantly adversely affect community character and the quality of life and health, safety and welfare of persons in surrounding or nearby buildings or lands.

**Completed Submission** - An application for development that has been submitted to the Code Enforcement Officer and forwarded to the Planning Commission or Zoning Board of Appeals that includes all required documents and submittals pursuant to this local law as determined by the Planning Commission or, for an application for a variance, by the Zoning Board of Appeals.

**Complete Application** - An application for development that has been reviewed, to the extent necessary, under SEQRA Part 617 and that has received either a negative declaration by the reviewing board or includes a draft environmental impact statement has been accepted by such board. No application requiring SEQRA review is complete until either a negative declaration or a draft environmental impact statement has been accepted.

**Compliance Order** (A.K.A. Order to Remedy) - The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or lot in violation of the Building Code.

**Comprehensive Plan** - A document that details the direction and policies of a community. In particular, a comprehensive plan provides specific purposes to control land uses for the benefit of the whole community based upon consideration of the community's problems and desired long-term direction. The Village of Voorheesville Comprehensive Plan was adopted pursuant to New York State Village Law 7-722, June 2018.

**Cone of Depression** - The usually inverted, cone-shaped depression in the water table that occurs due to the pumping of the Village supply well(s). The outermost limits of the cone of depression are defined by the point(s) where the elevation of the water table is no longer affected by the pumping of such well(s).

**Conservation Easement** - A legal agreement in the form of an easement, covenant, restriction or other interest in real property created under and subject to the provisions of Article 49, Title 3, of the New York State Environmental Conservation Law, which limits or restricts the development, management or use of a lot or lots in perpetuity for the purpose of preserving or maintaining the scenic, agricultural, open space, historic, recreational, archeological, architectural or natural condition, character, significance or amenities of the property.

Adopted May 28, 2019

**Conservation Subdivision** - A residential subdivision where the number of dwelling units that would be yielded by a conventional subdivision plan are allowed to be placed on the lot to be subdivided in a flexible manner; where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design; development that promotes the most appropriate use of land; to facilitate the adequate and economical provisions of streets and utilities; and the preservation of the natural and scenic qualities of open lands.

**Construction Activity** - Any activity involving the erection or demolition of a structure, or the clearing, cutting, excavation, filling or grading of land that alters land topography or vegetative cover.

**Consistent in Scale** - Conveys the community value that the harmony of the visual landscape and activities of daily life in the Village should be preserved and maintained. Scale is the relationship of a project or development, in terms of size, height, bulk, intensity, and aesthetics to its surroundings and the character of the community as a whole.

**Construction Documents** - Written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project, necessary for obtaining a building permit.

**Contamination** - The degradation of natural water quality, soils, or other natural resources as a result of human activities to the extent that its usefulness is impaired.

**Cottage Home** – An accessory structure used as a detached dwelling unit < 750 square feet in size. Also known as a ‘Tiny Home.’”

**Customary Accessory Use** – A use that is incidental and usually found associated with a principal use.

**Customary Commercial Accessory Structure** – A use that is incidental and usually found associated with a principal commercial use such as but not limited to, dumpsters, loading docks and sheds.

**Day Care** – Daytime care or instruction of not more than six children away from their own homes for more than three but less than 24 hours per day by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

**Day Care Center** – A center for more than six children, ages six weeks to 12 years of age (children may be more than 12 years of age if incapable of caring for themselves), for more than three hours a day and which has a license to operate as such in accordance with Section 390 of the New York State Social Services Law.

**Dead-End Street** – A street with a single common ingress and egress. This can include but is not limited to a cul-de-sac style street.

**Deicing chloride salt** - Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of chloride compounds means any quantity but does not include any chloride compounds in a solid form, which are packaged in waterproof bags or containers that do not exceed one hundred pounds each.

**Density** –Density is the amount of lot development permitted under this local law.

- a) **Gross Density** – The ratio of dwelling units or structures to the land area of the total lot.
- b) **Net Density** – The ratio of dwelling units to the land area of the lot after subtracting non-buildable areas and environmental constraints.

**Design Professional** - A person licensed or registered in the State of New York, in good standing, and authorized by the State Education Law to design, among other things, on-site waste water treatment systems.

**Development** - Any man-made changes to improved or unimproved real estate, including but not limited to the: construction of buildings; reconstruction of buildings; dredging, filling, mining, or grading of land; construction of tanks or other storage facilities; pumps or pumping stations; creation of impervious surfaces such as for parking areas; creation of waste treatment or disposal facilities; and commercial excavation.

**Disposal** - The discharge, deposit, injection, dumping, spilling, leaking, or release by any other means, of a substance to and or into the surface or subsurface of the ground, surface waters, or groundwater.

**Distribution** – The marketing, transporting, or delivery of merchandise; or the delivery or giving out of an item or items to the intended recipient.

**Disturbance** - Any physical activity which results in: the modification of topography by the cutting, filling, or stripping of topsoil; the placing of physical structures or improvements thereon which results in surface runoff which requires collection or channeling; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and the discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. It also includes any action that causes an alteration to soil or vegetation. The action may create temporary or permanent disturbance. Examples include development; exterior alterations and/or improvements to the structure; the demolition and removal of structures and paved areas; or the cutting, clearing, damaging, or removing native vegetation.

**Drive-In Restaurant or Drive-Thru Facility** - Any building or lots used to pursue the sale, dispensing or serving of any retail commodity, food, refreshments or beverages in automobiles; including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the lot and food trucks or vehicles from which such commodities, food, etc. are sold.

**Driveway** - A private entrance drive privately owned and maintained, and not meant for use by the general public, which commonly leads to a single principal use.

**Dwelling** - Any building or portion thereof designed or used as the residence or sleeping place of one or more persons.

- a.) **Dwelling, Single-Family** - A detached building arranged or designed to be occupied by one Family and containing no more than one dwelling unit.
- b.) **Dwelling, Two-Family** - A detached or semi-detached building arranged or designed to contain two dwelling units to be occupied by no more than two individual families, entirely separated by

Adopted May 28, 2019

vertical walls or horizontal floors, unpierced, except for access to the outside or to a common cellar.

- c.) **Dwelling, Multi-Family** - A residential building arranged or designed to be occupied by three or more persons or families, living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.
- d) **Dwelling, Mobile Home** - A portable dwelling unit that is designed to be transported on its own wheels or those of another vehicle, which is designed to be used as a year-round detached residence; and which is a complete, independent unit to be occupied as permanent living quarters, containing sleeping accommodations, a flush toilet, a tub/shower, kitchen facilities, and plumbing and electrical connections for attachment to outside systems, whether placed on a foundation or not. Any other housing including modular, panelized or sectional home are not included in this definition.

**Dwelling Unit** - One (1) or more rooms, including a kitchen or kitchenette and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

**Easement** - A grant of one or more of property rights by a property owner to and/or for use by the public, a corporation, or another person or group of persons or entity.

**Engineer** - An individual duly qualified and licensed to perform engineering work in the State of New York. The term "Village Engineer" shall refer to an engineer retained by the Village.

**Escrow** - A deed, bond, cash or other security delivered to a third person or agency and delivered by the third person to the grantee only upon fulfillment of a condition.

**Essential Services** - The construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems; including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection herewith; but not including essential service buildings unless granted by special permit and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare.

**Essential Service Building** - A building that houses equipment, facilities, and appurtenances associated with providing essential services.

**Family** ("Families") - A household constituting a single housekeeping unit occupied by one or more persons.

**Facility** - Something designed, built, installed, etc., to serve a specific function affording a convenience or service.

**Farmers Market** - A location for the seasonal selling or offering for sale at retail of vegetables or produce and other agricultural products, occurring in a predesignated area, indoors or outdoors, where the vendors are individuals who have raised the produce or have taken the same on consignment for retail sale.

Adopted May 28, 2019

**Farm Stand** - A structure for the display and sale of farm products primarily grown on the property upon which the stand is located or at a nearby property.

**Fertilizers** - Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium that is applied to the ground to increase nutrients from plants.

**Fill** - Any clean soil or rock materials (sand or clay) used to raise the ground elevation.

**Filling** - Any activity which deposits natural or artificial material to modify the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses.

**Finished Grade** - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. In computing the height of any building or other structures or for other purposes if the line of intersection is not reasonably horizontal, the finished grade shall be the average elevation of all finished grade elevations around the periphery of the building or structure.

**Fitness-Oriented Business** – An establishment that provides facilities for aerobic exercises, such as running or jogging, exercise equipment, game courts, swimming facilities, saunas, showers, massage rooms, and/or lockers.

**Flood Hazard, Area Of** - Land subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also, commonly referred to as base floodplain or 100-year floodplain. See also flood related terms included in Local Law #2 of 2015 (Flood Damage Prevention).

**Flood, 100-Year** - The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year). See also flood related terms included in Local Law 2 of 2015 (Flood Damage Prevention).

**Floodplain or Flood Prone Area** - A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded. See also flood related terms included in Local Law #2 of 2015 (Flood Damage Prevention).

**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

**Floor Area, (Gross)** - The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, corridors, and lobbies from the exterior face of exterior walls.

**Formula Business** - Businesses which are required by contractual or other arrangements to be virtually identical to businesses in other communities because of standardized architecture, services, merchandise, decor, uniforms and the like.

**Frontage** - The side of a lot abutting on a street. For most lots, this is along the front lot line but a corner lot has frontage on two or more streets.

Adopted May 28, 2019

**Funeral Home** - A building or portion thereof, used for human funeral services. Such a building may contain space and facilities for: embalming and performance of other services used in preparation of the dead for burial (excluding cremating and/or the performance of autopsies and other surgical procedures); the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**Garage, Private** - An accessory structure to a dwelling which may provide parking and storage of vehicles owned and operated by the residents (and not a separate commercial enterprise available to the general public.) No business, occupation or service connected with motor vehicles shall be permitted in any private garage.

**Garage, Auto Repair** - A lot or building used for the storage of trucks, trailers or automobiles and/or the repair and/or servicing of such vehicles including the supplying and dispensing of oil, greases, batteries, tires and automotive accessories directly related to the motor vehicle trade at retail or wholesale.

**Garage Sale(s)** - The sale of goods on the lot of a single-family, two-family, or multi-family dwelling where at least one seller is a resident of the premises or an authorized agent of the estate at which the garage sale is conducted. The sale of goods shall be limited to those items belonging to the seller conducting the sale which were acquired by the seller for his or her own use, whether or not such goods were actually used by the seller. Such sales shall not include goods, new or used, acquired by the seller for resale; and not more than three garage sales shall be conducted at the same premises or by the same person in any one twelve-month period. Garage sales shall be no longer than three consecutive days.

**Gasoline Station** - Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels.

**Grading** - The alteration or reshaping of the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses by excavation, filling, or any combination thereof. Grading that extracts more than 100 cubic yards of minerals offsite shall require a grading permit.

**Greenhouse/Nursery** - A greenhouse is a commercial building or structure whose roof and sides are made of transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale. A nursery is a land used for the growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs and ancillary products to the general public or for wholesale. A greenhouse used for personal enjoyment and placed on a residential lot shall be a residential accessory structure.

**Hazardous Material** - Any substance found listed in either 40 CFR Part 261, 40 CFR Part 302, or 6 NYCRR Part 371, alone or in combination, including but not limited to petroleum products, organic chemical solvents, heavy metal sludge, acids with a pH less than or equal to 2.0, alkalis with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrodibility, reactivity, or EP toxicity.

**Hazardous Waste** - A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous waste, because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a

Adopted May 28, 2019

significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed.

**Heavy Industry** - Any use or activity, which generates significant volumes of smoke, odors, noise, or polluting wastes. Heavy Industry includes but is not limited to chemical manufacturing; and automobile, mining, petroleum, and steel industries which require very large capital investment in weighty machinery and large plants.

Examples of uses not intended to be included in the definition of “Heavy Industry” are milk processing plants; woodworking and cabinet shops; automobile repair shops; wineries and breweries; warehouses; equipment repair and maintenance facilities; light manufacturing or light industrial facilities (as defined elsewhere in this local Law).

**Herbicides** - Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, and those substances defined pursuant to Environmental Conservation Law Section 33-0101.

**Historic Buildings** - Buildings which have been specifically designated as historically significant by the State of New York or a local governing body; or are listed in “The National Register of Historic Places”; or which have been determined to be eligible for listing on the “National Register” by the Secretary of the Interior.

**Home Occupation** - Any accessory use generally of a service character, customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a name plate.

- a) **Minor Home Occupation** - An occupation or business activity resulting in a product or service for financial gain with no employees producing only household quantities and types of waste, requires a low number of, if any, daily client visits (and therefore no additional parking), requires no outdoor material storage, and does not involve an excessive amount of delivery truck visits. Signage, if present at all is limited to a small door or lawn plaque. No permit is required for minor home occupations that meet the requirements for such a use. Includes an in-home day care operation serving six or fewer children.
- b) **Major Home Occupation** - A business activity resulting in a product or service for financial gain and is conducted by an owner/operator who must reside on the premises and does not employ more than three additional persons onsite. Exterior evidence of a major home occupation may include one or more of the following: customers and clients entering and exiting; a sign; exterior dumpsters or waste receptacles; stored equipment; or vehicles including construction equipment and delivery truck visits or other traffic beyond that expected of a typical residence.

**Hospital** - An institution providing health services (primarily for inpatients) and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

Adopted May 28, 2019

**Hotel** - A facility offering transient lodging accommodations for a daily rate to the general public in which no provision is made for cooking in any individual room or suite. A hotel may provide additional services, such as restaurants, meeting rooms, and recreation facilities.

**Household Pet** – An animal used by the residents of the premises only. Household pets shall not be construed to include farm animals such as horses, sheep, pigs, hogs, chickens and geese.

**Impervious Surface or Cover** - Those surfaces in the landscape which do not have a permanent vegetative cover and/or cannot effectively infiltrate rainfall, snowmelt and water; and which replaced naturally pervious soil with impervious construction materials including, but not limited to, building rooftops, pavement, sidewalks, driveways and roads (with a surface of compacted dirt or gravel, asphalt or concrete), decks and swimming pools. Regardless of the construction materials used, any area which is used for driveway or parking purposes, including disturbed grass, ground cover, or dirt, shall be considered impervious surface.

**Important Aesthetic Features** - Denotes elements of the Village's architecture and landscape that have been identified by the community as significant to the local quality of life and sense of place. They may be specific elements such as structures, streets, parks, waterways or crossroads, or they may be more diffuse resources such as Village parks and other open spaces and scenic views.

**Industrial Facility/Site** - A facility or site developed in an orderly planned way with transportation, utilities, etc., that is owner operated, leased or sold to firms; including sites where manufacturing, processing fabrication, assembly, packaging, storage, sales and distribution of products is conducted.

**Junk** - Scrap irons, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys; bones, rags, used cloth, combustible and noncombustible waste materials; used paper; used rubber; used rope; used glass products; used batteries; old or used machinery; used dismantled or wrecked vehicles no longer intended or in condition for legal use on public highways; used tools, appliances, fixtures, and utensils; used lumber; used boxes, cartons, wood or crates; used pipe or pipe fittings; and used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition (but are subject to being dismantled.) Junk shall include such rubbish as yard trimmings and waste, tree stumps, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials including discarded, abandoned or stored refrigerators. Junk shall also be deemed to include one unlicensed motor vehicle on any lot except as authorized by the Planning Commission pursuant to special use permit or under the site plan review provisions of this local Law. The accumulation of junk under this definition shall constitute an unlawful use of a lot.

**Kennel** - The keeping or housing of three or more dogs or three or more cats, over six months of age for grooming, breeding, training or sale. A veterinary office which includes keeping and housing for animals being treated at that facility shall not be considered a kennel.

**Large Scale Business and Industrial Developments** - A large scale business or industrial development is a tract of land of not less than five (5) acres which is planned for non-residential development as units under single ownership or control and which includes two (2) or more non-residential principal buildings.

Adopted May 28, 2019

**Light Industry/Manufacturing, Small Scale** - A use in which a product is manufactured but the manufacturing process and facility have minimal impact on the property where the manufacturing takes place and almost none on adjacent properties, with qualities including:

- \*No creation of noise, vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the lot line;
- \*No change to the character of the surrounding neighborhood;
- \*Adequate screening of outside storage of goods, materials, or equipment;
- \*Signs limited in size;
- \*No chemical, metal, or hazardous waste, or potential contamination of surface or groundwater;

**Lot Coverage** - That part of the Lot that is covered by impervious surfaces.

**Lot** - A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory to the operation thereof, together with such open spaces as required by this local law.

- a.) **Lot Corner** - A Lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street or parts of the same street, forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines in the "corner."
- b.) **Lot, Depth** - The mean horizontal distance between the front and the rear lines.
- c.) **Lot Lines** - The property lines bounding the lot.
  - 1.) **Lot Line, Front** - the line separating the lot from a street.
  - 2.) **Lot Line, Rear** - the lot line opposite and most distant from the front lot line.
  - 3.) **Lot Line, Side** - any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street.
- d.) **Lot Width** - The mean width of the lot measured at right angles to its depth.
- e.) **Lot Area** - The computed area contained within the lot lines. All "frontages;" "depths;" "widths;" and "areas" shall be net, measured to or from the sides of streets, alleys or rights of way.

**Mixed-Use Lot** - A lot containing both residential and commercial uses on the same lot.

**Mixed-Use Structures** - A structure containing both residential and commercial uses in the same structure. All nonresidential uses in hamlets and business district in a mixed-use structure shall front the street.

**Nonconforming Lot** - A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this local law but fails in terms of total area or dimensions to conform to the present requirements of the local law.

**Nonconforming Building or Structure** - A building or structure, the size, dimensions, material construction or location of which was lawful prior to the adoption, revision, or amendment of this local law but that fails to conform to the present requirements of the local law.

**Nonconforming Use** - A use or activity that was lawful prior to the adoption, revision or amendment of this local law but fails to conform to the present use requirements of the local law.

Adopted May 28, 2019

**Nursing or Convalescent Home** - A New York State licensed residential care facility in which nursing care and medical services are performed under the general direction of persons licensed to practice in the State of New York, for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require on a twenty-four-hour basis, nursing care and related medical services. This definition shall include skilled nursing facilities, intermediate care facilities and nursing facilities.

**Occupancy** - Dwelling in any residential building for two consecutive days between the hours of 1 a.m. and 6 a.m. and/or conducting business during regular business hours in a commercial building shall constitute occupancy of a building.

**Office Building** - A building that has been planned, developed, and operated as a facility to accommodate one or more separate offices as its primary use, where other uses are secondary or accessory.

**Office Use (Offices)** - Any use of a primarily clerical or professional nature, such as, but not limited to, insurance, government, real estate, legal, miscellaneous businesses or medical services.

**Off-Site Sewer or Water** - Those facilities provided for common usage in a private or public entity, and which shall meet the requirement standards of all applicable local, state and federal codes, rules and regulations.

**On-Site Consumption** - The use of petroleum to heat or cool a residential or non-residential structure or to operate machinery necessary for agricultural activities. On-site consumption does not include the on-site use of petroleum for processing or manufacturing activities or the sale or distribution of petroleum for or into vehicles, except vehicles used for agricultural operations on that site.

**Open Space** - Undeveloped lands without dwellings, structures, streets, or driveways and including, but not limited to wetlands, steep slope areas, and stream banks. Some of these lands may provide opportunities for active or passive recreational use. Yards of mown grass within or surrounding housing developments, commercial businesses, or other institutions is not considered open space. Open space land may either be publicly or privately owned.

**Parking Space, Off-Street** - For purposes of this local law, off-street parking space(s) shall be in conformance with Article VII (S) of this local law, together with properly related access to a public street or alley. Such spaces shall be designated, maintained and regulated so that no parking or maneuvering incidental to parking, shall be on any public street, walk or alley, and so that any motor vehicle may be parked and may exit without moving another vehicle.

**Permitted Use by Right** - Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and for which no special use review by the Planning Commission is required. However, a building permit issued by the Code Enforcement Officer and site plan review by the Planning Commission may be required.

**Pesticide** - Any substance or mixture of 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 those substances defined pursuant to New York State Environmental Conservation Law Section 17-0105. A product is likely to be a pesticide if the labeling or advertising:

Adopted May 28, 2019

- Makes a claim to prevent, kill, destroy, mitigate, remove, repel or any other similar action against any pest.
- Indirectly states or implies an action against a pest.
- Draws a comparison to a pesticide.
- Pictures a pest on the label.

**Petroleum** - Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) use as a motor fuel or lubricant; or 3) use in the operation of hydraulic equipment.

**Ponds** – A basin for holding water created by excavating soils in an area which is generally flat or in a depression or low point within a broader drainage way and where the source of water may be overland runoff, a diversion of flowing water or from groundwater. Ponds may be dugout, a vegetated earthen impoundment structure, or an impoundment structure made of other materials.

**Portable On-Demand Storage Units** - A large container designed and rented or leased for the temporary storage of commercial or residential household goods, that does not contain a foundation or wheels for movement. Examples of this use include piggyback containers that can be transported by mounting on a chassis, and “POD” type boxes that can be transported on a flatbed or other truck; but do not include prefabricated sheds that are not designed for transport after erection, or commercial trailers used by construction or other businesses in the regular performance of their business.

**Public Recreation Facility** - Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; and other places where the public is directly or indirectly invited to visit or permitted to congregate.

**Premises** – A lot, parcel, tract, or plot of land together with the buildings and structures on it.

**Principal Building** - A structure located on a lot housing at least the principal use allowed for the lot. When a Garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building for the purposes of computing setback, density and percent of lot coverage.

**Private** - Belonging to some particular person or persons; private property not open or accessible to the general public.

**Private Club** - A facility operated by a corporation, association, or group of people for the social, educational or recreational intent of the dues-paying members and their guests; but not primarily for profit or to render a service, which customarily, is carried on as a business.

**Public** - Open to all people.

**Public Facility** - Any building or area owned operated and maintained by a governmental authority.

**Public Way** - Any right-of-way open to the public for vehicular or pedestrian access.

Adopted May 28, 2019

**Radioactive Material** - Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

**Recharge Area** - An area composed of permeable materials, which allows precipitation and surface water to filter into groundwater and replenish groundwater in aquifers.

**Recreation -**

- a.) **Recreation, Commercial:** Recreation facilities operated as a business and open to the public for a fee, including but not limited to athletic training facilities, fitness centers, bowling alleys, golf courses, golf driving ranges, ice skating rinks, swimming pools and picnic groves.
- b.) **Recreation, Public:** Recreation facilities operated as a non-profit enterprise by the Village and/or any other governmental entity or any non-profit organization and open to the public.

**Recreational Vehicle** – A portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed for recreational and camping purposes including but are not limited to travel trailers, truck campers, camping trailers, self-propelled motor homes, boats and boat trailers, and pop-up campers.

**Repair** - The reconstruction or renewal of any part of an existing building or structure for the purpose of its maintenance. A repair may or may not require a building permit depending on the scope of the repair.

**Re-subdivision** - The creation of new or different lots from a previously legally subdivided tract, lot, parcel or parcels, shown on a plat officially filed with the Albany County Clerk’s Office.

**Retail Business** - A business engaged in the sale of commodities to walk-in consumers for direct consumption and not for resale; including apparel stores, grocery stores, pharmacies, bookstores and other retail outlets.

**Right-Of-Way** - A strip of land acquired by reservation, dedication, or condemnation and intended to be occupied by a street, crosswalk, railroad, utility line, water line, sewer line or other similar uses. It shall also be the right of one to pass over the property of another.

**Screening** - A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

**Secondary Containment** - A structure which prevents any materials that have spilled or leaked from primary containment structures such as piping, tanks, or other containers, from reaching the land surface or subsurface soils.

**Sedimentation** - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of a disturbance or into a lake or natural watercourse or wetland.

**Self-Storage Facility** - Commercial structures divided into spaces that are rented to consumers for storage of possessions on a weekly, monthly or other similar periodic basis.

Adopted May 28, 2019

**Senior Citizen** - (a) A person who is 55 years of age or more; or two persons living together, both of whom are signatories on a lease, at least one of whom is 55 years of age or more; and an adult under the age of 55 if the presence of the adult is essential for the physical care or economic support of an eligible senior citizen, and (b) the surviving spouse of any family described in (a) above.

**Sensitive Environmental Feature** - Refers to a natural resource that has a high potential for significant damage or degradation from direct or cumulative impacts arising from new development or shifts in existing land uses. Some sensitive environmental features have been inventoried mapped or identified as being locally, regionally, nationally or globally significant for a rarity and/or the degree of threat faced. Typical examples include but are not limited to: wetlands, streams/river corridors, steep slopes, floodplains, highly erodible soils, and aquifer recharge and discharge areas, and habitats of rare or endangered species.

**Septage** - The contents of a septic tank, cesspool, or other individual wastewater treatment work that receives domestic sewage wastes.

**Septic System, Alternative On-site** – An engineered wastewater treatment system using mounds, intermittent, sand filter, evapotranspiration or evapotranspiration/absorption designs.

**Septic System, Conventional** - A conventional, on-site wastewater disposal system for individual households, that can be constructed in conformance with Appendix 75-A of Part 75 of the Administrative Rules and Regulations contained in Chapter 11 of Title 10 (Health) of the official compilation of Codes, Rules and Regulations of the State of New York (excluding Section 75-A.9 "Alternative Systems", and Section 75-A.10 "Other Systems".)

**Service Provider** - means any provider of personal wireless service personal telecommunications service or personal communication service.

**Shared Parking** - Joint utilization of an off-street parking space for more than one use.

**Short Term Rental, Not Owner Occupied** – A dwelling unit that is intended to be rented, in whole or in part, for less than a month-to-month tenancy by a short-term renter and where the owner of the property does not reside in the dwelling for a minimum of 183 days in the calendar year.

**Short Term Rental, Owner Occupied** – A dwelling unit that is intended to be rented, in whole or in part, for less than a month-to-month tenancy by a short-term renter and where the structure is the primary residence of the owner of the property who resides in the dwelling for a minimum of 183 days in the calendar year.

**Sign** - Any device designed to inform or attract the attention of persons not on the lot where the Sign is located.

- a) **Portable, freestanding/or A-type signs** - A sign that is designed to be movable and is not structurally attached to the ground, a building, a structure or any other sign. Such signs may or may not be in the configuration of an "A".
- b) **Sign, off-site** - A sign at a location other than the lot on which the business, commodity, service, or organization is conducted or offered. This includes a billboard.

- c) **Sign, on-site** - A sign relating in its subject matter to the lot on which it is located, or to product, accommodations, services or activities on the lot. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.
- d) **Signs, numbers and surface area** -
  - 1.) For the purpose of determining number of signs, a sign shall be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
  - 2.) The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.
- d) **Sign, temporary** - On-site and off-premise signs placed for no more than thirty days prior to an event or election and no more than seven days after such event or election.

**Sketch Plan** - A layout of a proposed subdivision, site plan or project having sufficient accuracy and detail to be used for discussion at preliminary phases of the Planning Commission review process. sketch plans are informal, conceptual and nonbinding plans developed prior to the preparation of detailed plans that become part of a formal application.

**Sludge** - The solid, semi-solid, or liquid waste generated from a waste processing facility, including the liquid stream of effluent.

**Small Cell Wireless Facilities or “Microcell Wireless Facilities”** shall be used interchangeably and both shall mean and include facilities that meet the following conditions:

- a. The facilities—
  - i. are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d), or
  - ii. are mounted on structures no more than 10 percent taller than other adjacent structures, or
  - iii. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- b. Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;
- c. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- d. The facilities do not require antenna structure registration under 47 CFR Part 17; and

- e. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 47 CFR 1.1307(b).

**Soil Mining** -Any excavating or breaking of the surface soil which involves an amount equal to or greater than 100 yards of material movement within any 12 successive months, including, but not limited to quarrying, the removal of gravel, and any subsoil or topsoil removal, whether for profit or not.

**Solar Energy System, Ground-mounted** - A solar energy system that is directly anchored to the ground and attached to a pole or other mounting system, not attached or affixed to an existing structure, and detached from any other structure.

**Solar Energy System, Large-scale** - A solar energy system that produces energy primarily for supplying more than 200 kW and less than 25 megawatts of electrical energy into a utility grid for wholesale or retail offsite sale or consumption - whether generated by photovoltaics, solar thermal devices or other solar technologies, and whether ground-mounted or building-mounted. A large-scale solar energy system may also be referred to as a “solar plant”, “solar farm”, “commercial solar energy system” or “solar power plant”.

**Solar Farm** - A Solar Energy System that produces energy primarily for supplying more than 200 kW of electrical energy into a utility grid for wholesale or retail offsite sale or consumption whether generated by photovoltaics, solar thermal devices or other solar technologies, and whether Ground-Mounted or Building-Mounted.

**Solar Farm, Community** - A solar farm whose electricity is specifically generated to be shared by multiple households in the Village of Voorheesville and that, through a voluntary program, provides power and/or financial benefit to, or is owned by, multiple community members.

**Solar Panel** – A photovoltaic (PV) panel which generates electricity from solar radiation.

**Solar Energy System, Roof-mounted** - A solar energy panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity or solar thermal power generation.

**Spill** - Any escape of a substance from the containers employed in storage, transfer, processing, or use.

**Special Use** - A "special use" is a use, which because of its unique characteristics, requires individual consideration in each case by the Planning Commission before it may be permitted in a district. In accordance with the provisions of this law, the Planning Commission may require certain conditions and safeguards before a Special Use is approved.

**Special Use Permit** - The permit issued by the Planning Commission allowing a Special Use.

**Stealth or Stealth Technology** - Means minimizing adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a small cell wireless facilities by using the least visually and physically intrusive facility.

Adopted May 28, 2019

**Steep Slopes** - Any slope with topographic gradient of 15% or higher.

- a) **Slopes of 15% but less than 25%:** These slopes are defined and measured as sloping fifteen (15) feet or more vertical per one hundred (100) feet horizontal when there are five (5) adjacent contour intervals of two (2) feet each so that in aggregate, they delineate a slope of at least fifteen (15) percent but less than 25%.
- b) **Slopes of 25% or more:** These slopes are defined and measured as sloping twenty-five (25) feet or more vertical per one hundred (100) feet horizontal when there are five (5) adjacent contour intervals of two (2) feet each so that in aggregate, they delineate a slope of at least twenty-five (25) percent.

**Story** - That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

**Street** - A public thoroughfare that affords the principal means of access to abutting property; including avenue, place, way, drive, land, court, boulevard, highway, road and any other thoroughfare, except an alley.

**Street, Residential** - A street between two intersecting streets of which fifty (50) percent or more of the abutting street frontage is predominantly residential in use.

**Structure** - Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including, buildings, radio and TV towers, dishes, sheds, signs, and retaining walls over four feet in height, stationary and portable carports and fences. Structure shall include, but not be limited to, contrivances of any material, which shall be elevated above the finished grade elevation.

**Subdivision** - Any division of a parcel or lot of land, including re-subdivision; the changing of any boundary line of existing lots.

**Swimming Pool(s)** - Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground pools; hot tubs; spas and fixed-in-place wading pools. All swimming pools shall be installed and maintained to conform to the New York State Uniform Fire Prevention and Building Code.

**SWPPP** - The stormwater pollution prevention plan as required by New York State Department of Environmental Conservation.

**Telecommunications Facility on Utility Pole** – A Federal Communications Commission (FCC)-licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment that is placed on a utility pole.

**Telecommunication Tower** - A structure on which transmitting and/or receiving antenna(e) are located.

**Temporary Business** - A retail operation or retail food operation, such as a tiny “pop-up” store or food truck, that operates for a temporary period of time in connection with a fair, carnival, concert, public

Adopted May 28, 2019

event, or similar gathering, or at a specific location within the village for a designated limited period of time. A temporary business includes any person who engages in merchandising any goods, wares, commodities, books, periodicals or services and who operates out of a temporary trailer, mobile structure or any other object which does not have a permanent inground foundation.

**Theater** - A building, part of a building or outdoors area for housing dramatic presentations, stage entertainment or movies.

**Tower** - A structure for supporting any device for the commercial transmission or reception of various types of signals for purpose of communication through mediums, including, but not limited to antennas, television and radio devices, satellite dishes, microwave dishes and devices that send or receive electromagnetic waves or those types of signals.

**Toxic Material** - Any compound or material which is, or may be, harmful to human health as defined by Section 4801 - Subdivision 2 of the New York State Public Health Law.

**Town House** - A dwelling consisting of a series of one family attached dwelling units having common party walls between each dwelling unit.

**Trade School** - Any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge including business and professional trade schools such as plumbing, electrical, and construction, including but is not limited to schools of dance, theater, culture, and martial arts.

**Traditional Neighborhood** - A type of urban design that promotes pedestrian friendly neighborhoods with a mix of housing types and costs, different lot sizes and density, architectural variety, sidewalks and streetscapes where structures are closer to the street.

**Trailer** - A residence, house car, or any portable vehicle on wheels, skids or rollers not structurally anchored to the ground, propelled by an attached vehicle or other propelling apparatus which is used for residential, commercial, hauling or storage purposes.

**Trellis** - A structure of cross-bared work or latticework usually used to support a vinery growth. Trellising shall not be created to serve as fencing, shall not exceed eight feet in height or eight liner feet in total combined length.

**Undeveloped lot** - A single lot upon which there is no principal structure requiring an on-site waste water treatment system.

**Unsafe equipment** - Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on a lot or within a structure that is in such disrepair or condition that the equipment is a hazard to life, health, property or the safety of the public or occupants of a lot or structure.

**Urban Farm** - The use of a lot or part of a lot for the cultivation of horticultural crops or livestock (where allowed as per Table 1.) It also is the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, aqua culture, livestock and livestock products as a commercial enterprise, including beekeeping,

Adopted May 28, 2019

commercial horse boarding operations, timber processing, compost, mulch or other biomass crops and the management and processing of the “farm woodland.” Urban farms may also include facilities for the raising of such crops and livestock including cold frames, greenhouses, hoop houses, raised beds, and barns and may use a variety of horizontal and vertical growth techniques including in-soil, container, hydroponic, and aquaponic growing systems. An urban farm is not a garden grown for private use by the resident or the keeping of household pets. The produce may be sold directly to consumers, restaurants, stores, or other buyers, or at farmers markets.

**Usable Open Space** - Required open space that shall be entirely undeveloped, except for planting, landscaping and recreational equipment, and shall be available for the sole enjoyment of the public and shall not include any side yards, driveways and access-ways.

**Variance** - A variance is a relaxation of the terms of this local law where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the lot and not the result of the actions of the applicant, a literal enforcement of this local law would result in unnecessary and undue hardship.

- a) **Variance, Area** - A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements applicable under this local law.
- b) **Variance, Use** - A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited under this local law.

**Water Body** - Any natural or man-made body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

**Watercourse** - Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainageway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and bank, and any area adjacent thereto subject to inundation by reason of overflow, flood or stormwater.

**Water Table** - The surface below which all pores in the soil are saturated and fully filled with water.

**Wetland** – Any lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation as that term is further defined by the New York State Environmental Conservation Law, or as otherwise Protected by the Village.

**Wind Turbine** – Any mechanism designed for converting the kinetic energy of wind into electrical or mechanical energy.

**Winery/Distillery/Brewery Production, Tastings, Sales** – An operation that holds a license, pursuant to the New York State Alcoholic Beverage Control (ABC) law, which authorizes the holder of such a license to operate a farm distillery, brewery, winery or cidery at the premises specifically designated in the license and where all rules for tastings and sale of products wholesale, retail, or in tastings shall be met.

**Wireless** - The use of radio frequencies (RF) over the air or any other functional equivalent means of providing service over the air that does not primarily rely upon wires or cable for the provision of service.

**Yard** - An open space, as may be required by this local law, of uniform width, or depth; or the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

- a.) **Yard, Front:** An open space extending the full width of the lot between a principal building and the street line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this local law.
- b.) **Yard, Rear:** An open space extending the full width of the lot between a principal building and the rear lot line.
- c.) **Yard, Side:** An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line.

## **ARTICLE III ESTABLISHMENT OF DISTRICTS**

### **A. Zoning Map and Districts**

The Zoning Map officially entitled "Village of Voorheesville Zoning Map" is hereby adopted as part of this Law. The Village of Voorheesville Zoning Map shows a division of the Village into the following districts:

RESIDENCE "A" DISTRICT: R-A  
RESIDENCE "B" DISTRICT: R-B  
RESIDENCE "C-1" DISTRICT: RC-1  
RESIDENCE "C-2" DISTRICT: RC-2  
RESIDENCE "D" DISTRICT: R-D  
MULTI-FAMILY RESIDENCE DISTRICT: MF  
MAIN STREET EAST BUSINESS DISTRICT: MSE  
MAIN STREET WEST BUSINESS DISTRICT: MSW  
MIXED USE – BUSINESS/RESIDENTIAL: MU-BR  
CREEKSIDE COMMERCIAL BUSINESS DISTRICT: CC  
GENERAL BUSINESS DISTRICT: GB  
BUSINESS B: B-B  
INDUSTRIAL DISTRICT: I  
CONSERVATION: C  
GROUNDWATER PROTECTION DISTRICT: WELL HEAD AND AQUIFER PROTECTION  
OVERLAY AREAS

### **B. Copies of Zoning Map**

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be on file with the Village clerk shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Village.

### **C. Interpretation of District Boundaries:**

Where uncertainty exists with respect to the boundaries of any of the above districts as shown on the zoning map, the following rules shall apply:

- 1.) Unless otherwise shown, the district boundaries shall be construed to coincide with the centerlines of streets and/or waterways, or such lines extended.
- 2.) Where such boundaries are indicated as approximately following the property or jurisdictional lines of publicly owned lands or municipalities; such lines shall be construed to be such boundaries.
- 3.) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main track or tracks of said railroad line except where the map clearly shows it to be one side or the other.

Adopted May 28, 2019

- 4.) Where district boundaries are so indicated that they are approximately parallel to the center of streets or railroad track or tracks, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map.
- 5.) In all cases, where not dimensioned, the location of boundaries shown on the map shall be determined using the scale appearing thereon.
- 6.) In all cases where a district boundary divides a lot in single or joint ownership and where 50 percent or more of the area of such lot lies in the less restricted district, the regulations described by this local law for the less restricted district shall apply to the remainder of said lot up to a distance of not more than 30 feet. For the purposes of this section, the more restricted district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations require higher standards with respect to coverage, yards, landscaping, screening and similar requirements.
- 7.) Where the street layout actually on the ground varies from the street layout as shown on the zoning map, the designations shown on the mapped area shall be applied in such a way as to carry out the intent and purpose of this local Law for the particular area in question.

#### **D. Classes:**

Classes referred to in this local Law shall refer to the type of utilities provided:

CLASS 1 Off-site sewer and water

CLASS 2 Either off-site water or sewer

#### **E. District Objectives and Land Use Controls**

No structure or lot shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered unless in conformity with the regulation herein specified for the district in which it is located.

#### **F. District Purposes**

Specific purposes for each district are set forth below. The description of the purposes and objectives for each district are intended to provide guidance and detail as to the Village's vision for each district, and to aid decision-makers in making discretionary decisions.

##### **RESIDENCE DISTRICTS: R-A, R-B, RC-1, RC-2 and R-D**

The residence districts are established to promote primarily residential uses along with customary residential accessory uses and essential services. More intensive residential uses such as, but not limited to, senior housing, major home occupations, and schools may be permitted in these districts through the special use process. The R-A district is established for lower density with larger lots and structures. The R-B and RC-1 and RC-2 districts are established for higher density uses on smaller lots with smaller-sized structures. The RC-1 and 2 districts differ from the R-A and R-B districts by also allowing for higher density to occur through conversion of single family to two-family dwelling units. The R-D district purpose is to allow for the same uses as found in the R-B district, but with larger lot sizes to reflect the current development pattern and character found in those neighborhoods.

**MIXED USE – BUSINESS/RESIDENTIAL: MU-BR**

The purpose of the MU-BR district is to promote a mix of non-retail commercial, residential and recreational uses in new, traditionally designed neighborhoods. It is not the purpose of this district to create a retail business district that would compete with Main Street or any of the other business districts in the Village. Development regulations in this district promote mixed uses with diversity in housing type and size, mixed uses that may promote live/work environments, and civic and recreational functions. A further purpose of this district is to ensure development that occurs in this location is “village-like” in form and scale.

This district provides for new development to be designed consistent with the traditional development patterns found in many places within the Village and to promote the physical, visual, and social characteristics of the Village where people live and work within a pedestrian-oriented area so that location is linked both physically and aesthetically to the more developed parts of the Village.

**MULTI-FAMILY RESIDENCE DISTRICT: MF**

The purpose of this district is to recognize and maintain the existing multi-family development at Pheasant Run, to promote multi-family housing types there to meet the housing needs in the Village and to allow for higher density multi-family dwellings.

**MAIN STREET EAST AND WEST BUSINESS DISTRICT: MSE and MSW**

These districts are established to focus “main street” style development in this traditional commercial area of the Village. Overall, the purpose of both districts is to strengthen this area as a cultural and business core in the Village. The prime difference between the east and west districts is to recognize the more residential nature of the west side of the street where lots have different setbacks and configuration than the east side. Both districts encourage primarily commercial use but allow for flexibility for structures to be converted to residential use.

Other purposes are to further the vision established for the South Main Street area in the Comprehensive Plan and the All Aboard Main Street Master Plan. These include allowing continuation and revitalization of the South Main Street environment, to promote development sensitive to the small town, traditional character on South Main Street, and to allow for redevelopment and reinvestment of lots for retail, office, service, and mixed-use developments in a way that strengthens and builds on existing historic building patterns and styles found along South Main Street. Both the MSE and MSW districts are established so that new uses and buildings are harmoniously integrated with existing residential and nonresidential uses within a walkable and aesthetically pleasing streetscape.

**CREEKSIDE COMMERCIAL BUSINESS DISTRICT: CC**

This district is established as a gateway to the Village and as a “character district.” This location plays an important role in the Village and has a complex set of attributes, land uses, traffic patterns, pedestrian needs, and environmental conditions that must be considered during all future development here.

This district incorporates lands that are at a high-traffic volume/major intersection, is surrounded by or includes public uses such as the elementary school, fire department, and public parkland, is at a

Adopted May 28, 2019

crossroads between the historic and traditional streetscapes of the center of the Village and newer, less dense neighborhoods along Helderberg Parkway and Altamont Road, has a high level of need for safe pedestrian crossings, and has significant environmental sensitivities due to the presence of the Vly Creek and its floodplain. It is also adjacent to undeveloped lands where urban agricultural uses are desired to offer new small business opportunities. As the major thoroughfare to/from the school, the CC district is an area critical to establishing an image and initial impression of the community.

Other specific purposes for establishing this district are multi-fold and include to:

- o Promote human-scale land uses that: create a gateway to the Village; extend the traditional streetscape character and aesthetics of Maple Avenue to this area; and promote adaptive reuse of existing structures;
- o Minimize impacts to the Vly Creek and its floodplain;
- o Address the critical pedestrian (bike and walk) and safety needs here and promote development oriented to a walkable environment; and
- o Minimize adverse impacts on an already heavily trafficked road.

**BUSINESS DISTRICTS: GB AND BB**

The purpose of the business districts is to allow for and focus on a variety of commercial uses including retail, service, accommodations, restaurants, and more intensive, car-oriented businesses. Both the GB and BB districts provide for commercial activities to supplement existing business along Main Street, and serve those businesses that are more intensive uses, require larger parking areas and/or require larger lots or structures. The GB district is focused on retail and service businesses oriented to serve local-scale needs and the BB district is more of a mixed business area focused less on retail, and more on service (post office, laundromat, auto repair, for example), office, or wholesale.

**INDUSTRIAL DISTRICT: I**

The purpose of the industrial district is to allow for heavy industry and light industrial manufacturing uses whose activities do not, in their normal use, constitute a fire hazard or emit smoke, glare, noise, odor, or dust; or impact negatively on the aquifer or on the environment in general; or impact in any other ways which constitute a nuisance or detriment to neighboring properties and to public health, safety or general welfare.

**CONSERVATION: C**

The conservation district is significantly influenced by the presence of New York State Department of Environmental Conservation regulated wetlands and is also in an area of flood hazard within the Village-designated aquifer protection area. This district is established to allow for very low density, low intensity uses consistent with protection of the wetland and water resources in this area.

**GROUNDWATER PROTECTION DISTRICT: WELLHEAD AND AQUIFER PROTECTION OVERLAY AREAS**

The purpose and intent of the groundwater protection districts is to promote quality drinking water and to preserve public health, and the general welfare and safety of Village residents. A further purpose is to provide for adequate potable water through the elimination or prevention of groundwater contamination near the public wells which supply the Village's drinking water. This district delineates the wellhead recharge area directly supplying potable water in the Village, and the

Adopted May 28, 2019

aquifer area which includes land through which runoff and precipitation flow directly and rapidly into the ground; and also land that contributes runoff overland and/or through surface streams for groundwater recharge.

## **ARTICLE IV DISTRICT REGULATIONS**

### **A. Permitted Uses**

**Permitted Uses:** No building or lot shall be used, and no building or other structure shall be erected or structurally altered, which is arranged, intended or designed to be used for other than one or more of the following uses. No more than one principal use shall be allowed per lot (although mixed use buildings and lots are permitted in certain districts). Principal uses such as for residential or commercial may however, have accessory uses customarily associated with such use on the same lot.

### **Table 1: Table of Uses by District**

P = Permitted use with no planning commission review required. a building permit may be required.

SPR = Site plan review and approval by the Planning Commission required.

SUP = Special use permit review including site plan review and approval by the Planning Commission required. No building or land shall be used, and no building shall be structurally altered which is arranged, intended or designed to be used for any purpose requiring a special use permit, except as provided in Article IX.

X = Prohibited use

All uses not included in Table 1 shall be deemed to be prohibited.

**Table 1. Table of Uses by District**

	See Additional Standards for Use	R-A	R-B and R-D	RC-1	RC-2	MF	MSE	MSW	MU-BR	CC	GB	BB	I	C
<b>Residential Uses</b>														
Accessory Apartment	Article VII (M)	SUP	SUP	SUP	SUP	X	SUP <sup>1</sup>	SUP	SUP	SUP	X	SUP	X	SUP
Cottage Home (Tiny Home) as accessory structure	Article VII (M)	SUP	X	X	SUP	X	X	X	X	X	X	X	X	X
Customary Residential Accessory Uses		P	P	P	P	P	P	P	P	P	P	P	P	SUP
Home Occupation, Major	Article VII (H)	SUP	SUP	SUP	SUP	X	SPR	SPR	SPR	SUP	SPR	SPR	SUP	SUP
Home Occupation, Minor	Article VII (H)	P	P	P	P	P	P	P	P	P	P	P	P	P
Multi-Family Dwelling	Article VII (E)	X	X	X	X	SPR	X	X	SUP	X	X	X	X	X
Senior Housing	Article VII (F)	SUP	SUP	SUP	SUP	SPR	X	X	SUP	SUP <sub>2</sub>	X	X	X	X
Single Family Dwelling		P	P	P	P	X	SUP	P	P	P	SUP	P	SUP	P
Single Family Dwelling Existing at the Effective Date of the Zoning and Converted to Two-Family Dwelling		X	X	P	P	P	SUP, 2 units only	SUP, 2 units only	P	P	X	P	X	P
Two-Family Dwelling	Article VII (D)	P	X	X	P	P	SUP	SUP	P	X	X	X	X	X
Conversion of Existing Commercial Structure to Residential		X	X	X	X	X	SUP, 2 units only	SUP, 2 units only	P	SUP	X	X	X	X
<b>Infrastructure, Institutional and Community Uses</b>														
Alternative on-site wastewater treatment system		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
Church, Religious Assembly		SPR	SPR	SPR	SPR	X	SPR	SPR	SPR	X	SPR	SPR	X	X
Community Building		SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	P	SUP	X
Essential Services	See also Article VII (Z)(9) for small cell facility	P	P	P	P	P	P	P	P	P	P	P	P	P
Essential Service Buildings	Article VII (J)	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	X
Hospital		X	X	X	X	X	SUP	SUP	SUP	X	SPR	SUP	X	X
Library		SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	X	X

<sup>1</sup> Structures in the MSE and MSW may have up to two apartments as a specially permitted use.

<sup>2</sup> Senior housing in the CC district allowed in an existing structure only.

	See Additional Standards for Use	R-A	R-B and R-D	RC-1	RC-2	MF	MSE	MSW	MU-BR	CC	GB	BB	I	C
Municipal, Public Safety, Police, Fire, Rescue Facilities		SUP	SUP	SUP	SUP	SUP	SPR	SPR	SPR	SUP	SPR	SPR	SUP	X
Ponds		SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	X	SUP	SUP	SUP	X
Post Office		X	X	X	X	X	SUP	SUP	SUP	X	SUP	SUP	X	X
Private club, fraternity or lodge, except those of which the chief activity is a service customarily carried on as a business		SUP	X	X	SUP	X	P/SPR (1)	P/SPR (1)	SUP	X	P	P	X	X
Public Facilities and Buildings		X	X	X	X	X	X	X	X	X	P	P	SUP	X
Public Garage		X	X	X	X	X	X	X	X	X	X	X	X	X
Public Recreational Facilities, provided no public building is permitted		P	P	P	P	P	P	P	P	P	P	P	X	P
Public Recreational Facilities		P	P	P	P	P	P	P	P	SUP	P	P	X	P
School		SUP	X	SUP	X	X	X	X	SUP	X	X	X	X	X
Telecommunication Tower	Article VII (Z)	X	X	X	X	X	X	X	X	X	X	X	SUP	X
<b>Business Uses</b>														
Adult Entertainment	Article VII (AA)	X	X	X	X	X	X	X	X	X	X	X	SUP	X
Auto Sales, Rentals		X	X	X	X	X	X	X	X	X	P	SUP	SUP	X
Automobile Service Station including auto repair garage		X	X	X	X	X	X	X	X	X	SUP	SUP	SUP	X
Banks		X	X	X	X	X	P/SPR (1)	P/SPR (1)	X	X	P/SPR (1)	P/SPR (1)	X	X
Bed and Breakfast	Article VII (I)	SUP	SUP	SUP	SUP	X	SUP	SUP	SUP	SUP	SUP	SUP	X	X
Boarding or Lodging House		SUP	SUP	SUP	SUP	X	SUP	SUP	SUP	SUP	SUP	SUP	X	X
Building and Construction Businesses		X	X	X	X	X	P/SPR (1)	P/SPR (1)	P/SPR (1)	X	P/SPR (1)	P/SPR (1)	P/SPR (1)	X
Building Supply Facility		X	X	X	X	X	SUP	SUP	SUP	X	SUP	SUP	SUP	X
Car Wash		X	X	X	X	X	X	X	X	X	SUP	SUP	X	X
Clinics		X	X	X	X	X	X	X	SPR	SUP	P/SPR (1)	SUP	X	X
Commercial Kennel		X	X	X	X	X	X	X	X	X	X	X	SUP	X

	See Additional Standards for Use	R-A	R-B and R-D	RC-1	RC-2	MF	MSE	MSW	MU-BR	CC	GB	BB	I	C
Commercial Recreation and Fitness-Oriented Business		X	X	X	X	X	P/SPR (1)	P/SPR (1)	SPR	SUP	P/SPR (1)	P/SPR (1)	P/SPR (1)	X
Commercial and Retail Uses Servicing the I or MU-BR Districts		X	X	X	X	X	X	X	SUP	X	X	X	SUP	X
Customary Commercial Accessory Structures		X	X	X	X	X	P	P	P	P	P	P	P	X
Day Care Center		X	X	X	X	X	X	X	SUP	X	SUP	SUP	X	X
Drive-through Associated with Commercial Use		X	X	X	X	X	X	X	X	X	SUP	X	X	X
Eating and Drinking Establishments		X	X	X	X	X	P/SPR (1)	P/SPR (1)	X	SUP (2)	P/SPR (1)	P/SPR (1)	X	X
Farm Stand and Farmers Market		SUP	X	SUP	X	X	P/SPR (1)	P/SPR (1)	SUP	SUP	P/SPR (1)	P/SPR (1)	SUP	X
Formula Business	Article V (C) (4)	X	X	X	X	X	P/SUP (1)	P/SUP (1)	X	X	P/SUP (1)	P/SUP (1) (2)	X	X
Funeral Establishment		SUP	X	SUP	SUP	X	SUP	SUP	X	X	SUP	SUP	X	X
Gallery, Museum, Artist Studio		X	X	X	X	X	P/SPR (1)	P/SPR (1)	SPR	P/SUP (1)	P/SPR (1)	P/SPR (1)	X	X
Garage, Auto Repair		X	X	X	X	X	X	X	X	X	SUP	SUP	SUP	X
Gasoline Sales or Storage		X	X	X	X	X	X	X	X	X	SUP	X	SUP	X
Greenhouse/Nursery		SUP	X	X	X	X	X	X	X	SUP	SUP	SUP	X	X
Industrial Parks		X	X	X	X	X	X	X	X	X	X	X	SUP	X
Junk		X	X	X	X	X	X	X	X	X	X	X	SUP	X
Large scale Business and Industrial Development		X	X	X	X	X	X	X	SUP	X	X	X	SUP	X
Light Industry/Manufacturing, small scale		X	X	X	X	X	X	X	SUP	X	X	SUP	SUP	X
Manufacturing, Compounding, Processing, Packing, Treatment, Warehousing, Storage of		X	X	X	X	X	X	X	X	X	X	X	SUP	X

	See Additional Standards for Use	R-A	R-B and R-D	RC-1	RC-2	MF	MSE	MSW	MU-BR	CC	GB	BB	I	C
<b>Goods and Products</b>														
Mixed Use (Residential and Business) Structure	Article VII (K)	X	X	X	X	X	SUP	SUP	SUP	SUP	X	SUP	X	X
Mixed Use (Residential and Business) Lot		X	X	X	X	X	X	X	SUP	X	SUP	X	SUP	X
Motels and Hotels		X	X	X	X	X	P/SPR (1)	P/SPR (1)	X	X	P/SPR (1)	SUP	X	X
Nursing or convalescent homes		X	X	X	X	X	X	X	SUP	SUP	X	X	X	X
Offices, private or public		X	X	X	X	X	P/SPR (1)	P/SPR (1)	SUP	SUP	P/SPR (1)	P/SPR (1)	SPR	X
Personal and professional services		X	X	X	X	X	P/SPR (1)	P/SPR (1)	SUP	SUP	P/SPR (1)	P/SPR (1)	X	X
Portable on Demand Storage Units		P	P	P	P	P	P	P	P	P	P	P	P	P
Research and Testing Laboratories		X	X	X	X	X	X	X	X	X	X	X	SUP	X
Retail Businesses		X	X	X	X	X	P/SPR (1)	P/SPR (1)	X	SUP	P/SPR (1)	P/SPR (1)	X	X
Self-Storage Facilities		X	X	X	X	X	X	X	X	X	X	SUP	SUP	X
Short Term Rental, Not Owner Occupied		X	X	X	X	X	X	X	X	X	X	X	X	X
Short Term Rental, Owner Occupied and Owner is Present with Renter		P	P	P	P	P	P	P	P	P	P	P	P	P
Short Term Rental, Owner Occupied and Owner is not Present with Renter		SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Solar Energy System, Large-Scale including commercial solar	Article VII (W)	SUP	X	X	X	X	X	X	X	SUP	X	X	SUP	X
Solar Panels, Individual Use for Residence or Business, ground mounted	Article VII (W)	P	P	P	P	P	P	P	P	P	P	P	P	P

	See Additional Standards for Use	R-A	R-B and R-D	RC-1	RC-2	MF	MSE	MSW	MU-BR	CC	GB	BB	I	C
Solar Panels, Individual Use for Residence or Business, roof or building mounted	Article VII (W)	P	P	P	P	P	P	P	P	P	P	P	P	P
Swimming Pool	Article VII (T)	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Business	Article VII (L)	X	X	X	X	X	P	P	X	X	P	P	X	X
Theaters		X	X	X	X	X	P/SPR (1)	P/SPR (1)	X	X	P/SPR (1)	P/SPR (1)	X	X
Trade or Specialty School		X	X	X	X	X	P/SPR (1)	P/SPR (1)	SUP	P/SPR (1)	P/SPR (1)	P/SPR (1)	P/SPR (1)	X
Urban Farm with Livestock	Article VII (V)	SUP	X	X	X	X	X	X	X	X	X	X	X	X
Urban Farm with no Livestock	Article VII (V)	SUP	SUP	SUP	SUP	X	X	X	SUP	SUP	X	X	X	P
Veterinary Office		X	X	X	X	X	X	X	SPR	SPR	SPR	SPR	SPR	X
Warehousing and Distribution		X	X	X	X	X	X	X	X	X	X	SUP	SUP	X
Wholesale Business with no outdoor storage		X	X	X	X	X	SUP	SUP	X	X	SUP	SUP	SPR	X
Wholesale Businesses		X	X	X	X	X	X	X	X	X	X	X	SUP	X
Wind Turbine		X	X	X	X	X	X	X	X	X	X	X	SUP	X
Winery/Distillery/Brewery Production, Tasting, Sales		SUP	X	X	X	X	P/SPR (1)	P/SPR (1)	SUP	P/SPR (1)	P/SPR (1)	P/SPR (1)	SUP	X

(1) P/SPR indicates that the use is permitted if in an existing building needing no structural or lot changes or requires site plan review if in a new building or in a building that requires structural or lot changes. P/SUP indicates that the use is permitted if in an existing building needing no structural or lot changes or requires a special use permit if in a new building or in a building that requires structural or lot changes.

(2) No drive through associated with any eating and drinking establishment.

**B. Prohibited Activities**

The following activities shall be prohibited in all districts in the Village, except for those customary uses and accepted agricultural uses and practices as determined by the New York State Department of Agriculture and Markets:

- 1.) Spreading, discharge, burial, or disposal of any animal remains, refuse, radioactive materials, petroleum products, toxic materials, or hazardous materials or waste on or below the ground surface;
- 2.) Establishment of any radiological materials storage, use, and disposal facility;
- 3.) Establishment of any raw waste landfill, sanitary landfill, solid waste landfill, ash landfill, construction/demolition landfill, junkyard, salvage yard, or dump;
- 4.) Introduction into a wastewater disposal system of any material that is potentially hazardous to groundwater quality, including but not limited to petroleum products, solvents, other hazardous material, or brines except such brines as may be discharged from water treatment devices.
- 5.) Dumping or disposal of snow or ice collected off site from roadways or parking areas into or within one hundred (100) feet of any body of water.
- 6.) Storage of pesticides, herbicides, fungicides, and fertilizers for commercial agricultural purposes without authorization from the New York State Department of Environmental Conservation;
- 7.) Construction of pipelines that carry toxic or hazardous liquids;
- 8.) Excavations which intersect the water table at its seasonal high level, and which remain open for a period of time exceeding six (6) months over any two (2) year period.
- 9.) Storage of septage, sludge or human excreta, other than associated with the operation of any treatment plant, sewer, disposal field, septic system or any other works installed for the transport, treatment, neutralization, stabilization, storage, or disposal of wastewater;
- 10.) The application of septage, sludge or human excreta to land;
- 11.) Bulk storage of deicing materials or coal except in a watertight ventilated structure constructed on an impervious surface.
- 12.) Commercial excavation and extraction of soils, sands and gravels, i.e. soil mining.
- 13.) Installation of individual on-site wastewater treatment systems (septic systems) within 200 feet of any well.

Adopted May 28, 2019

**ARTICLE V LOT DIMENSIONS**

**A. Table of Dimensions.**

Every lot developed for a lawful use within the Village shall meet the requirements established in Table 2 and all other requirements of this section.

Table 2: Schedule of Minimum Lot Development Requirements

	<b>R- A and R-D</b>	<b>R-B</b>	<b>R- C- 1</b>	<b>R- C- 2</b>	<b>MF</b>	<b>MSE</b>	<b>MSW</b>	<b>MU-BR</b>	<b>CC</b>	<b>GB</b>	<b>BB</b>	<b>I</b>	<b>C</b>
Class I Minimum Lot Size w/off-site sewer & water (sf)	40,000	20,000	20,000	20,000	20,000	15,000	15,000	20,000	40,000	15,000	15,000	15,000	120,000
Class II Minimum Lot Size w/either off-site sewer or water (1) (sf)	40,000	30,000	20,000	40,000	40,000	15,000	15,000	40,000	40,000	15,000	40,000	40,000	120,000
Maximum % of Lot Coverage	30	40	40	30	40	75	75	35% if in Wellhead Protection Area, 50% if not	65	65	65	65	15
Minimum Lot Width, ft (2)	100	75	65	65	75	50	50	50	60/200 Min/ Max	100	100	200	100
Minimum Front Yard Setback, ft	50	25(3)	5 (3)	15 (3)	25	0	25 (3)	10	15	25	25	50	50

Adopted May 28, 2019

	<b>R- A and R-D</b>	<b>R-B</b>	<b>R- C- 1</b>	<b>R- C- 2</b>	<b>MF</b>	<b>MSE</b>	<b>MSW</b>	<b>MU-BR</b>	<b>CC</b>	<b>GB</b>	<b>BB</b>	<b>I</b>	<b>C</b>
Maximum Front Yard Setback, ft	No Max.	40	35	35	40	10	35	35	35	No Max.	No Max.	No Max.	No Max.
Minimum Side Yard Setback, ft (4)	35	20	20	20	20	0	10	10	10	20	20	25	35
Minimum Rear Yard Setback, ft (4)	45	30	30	30	30	30	30	20	50	30	30	50	45
Maximum Height: Stories/Feet	2.5/35	2.5/35	2.5/35	2.5/35	2.5/35	3/40	3/40	2/35	2/35	3/40	3/40	3/40	2.5/35
Maximum Non-Residential Building Footprint (square feet)	2400	2400	2400	2400	2400	5,000	2,400	20,000	5,000	20,000	20,000	20,000	NA
Sections with Other Dimensional Requirements								Article V (C) (8)					

- (1) See Article IV (C) (14) (e) that prohibits one or two-family dwellings on lots less than 2 acres in size when located within the wellhead protection overlay area.
- (2) A smaller lot width may be allowed by the Planning Commission if such smaller width will result in a new lot consistent with lot sizes located adjacent to and within 200' of the lot.
- (3) To maintain streetscape character, front setbacks may be allowed to be equal to the average of the front setbacks of other structures on the same side of the street and within 500 feet of the lot.
- (4) See setback requirements pursuant to Article (V) (B)(5)(b) for when a commercial lot abuts a residential district.

## **B. Lot Requirements**

- 1.) No building or other structure shall hereafter be erected or altered
  - a) To exceed the height;
  - b) To accommodate or house a greater number of families;
  - c) To occupy a greater percentage of lot area; or
  - d) To have narrower or smaller rear yards, front yards, or side yards than is specified herein for the district in which such building is located.
- 2.) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this law shall be included as part of a yard or other open space similarly required for another building.
- 3.) In any district, notwithstanding limitations imposed by other provisions of this local law, a single lot at the effective date of adoption of this law may be built upon.
- 4.) Lots which abut on more than one street (corner lot) shall provide required frontage along every street, unless specifically excepted by this local law.
- 5.) Additional Lot Dimension Requirements:
  - a) Accessory Uses, Buildings or Structures - Shall maintain side and rear yard setbacks of at least five feet in any residential zoning district. Accessory uses including parking and traffic circulation areas in business or industrial districts shall adhere to the setback requirements listed in Table 2. No accessory building or structure shall exceed height requirements as per Table 2.
  - b) New Commercial Uses Abutting a Residential District – Whenever a new commercial use is proposed in the GB, BB, or I districts, there shall be established a fifty-foot buffer (setback) along the residential district boundary line. No new buildings or accessory structures shall be allowed in such buffer. Unless the lot remains vacant, a fence, berm, vegetation, vegetated berm, or other similar features shall be placed on the commercial lot to buffer and screen such use from abutting residential uses. The Planning Commission shall ensure that light, glare, noise, odor, or other nuisance resulting from the commercial use does not extend beyond the commercial property line onto residential properties to the maximum extent feasible. Existing structures and uses already located within the buffer area are excluded from this requirement.
  - c) Corner Lots - To accommodate a corner lot having two front yards, the minimum lot square footage required shall be increased by 20 percent in all districts. The corner lot shall have a front yard facing each street, and corner two side yards (with no rear yards).
  - d) Through Lots - a front yard shall be required on both street frontages of a through lot.
  - e) Substandard Lots - Construction of a building on a lot which does not meet the minimum area requirements of this local law may be permitted. No building permit for a substandard lot shall be granted if the applicant is the owner of adjoining vacant property, in which case would require compliance with the requirements of this law.
  - f) Any new dwelling within the Village limits must be placed on a permanent masonry foundation, which extends a minimum of 48 inches below grade.

### **C. Additional Regulations by District**

In addition to all other requirements of this local law, the following additional regulations by district shall be followed:

#### **1.) RESIDENCE "A" DISTRICTS: R-A**

a) All applications for major subdivisions in the R-A district shall include both conventional and conservation subdivision design alternatives as per the Village of Voorheesville Subdivision Law, Section 603 and subject to the conditions and procedures pursuant to Article VII (C). During sketch phase discussions, the Planning Commission shall evaluate both layout options and determine the best design for that lot taking into consideration the character and resources on and near the proposed site. When a conservation subdivision is proposed or required, the applicant may be eligible for a density bonus as per the following:

1. Density Bonuses. The Planning Commission may offer a density bonus pursuant to New York State Village Law 7-703 to promote protection of open space in the R-A district. Specifically, the Planning Commission may permit an increase of up to 20% in the density otherwise permitted for residential development on the site, in exchange for the permanent preservation of at least 50% of the lot as open .

#### **2.) RESIDENCE "C-1" and "C-2" DISTRICTS and R-D District: RC-1, RC-2, and R-D**

a) In the RC-1, RC-2 and R-D districts, major subdivisions may use the conservation subdivision design process for the permanent preservation of at least 50% of the lot as open space pursuant to the Village of Voorheesville Subdivision Law Section 602 and Article VII (C) of this zoning law but shall use a variation on the four-step process to ensure that the new development is consistent with the traditional neighborhoods and streetscapes found in these portions of the Village. Major subdivisions choosing to use the conservation subdivision process may also be eligible for a density bonus as follows:

1. Density Bonuses. The Village may offer a density bonus pursuant to Village Law 7-703 to promote protection of open space in the RC-1 and RC-2 districts beyond that density which is established in Table 2 of this local law as an incentive to promote use of conservation subdivision design. A density bonus will allow for an increase in residential density as follows:

- a) The Planning Commission can allow up to a 20% increase in density for the preservation of open space when a conservation subdivision is proposed.
- b) When approving a request for a density bonus, the Planning Commission shall ensure that all requirements of New York State Village Law 7-703 shall be met.

#### **3.) MULTI-FAMILY RESIDENCE DISTRICT: MF**

- a) All new multi-family dwellings shall require a site plan review and approval from the Planning Commission.
- b) There shall be no more than four residential units per building allowed.
- c) The overall density shall comply with Table 2 of this local law.
- d) New buildings or other structures shall maintain the existing setbacks as currently exist along Pheasant Run.
- e) All requirements of Article VII (E) for multi-family buildings shall be followed.
- f) Vegetation or privacy fencing may be needed where the MF district abuts R-A or R-B residential districts.

- g) All development and architectural standards contained in Article VII (E) shall be met to promote new multi-family dwelling structures that emulate single family dwellings in terms of style, roofline, facades, and use of façade features such as porches.
- 4.) MAIN STREET BUSINESS DISTRICT: Main Street East (MSE) and Main Street West (MSW)
- a) Density and Uses. The following development standards and requirements shall also apply to both MSE and MSW.
    - 1. Buildings and structures may be mixed uses and have both commercial and residential uses within them. Residential uses in mixed use buildings shall generally not be located on the first-floor street front but shall be located to the rear and second floors. Ground floors should contain active, publicly accessible commercial uses.
    - 2. An existing single-family dwelling may be converted to a two-family dwelling or to a commercial use.
    - 3. Existing commercial buildings or structures may be allowed to be converted to residential uses with up to two apartments with a special use permit approved by the Planning Commission. Existing buildings used for residential use may also be converted back to any commercial use as per Table 1 and the provisions of this section.
    - 4. No commercial use shall include any drive through facility as either a principal use or as an accessory use.
  - b) Approvals.
    - 1. To promote adaptive reuse of existing buildings, non-residential projects proposed in an existing building, where no changes to the site layout, parking, or building are proposed, and where the structure complies with the standards of the MSE or MSW zoning district or is grandfathered in, shall be permitted by right, with no Planning Commission review.
    - 2. For any use that is permitted by right but where there are proposed to be site and/or building modifications as part of a project, a site plan review shall be required.
    - 3. A new structure of any kind shall require site plan review and approval.
  - c) Formula Businesses. The Village desires to maintain and enhance the traditional character and function of South Main Street in the community. As per its adopted Comprehensive Plan, it finds that such character would be adversely affected by a proliferation of "formula businesses" which are required by contractual or other arrangements to be virtually identical to businesses in other communities - because of standardized architecture, services, merchandise, decor, uniforms and the like. The development of such businesses, if unchecked and unregulated, would conflict with the distinct atmosphere and unique character for which South Main Street is recognized, which the Village intends to revitalize and improve. Formula businesses are hereby regulated to preserve the character of the South Main Street business district as follows:
    - 1. Formula businesses shall be allowed as a permitted use in existing buildings if no changes to the site layout, parking lot, or building design or structural changes are proposed. Signs shall be reviewed pursuant to Article V (C) (4).
    - 2. Formula businesses proposed in a new building shall be permitted with a special use permitted approved by the Planning Commission. All new structures shall meet all design standards (outlined below) and shall be fully consistent with the architectural and streetscape character of South Main Street.

3. Formula businesses located in a new building shall be limited to a building having a maximum square footage of 2,500 square feet, and a maximum of 65' of road frontage.
- d) Lot Design and Architectural Standards for MSW. To maintain the character of South Main Street, it is the objective of the Village to ensure that the Main Street West district regulations work to preserve the more residential character of that side of the street even if the uses are commercial. As such, no nonresidential use shall be established by the conversion of any building or lot originally designed for a residential use unless the existing residential character of the building is retained. No design or structural changes, additions or extensions shall be made to the front of any such structure, except as necessary to provide required means of ingress, egress, light and ventilation. No additions or extensions shall be made to the side(s) of any such existing residential structure, unless the residential character of the whole shall be retained and upon approval of a detailed site plan.
- e) Lot Design and Architectural Standards for both MSE and MSW. All uses shall meet the following lot and structure development and design standards to the maximum extent feasible and consistent with the Comprehensive Plan and All Aboard Main Street Master Plan:

***Lot Layout and Dimensions***

- All building facades shall be parallel to the street.

***Building Design Standards***

- Street façade treatments on individual buildings shall continue along the side elevations to a logical transition point.
- No blank walls shall face the street.
- Buildings should reflect historically-used building materials and historic forms.
- One-story buildings shall have peaked roofs; two story buildings may have flat roofs or peaked roofs, but no mansard roofs as they are not a traditional style on South Main Street. Roofs and eaves should be finished in a traditional manner similar to other existing historic buildings on Main Street. Flat roofs shall be finished with a decorative cornice along street facades like existing structures on South Main Street.
- At least one customer entrance, with appropriate architectural emphasis, shall be provided on the South Main Street side of a building, except, as an alternative, if an entrance on a side façade located within 15 feet of the South Main Street façade and with architectural projections such as a decorative canopy, projecting vestibule, or other similar element is provided for.
- Street facades greater than 50' in length shall contain variations in vertical elevations at the roofline or wall plane projections or recesses along the facade to provide variety and visual interest along the street.
- Outdoor mechanical equipment shall be placed with landscaping or decorative walls compatible with the architecture of the principal building. Rooftop mechanical equipment shall be screened with parapets or other decorative features. Refuse collection areas should be located toward rear of a lot, enclosed with decorative materials, and designed to be an integrated component of the building.

### ***Parking***

- Shared-use parking is encouraged, and the Planning Commission may require development of a shared use parking scheme as per the All Aboard Main Street Master Plan.
- On-street parking available along frontage and within 50' of the principal building may be counted towards off-street parking requirements.
- Parking lots shall be placed in side or rear yards. Parking lots shall be setback to be even with the front façade of the principal building on the lot and shall be buffered between the street edge/sidewalk with landscaping.
- Landscaping shall be provided for between parking bays in parking lots having spots for more than 10 cars.

### ***Access and Pedestrian Systems***

- Lot design and layout shall include cross access between lots if applicable, so that, over time, parking lots are inter-connected.
- Sidewalks and designated walkways from building entries to the street sidewalks and sidewalks along the frontage of a building shall be required for all uses. Sidewalks shall be 5' in width where possible and meet federal Americans with Disabilities Act standards.
- Standards for flush curbs, curb ramps, warning strips, and other street features shall be designed as per New York State Department of Transportation requirements.
- Pedestrian crosswalks shall be provided for and extend across driveways for continuity. Such crosswalks may be painted, stamped, or continuous sidewalk.
- No loading and delivery areas shall be located between a principal building and street. Loading docks shall be screened and landscaped when visible from the public right-of-way.

### ***Street Lighting and Signage***

- Ornamental street lights should be provided at a pedestrian scale in the Main Street South area.
- Lighting should be focused on pedestrian spaces.
- LED and LED scrolling signs shall not be allowed in the Main Street districts.
- Applicants should refer to and incorporate lighting and signage recommendations made in the Main Street Master Plan.

### ***Landscaping***

- Provide for buffering, fencing, changes in lighting or landscaping between a commercial lot and a property in an adjacent residentially zoned district.
- Use the list of trees included in the Main Street Master Plan for choice of tree species.
- Parking lot and street edge plantings shall be required.
- Foundation plantings may be required.
- Where feasible, trees should be planted on the outside of the sidewalks, as shown in the illustration. Where space outside of the sidewalk is unavailable, trees can be in the sidewalk a minimum of 3 feet from the curb.
- Use tree grates and tree guards where trees are within sidewalks.
- Tree locations should not conflict with underground or overhead utilities.
- Trees should have a minimum 8 feet vertical branch height and an upright growing form so as not to interfere with pedestrians.

5.) MIXED USE – BUSINESS/RESIDENTIAL: MU-BR

- a) The total density of residential development in this district shall be calculated using net acreage - where acreage in wetlands and floodplain is deducted from the total acreage. The remaining net acreage will determine the maximum allowable residential density. Unless sewer system infrastructure is provided for, the overall density for residential development shall a maximum of 2 units per net acre (if outside the Wellhead Protection Area). If a community sewer or other wastewater treatment system is provided for, residential density may be 4 units per net acre. Department of Health requirements will also influence the total density allowed.
- b) The Planning Commission shall identify building envelopes for each structure on all lots proposed to have multiple structures, to ensure that new areas are designed to meet the character and streetscape vision for this district.
- c) Non-residential uses that add more than 50 cars per day, and non-residential uses that exceed 5,000 square feet in size, shall only be permitted through the special use permit process by the Planning Commission.
- d) All subdivisions shall be designed as a traditional neighborhood. New lots and building envelopes shall be designed through application of traditional neighborhood design standards pursuant to sub-section e, below.
- e) The following traditional neighborhood development standards are designed to ensure that new development meets the purposes of this district:
  1. The maximum number of multi-family units in a development shall be no more than 25% of all the units. All multi-family dwellings shall meet the requirements of Article VII (E) and shall aesthetically emulate single-family residential buildings in the Village.
  2. Whenever multi-family units are proposed in this district, the Planning Commission may impose conditions and seek guarantees to ensure proper long-term maintenance of the property.
  3. The maximum number of two-family units in a development shall be no more than 50% of the residential units.
  4. All projects should be designed so that housing types are integrated and mixed together to prevent segregation of types.
  5. Density Bonuses. The Village may offer a density bonus pursuant to New York State Village Law Section 7-703 to promote affordable housing opportunities, protection of open space, bike and walk pathways, recreational opportunities for the community, and improvements to water and sewer infrastructure beyond that which is required by this local law. These amenities should meet public needs in the Village and be related to furthering the goals of the Comprehensive Plan. A density bonus may be in the form of increased commercial building square footage or an increase in residential density as follows:
    - o Up to a 15% increase in density or building square footage if 15% of the residential units to be built are two-family units or multi-family units.
    - o Up to a 15% increase in density or building square footage if 20% of the residential units are deed restricted to provide units priced in the affordable housing range for the area,
    - o Up to a 20% increase in density or building square footage for the preservation of open space, provision of links to trails, improvements to water or sewer infrastructure (beyond what is necessary to supply such services to the proposed development), use of LEED energy conservation building methods, application of climate smart

- methods such as green roofs or use of low impact development methods (LID) to address stormwater runoff.
- A combination of bonuses as described in this sub-section may be used and the maximum total density bonus shall be 35%.
6. Circulation of pedestrians, bicycles and vehicles shall be an integral part of the any new neighborhood or development in this district, and travel ways for all three must be accommodated for. Sidewalks shall be required on at least one side of all new streets along with a bicycle lane or pathway connecting to other parts of the Village.
    - Sidewalks shall have continuous planting strips for trees, along with planting of street trees, “village-style” decorative street lighting, and bike amenities such as bike racks.
  7. All utility infrastructure should be constructed underground.
  8. All new streets within the district shall connect with other streets, forming a network.
    - Ultimately, development in this district should encourage realignment of the entrance off of South Main Street and from Depot Road to continue the modified grid pattern that exists in many places in the Village.
    - Internal roads should connect wherever possible to those on adjacent sites over time.
    - The use of cul-de-sacs and other dead-end roadways with a single point of access shall be permitted only where no other alternatives exist. Where cul-de-sacs are deemed to be unavoidable, continuous pedestrian circulation shall be provided for by connecting sidewalks that link the end of the cul-de-sac with the next street or open space using pedestrian paths.
  9. A variety of lot sizes are encouraged to be designed for to eliminate the appearance of a standardized subdivision and facilitate housing diversity and affordability.
  10. For commercial buildings, facades shall parallel the principal frontage of the lot.
  11. Use of shared parking lots and driveways are encouraged.
  12. Parking lots should be landscaped and built of permeable materials to the maximum extent practicable.
  13. Parking lots shall be placed to the side or rear of a commercial building, not in front.
  14. Building design should be like that found in other areas of the Village, or a contemporary expression of traditional styles that respect the scale, proportion, character and materials of older areas in the Village.

6.) CREEKSIDE COMMERCIAL BUSINESS DISTRICT: CC

- a) No formula businesses shall be allowed.
- b) The Planning Commission may allow for use of an average front setback to account for the differences in setbacks found along Maple Avenue. The Planning Commission shall ensure that new setbacks are consistent with the existing residential setbacks found along Maple Avenue between Stonington Hill Road and the CC district boundary.
- c) Given the complex issues and needs in this proposed district, the following development standards shall be met for all development within the CC district.
  1. Water quality and floodplain:
    - a) Within the mapped floodplain, no alteration in grade shall be made nor shall there be any fill placed for either structural or nonstructural uses. (See Article VI (F) allowing for de minimus fill for activities such as gardening or leveling for accessory structures.)
    - b) All permanent structures shall be placed outside of the floodplain. However, existing structures already located within that area may remain and be adaptively reused for new uses. New structures can also be built to replace an existing building

within the floodplain provided it is constructed on the same building footprint. Any reconstruction of existing structures shall be done in a way that does not further impede the flood storage capability of the floodplain.

- c) Open, enclosed, above or below ground storage of hazardous materials in or below the flood elevation shall be prohibited.
  - d) Maximum use of green infrastructure designs pursuant to Chapter 5 of the New York State Stormwater Design Manual shall be required. These practices include rain gardens, vegetated swales, disconnection of rooftop runoff, green roofs and porous pavements. Preservation or restoration of natural areas, such as stream buffers and wetlands, and reduction of the size of paved surfaces shall be maximized.
  - e) Any use which is proposed to disturb land within 200 feet of the Vly Creek shall have an approved Erosion & Sediment Control Plan even if the disturbance is less than the one-acre threshold. See Article VI (F) for additional stormwater requirements.
2. Traffic and pedestrian:
- a) A multi-modal traffic impact analysis shall be required as part of any site plan/special use permit process within the CC district as per Article X. In particular, the Planning Commission shall evaluate traffic impacts during peak hours along Maple Avenue, Altamont Road, and Helderberg Parkway.
  - b) All off-street parking areas shall be located to the rear or side and screened from any adjacent residential property to the maximum extent possible.
  - c) Crosswalks and pedestrian traffic patterns should be located and organized in a manner which will maximize pedestrian safety, including biking. The Planning Commission shall address all modes of transportation, while striving to create pedestrian-friendly streets and spaces.
  - d) All sidewalks should conform to Americans with Disabilities Act construction standards.
  - e) Landscape features, including but not limited to trees, planting boxes, planting strips, landscaped berms, shrubs, and other features shall be used along the sidewalks to separate the vehicular traffic from pedestrians to the maximum extent feasible. Bicycle lanes striped into the roadway are also encouraged. If bicycle lanes are provided, then bicycle parking in the form of bicycle racks or storage facilities should also be provided for on-site.
  - f) The Planning Commission may require that brick or stamped asphalt or concrete be used for all crosswalks or pedestrian paths within an off-street parking area.
  - g) The Planning Commission may require use of shared parking and shared driveways if applicable.
3. Aesthetics and Community Character
- a) Roof pitch, façade treatment, use of awnings or porches, and other architectural features found on existing Maple Avenue structures shall be included in the required building design. To promote this area as a community gateway, each new building or structure should relate architecturally to the Village by including distinctive elements that identify the community and/or convey the community character. New buildings should emulate rooflines, porches, windows (like from the church) and other features.
  - b) True divided light windows or simulated divided light windows should be used on front facades.

- c) Mechanical systems shall be screened and hidden from view.
- d) Facades shall be built parallel to the principal lot frontage line.
- e) The Planning Commission may require other design and architectural standards pursuant to Article IV (C) (6).

7.) INDUSTRIAL DISTRICT: I

Special permit uses in the Industrial District shall be confined to uses pursuant to Table 1 whose activities do not, in their normal use: constitute a fire hazard or emit smoke, glare, noise, odor, or dust or impact negatively on the aquifer or on the environment in general; or impact in any other ways, which constitutes a nuisance or detriment to neighboring properties or to public health, safety or general welfare.

8.) CONSERVATION: C

- a) All proposed uses and accessory uses shall be consistent with Table 1. No permanent structure shall be allowed unless it is outside the 100' wetland buffer established by the New York State Department of Environmental Conservation or as per any DEC-issued wetland permit.

9.) WELL HEAD AND AQUIFER PROTECTION DISTRICTS

- a) Scope and Applicability: The groundwater protection districts include the wellhead protection overlay area and the aquifer protection overlay area and shall be considered as overlaying other existing districts as shown on the zoning map of the Village. Any uses not permitted in the underlying district shall not be permitted in either the wellhead protection or aquifer protection overlays. Any uses permitted in the underlying district shall be permitted in the groundwater protection districts, except where the groundwater protection districts prohibit the use or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

Where the bounds of the groundwater protection districts, as delineated on the zoning map are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question or their official designee to show that the boundaries differ from those that are indicated.

- b) Establishment and Delineation of Groundwater Protection Districts: There are hereby established within the Village, two groundwater protection districts. These districts are delineated on the zoning map and are described as follows:
  - 1. Wellhead Protection Overlay Area: As delineated, the wellhead protection overlay area shall include the surface extent of the public supply wells' cone of depression as well as those land areas of general aquifer recharge which contribute groundwater to the public wells. Environmental Hydrogeology Corporation (EHC) delineated these areas in a report prepared for the Village dated August 16, 1993.
  - 2. Aquifer Protection Overlay Area: As delineated, the aquifer protection overlay area shall include the land outside of the wellhead protection district through which runoff and precipitation flow directly and rapidly into the ground and the land outside of the aquifer area that contributes runoff overland and/or through surface streams for groundwater recharge. EHC also delineated these areas in a report prepared for the Village dated August 16, 1993.

- c) Permitted Uses for the Groundwater Protection Districts: All uses currently permitted under this local law and included in Table 1 are permitted in the groundwater protection districts subject to the provisions of this sub-section.
- d) Prohibited Uses and Activities for the Groundwater Protection Districts:
  - 1. Prohibited Uses and Activities  
Within groundwater protection districts, the following uses and activities are specifically prohibited:
    - a) Outdoor uncovered stockpiling and/or bulk storage of unlicensed vehicles, salvage metals, manure, coal, or deicing chloride salts;
    - b) Construction or operation of facilities for the underground storage of petroleum products, hazardous, or toxic materials or waste, except where secondary containment and leak monitoring systems are installed.
    - c) Application of pesticide and herbicides as part of a commercial operation.
    - d) Construction or operation of facilities for the outdoor, above ground storage of petroleum products, hazardous, or toxic materials or waste, except where secondary containment structures are installed, and fluid level gauges are installed.
  - 2. Additional Prohibited Uses and Activities in Wellhead Protection District:  
The following uses and activities are also prohibited within the wellhead protection overlay area:
    - a) Construction of septic systems or other on-site methods of wastewater disposal designed for or capable of surface or subsurface discharges of one thousand gallons per day (1,000 gpd).
    - b) Underground storage or outdoor, aboveground storage of petroleum products, except for storage for on-site consumption.
    - c) Underground storage or outdoor, above ground storage of pesticides, herbicides, fertilizers, and other hazardous and toxic material and waste.
    - d) Non-residential use of floor drains which are not connected to a sanitary sewer.
    - e) New multi-family dwellings using septic systems.
    - f) New single or two-family dwellings using septic systems on lots of less than two (2) acres (other than a lot that already exists as of the adoption of this local law).
- e) Non-Conforming Uses Within Groundwater Protection Districts: For the purpose of this section, a non-conforming use shall mean a building, structure, and/or use of land existing at the effective date of this local law, which is not in compliance with the provisions of this sub-section herein.

A non-conforming use within groundwater protection districts shall not be enlarged, altered, reconstructed, extended, or structurally changed without obtaining site plan approval from the Planning Commission. Site plan approval may be granted after a finding that the proposed action does not violate the provisions of this sub-section.

## **ARTICLE VI GENERAL REGULATIONS FOR ALL DISTRICTS**

### **A. General Standards**

In all districts uses are not permitted and shall be deemed to be objectionable if they can be distinguished beyond the limits of the lot on which they are created in the following degree of intensity:

- Dust settles from the air, or floats through the air and can be distinctly seen;
- Smoke carries to obstruct clear vision of the sky or carries along the ground where it may be breathed by persons or animals;
- Noxious fumes can be plainly smelled, or their presence detected by proper scientific apparatus;
- Vibration can be distinctly felt;
- Lighting or signs, create glare that could impair the vision of a driver of any motor vehicle;
- Cause a fire, explosion or safety hazard;
- Cause harmful wastes to be discharged into the sewer system streams or other bodies of water including an aquifer.
- Effluent disposal fails to comply with the local and state sewer health standards.

In addition to the above prohibitions, no lot in any district may be used or occupied and no building may be erected, altered or used for the harboring of livestock or poultry other than household pets belonging to owner or occupant, except as hereinafter provided.

### **B. Front Yards**

- 1) All new buildings shall have the minimum required front yards established in Table 2. Provided however, that if 25% of the block frontage on either side of the street is improved with buildings having a greater depth of front than is required by this local law, these new buildings shall have a front yard of such existing buildings. Notwithstanding provisions for front yards in these regulations, on streets with less than 50-foot right of way or where the right of way line is not known, the front yard requirement shall be measured from the center line of the existing roadway, and 25 feet shall be added to the front yard requirement.
- 2) On any corner lot no hedge or other boundary of solid vegetation shall have a height of more than 4 feet above the street grade, and no trees, shrubs, or other growth shall be maintained within the front yard as to cause danger to traffic by obstructing the view.
- 3) Structures in Front Yards: No structure of any description shall be permitted in a front yard except as hereinafter provided.

Exceptions:

- a) Signs as permitted by Article VII (O) of this local Law.
- b) In a residential district, an uncovered or covered porch may extend not to exceed 10 feet into the front yard, and cornices and eaves may project not more than 2 feet into the front yard.
- c) Fences as permitted by Article VII (P) of this local Law.

**C. Height regulations**

- 1.) In all districts, buildings and structures shall not exceed the height limitation as established in Table 2, measured vertically from the average ground level at the foundation to the highest part of the building or structure.
- 2.) Exceptions: The provisions of this section shall not apply to restrict the height of church spires, belfries, monuments, flagpoles, water and fire towers, tanks, antennas, elevator or mechanical equipment bulkheads, stage towers and scenery lofts, or power for telephone plant or equipment.
- 3.) Nothing in these regulations shall apply to prevent the erection above the height limit of a parapet wall or cornice, for ornament and without windowsills, extending above the height limit not more than five (5) feet.

**D. Individual lot sewage disposal systems**

- 1.) No lot for which on-site wastewater treatment is required shall be developed without the wastewater treatment system being first approved as provided in this section. For purposes of this local law, “developed” shall mean:
  - a) The division of one lot into two or more proposed lots, or
  - b) The installation of an individual wastewater treatment system on any undeveloped lot.
- 2.) Conventional on-site wastewater treatment systems shall be approved by the Albany County Department of Health in accordance with its requirements.
- 3.) For any alternative on-site wastewater treatment system, the following shall apply:

(For purposes of this local law, the word system hereinafter used shall mean alternative on-site wastewater treatment system)

  - a) The system shall be designed by a design professional in accordance with the following guidelines and incorporate any requirements from Albany County Department of Health:
    - 1.) The system must conform to minimum dwelling set back requirements of this local law.
      - a) All horizontal setback and set in requirements shall be measured from the toe of the fill (as projected for required expansion area).
      - b) Each system shall be designed for a minimum of 50% expansion of the required system, which expansion area shall be contiguous to the system as proposed, within the setback requirements.
      - c) No system shall be installed on a lot having a slope of greater than 10% in the area proposed for such system.
      - d) No point of the system shall exceed 4 feet in height above the point of highest elevation where the system and projected expansion area are proposed to be located on the lot.
      - e) Required side, front and rear slopes of the system shall not be greater than 1-foot vertical for each 4 feet horizontal.
      - f) No system shall be installed in an area which is susceptible to flooding, or where flooding or intermittent storm water runoff occurs in amounts which would negatively impact the system or its operation.

- b) A site plan review shall be conducted by the Planning Commission for any such proposed alternative system or systems.
  - 1.) The Planning Commission shall consider, in addition to, but not limited by, those matters set forth in Article X(1) of this local law (site plan review), the following:
    - a) Impact of the system on adjacent wells, water supplies, water courses, streams, springs, storm water drainage systems, buildings or structures.
    - b) Impact from driveway(s) or other proposed site work upon system operation and ground water or surface water runoff.
    - c) Cumulative effect when more than one system is, or may be, proposed in the proximity to another or several other systems.
    - d) For sloping sites, sufficient down gradient area is left undeveloped and protected to allow system water to remain underground.
  - 2.) The Planning Commission may require of the applicant:
    - a) Selective vegetative buffers and plantings, but not within 20 feet of the absorption lines of any system.
    - b) Analysis and demonstration that the proposed system or systems will have no adverse effect, or no cumulative adverse effect, as a result of the installation of the proposed system or systems.
- c.) Prior to the issuance of any permit or certificate by the Village, the system shall be approved as follows:
  - 1.) No building permit shall be issued until the Village receives written approval of the design of the system by the Albany County Health Department.
  - 2.) No certificate of compliance shall be issued until the Village receives written notification by the Albany County Health Department that the sewage disposal system (waste water treatment system) has been inspected and approved.
  - 3.) The system shall be constructed and installed under the supervision of design professional, who shall certify to the Albany County Health Department, the Village and the person or entity for whom the system is being installed, that the system has been installed under his supervision and has been constructed in accordance with the approved engineering reports, plans and specifications therefore, and with the requirements of the Planning Commission of the Village. All plans and reports shall bear the stamped seal and signature of the design professional on the originals thereof, in accordance with Section 7209 of New York State Education Law.
- 4.) In the event that any provision of this local law is less restrictive or less stringent than any applicable provision of the laws, rules or regulations of the State of New York or the Albany County Health Department, the more restrictive or stringent law, rule or regulation shall control provided, however, that no provision of this local law shall be construed to supersede 10NYCRR Part 74 and/or the provisions of Sections 1115 through 1120 of the New York State Public Health Law.

## **E. Regulation of Wetlands**

- 1.) Applicability: This section shall apply to those fresh water wetlands that are designated and determined by the New York State Department of Environmental Conservation (NYS DEC), or by the U.S. Army Corp. of Engineers (Army Corps) and shown on the map included in the

Village of Voorheesville Comprehensive Plan entitled 'Wetland,' or shown on the NYS DEC Environmental Resource Mapper at <http://www.dec.ny.gov/animals/38801.html> .

- 2.) Purpose: To preserve, protect and conserve certain fresh water wetlands and the benefits derived there from; to prevent despoliation and destruction of such fresh water wetlands and to regulate use and development of such wetlands in order to secure the natural benefits of fresh water wetlands, including the preservation of water quality, in the interest of preserving the health, safety and general welfare of the inhabitants of the Village.
- 3.) Restrictions: All proposals and/or applications for subdivision, site development, building permits, alteration in usage and variances or any other change which takes place within a wetland, within 100' of a NYS DEC designated wetland, or has direct impact on the designated wetland areas shall be referred by the Code Enforcement Officer in the first instance to the Conservation Advisory Council (CAC). The CAC shall review all such proposals and coordinate review by NYS DEC or the Army Corps, as applicable.

On wetland areas without the jurisdiction of NYS DEC or the Army Corps, the CAC shall review all such proposals and make its recommendations, including recommendations for SEQRA determination, to the appropriate decision-making body of the Village.

Notwithstanding the jurisdiction of NYS DEC or the Army Corps, the CAC shall, where it deems it appropriate, make its own comments or recommendations for any proposal in any designed wetland or environmentally sensitive area in the Village.

Upon request by the Code Enforcement Officer, Planning Commission or Zoning Board of Appeals, an applicant must, at applicant's expense, provide a determination and delineation of any lands considered wetlands by either NYS DEC or the Army Corps.

## **F. Stormwater**

All land development activities shall meet stormwater management and erosion and sediment control pursuant to the Village of Voorheesville Stormwater Management and Erosion & Sediment Control Law, Local Law # 3 of 2006. A "land development activity" is a construction activity including clearing grading excavating soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules. However, all land development activities taking place in the 100-year floodplain of the Vly Creek or its tributary that results in land disturbance of equal to or greater than .25 acres shall meet all stormwater management and erosion and sediment controls pursuant to Local Law #3 of 2006. Further, the following shall be met for all land development activities subject to this section:

- 1.) The site owner/applicant/designer shall submit a stormwater site design plan to the Planning Commission as part of application submissions. The standard used to meet the requirements of this local law shall be the New York State Stormwater Management Design Manual (NYSSDM). The applicant shall submit this plan to the Planning Commission in a conceptual form, for review and conceptual approval. The conceptual presentation shall include a narrative outlining the

basic principles of Steps of 1, 2 and 3 of Chapter 3 and/or Chapter 5 of the NYSSDM used in the development of the conceptual site plan or plat.

- 2.) The final site plan or plat shall incorporate maximum use of green infrastructure methods including use of low impact development methods pursuant to the Chapter 5 of the NYSSDM (Green Infrastructure Practices). Final plans shall be designed to ensure the preservation of undisturbed areas, preservation of buffers, reduction of clearing and grading, location of development in less sensitive areas and the use of open space design, soil restoration, street reduction, sidewalk reduction, driveway reduction, cul-de-sac reduction, building footprint reduction and parking reduction when such practices are deemed applicable and practical to the site by the Planning Commission. A narrative addressing the above considerations shall accompany the site design plan for review and approval by the Planning Commission. The final plan shall include a narrative outlining the basic principles of Steps 4 and 5 of Chapter 3, or of Chapter 5 of the NYSSDM.
- 3.) Specifically, the plan shall incorporate green infrastructure techniques and standard SMPs with RRv capacity incorporating conservation of natural areas, sheetflow to riparian buffers or filter strips, vegetated open swales, tree planting, tree box, or disconnections of rooftop runoff, stream day-lighting, rain gardens, green roofs, stormwater planters, rain tanks/cisterns, porous pavement, infiltration practices, bioretention practices and/or dry swales (open channel practices) to the maximum extent practicable to the site as determined by the Planning Commission. A narrative addressing the above considerations shall accompany the site design plan for review and approval by the Planning Commission.
- 4.) The Planning Commission shall review the plan and narratives and determine whether or not the plan conforms to the purpose and intent of this local law and Local Law 3 of 2011.
- 5.) The Village may retain an engineer to review and make recommendations to the Planning Commission regarding runoff reduction criteria, water quality volume, application of stormwater management practices, peak rate control practices and whether or not quantity control requirements have been met. The applicant shall incur the cost of this engineering service.
- 6.) Time Limitation: Any approval permitted by this local law shall be null and void unless a building permit is applied for and actual construction commenced within two years from the date of the Planning Commission approval.

#### **G. Flood Damage Prevention**

No structure shall be constructed, located, extended, converted or altered, and no land shall be excavated or filled in any area of special flood hazard except in compliance with Local Law 2 of 2015 entitled "Flood Damage Prevention" or any subsequent amendments. Further, the following shall be met for all locations within the 100-year floodplain of the Vly Creek and its tributary:

- 1.) There shall be no fill allowed within the limits of the 100-year floodplain.
- 2.) There shall be no permanent commercial structure allowed within the limits of the 100-year floodplain, except for such structures existing at the time of adoption of this local law, or

Adopted May 28, 2019

replacement structures constructed on the same building footprint. Parking lots may also be placed in the floodplain.

- 3.) There shall be no principal residential structure allowed within the limits of the 100-year floodplain, except for structures existing at the time of adoption of this local law.
- 4.) Accessory structures such as but not limited to sheds, garages, gazebos, or driveways may be allowed in the area of flood hazard provided the site retains pre-development grading and results in no net fill, as determined and approved by the village-appointed floodplain manager.

#### **H. Change in Use and Change in Tenancy**

A change in use as defined in this local law may require site plan review and approval pursuant to Article X (B) and/or a special use permit pursuant to Article IX by the Planning Commission. Whenever a change of tenancy in an existing commercial structure occurs, a change in tenancy filing shall be made with the Code Enforcement Officer.

**ARTICLE VII SUPPLEMENTARY REGULATIONS**

**A. Proposed Streets**

After a line of a future street is placed on the official map of the Village, if any official map shall exist, buildings shall be set back from such line as though it were a street. All new streets shall be designed pursuant to Section 603 of the Village of Voorheesville Subdivision Regulations.

**B. Green Construction**

Wherever possible, building materials and systems should be used that meet the established standards and practices of the U.S. Green Building Council “Leadership in Energy and Environmental Design” (LEED) program.

**C. Subdivision Design: Conservation and Traditional Neighborhood Design**

1.) A major subdivision may be designed using the conservation subdivision design process as described in this sub-section. A conservation subdivision shall be eligible for a density bonus as per Article IV, (C), (1), (2) or (3). When proposed, it shall also be in conformance with the Village of Voorheesville Subdivision Law, Section 603 and subject to the following additional conditions:

- a) At least 50% of the lot shall be preserved as open space.
- b) The proposed density in a conservation subdivision shall not exceed that required in the district in which the lot is located unless a density bonus has been granted by the Planning Commission. In determining the allowable density for a given site, the Planning Commission shall first determine the realistic capacity of the site if developed as a conventional subdivision. Unbuildable areas, such as steep slopes and streams, wetlands, channels and the land area required for street improvements shall be omitted before determining the total buildable acreage, and consequently, the total number of dwelling units to be allowed.
- c) The purpose of conservation subdivision is to encourage a development pattern that will result in:
  - 1.) A choice in the types of environment and living units available to the public and that will be a permanent and long-term asset to the Village.
  - 2.) The preservation or creation of open space, recreation areas and environmentally sensitive land areas.
  - 3.) A pattern of development that preserves trees, outstanding natural topography and geologic features, and prevents soil erosion and degradation of groundwater and surface water quality.
  - 4.) An efficient use of land resulting in smaller networks of utilities and streets.
  - 5.) An environment in harmony with surrounding development.
  - 6.) A more desirable environment than would be possible through the strict application of other sections of this local law.
- d.) All open space, recreation or common areas shall be managed and maintained in accordance with a form of legal ownership to be approved by the Planning Commission and as pursuant to the Village of Voorheesville Subdivision Law, Section 602.

- e.) In a conservation subdivision, single family detached units, or two-family units will be permitted. A conservation subdivision may be designed to result in one or more clusters of dwellings, or may result in a design that is not a cluster, but strategically places dwelling units so that they have physical or visual access to the preserved open space. f.)

Lot size, width, front yard depth, and side yard requirements shall be evaluated and determined by the Planning Commission and established at the time of the subdivision and shall be based on the lot characteristics and environment and determined by the design process of the Village of Voorheesville Subdivision Law, Section 602.

## 2.) Traditional Neighborhood Design

In the RC-1 and RC-2 districts, major subdivisions may use the conservation subdivision design process pursuant to the Village of Voorheesville Subdivision Law Section 602 but shall use a variation on the four-step process to ensure that the new development is consistent with the traditional neighborhoods and streetscapes found in these portions of the Village.

- a) All new lots shall be created to emulate the average front, side and rear setbacks that currently exist in the neighborhood. Lot sizes may vary depending on whether onsite wastewater treatment is used or if public sewer is available but shall be designed to match existing lots to the maximum extent feasible.
- b) Homes shall generally be designed so that they are oriented with their gable ends facing the street.
- c) Residences housing more than one family shall be designed to emulate traditional buildings in the historic areas of the Village or shall be designed to resemble large single-family residences.
- d) Front loaded garages (those with the door facing the street) shall be set back at least ten feet further from the front lot line than the foremost façade of the principal building facing the front lot line unless the design maintains the traditional architecture and neighborhood character.
- e) New streets proposed to be created as part of a development shall be integrated closely with existing streets. As far as practicable new streets shall be in a grid or modified grid pattern and shall be interconnected. Where a cul-de-sac is deemed to be unavoidable, continuous pedestrian circulation shall be provided for by connecting sidewalks that link the end of the cul-de-sac with the next street.
- f) Sidewalks on at least one side of the street shall be continued to link existing sidewalks to new pedestrian amenities.
- g) Street trees shall be planted between the sidewalk and street edge and spaced no greater than 40 feet along both sides of the street.

## D. Two-Family Homes

- 1.) Two-family homes may be allowed in any subdivision as follows:
  - a. R-A District may have up to a maximum of 10 two-family units or 20% of all proposed units, whichever is lesser when lots are 10 acres or larger in size.
  - b. RC-2 District may have up to a maximum of 10 two-family units or 35% of all proposed units, whichever is lesser when lots are 10 acres or larger in size.
  - c. MU-BR District may have up to a maximum of 10 two-family units or 35% of all proposed units, whichever is lesser when lots are 10 acres or larger in size.

- d. For lots seven acres or less in size in RA, RC-2, MU-BR, the number of two-family dwelling units may equal the total density allowed as per Table 2 of this local law.
- e. Two-family homes shall be architecturally designed to emulate a single-family home. Units may be side by side or stacked but building details including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing a street and consistent with single-family homes in the neighborhood.

## **E. Multi-Family Dwellings**

- 1.) The allowable density for a multi-unit residential dwelling shall be the same as the density allowed for any residential use in the district.
- 2.) Any multi-unit dwelling that exists at the time of enactment of this local law may continue to exist; however, any structural modifications, improvements or changes to that dwelling must conform to the provisions of this sub-section and the Building Code. All new multiple dwellings shall meet the requirements of this sub-section.
- 3.) Except in the MF district, multi-family dwellings shall require a special use permit including site plan review and approval. In the MF district, site plan review and approval are required.
- 4.) The Planning Commission shall establish the number of parking spaces required for a multi-family dwelling at the time of an application is approved. All parking spaces and private garages associated with a multi-family unit shall be aesthetically consistent with the design of the structures and of the neighborhood. Parking lots shall be screened to the maximum extent feasible. No front yard shall be used for open air parking or storage of any vehicle.
- 5.) Pedestrian Circulation: A clearly defined, visible, and identifiable pedestrian network shall be provided between parking spaces, open spaces, recreational facilities, and individual buildings within the development site, and connected to adjacent sidewalks, parks, open spaces, and community facilities.
- 6.) The maximum length of any individual building containing multi-unit dwelling units shall be 200 linear feet, regardless of the number of units.
- 7.) No structure containing a multi-family unit shall have more than four units per building.
- 8.) The design of multi-unit dwellings shall emulate a single-family residence. Building details including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing a street. The street-facing front façades of buildings shall provide at least three of the following articulation elements:
  - a) A covered porch;
  - b) A recessed entrance;
  - c) One or more dormer windows or cupolas;
  - d) Pillars, posts, or pilasters;
  - e) One or more bay windows projecting at least twelve (12) inches from the façade plane;
  - f) Eaves projecting at least four-inches from the façade plane;
  - g) Raised corniced parapets over the entrance door;

- h) Multiple windows with a trim at least four-inches wide;
  - i) Integral planters that incorporate landscaped areas or places for sitting.
- 9.) Side façades shall maintain at least twenty (20) percent of the façade area as windows.
- 10.) Principal buildings shall incorporate roof pitches between 3:12 and 12:12, or incorporate a parapet at least three (3) feet high with a three-dimensional cornice around a flat roof. Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features. All roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or otherwise be configured, to the degree practicable, to have a minimal visual impact as seen from the street.
- 11.) Garages shall be located to the side or rear of the building(s) containing the dwellings.

## **F. Senior Housing**

It is hereby recognized that most senior citizens live on fixed or limited incomes; many seniors have physical restrictions, and many are experiencing accelerating costs to maintain single-family residences. Thus, the Village Board of Trustees deems it essential to ease its restrictions to permit senior housing within the Village.

Establishment and approval of district. The Village Board of Trustees may, after Planning Commission review, public notice and hearing approve the establishment of senior housing. Approval of the senior housing shall be subject to the following conditions.

Uses; restrictions; regulations.

- 1.) In senior housing no building, lot or part thereof shall be used, erected, altered or occupied except for dwelling units especially designed for senior citizens.
- 2.) Occupancy within senior housing is limited to senior citizens as defined in this local law, regardless of race, creed, color, religion or sex.
- 3.) Buildings, accessory structures or portions thereof shall conform to the Building Code.
- 4.) The following special restrictions and regulations apply to senior housing:
  - a) Special use permit approval by the Planning Commission shall be required for all senior housing applications.
  - b) Sanitary sewers and public water supply shall serve senior housing. The total building area, including accessory structures, shall not occupy more than 40% of the total lot area. Accessory structures shall not occupy more than 5% of the total lot area.
  - c) The maximum density shall not exceed 12 dwelling units per acre of land.
  - d) The minimum habitable space shall be 500 square feet per dwelling unit. Each dwelling unit shall contain at least one bedroom.
  - e) Building height shall not exceed the height limit established in this local law.
  - f) Primary buildings, accessory structures or portions thereof, parking areas and streets

shall be set back from side and rear lots a minimum of one hundred (100) feet. This setback area shall be maintained as required by the Planning Commission during the special use permit review.

- g) Accessory structures shall include garages, storage buildings and trash containers.
- h) Parking areas and any proposed garage locations; as well as traffic flow for buses, large vans and emergency service vehicles shall be approved by the Planning Commission as part of their special use permit review.
- i) The proposed senior housing, as part of the required special use permit, shall be reviewed for recommendations by the local fire department and ambulance service.
- j) On-site parking shall be provided at a rate of not less than two parking spaces for each unit. All other parking requirements shall conform to this local law.
- k) A complete landscaping plan indicating all proposed planting shall be part of the special use permit review process.
- l) No business or commercial establishments shall be permitted except coin-operated vending and/or service machines for the benefit of the tenants, with a total area thereof not to exceed five hundred (500) square feet.
- m) Time Limitation. Any approval permitted by this Section shall be null and void unless a building permit is applied for and actual construction commenced within two (2) years from the date of the special use permit approval.
- n) Additional Design Standards for Senior Housing.
  - 1. The design of any senior housing shall emulate to the maximum extent practicable rooflines, windows and doors, facades, and other features similar to single family dwellings and the design of the surrounding neighborhood structures.
  - 2. The Planning Commission may require use of a vegetated or landscaped buffer to screen the senior housing from adjacent properties.
  - 3. Senior housing shall preserve, to the greatest extent practicable, mature trees, slopes, wetlands and stream corridors.
  - 4. Sites shall emphasize pedestrian circulation and shall provide a safe and reasonable system of drives, service access and parking conveniently accessible to all occupants. Sidewalks shall be provided to link parking lots, and buildings on site and with adjacent properties.
  - 5. All construction must conform to the Building Code.

## **G. Affordable Housing – Reserved.**

## **H. Home Occupations**

### 1.) Standards for all home occupations:

- a) The home occupation shall clearly be secondary to the use of the dwelling for living purposes and shall not change the character thereof or have any exterior evidence of such secondary use other than a name plate as provided in Article VII (O). In no case shall more than 25% of the total area of the dwelling be devoted to a home occupation.
- b) The home occupation shall not involve display of articles or commodities for sale on the lot.
- c) The home occupation is carried on by a member of the family residing in the dwelling unit.

- d) The home occupation shall be carried on within the principal structure. The residential character of the single-family dwelling and the lot shall not be altered to accommodate a home-based business.
- e) Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be produced.
- f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
- g) Parking shall be provided off street and shall not be located in front yards.
- h) All sign requirements of this local law shall be met.

2.) Minor Home Occupations:

- a) No evidence of such use shall be permitted for one sign not exceeding two square feet in area.
- b) No more than fifteen percent (15%) of floor area of the dwelling unit or 500 square feet of an accessory building may be used in connection with a low impact home occupation, whichever is lesser.
- c) There shall be no exterior storage of materials to be used in conjunction with a home occupation.
- d) There shall be no heavy earth moving equipment, tractor trailers, or other similar specialized vehicles upon the property utilized for the home occupation.
- e) Only the person or persons who occupy the dwelling may be employed by the low impact home occupation at any one time.

3.) Major Home Occupations:

- a) All storage of equipment, materials, goods, or supplies shall also meet all requirements for such use pursuant to this local law. All exterior storage used in conjunction with a high impact home occupation must be screened from view or stored within structures and not visible from the public way or adjacent properties.
- b) Only the person or persons who occupy the dwelling and three (3) additional persons may be employed by the high impact home occupation at any one time.
- c) Adequate parking shall be provided for all home occupants, employees and customers so as not to cause parking congestion or a visual disturbance to the character of the neighborhood.

**I. Bed and Breakfasts**

1.) Any proposed bed and breakfast dwelling facility shall conform to the following requirements:

- a) No structure, nor detached sign, nor off-street parking shall be allowed within the setback areas except for mailboxes, address signage or other minimal accessories commonly found within the neighborhood.
- b) A single sign, attached flat against the building or a single detached sign may be used, advertising the bed and breakfast facility. Said signage shall not exceed twelve square feet in size.
- c) A one family dwelling may be converted for use as a bed and breakfast dwelling. Bed and breakfast facilities shall be allowed under the following conditions:

1. No sleeping rooms for transient use shall be located above the second story,
  2. A fire safety notice shall be affixed to the occupied side of the entrance door of each bedroom for transient use indicating:
    - a) Means of egress;
    - b) Location of means for transmitting fire alarms, if any, and
  3. Evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting alarm device.
- d) Means of egress shall include at least one of the following alternatives:
1. A special sprinkler installation protecting all interior stairs serving as means of egress;
  2. An exterior stair conforming to the requirements of the Building Code providing a second means of egress from all above grade stories or levels; or means of egress from all above grade stories or levels; or
  3. An opening for emergency use conforming to the requirements of the Building Code within each bedroom for transient use, such opening to have a sill not more than 14 feet above level grade directly below, and as permanent equipment, a portable escape ladder that attaches securely to such sill. Such ladder shall be constructed with rigid rungs designed to stand off from the building wall, shall be capable of sustaining a minimum load of 1,000 pounds, and shall extend to, and provide unobstructed egress to, open space at grade.
- e) Smoke-detecting alarm devices, installed in conformity with Building Code shall be provided outside each separate sleeping area, in each sleeping space and on each floor level.

#### **J. Essential Service Buildings**

Essential service buildings shall include electric substations, transformers, switches, and auxiliary apparatus servicing a distribution area, telephone facilities and water pumping stations and sewage treatment plants in all districts and shall be subject to the following regulations.

- 1.) Such facilities shall not be permitted in R-A district and shall not be permitted in any other district except on special permit as provided in Article IX.
- 2.) Such facilities shall not be located on a residential street and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- 3.) The location, design and operation of such facility may not adversely affect the character of a surrounding residential area. Adequate fences, barriers and other safety devices shall be provided and shall be landscaped.

#### **K. Mixed Use Buildings**

In any district allowing for mixed-use buildings, the first floor frontage space shall predominantly be used only for commercial, non-residential uses. Residential uses shall generally only be allowed on upper floors, or to the rear of a commercial space on the ground floor.

## **L. Temporary Businesses**

It shall be unlawful for any person within the Village to establish a temporary business, as defined in this local law, without first having duly obtained and having in force and effect a license for that activity from the Code Enforcement Officer.

## **M. Accessory Uses and Structures**

### **1.) Accessory Structures**

- a) No accessory structure shall exceed twenty (20) feet in height in any residential district. In any business district, an accessory structure shall not exceed thirty (30) feet in height. In all districts, accessory structures shall not exceed the height of the primary building on the lot.
- b) Accessory structures shall have a minimum yard setback of five feet from any side or rear property boundary line.
- c) There shall be a maximum of two accessory structures that are roofed or otherwise enclosed, permitted on any lot.
- d) The accessory residential dwelling shall be subordinate to the principal dwelling except for accessory structures used for housing livestock on an urban farm.
- e) The aggregate footprint area of all accessory structures shall not exceed fifty (50) percent of the primary structure's footprint, or 1,500 SF in floor area, whichever is more restrictive.
- f) Accessory structures shall not be constructed or established on a lot until the primary structure is completed or the primary use is established. There must be a primary structure and/or use in existence and completed before any construction can take place for an accessory structure. However, construction trailers or structures may be placed on a lot during construction.
- g) Detached accessory structures shall be located no closer than ten (10) feet to the primary building.
- h) No accessory use or structure, including garages, sheds, swimming pools and tennis courts, may be located in the front yard of any residential lot. Architectural features however, such as a trellis, patio, awning, or fence may be located in the front yard of a lot as otherwise permitted by this local law.

### **2.) Accessory Apartments (Accessory Dwelling within a Primary Residence).** A special use permit shall be required for placement of an accessory residential dwelling within a principal dwelling and the following criteria shall be met:

- a) Any alterations to the principal dwelling shall be performed in a manner that retains the existing character of the principal dwelling.
- b) The existing foundation and footprint of the principal dwelling shall not be altered or extended to accommodate the accessory apartment within the principal dwelling.
- c) The accessory apartment within a single family principal dwelling shall not occupy more than twenty-five (25) percent of the square footage of that single-family dwelling.
- d) The conversion of any existing dwelling to accommodate an accessory apartment is limited to one accessory apartment per principal dwelling.
- e) There shall be a minimum of two parking spaces on the lot. At least one parking space shall be for the principal dwelling and one parking space shall be for the apartment.

- f) Albany County Department of Health approved water supplies and sanitary systems shall be required prior to the granting of any special use permit for an accessory apartment. Such systems may be connected to existing or upgraded water supply and sanitary systems of the single-family dwelling. If a separate system is necessary, all other standards, setbacks and requirements of this local law and of the Albany County Department of Health shall be met. Design and construction of any new septic system shall be approved by the Albany County Department of Health.

3.) Cottage Home Accessory Dwelling as an Accessory Structure

- a) Where permitted pursuant to Table 1, one accessory cottage home is permitted per lot, subject to the granting of a special use permit by the Planning Commission, provided that the following standards are met:
  - 1. The cottage home shall be an accessory use and the accessory structure must be subordinate to the size of the principal dwelling. It must be no more than fifty (50) feet away from the principal dwelling. The lot cannot be subdivided such that the accessory cottage home and principal dwelling are no longer on the same lot.
  - 2. No single-wide or double-wide mobile or manufactured home shall be allowed to be used as a cottage home. Existing structures including but not limited to garages and carriage barns may be converted to house a cottage home.
  - 3. No cottage home shall be located in a front yard of a lot. Any cottage home shall comply with all minimum yard setback and maximum lot coverage requirements as provided in the district.
  - 4. The maximum building footprint for a cottage home used as a structure shall not exceed 750 ft<sup>2</sup>.
  - 5. A cottage home shall not be allowed on any undersized lots.
  - 6. Any special use permit authorizing a cottage home shall be issued to the owner of the principal dwelling and lot.
  - 7. Additional space for parking vehicles shall be required for a cottage home. At a minimum, there shall be one additional space required for each additional vehicle to be used on the lot.
  - 8. Any cottage home shall be constructed and installed and have a foundation in accordance with the Building Code.
  - 9. Albany County Department of Health approved water supplies and sanitary systems shall be required prior to the granting of any special use permit for a cottage home. The structure may share a common well and/or septic system with the primary dwelling provided the system has adequate capacity to serve both dwellings. If a separate system is necessary, all other standards, setbacks and requirements of this local law and of the County Department of Health shall be met. Design and construction of any new septic system shall be approved by the Albany County Department of Health.

**N. Temporary structures**

Temporary structures used in conjunction with active construction work shall be permitted only during the period that the construction work is in progress, up to six (6) months. Permits for non-construction related temporary structures shall be issued for no more than 90 days. ADA compliant, temporary structures, such as but not limited to ramps necessary for the health of an occupant of a dwelling, shall also be allowed for 90 days and may be renewable. All temporary

structures shall conform to the building code. Any temporary, movable or stationary structure on property, such as a POD used for any purpose, must be approved by the Code Enforcement Officer prior to being placed on a lot.

## **O. Signs**

- 1.) General: Signs may be erected and maintained as an accessory use when in compliance with the provisions of this section and any and all other laws, or ordinances and regulations relating to the erection, alteration or maintenance of signs and similar devices. Proposed uses that include signs and requiring Planning Commission review for special use permit or site plan review approval shall have all signs evaluated and approved as part of those processes. All other signs shall be permitted and receive a sign permit by the Code Enforcement Officer prior to placement. All signs shall meet the design and siting standards of this section.
- 2.) Exceptions: The following signs do not need Planning Commission review or a sign permit from the Code Enforcement Officer.
  - a) Signs in Residential Districts: Dwellings and minor home occupations shall be allowed one nameplate not over two (2) square feet in size.
  - b) Temporary Signage: Vegetable stands, garage, yard or porch sales or other temporary business activities shall not utilize more than two temporary signs, placed upon the lot where the activity is taking place, with a maximum area of nine (9) square feet each. Such signs shall be removed immediately upon the cessation of such business activity.
  - c) Political Signage: Political signs or posters of not more than thirty-two (32) square feet in area shall be permitted within the Village provided they are not displayed more than four weeks before the relevant election day and removed no later than three (3) days after the election date.
  - d) Banners: A banner or similar device for the occasion of a commercial event may be approved by the Code Enforcement Officer and be displayed no sooner than four weeks prior to date of the event. Said banner shall be removed immediately after the event has concluded. Each separate business shall be entitled to display such banner for no longer than four weeks per event, twice a year, non-continuous.
  - e) Open house real estate signs shall be permitted off site when the lot being sold is attended by the seller or the seller's agent.
  - f) One (1) temporary, unlighted sign not over six (6) square feet in area may be placed at least fifteen (15) feet from any street line in connection with the sale, renting, construction or improvement of the property, if placed by authorization of the owner, subject to limitations and prohibitions contained below.
  - g) Signs one square foot or less in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
  - h) Flags and insignia of any government.
  - i) Flags depicting the 'open' status of a business.
  - j) Legal notices, identification, informational or directional signs erected or required by governmental bodies.
  - k) Signs which mark property boundaries or hazard signs (2 sf per side).
  - l) Bulletin Boards: Bulletin boards customarily incidental to places of worship, libraries, or museums may be erected on the lot of such institution, not exceeding twenty (20) square feet facing a street. Such sign or bulletin board shall not be internally illuminated.

External lighting, if provided, shall not cause glare or be offensive to traffic or residential areas.

- m) A-Frame or Sandwich Board type signs: May be placed on the sidewalk only during hours of operation, shall be no more than 6 sf in size, and must not be placed in a manner which impedes flow of pedestrian traffic or that impedes sight distances of vehicular traffic.

3.) Prohibited Signs: The following signs and/or advertising devices are prohibited in every district:

- a) All Sale Pending signs that have been on display more than 90 days.
- b) Portable or mobile signs other than those excepted under section 2) above.
- c) Animated, moving, flashing, or revolving signs, including LED signs having colored and/or moving letters, graphics, or messages.
- d) Multiple faced other than double faced.
- e) Outside bulletin boards, except for those announcing community or non-profit events.
- f) Billboards.
- g) Signs appearing upon permanent delivery and pickup containers which advertise an organization other than the owner or operator of the container.
- h) Signs or posters which are attached to, or painted on trees, natural formations, fences, bridge abutments or utility poles.
- i) Signs which employ reflective or luminous material or luminous paint in their construction.
- j) Neon signs with letters or visible features formed of internally illuminated glass tubing or transparent tubing.
- k) Signs on Village property, except as authorized by the Village Board of Trustees.
- l) The display of gasoline prices upon signs other than those integral to gas pumps, the placement of which is required by law.

4.) General Sign Regulations

- a) No sign permitted by this section shall extend above a peak roof or a parapet wall, whichever is the higher.
- b) Illuminated signs. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights, including LED signs. Except for LED signs, all signs shall be externally illuminated. LED signs shall be allowed only when there are no moving or flashing letters or graphics and letters are static and monochromatic on a gray or black background. In no event shall an illuminated sign or lighting device be so placed or directed as to permit the beams and illumination therefrom to be directed or beamed upon a street, sidewalk or adjacent lot so as to cause glare that may constitute a traffic hazard or nuisance.
- c) Sign area: The maximum areas for signs established in this Article in Table 3 shall apply to a single side of any such sign. The use of two sides of such sign is permitted and when so used shall be considered as one (1) sign so long as the interior angle formed by the two display surfaces shall not exceed fifteen (15) degrees.
- d) Condition: All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- e) Signs printed on awnings are permitted in all business and industrial districts.

- f) No projecting sign may extend more than four (4) feet over the street right of way/property line or be less than eight (8) feet from the ground. In no case shall a sign obstruct sight lines of vehicle or pedestrian traffic.
- g) A single cluster sign shall be used when there is more than one business, or use, on the same lot.
- h) Illumination of signs shall be extinguished when the associated business is closed.

5.) Signs in Business and Industrial Districts (MSE, MSW, MU-BR, CC, GB, BB, and I): The following sign types and sizes are allowed:

Table 3: Sign Size Standards

Sign Type	Maximum Size of Sign by District						
	MSE	MSW	MU-BR	CC	GB	BB	I
Freestanding, Pole Mounted, using 2 posts	Not Allowed	Not Allowed	24 sf	16 sf	24 sf	24 sf	24 sf
Freestanding, Detached Ground Mounted in base	Not Allowed	Not Allowed	28 sf	16 sf	30 sf	24 sf	30 sf
Building Mounted, Flat	2 sf per ground floor street frontage or 50 sf whichever is less	2 sf per ground floor street frontage or 50 sf whichever is less	2 sf per ground floor street frontage or 50 sf whichever is less	24 sf	24 sf	24 sf	24 sf
Building Mounted, Projecting	6 sf	6 sf	4 sf	4 sf	6 sf	6 sf	6 sf
Maximum Height of Freestanding, Detached sign	--	--	8 feet	6 feet	8 feet	8 feet	8 feet
Painted Window or Door	Not more than 50% of window or Door						
Total Number of Signs Per Premise	2	2	1 per business and 1 clustered sign per lot	2	1 per business and 1 clustered sign per lot	2	2

- 6.) Total Sign Area: The total sign area of all permitted signs on the lot for permitted uses shall not exceed seventy-five (75) square feet.
- 7.) Signs for Major Home Occupations in Any District: Signs shall be reviewed and approved by the Planning Commission at the time of initial site plan/special use permit approval. Sign standards including subsequent replacement of any sign shall meet the following standards:
  - a) Size: 12 square feet maximum.
  - b) Illumination: Exterior illumination only. No LED, moving, flashing, or colored lights.
  - c) Placement: Outside of any street right-of-way and in a location that will not interfere with pedestrians or sight distances from any sidewalk, street, corner, intersection or other driveway.
  - d) Type and Height: Ground mounted or pole sign no taller than 6 feet.
- 8.) Removal of Certain Signs: Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product available for purchase by the public shall be removed by the owner, agent or person having had the beneficial use of such sign within ten (10) days after written notification from the Code Enforcement Officer. Upon failure to comply, the sign and/or signs shall be removed by the Village at the expense of the aforesaid owner, agent or person having beneficial use.

**P. Fences**

In no case shall a fence be erected, enlarged or altered without a building permit. The finished side of a fence must face outward from the property. In addition:

- 1.) Within the limits of a side yard and/or a rear yard, no fence or wall, except a retaining wall, shall be more than six feet high.
- 2.) Within the limits of a front yard, no fence or wall, except a retaining wall shall be more than four feet high, or more than one-half sided. The outer face of any fence within a front yard shall be comprised of materials such as wood or vinyl pickets, split rail or wrought iron. No wire or temporary fences shall be permitted in a front yard (unless on sites under construction or for temporary snow control.)

**Q. Lighting**

- 1.) The light level at the lot line shall not exceed 1-foot candle measured at ground level.
- 2.) All exterior lighting, including security lighting, signs or other uses shall be directed away from adjoining streets and properties.
- 3.) The unshielded outdoor illumination of any landscaping, signing, or other accessory purpose is prohibited. No direct glare shall be permitted, and all lighting fixtures shall be fully shielded so that the angle of illumination is directed downwards rather than out.
- 4.) Light source locations shall be chosen to minimize the hazards of glare.
- 5.) The maximum height of the luminaire shall not exceed 18 feet.

- 6.) The Planning Commission may require all exterior lights to be extinguished 30 minutes after the close of a business, or after 11:00 PM unless the use is open 24 hours per day. Emergency lighting and pedestrian security lighting may be allowed to remain on after the close of a business.

**R. Noise**

- 1.) No noise or vibration shall be created on a commercial, non-residential property that will be noticeable at or beyond the property line.
- 2.) The Planning Commission may require landscaping, berms, fences or other structures that constitute a visual and/or noise-detering buffer between an applicant's lot and adjoining lands to minimize or eliminate nuisance noise. The Planning Commission shall ensure that adjacent or neighboring properties are protected against noise.

**S. Parking and off-street loading**

- 1.) Parking: Whenever any of the following uses in any district are established or enlarged, off-street parking spaces shall be provided as required in this section. The Village wishes to reduce the cost of development and encourages applicants to limit the number of parking spaces provided. Therefore, the parking standards provided herein are recommended minimums and the Planning Commission is authorized to allow for flexibility in the number of parking spots to be required.

The purpose of the off-street parking and loading regulations is to ensure that such uses are treated as accessory uses, are adequate to serve needs, do not predominate the site, are placed to minimize their visibility, and feature quality landscaping and architecture to reduce the visual impact of glare, headlights, and parking lot lights from streets and neighboring properties. Off-street parking areas should complement the buildings on a site, improve the appearance of the Village, protect the character of nearby residential, business and institutional uses, and conserve the value of land and buildings on surrounding properties.

The accessory off-street parking and loading spaces specified by the recommended rates below are to be used as guidelines by the Planning Commission in the development of sufficient but not excessive parking for proposed uses as determined necessary by the Planning Commission. A written report submitted by an applicant, defining and documenting the feasibility of an increase or decrease in spaces, shall be prepared by a qualified parking consultant approved by the Planning Commission. Shared parking and on-street parking shall be encouraged or may be required by the Planning Commission if feasible alternatives exist.

The final number and layout of parking spaces shall be determined by the Planning Commission based on the need to protect public safety and convenience while minimizing harm to the character of the community and to scenic historic, and environmental resources. See also Article V (C) for district-specific parking requirements that may be established.

- 2.) In determining the parking requirements for any proposed use, the Planning Commission shall consider Table 4, together with the following criteria:

- a) The number of persons who would be parking at the use as employees, customers, clients, members, students or other users, at times of typical peak daily usage and not for seasonal highest volume. In most instances Parking spaces should be sufficient to satisfy 85% of the anticipated peak demand or maximum capacity of an establishment.
- b) The size of the structure(s) and the lot.
- c) The historic sensitivity of the lot.
- d) The distance and access to public transit, additional public parking areas, or the potential for on-street parking.
- e) The potential for shared parking, where peak-parking accumulation can be accommodated at different times of the day, week or season by nearby land uses. Shared parking should be examined in relation to the availability of off-street parking existing within 400 feet of the site. Shared parking areas must be either open to the public, owned or controlled by the applicant, or acceptable through a deeded right or legal agreement to shared use has been demonstrated by the applicant.
- f) Table 3 provides guidance as to parking generation rates. The applicant shall provide documentation as to parking needs. Such demonstration shall include documentation of parking experience elsewhere through surveys of demand and problems at existing uses that may be applicable and/or a study of patterns of local automobile use that shows adjustments in design day peaks are needed. The Planning Commission may require applicants to address alternatives for reducing parking demand.

Table 4. Parking Space Generation Rates

Use	Parking Spaces Required
Residential	2 per unit
Accessory Apartment	1 per unit
Senior Housing	1 per bedroom
Lodging including Hotel, Bed and Breakfast	1 per unit
Church, School, or Place of Public Assembly including theater or other cultural use	1 per 3 seats in principal assembly room
Private Club or Lodge	1 per 1,000 square feet of gross floor area
Major Home Occupation	1 per 500 square feet of gross floor area devoted to home occupation
Hospital, Nursing Home, Assisted Living Facility	1 per 3 beds and 1 for each employee
Office or Clinic	4 per 1,000 square feet of gross floor area
Retail Business, Personal Service	4 per 1,000 square feet of gross floor area
Eating and Drinking Establishment	12 per 1,000 square feet of gross floor area
Industrial	1 for each 1.2 employees
Funeral Home	1 for each 75 sq. ft of floor space in slumber rooms, parlors, and individual service rooms with a minimum accommodation for 20 cars.

All such required parking shall, at a minimum, comply with the following schedule:

<b>AISLE to AISLE</b>	<b>STALL WIDTH</b>	<b>STALL to CURB</b>	<b>AISLE WIDTH</b>	<b>CURB LENGTH/CAR</b>
90 degree	9 feet	18 feet	24 feet *	9 feet
60 degree	9 feet	21 feet	18 feet	10.4 feet
45 degree	9 feet	19.8 feet	13 feet **	13.4 feet
30 degree	9 feet	17.3 feet	11 feet **	18 feet
0 degree	9 feet	9 feet	12 feet	22 feet

\*Two-way circulation

\*\*One-way circulation

**Note:** Handicap parking - as per the Building Code

**Note:** Driveway to parking aisles - one-way traffic = 10' minimum width  
 - two-way traffic = 18' minimum width

- 3.) Off Street Loadings: For all business and industrial uses, off-street loading shall be provided and shall be spaced logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space.
- 4.) Parking for Non-Residential Uses in the Wellhead Protection Overlay Area. Special care is required for development of impervious surfaces in the wellhead protection overlay area. All surfacing, grading and drainage shall facilitate groundwater recharge by minimizing impervious pavement and all peak or overflow parking areas shall be permeable. Maximum use of pervious paving materials for parking areas shall be required except in cases of unusual or extraordinary difficulties due to exceptional conditions of topography, access, location, shape, or other physical features of the site.
- 5.) Location of Required Spaces: In any residential district, no open or enclosed parking area shall encroach on any required front yard. For commercial uses, parking lots shall be on the side or in the rear of the building, except in the GB district where current lot configuration allows for parking in the front of the structure. If front parking is the only feasible location for parking due to lot configuration, such parking shall be landscaped or screened. Open parking areas may encroach on a required side or rear yard to within three feet of a lot line. In business districts or industrial districts, such spaces shall be provided on the same lot. Any parking lot for any use in any district shall be setback 100 feet from any wetland. No parking lot shall be within the floodway of the Vly Creek. No entrance or exit drives connecting the parking area and the street shall be permitted within twenty-five feet of an intersection.

Additionally, the following shall be met:

- a) No more than two curb cuts shall be created for access into a parking lot.
- b) Curbing may be required to assure proper drainage, and to delineate the parking area and driveway access.
- c) Stacking lanes may be required to avoid stacking of vehicles into the public right-of-way.

- d) The Planning Commission may also require bicycle parking spaces at the rate of one per 20 parking spaces.
  - e) Parking lots are encouraged to be designed with pervious pavement. Low impact stormwater methods such as bioswales and rain gardens shall be required to control runoff.
- 6.) Set-aside for Future Parking in Phased Projects. For projects consisting of more than one phase, or for those anticipating significant growth, the Planning Commission may require that an applicant set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be landscaped but may not be used in a manner that would prevent it from being used for parking in the future.
- 7.) Cross-Access. In cases where two or more commercial developments are adjacent, the Planning Commission may require cross-access easements between adjacent parking lots to provide for interconnected parking lots and to facilitate traffic and control access on the street.
- 8.) Landscaping. Landscaping shall be integrated into parking areas to visually break up large expanses of paving and to provide shade. Landscaping shall be placed at parking entryways, and at parking end islands, and shall help define vehicular access and pedestrian movement. One deciduous tree per six parking spaces is required. For parking lots greater than thirty cars, planting islands nine feet wide by 18 feet deep, constructed with sub-surface drainage and compaction resistant soil will be required to be placed in the interior of the parking area.
- 9.) Lighting. Lighting shall be arranged so that the source of light is concealed from public view and from adjacent residential properties and does not interfere with traffic by way of glare. All lights shall be shaded or so directed so as not to cause glare on adjoining residential properties and shall be so directed so as not to cause a traffic hazard due to glare or color.

## **T. Swimming pools**

- 1.) General: No building permit or special permit shall be issued for any swimming pool nor shall any land be used for such purpose, nor shall any pond or lake be created or existing pond or lake be enlarged or altered, until the location and size of the plot, site, plans, and detailed construction plans of such use and any accessory buildings (showing dimensions, design, elevation, location and uses of all structures, drainage, sewerage, and sanitary facilities, parking areas, entrances, driveways, walks, fences, screening, planting and such other information including manner of operation, use and maintenance of such swimming pool as may be required) are approved by the Code Enforcement Officer. All swimming pools shall be installed to conform to the Building Code.
- 2.) Abandonment: Should the owner abandon a swimming pool as defined in this local law, the area occupied by the swimming pool shall be returned to its original grade and approximately in the same condition as before the swimming pool was constructed and the owner shall notify the Code Enforcement Officer of the abandonment so that an inspection of the site may be made and the records of the permit marked accordingly.

- 3.) Electrical Installations: No swimming pool shall be maintained within the Village without having a certification of inspection of all electrical installations associated with such swimming pool, including lighting, filtering and recirculation equipment.
- 4.) Lighting: No lighting shall be permitted on or about said swimming pool that casts light or reflection onto abutting properties.
- 5.) Overhead Power and Utility Lines: No swimming pool shall be constructed which will permit a clearance of less than 10 feet horizontally from any overhead power and utility lines.
- 6.) Private Swimming Pool Permits: No private swimming pool shall be constructed or installed or created without first obtaining a building permit for same, under the same fee schedule as may be applicable. Said swimming pools may be erected or installed only as an accessory to a dwelling and shall not occupy more than ten (10) percent of the total area of the lot. No swimming pools shall be installed, constructed or maintained in a front yard.
- 7.) Water Supply: There shall be no physical connection between a potable public or private water supply system and a pool structure. The filling of pools, including those 24 inches or less in depth, from hydrants is prohibited unless a special permit is issued by the Board of Trustees.
- 8.) Public Swimming Pool Permits: No public swimming pool shall be constructed or created without first obtaining from the Planning Commission a special use permit for conditional use, provided the Planning Commission shall determine that the public health, morals, safety, comfort and general welfare of the neighborhood will be secure and that such use will not be detrimental to the general character of the neighborhood or to the orderly development of the Village. Prior to the application for a special permit, all public swimming pools subject to the regulations of the New York State Sanitary Code shall have the approval of the Albany County Health Department.
- 9.) Operation: Such special permit may prescribe reasonable rules and regulations for the operation, maintenance and use of such swimming pool and accessory structures.
- 10.) Private ponds or lakes: To be constructed, enlarged or altered, shall require a special use permit review and approval by the Planning Commission.

**U. Storage of Mobile Homes, Motor Homes, Recreational Vehicles, Boats, Trailers and Trucks**

No mobile home, motor home, recreational vehicle, boat, trailer or truck shall be stored in the front yard in any district, except in a driveway. When stored in a driveway, the mobile home, motor home, recreational vehicle, boat, trailer and truck shall be set back ten (10) feet from the edge of the road to ensure adequate site distances. Such vehicles or trailers may be stored in a driveway only between April 1 and November 1. For all other times of the year, such structures shall be stored in a side or rear yard. In addition, when such vehicles or trailers are stored on the lot, they shall meet the requirements of an accessory structure. Stored, in this case, shall also mean the vehicle is owned by someone other than the owner of the property it is stored on and is left on site for warehousing, preservation, use at a later date or for disposal.

## V. Urban Farms

Urban farms as defined in this local law shall be allowed as per Table 1 and with the following standards:

- 1.) Standards for all Urban Farms With or Without Livestock
  - a) Lots used for urban agricultural uses shall be situated, equipped, operated and maintained to minimize to the maximum extent possible, using the best available methods, any impacts on, or interference with other land uses and activities in the general area, or the public health, safety and general welfare of the Village.
  - b) A minimum of seven (7) acres is required for urban farms with livestock. For keeping chickens other than on urban farms see Local Law 2 of 2016.
  - c) There shall be a setback for all livestock fencing and structures of 100' from all side and rear lot lines. No livestock shall be placed in any front yard or front yard setback.
  - d) No portion of an urban farm operation shall be conducted within a front yard setback.
  - e) Urban farm activities with no livestock shall require a minimum lot size of 2 acres in size. Any urban farm shall be served by a water supply sufficient to support the cultivation practices on the site. If a municipal water source is used for an urban farm, the Village shall determine if there is adequate water capacity and approve such use prior to issuance of any permit.
  - f) No urban farm activities may take place between the hours of 9:00 p.m. and 6:00 a.m.
  - g) Accessory structures and storage buildings including trellises, raised planting beds, benches, or covered trash receptacles may not occupy more than ten percent of the lot.
  - h) All accessory structures shall be placed to follow the lot size and setback standards of the district.
  - i) Fences shall not exceed six feet (6) in height and shall meet the same required setbacks as the principal use. If the urban farm use is abandoned, the fence must be removed.
  - j) Structures for urban farm use may not exceed twenty-five (25) feet in height, including any pitched roof.
  - k) The Planning Commission shall ensure that there is adequate odor control, debris control, and rodent and pest control. In all districts, no odors or fumes from an urban farm shall be allowed to escape into the open air in such amounts as to be detrimental to the health of any individuals or the public; or noticeable, discomforting or disagreeable so as to offend the sensibilities of a reasonable individual at a distance of more than two hundred (200) feet from an urban farm
  - l) There shall be secure, enclosed, rodent-proof storage of all seed, fertilizer, and other chemical products used in operations.
- 2.) Conditions of Approval. Conditions of approval for an urban farm may include, without limitation:
  - a) Measures such as landscaping sound barriers; fences, mounding or berming; to mitigate potential impacts on adjacent property and public areas;
  - b) Adjustments to location of parking or yard standards;
  - c) Structure design modifications to mitigate potential adverse impacts;
  - d) Additional limited hours of operation for facilities or activities;
  - e) Implementation of operations consistent with agricultural best management practices including: a requirement that the applicant file an urban farm management plan to

address methods to be used onsite to ensure compatibility with adjacent and neighboring land uses and to protect the environment.

- 3.) Application Requirements for all Urban Farms: All applications for an urban farm shall include a site plan, drawn to scale, showing the lot size with dimensions. The site plan shall show the location of all existing structures on the property as well as on adjacent properties within two hundred (200) feet of the lot line. The plan shall show the location and setback of all proposed structures and garden plots, pastures, or other farm-related activities including any area or structure proposed for the sale of produce grown on the site. The plan shall include proposed fencing and screening, if required. The plan shall indicate the area reserved for parking and the number of parking spaces provided, if required. The plan shall identify the source of water that will be used for irrigation purposes.
- 4.) Urban Farms with Livestock or Bees
  - a) There shall be a minimum of seven (7) acres for any urban farm with livestock. For urban farms keeping chickens, see Local Law 2 of 2016.
  - b) An urban farm with bees. No hive shall exceed twenty (20) cubic feet in volume. No hive shall be located closer than three (3) feet from any lot line. No hive shall be located closer than ten (10) feet from a public sidewalk or twenty-five (25) feet from a principal building on an adjoining lot. A constant supply of water shall be provided for all hives.
  - c) Slaughter of any farm animal is prohibited on site.
  - d) All animals shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. The enclosure shall be located at least twenty-five (25) feet from any lot line.
  - e) Odors from animals shall not be perceptible beyond the boundaries of the permitted lot(s).
  - f) Noise from animals shall not be loud enough beyond the boundaries of the permitted lot(s) to disturb persons of reasonable sensitivity.
  - g) Animals shall not be permitted to pasture or otherwise use any area located within the any flood hazard area, or within one-hundred (100) feet of any wetland area.
  - h) All animals shall be kept securely penned to prevent them from straying off the permitted lot.
  - i) The acreage requirements of Table 5 shall be met for urban farms with livestock<sup>3</sup>:

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<sup>3</sup> From Cooperative Extension, UNH Housing and Space Guidelines for Livestock. [www.agriculture.nh.gov/publications-froms](http://www.agriculture.nh.gov/publications-froms)

**Table 5: Table of Area Requirements for Any Type of Urban Farm with Livestock**

Requirement	Horse	Beef Cow	Dairy Cow	Dairy Goat	Sheep, Alpaca,	Hen	Broiler	Turkey
Unit	1 horse	1 cow	1 cow	1 goat	1 sheep	1 hen	1	1 turkey
- Enclosed Housing Area Per Animal	-Tie stalls 45 sq. ft.; 5' x 9' - Box stall 12' x 8' or 10' by 10'	75-100 sq. ft.	75-100 sq. ft.	20-25 sq. ft.	20-25 sq. ft.	3-4 sq. ft.	3-4 sq. ft.	6 sq. ft.
Exercise Yard Area Per Animal	200 sq. ft.	100-125 sq. ft.	100-125 sq. ft.	50 sq. ft.	50 sq. ft.	10 sq. ft.	-----	20 sq. ft.
Pasture Area Per Animal	1-2 acres	1-2 acres	1-2 acres	0.2-0.3 acres	0.2-0.3 acres	-----	-----	100 sq. ft.
Type of Housing and Boundary Setback Required	Enclosed ventilated barn or open 3-sided barn. Setback 50 ft.	Open front 3-sided barn. Setback 50 ft.	Open front 3-sided barn, freestall or enclosed stanchion barn. Setback 50 ft.	Enclosed barn with removable side panels or windows. Setback 50 ft.	Open front 3-sided shed. Setback 50 ft.	Enclosed barn. Setback 50 ft.	Enclosed barn. Setback 50 ft.	Enclosed barn. Setback 50 ft.
Fencing	-Electric -Wooden rail -Woven wire	-Barbed wire -Electric -Woven wire	-Barbed wire -Electric -Woven wire	-Electric -Woven wire	-Electric -Woven wire	-Chicken wire	-----	-Chicken wire

## **W. Solar Facilities**

### 1.) Solar Panels, Individual Use for Residence or Business, Roof or Building Mounted

- a) Roof-mounted solar energy systems are permitted as an accessory use in all districts when attached to any lawfully permitted building or structure. They shall require a solar building permit granted by the Code Enforcement Officer and shall be exempt from site plan review, and be subject to the requirements of this local law.
- b) All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and streets.
- c) Solar panels to be placed on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.
- d) Roof-mounted installations shall incorporate, when feasible, the following design requirements:
  1. Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  2. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of eighteen (18) inches between the roof and highest edge of the system.
- e) If a roof-mounted system is to be installed on any building or structure that is non-conforming because its height violates the height restrictions of the zoning district in which it is located, the roof-mounted system shall be permitted, so long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this local law.

### 2.) Solar Panels, Individual Use for Residence or Business, Ground Mounted.

- a) Ground-mounted solar energy systems are permitted as an accessory use in all districts when placed on the same lot as the principal building or structure that will use that system. They shall meet all requirements under this local law for an accessory structure including setbacks, shall require a solar building permit granted by the Village's Code Enforcement Officer but shall be exempt from site plan review under this local law..
- b) All solar panels and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and streets.
- c) Setback. Ground-mounted solar energy systems shall adhere to the setback requirements of the underlying district.
- d) Screening shall be provided when necessary and practicable using architectural features, earth berms, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.
- e) All such systems shall be installed in the side or rear yards. No such system shall be installed in a front yard.
- f) The top edge of the solar panel to be ground-mounted shall not be greater than twelve (12) feet above ground level when oriented at a maximum vertical tilt.
- g) Ground-mounted solar energy system equipment shall be located to minimize shading of property to the north while still providing adequate solar access for collectors.
- h) No ground-mounted solar energy system shall be located within any buffer area that may be designated through any conservation easement, subdivision plat approval, or other legal requirement.

- i) The total on-ground surface area of a ground-mounted solar energy system shall not exceed the area of the ground covered by the principal building on the lot.
  - j) The area both beneath and between ground-mounted solar collectors shall be included in calculating any building or lot coverage and minimum open space standards for the district within which the solar energy system is located.
  - k) No solar energy system shall be installed in a designated wetland as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, or any other governing body, its buffer area, if required, or within an Area of Flood Hazard.
  - l) If a ground-mounted solar energy system is to be installed on a lot containing a structure that is non-conforming because the required minimum setbacks are exceeded, the proposed system shall be permitted so long as the system does not encroach into the established setback for the lot. If the ground-mounted system is to be installed on a lot that is non-conforming because it violates district requirements other than setbacks, then a special use permit must be obtained for the proposed installation.
- 3.) Large Scale Solar Energy System, including a Community Solar Farm
- a) Large-scale Solar Energy Systems are permitted as per Table 1, subject to approval of a special use permit and site plan review as per the requirements set forth in this section. A solar energy system that produces energy of 25 MW or more shall be prohibited in each and every zoning district within the Village. The Planning Commission shall review concurrently the site plan and special use permit applications for a large-scale solar energy system. The application materials as required in Articles IX and X shall be supplemented with the following:
    - 1. If the lot where the proposed project is to be located is leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
    - 2. Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required. Plans shall show the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation, access, mounting systems, inverters, panels, fencing and proposed clearing and grading of all sites involved.
    - 3. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.
    - 4. Plan for clearing and/or grading of the site. The clearing and grading plan shall also include methods to stockpile, reduce erosion of, and reuse all top soil from the site. Clearing and/or grading activities are subject to review by the Planning Commission and shall not commence until the issuance of site plan approval.
    - 5. Identification of wildlife species that may use the lot including potential wildlife travel corridors, migration paths (including both ground and aerial pathways), or critical habitats. The site plan and supporting application shall include an on-site evaluation of wildlife species that may use or migrate through the project site.
    - 6. The Village shall require any applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and the review required under SEQRA. When the Planning Commission determines that a review will require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, the applicant shall pay into an

- escrow account sufficient funds to cover those costs. Such payment shall be made prior to commencement of any further Planning Commission review.
7. Photo simulations shall be included showing the proposed large-scale solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed system, solar collectors, and all other components. The Planning Commission may require photo simulations to be provided from specific streets or other public areas that may be impacted. In the course of its review of a proposal for development of a large-scale solar energy system, the Planning Commission may require an applicant to submit a viewshed analysis that meets the procedures identified within the New York State Department of Environmental Conservation's SEQRA publication entitled "Assessing and Mitigating Environmental Impacts."
  8. Part I of the SEQRA Full Environmental Assessment Form filled out.
  9. Details of any proposed noise that may be generated by inverter fans, or other noise generating equipment that may be included in the proposal. The Planning Commission may require a noise analysis to determine potential adverse noise impacts.
  10. Documentation of utility notification, including an electric service order number. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
  11. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, and fence maintenance.
  12. Decommissioning Plan. To ensure the proper removal of large-scale solar energy systems, a decommissioning plan shall be submitted as part of the application. compliance with this plan shall be made a condition of the issuance of a special use permit under this section. The decommissioning plan must specify that after the large-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The decommissioning plan must also specify that any alteration to the approved large-scale solar energy system, such as but not limited to reducing, increasing, or changing the solar panels within the system shall be subject to Planning Commission review and approval of a new or amended site plan and special use permit. The decommissioning plan shall also include:
    - a) Provisions describing the triggering events for decommissioning of the solar energy systems;
    - b) Provisions for the removal of structures, debris and cabling, including those below the soil surface;
    - c) Provisions for the restoration of the soil and vegetation. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the lot to its original state prior to construction;
    - d) A timetable approved by the Planning Commission for site restoration;
    - e) A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation. Removal of large-scale solar energy systems must be completed in accordance with the decommissioning plan;

- f) Financial assurance, secured by the owner or operator, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of removal and decommissioning costs. The financial assurance shall be reviewed by the Village attorney annually to ensure the owner or operator and bond maintain the necessary assurances for decommissioning;
  - g) Identification of and procedures for Village access to financial assurances;
  - h) A provision that the terms of the decommissioning plan shall be binding upon the owner or operator or any of their successors, assigns, or heirs;
  - i) A provision that the Village shall have access to the site, pursuant to reasonable notice, to effectuate or complete removal and decommissioning;
  - j) Removal of machinery, equipment, tower, and all other materials related to the project is to be completed within one year of decommissioning. If the large-scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality;
  - k) The plan shall also include an expected timeline for execution.
13. If the applicant begins but does not complete construction of the project within twenty-four (24) months after receiving final site plan approval, the project may be deemed abandoned and require implementation of the decommissioning plan to the extent applicable. The Village may notify the operator and/or the owner to complete construction and installation of the facility within one hundred eighty (180) days. If the owner and/or operator fails to perform, the Village may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within one hundred eighty (180) days of notification by the Village.
14. Upon cessation of activity of a constructed facility for a period of one (1) year, the Village may notify the owner and/or operator of the facility to implement the decommissioning plan. Within one-hundred-eighty (180) days of notice being served, the owner and/or operator can either restore operation equal to eighty (80) percent of approved capacity or implement the decommissioning plan.
15. If the owner and/or operator fail to fully implement the decommissioning plan within the one-hundred-eighty-day (180) time period, the Village may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Village shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.
- b) Special Use Permit Standards for Large-Scale Solar Systems.
- 1. Height. The top edge of the solar panel to be ground-mounted shall not be greater than twelve (12) feet above ground level when oriented at a maximum vertical tilt.
  - 2. Lot Size. Large-scale energy systems shall be located on lots with a minimum lot size of five (5) acres and a maximum lot size of twenty-five (25) acres.
  - 3. Lot Coverage. The surface area covered by solar panels shall be included in calculating total lot coverage for the district within which the solar energy system is located.
  - 4. All stormwater pollution prevention plan requirements of the New York State Department of Environmental Conservation shall be required for any large-scale solar energy system that disturbs one acre or more of land.

5. All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be approved by the Planning Commission. The fencing may be required to be further screened by landscaping to avoid adverse aesthetic impacts, including construction of a berm to screen the facility from public views.
6. There shall be a minimum seventy-five (75) foot buffer between any component of the large-scale solar energy system and any lot. The Planning Commission is authorized to alter the width of this buffer to be larger after analysis of site conditions if adjacent land uses make it necessary.
7. No solar energy system shall be located on areas of potential environmental sensitivity, as may be designated by the Village, the County, the New York State Department of Environmental Conservation, or on flood plains, and wetlands as identified by New York State Department of Environmental Conservation or the United States Army Corps of Engineers. Further, no facilities shall be located on slopes of greater than fifteen percent (15%), unless the applicant can demonstrate through engineering studies and to the satisfaction of the Planning Commission that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
8. Vegetation shall be maintained below the solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned to inhibit the total growth of natural vegetation.
9. The Planning Commission may require methods to mitigate adverse impacts to wildlife, wildlife habitats, travel corridors or migration routes. These may be but are not limited to use of LED lights to avoid attracting insects, netting to exclude birds for panel area, visual deterrence, use of roosting or perching prevention, fencing that allows wildlife passage, or other use of lights, colors or decoys.
10. All streets associated with the large-scale solar energy system shall remain unpaved and of pervious surfaces.
11. The Planning Commission may require that the solar facility, including any proposed off-site infrastructure, be located and screened in such a way as to avoid or minimize visual impacts as viewed from public places such as streets or public parks. Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the facility and accessory structures from streets, neighboring residences, and other uses.
12. The Planning Commission may also require that all structures and devices used to support solar systems be non-reflective and/or painted earth-tone green, brown or dark gray colors to aid in blending the facility into the existing environment.
13. The design, construction, operation, and maintenance of any large-scale solar energy system shall prevent glare and/or reflection of solar rays onto neighboring properties and streets in excess of that which already exists.
14. Artificial lighting of large-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall use fully shielded downward directed fixtures that allow for zero (0) percent uplighting, no more than 1.25 lumens per square foot of hardscape, and do not allow more than one (1) foot candle (one lumen) of light to be present at any lot lines and public streets.

15. Any signage used to advertise the large-scale solar energy system shall be in accordance with this local law. The manufacturers or installer's identification, contact information, and appropriate warning signage shall be posted at the site and clearly visible.
16. Following construction of a large-scale solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust.
17. Any post-construction changes or alterations to the large-scale solar energy system shall be done by amendment to the special use permit only and approved by the Planning Commission, subject to the requirements of this section.
18. Any application under this section shall meet any other substantive provisions contained in the site plan requirements of this local law that, in the judgment of the Planning Commission, are applicable to the system being proposed.
19. The Planning Commission may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section, or in order to discharge its obligations under the State Environmental Quality Review Act.

## **X. Outdoor furnaces/boilers**

Outdoor furnaces/boilers that are used as source of heat are prohibited in all districts.

## **Y. Demolition**

- 1.) No demolition of any structure in excess of 200 square feet shall occur until the Code Enforcement Officer has issued a demolition permit.
- 2.) Requirements. All applications for demolition permits shall be in writing, signed by the owner or agent, on forms furnished by the Village Clerk's Office, with description of the structure proposed to be demolished. A complete application for a demolition permit shall include:
  - a) The full name and address of the owner and the applicant and, if either shall be a corporation, the name and address of the responsible officer.
  - b) The description of the site on which the demolition work is to be done.
  - c) A brief description of the proposed demolition.
  - d) An agreement to comply with this local law and all other laws, ordinances and regulations including those that include hazardous materials (e.g., asbestos), may be applicable.
  - e) The applicant's proposal for capping natural gas lines, water lines, water wells, sewage lines or systems, if any.
  - f) The applicant's proposal, including a description of materials, to fill in any dug wells, septic system and/or cellar or other subsurface areas to grade level, if needed.
  - g) Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building law rules and regulations.
  - h) The signature of the owner or authorized agent.
  - i) Plans and specifications. Each application for a demolition permit shall be accompanied by plans for disposing of the building debris and rehabilitating the site, whether as a part of the construction of additional structures or landscaping of the

unimproved site. All demolition plans shall also include one of the following:

1. A redevelopment plan for the property that provides for a replacement or rebuilt structure for the regulated structure being demolished or relocated, indicating in sufficient detail the nature, appearance and location of all replacement or rebuilt structures; or
  2. For property to remain vacant in perpetuity, a site restoration plan. A site restoration plan may include a description for reseeded, planting, landscaping or grading that is proposed to be completed.
  3. A treatment plan for any walls of adjacent buildings exposed as a result of the demolition.
- 3.) The Code Enforcement Officer shall determine if any special use permit or site plan approval is required when replacement or construction of a new structure or use is proposed. If demolition is proposed in conjunction with a project that requires Planning Commission review, the application shall consider both actions.
  - 4.) All demolition sites shall be noticed in such a manner as to provide proper warning and protection to the public.

## **Z. Telecommunication towers**

### 1.) Purpose:

The purpose of this section is to promote the health, safety and general welfare of the residents of the Village, to provide standards for comprehensive and balanced process for siting of wireless telecommunications facilities consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Village.

These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations. The section seeks to minimize the impact of Wireless Telecommunications Facilities.

### 2.) Application of Special Use Regulations:

- a) No transmission tower/ pole / structure shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
- b) Where these regulations conflict with other laws and regulations of the Village, the more restrictive shall apply, except for tower height restrictions, which are governed by these special use standards.
- c) Any application for a tower pursuant to this section shall include the following information:
  1. Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the Village. Such documentation shall include, but not be limited to propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites as requested by the Planning Commission or its designee and shall show the service area and signal strength relationship between the proposed site and the adjoining planned, proposed,

- in service or existing sites;
2. The name address and phone number of the person preparing the report;
  3. The address and phone number of the property owner, operator, and applicant and the legal status of the applicant.
  4. The postal address, 911 lot number and tax map parcel number of the lot;
  5. The land use designation on which the lot is situated;
  6. The size of the lot in square feet and lot line dimensions in the form of a survey prepared by a licensed New York State land surveyor, or qualified licensed New York State engineer;
  7. A copy of the property deed and any easements or restrictions;
  8. The location of the nearest residential structure and all property owners within 500 feet from the proposed lot.
  9. The location, size and height of all structures on the lot, which is the subject of the application;
  10. The location, size and height of all proposed and existing antennae and all appurtenant structures;
  11. The types, locations and dimensions of all proposed and existing landscaping, vegetation and fencing.
  12. The number, type and design of the tower and antennae proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;
  13. The make, model and manufacturer of the tower and antennae;
  14. A description of the proposed tower and antennae and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
  15. The frequency, modulation and class of service of radio or other transmitting equipment;
  16. The actual intended transmission and the maximum effective radiated power of the antennae.
  17. The direction of maximum lobes and associated radiation of the antennas;
  18. Certification that the NIER levels at the proposed site are within the threshold levels adopted by the Federal Communications Commission (FCC) and the provision of the calculations used to determine the cumulative NIER levels;
  19. Certification that the proposed antennae will not cause interference with other telecommunications devices.
  20. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
  21. Certification that a topographic and geomorphologic study and analysis has been conducted and that, taking into account the substrata and the proposed drainage plan, the site is adequate to assure the stability of the proposed wireless telecommunications facilities as designed, on the proposed lot;
  22. Payment of an application fee as required by the Village.
  23. In the case of a proposed new tower, a written report identifying each alternative to a new tower that was investigated and demonstrating the applicant's meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within a radius of five (5) miles of the proposed lot, along with letters of rejection stating reasons for rejection.

3.) Special Use Standards:

- a) Plan - An applicant shall be required to submit a plan as described in Article X, Special Use Permits. Along with all other requirements, the site plan shall include all existing and proposed structures and improvements (including streets) and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
- b) Additionally, the Planning Commission shall require that the site plan include a completed visual environmental assessment form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Commission may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
- c) Shared Use - At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennae on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed lot and outlining opportunities for both shared use of existing facilities and the use of other pre-existing structures as an alternative to a new construction.
- d) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease amendments required to accommodate shared use.
- e) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
- f) Setbacks - Towers and antennae shall comply with all existing setbacks within the affected zone. Additional setbacks may be required by the Planning Commission to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- g) Visibility - All towers and accessory structures shall be sited to have the least practical adverse visual effect on the environment.
- h) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line, and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line, unless other standards are required by the FAA or the Planning Commission. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to freestanding structures except where such free-standing structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- i) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- j) Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum

extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit use. Clear cutting of all trees in a single contiguous area shall be prohibited.

- k) Screening - Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
- l) Access and Parking - A driveway and parking area will be provided to assure adequate emergency and service access. Maximum use of existing streets or driveways shall be made. Street construction shall be consistent with standards for private streets and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public street standards shall conform to the standards established by the Village.

4.) Authority to Impose Conditions:

- a) The Planning Commission shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use.
- b) Removal Upon Abandonment: Such conditions may include provisions and fees held in escrow for the dismantling and removal of towers and accessory facilities upon abandonment of use.

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5.) Retention of Expert Assistance and Reimbursement by Applicant.

- a) The Planning Commission may retain consultants and/ or experts necessary to assist the Village engineer in reviewing and evaluating the application.
- b) An applicant shall deposit funds with the Village sufficient to reimburse the Village for all reasonable costs of consultants and expert evaluation and consultation connected with the application.
- c) The total amount of the funds needed as set forth in subsection (b) of this section, may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

6.) Maintenance

- a) All facilities shall be maintained to acceptable industry standards. All permitted facilities shall be inspected at least every second year for structural integrity, including but not limited to the effects of corrosion, by a New York State licensed engineer, and the applicant shall submit a report to the village code enforcement officer.
- b) The service provider or owner of the tower, as appropriate, shall annually file with the Planning Commission a written report showing the cumulative effect of the NIER radio

frequency (RF) levels at the site, as obtained from field measurements. Reports may be subject to verification by an independent testing company. The decision for verification shall rest with Planning Commission with the costs borne by the applicant.

- c) The holder of the special use permit granted under this section shall provide to the Village clerk the name and emergency contact information of the entity that performs maintenance activities for the facility.

#### 7.) Performance Security

Prior to issuance of a building permit of wireless telecommunications facilities, the applicant and the owner of record of any proposed wireless telecommunications facilities lot shall, at its cost and expense, be jointly required to execute and file with the Planning Commission, cash, or other security acceptable to the Planning Commission (as to type of security and the form and manner of execution) in an amount of at least \$10,000.00 and with such sureties as are deemed sufficient by the Planning Commission to assure the faithful performance of the terms and conditions of this section and conditions of any special use permit issued pursuant to this section. The full amount of the security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the lot to a condition comparable to that, which existed prior to the issuance of the original special use permit.

#### 8.) Removal of Wireless Telecommunications Facilities

- a) Under the following circumstances, the Planning Commission may determine that the health, safety, and welfare interests of the Village warrant and require the removal of wireless telecommunications facilities:
  - 1. Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred-eight (180) days in any three hundred-sixty five (365) day period, except for periods caused by acts of gods, in which case, repair or removal shall commence within 90 days of notification by the Code Enforcement Officer;
  - 2. Permitted wireless telecommunications facilities fall into such a state of disrepair that a health or safety hazard is created;
  - 3. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.
- b) If the Code Enforcement Officer makes a determination as noted in subsection (a) of this subsection, then the Code Enforcement Officer shall notify the holder of the special use permit for the wireless telecommunications facility within forty-eight (48) hours that said wireless telecommunications facilities are to be removed. The Code Enforcement Officer may approve an interim temporary use agreement/permit, such as, for example, to enable the sale of the wireless telecommunications facilities.
- c) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities and all associated structures and facilities, from the lot and restore the lot to as close to its original conditions as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Code Enforcement Officer. If not removed within the ninety (90) days, the Code Enforcement Officer may order officials or representatives of the Village to remove the wireless telecommunications

facilities at the sole expense of the owner or special use permit holder. If the owner of the wireless telecommunications facilities does not claim the removed wireless telecommunications facilities from the site to a lawful location within ten (10) days after being removed, the Code Enforcement Officer may take steps to declare the wireless telecommunications abandoned and sell them and their components and keep the proceeds from such facilities' sale.

- d) Notwithstanding anything in this section to the contrary, the Code Enforcement Officer may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Planning Commission and an agreement to such plan shall be executed by the holder of the special use permit and the Planning Commission.

9.) Site Plan Applications and Requirements for Small Cell Wireless Facilities.

- a) Location of small cell wireless facilities and Districts where Permitted. Small cell wireless facilities are an essential service and only permitted with site plan review in accordance with the regulations set forth in Article VII (Z) (9) (b) below in districts where it is determined that there is a coverage need in accordance with this sub-section.
- b) Site Plan Application and Other Requirements. No person shall be permitted to site, place, build, construct, modify or prepare any site for placement or use of any small cell wireless facility as of the effective date of this local law without having first obtained site plan approval from the Village Planning Commission.
  - 1. All applicants for site plan approval for small cell wireless facilities or any modification of such facility, shall comply with the requirements set forth in this Article VII (Z)(9). The Planning Commission is the officially designated agency or body of the Village to whom applications for site plan approval of small cell wireless facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, re-certifying or not re-certifying, or revoking site plan approval. The Planning Commission may, at its discretion, designate other official agencies of the Village or engage consultants to review, analyze, evaluate and make recommendations to the Planning Commission with respect to the granting or not granting, re-certifying or not re-certifying, or revoking site plan approval.
  - 2. Pre-Submittal Conference. Prior to submitting an application for a small cell wireless facility, applicants are encouraged (but not required) to schedule and attend a pre-submittal conference with the Village Code Enforcement Officer and one or more members of the Planning Commission to receive informal feedback on the proposed facility and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal.
  - 3. Application Requirements. All applications for site plan approval shall be signed by the applicant, and, if the proposed site is not in a public right-of-way, the landowners. An authorized representative of the landowner with knowledge of the contents and representations made therein and signing and attesting to the truth and completeness of the information, may present the application on behalf of the owner. At the discretion of the Planning Commission, any false or misleading statement in the application may

subject the applicant to denial of the application without further consideration or opportunity for correction. The applicant, if not the landowner, shall state his/her interest in the application. All applications for site plan approval under this law shall include the following:

- a. A statement indicating the proposed small cell wireless facility shall be maintained in a safe manner, and in compliance with conditions of the site plan approval, without exception, unless specifically granted relief by the Planning Commission in writing, as well as all applicable local laws, ordinances, and regulations, and all applicable Village, State and Federal laws, rules, and regulations;
- b. A statement indicating that the construction of the small cell wireless facility is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in New York State. Proof of authorization to operate in the State shall be provided.
- c. Documentation that demonstrates the need for the small cell wireless facility to provide service primarily and essentially within the Village. Such documentation shall include, but not be limited to propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites as requested by the Planning Commission or its designee which shall show the service area and signal strength relationship between the proposed site and the adjoining planned, proposed, in-service or existing sites;
- d. The name, address and phone number of the person preparing the application;
- e. The name, address, and phone number of the property owner, operator, and applicant, and the legal status of the applicant. If the proposed location is within a municipal right-of-way the site plan must show the legal bounds of the right-of-way;
- f. If the proposed site is not within a municipal right-of-way, the postal address, 911 lot number and tax map parcel number of the property;
- g. The zoning district designation in which the property is situated;
- h. The size of the property stated both in square feet and lot dimensions, and a diagram showing the location of all lot lines. A survey is required by a licensed New York State land surveyor, or qualified licensed New York State engineer;
- i. If the proposed site is not within a municipal right-of-way, a copy of the deed and any easements or restrictions and any field monumentation of property corners;
- j. The location of the nearest residential structure and all property owners within 1000 feet from the proposed site;
- k. If the proposed site is not within a municipal right-of-way, the location, size and height of all existing structures on the property which is the subject of the application;
- l. The location, size and height of all new structures proposed with the application;
- m. The type, locations, and dimensions of all existing and proposed landscaping, vegetation and fencing;
- n. The number, type and design of the antenna(s) proposed along with the make, model, and manufacturer of said antenna(s);
- o. A description of the proposed antenna(s) and any new structures along with all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color, and lighting;

- p. The frequency, modulation, and class of service of radio or other transmitting equipment;
  - q. The actual intended transmission and the maximum effective radiated power of the antenna(s);
  - r. Certification of a licensed professional engineer that any supporting poles and foundation are appropriately sized and have sufficient strength to accommodate the additional small cell equipment structural loads, including, but not limited to: plan, elevation, and section views of facilities, structural design in accordance with the Building Code including foundation, wind, and seismic, electrical power design plans as well as back-up generator plans/requirements. The small cell equipment structural shall be provided by the network provider as per the current Telecommunications Industry Association (TIA) Rev-G standard;
  - s. A non-ionizing radiation electromagnetic radiation report (NIER) submitted to the pole owner and retained on file for equipment type and model. The NIER report shall be endorsed by an RF professional engineer licensed in the State of New York. The report shall specify minimum approach distances to the general public as well as electrical communication works that are not trained for working in an RF environment (uncontrolled) when accessing the pole by climbing or bucket;
  - t. Certification that the proposed antenna(a) will not cause interference with other telecommunication devices;
  - u. Copy of the FCC license applicable for the intended use of the small cell wireless facility;
  - v. If the application proposes to install the small cell wireless facility on a utility pole or structure, certification must be provided that said pole or structure and foundation is designed and will be constructed to meet all local, Village, State and Federal structure requirements for loads, including wind and ice;
  - w. Certification that the small cell wireless facilities will be effectively grounded and bonded so as to protect persons and property and that appropriate surge protectors will be installed;
  - x. Submission of an environmental assessment form pursuant to SEQRA Part 617;
  - y. Any and all representation made by the applicant to the Village on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Village;
  - z. Payment of application fees, access fees, and consulting fees as required by the Planning Commission and/or as set by the Village Board.
4. Design Standards. In addition to the above application requirements the following design, aesthetic, concealment and design standards shall apply to all small cell wireless applications.
- a. The preferred location of any antenna is on an existing tower facility. A small cell wireless facility would only be allowed in areas not covered by existing telecommunication facilities or where it is determined that there is a need due to a concentrated area.
  - b. Small cell wireless facilities' preferred locations are on a pole located with the least visible impact.
  - c. If the applicant is able to meet the range of the small cell wireless facilities by the addition of a macro-antennae to an existing cell tower, then the applicant must

establish that the addition of a macro-antennae is not commercially practicable before a site plan approval for a small cell wireless facility may be granted.

d. All small cell wireless facilities shall be placed on existing structures unless the Applicant meets the requirements of Article VII (Z)(9)(b)(4)(i)(1) below.

1. Locations of small cell wireless facilities. Applicants for small cell wireless facilities shall locate, site and erect said facilities in accordance with the following priorities, one (i) being the highest priority and four (iv) being the lowest priority:

- i. On existing Village-owned structures or facilities.
- ii. On, in, or adjacent to, existing electrical power line transmission towers or power poles in the municipal right-of-way. If public utilities are currently located along rear property lines, then small cell wireless facilities shall be located within the same rear right-of-way as those utilities as opposed to the front yard right-of-way.
- iii. On or adjacent to existing structures or facilities within the Village such as existing water towers, church steeples, silos etc.
- iv. On or in a proposed new structure if the requirements of section Article VII (Z)(9)(b)(4)(i)(1) below have been met by the applicant.

2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The applicant must satisfactorily demonstrate the reason(s) why such approval should be granted for the proposed site, and the hardship that would be incurred by the applicant, if the permit was not granted for the proposed site.

3. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Commission may, if otherwise permitted by law, disapprove an application for any of the following reasons:

- i. conflicts with safety and safety-related codes and requirements;
- ii. interferes with line of sight for pedestrian and vehicular traffic;
- iii. conflicts with the historic nature or character of a neighborhood or historical district;
- iv. the placement and location of said facilities would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Village, or employees of the service provider or other service providers;
- v. conflicts with the provisions of this local law;
- vi. conflicts with the nature and character of the neighborhood.

e. General Design and Siting Requirements.

1. Ground mounted equipment enclosures should be located in the right-of-way, including equipment installed underground. The applicant shall submit a concealment element plan.
2. Generators located in the rights of way are prohibited.
3. No equipment shall be operated so as to produce noise that is considered a nuisance.
4. Replacement pole and new pole locations shall comply with the Americans with Disabilities Act (ADA) and the authority having jurisdiction over construction and sidewalk clearance standards, local laws, and state and federal laws and regulations in order to provide a clear and safe passage within the right-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.
5. Replacement poles shall be located as near as possible to the existing pole with the requirement to remove the abandoned pole.
6. No signage, message or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna, equipment enclosure, or other related equipment. Any permitted signage shall be located where required and be of the minimum amount possible to achieve the intended purpose (no larger than 4x6 inches), provided that, signs are permitted as concealment element techniques where appropriate.
7. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.
8. Antennas, ancillary equipment, conduit, and cable shall not dominate the structure or pole upon which they are attached.
9. The Village may consider the cumulative visual effects of small cell wireless facilities mounted on poles within the right-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the Village. In doing so the Planning Commission may require a visual assessment, use of photo-simulations, or other visual analysis tools to aid in its consideration. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available or to impose a technological requirement on the applicant.
10. In the event that installation of the proposed small cell wireless facilities require disturbance to surrounding land, the applicant shall be responsible for restoring the site to its original condition.
11. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

- f. Small cell wireless facilities attached to existing or replacement non-wooden light poles and other non-wooden poles in the right-of-way or non-wooden poles outside of the right-of-way shall conform to the following design criteria:
  1. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is technically infeasible, or is incompatible with the pole design, in which case the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush mounted to the pole, meaning no more than six (6) inches off of the pole, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small cell wireless facilities. If the equipment cannot be concealed within the pole and requires an enclosure, the enclosure should be detached and located behind the pole or underground, provided that such location does not interfere with roads and sidewalks, underground infrastructure, or traffic line of sight or is otherwise determined by the Planning Commission to negatively affect the aesthetics of the premises or adjacent properties.
  2. The furthest point of any antenna may not extend more than twelve (12) inches from the face of the pole.
  3. All conduit, cables, wires and fiber must be routed internally in the pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment.
  4. An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas which shall not require screening. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.
  5. Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way.
  6. Additional height of any replacement pole shall be the minimum additional height necessary but shall not exceed 10 feet above the pole it replaces; provided that the height of the replacement pole cannot be extended further by additional antenna height.
  7. The diameter of a replacement pole shall comply with all standards required by the authority having jurisdiction for sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25% increase of the existing non-wooden pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in subsection Article VII (Z)(9)(b)(4)(i).

- g. Wooden pole design standards. Small cell wireless facilities located on wooden poles shall conform to the following design criteria:
1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a Small cell wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.
  2. A pole extender may be used instead of replacing an existing pole but the overall height of the extender and all equipment may not increase the height of the existing pole by more than 10 feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.
  3. Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the primary pole owner in the Village.
  4. All ancillary equipment, boxes, and conduit, shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached and appear as an integral part of the pole or flush mounted to the pole, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small cell wireless facilities. All ancillary equipment and boxes that cannot be mounted to the pole and require an enclosure must be located in an enclosure that is detached and located behind the pole or underground, provided that such location does not interfere with roads and sidewalks, underground infrastructure, or traffic line of sight or is otherwise determined by the Planning Commission to negatively affect the aesthetics of the premises or adjacent properties.
  5. All small cell wireless facility antennas on wooden poles should be of a top mount canister or omnidirectional type when feasible to appear as an integral part of the pole. The antenna shall not exceed sixteen (16) inches wide, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole.
  6. Antennas should be placed to minimize visual clutter and obtrusiveness. Multiple antennas are not permitted on a single wooden pole and shall not be more than three (3) cubic feet in volume and shall not exceed the height requirement in Article VII (Z)(9)(b)(4)(f)(2).
  7. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

8. The furthest point of any ancillary equipment, brackets, boxes, and conduit may not extend more than six (6) inches beyond the face of the pole. All equipment that would exceed the allowed distance should be detached and installed next to the pole or located underground within the vicinity of the pole.
9. An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) feet in height and is mounted directly on the top of a pole or attached to an extender made to look like the exterior of the pole at the top of the pole. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.
10. All related equipment, including but not limited to, ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit which are mounted on wooden poles shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.
11. The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed 28 cubic feet. The applicant is encouraged to place any attached equipment associated with the antenna on the back side of the pole, provided that such location does not interfere with the operation of existing banners or signs.
12. An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so, provided that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole does not exceed twenty-eight 28 cubic feet. The unified enclosure shall be placed to appear as an integrated part of the pole.
13. The visual effect of the small cell wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.
14. The use of the wooden pole for the siting of a small cell wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small cell wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small cell wireless facility and the small cell wireless facility and all associated equipment shall be removed.
15. The diameter of a replacement pole shall comply with the authority which has jurisdiction over sidewalk clearance requirements and shall not be more than a 25% increase of the existing utility pole measured at the base of the pole.
16. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The

number of conduit shall be minimized to the number technically necessary to accommodate the small cell wireless facility.

- h. Small cell wireless facilities mounted on cables strung between existing utility poles shall be prohibited.
- i. Concealment requirements for all new poles in the right-of-way for small cell wireless facilities.
  1. New poles within the right-of-way are only permitted if the applicant can establish that:
    - i. The proposed small cell wireless facility cannot be located on an existing utility or light pole, electrical transmission tower, or on a site outside of the public right-of-way such as a public park, public property, transmission tower, or water tower;
    - ii. The proposed small cell wireless facility receives approval for a concealment element design; and
    - iii. No new poles shall be located in any floodplain.
  2. The concealment element design shall include the design of the screening, fencing or other concealment technology for a tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed small cell wireless facility, including but not limited to fiber and power connections.
  3. The concealment element design should seek to minimize the visual obtrusiveness of the small cell wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the right-of-way, including similar height to the extent technically feasible.
  4. If the proposed small cell wireless facility is placed on a replacement pole in a residential district, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Planning Commission or designee otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small cell wireless facility on a decorative pole should attempt to mimic the design of such pole and integrate the small cell wireless facility into the design of the decorative pole. Other concealment methods include, but are not limited to, utilization of coverings or concealment devices of similar material, color, and texture - or the appearance thereof - as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure. Further, applicant designs should, to the extent technically possible, comply with the generally applicable design standards adopted pursuant to this section.
  5. If the Planning Commission or designee has already approved a concealment element design either for the applicant or another small cell wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can

show that such concealment element design is not physically or technologically feasible, or that such deployment would undermine the generally applicable design standards.

6. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted that provide similar or greater protections of the street scape.
5. Height and Setback Requirements. Small cell wireless facilities proposed in a municipal right-of-way shall adhere to the height requirement set forth in this subsection (5) herein and be excepted from the height and setback regulations set forth elsewhere in this local law. In the instance that the small cell wireless is proposed on an existing building or structure, the small cell wireless cannot increase the height of the existing building by more than five (5) feet.
6. Small Cell Wireless Facility Modification Permit. A small cell modification permit is required prior to (1) replacing transmission equipment at a permitted small cell wireless facility that increases the overall volume or height of the facility, or (2) adding new transmission equipment to a permitted facility. Modifications of original small cell wireless facilities shall require site plan approval in accordance with the procedure set forth in section (Z)(9)(4) – (7).
7. Application. The Code Enforcement Officer shall specify in writing, the application submittal requirements to the applicant. If an application for a modification permit is made within two (2) years or less after the original application for permit, and the Code Enforcement Officer determines that certain application materials as required in (Z)(9)(b)(3) above for the modification are duplicative of those provided with the original application for permit, then the Code Enforcement Officer, after consultation with the Planning Commission, may waive specific submittal requirements as unnecessary for review of any particular application. The Code Enforcement Officer may require additional material when the Code Enforcement Officer determines such material is needed to adequately assess the proposed modification.
  - a. Application Fees. All applications for permits or modifications of permits shall be accompanied by a reasonable application fee and a map in an amount to be determined by the Village Board by periodic resolution to cover the Village's costs in processing the application, including application review, permit issuance and facility inspection. The Planning Commission may also assess necessary reasonable consultant fees as permitted by local law.
  - b. Public Hearing and Notification. A public hearing shall be mandatory for all small cell wireless facility applications, including modification applications, submitted hereunder. Said public hearing shall be held by the Planning Commission, notice of which shall be published in the official newspaper of the Village no less than five (5) calendar days prior to the scheduled date of the public hearing. An applicant for an approval requiring a public hearing may also be required to post a sign on the property to provide the public with notice that an application for an approval is

pending and/or provide written notice of a hearing to all property owners within 500 feet of the lot subject to the application for an approval. Said public hearing shall be scheduled for the first Planning Commission meeting following the submission of a complete application to the Code Enforcement Officer which complies with all requirements herein.

8. Timeframe for Action by Code Enforcement Officer. If the Code Enforcement Officer determines that an application is incomplete, the Code Enforcement Officer shall notify the applicant in writing within 10 days of receipt of the application with a statement listing the additional information needed to make the application complete and the basis for requiring the submission of such information. The Code Enforcement Officer may issue additional notices that an application is incomplete if any supplemental submittal does not contain all of the information requested by the Code Enforcement Officer in the original notice of incompleteness. The Code Enforcement Officer shall issue any such additional notices within 10 business days of receipt of the supplemental submittal. If the applicant does not supply a complete response within 120 days of the Code Enforcement Officer's initial request, the Code Enforcement Officer may deem the application expired in which case a new application may be resubmitted with new application fees.
9. Timeframe for Planning Commission Action.
  - a. All determinations to approve, deny, or modify an application for site plan approval for small cell wireless facilities to be sited on existing structures must be made by the Planning Commission within 45 days from the date the complete application is submitted to the Code Enforcement Officer.
  - b. All determinations to approve, deny, or modify an application for site plan approval for small cell wireless facilities requiring placement on a new structure must be made by the Planning Commission within 60 days from the date the complete application is submitted to the Code Enforcement Officer.
  - c. In the case of an incomplete application, the timeframe for approval resets upon the Code Enforcement Officer's receipt of supplemental information from the Applicant satisfying the application requirements of (Z)(9)(b)(3).
- c) Annual Nier Certification: The holder of the site plan approval granted pursuant to this local law shall, annually, certify to the Village Code Enforcement Officer that the NIER levels at the site are within the threshold levels adopted by the FCC.
- d) Liability Insurance:
  1. A holder of a site plan approval for small cell wireless facilities shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage, and umbrella insurance coverage for the duration of the site plan approval in amounts as set forth below:
    - a. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
    - b. Automobile Coverage: \$1,000,000.00 per occurrence/ \$2,000,000 aggregate;
    - c. Workers Compensation and Disability: Statutory amounts.

2. The commercial general liability insurance policy shall specifically include the Village and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least "A."
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Code Enforcement Officer with at least 30 days prior written notice in advance of the cancellation of the insurance.
5. Renewal or replacement policies or certificates shall be delivered to the Code Enforcement Officer at least 15 days before the expiration of the insurance that such policies are to renew or replace.
6. Before construction of a permitted small cell wireless facility is initiated, but in no case later than 15 days after the grant of the site plan hereunder, the holder of the site plan approval shall deliver to the Village a copy of each of the policies or certificates representing the insurance in the required amounts.

e) Indemnification:

1. Any application for small cell wireless facilities that is proposed on Village-owned property, pursuant to this local law, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Village, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Village, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Village.
2. Notwithstanding the requirements noted in (Z)(9)(e)(1) of this sub-section, an indemnification provision will not be required in those instances where the Village itself applies for and secures a site plan approval for small cell wireless facilities.

f) Fines:

1. In the event of a violation of this local law or any site plan approval granted pursuant to this local law, the Village Board may impose and collect, and the holder of said approval shall pay to the Village, fines or penalties as set forth below.
2. A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding (\$350.00) three hundred fifty dollars per day per occurrence or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a

period of five years, punishable by a fine not less than (\$350.00) three hundred fifty dollars per day nor more than (\$700.00) seven hundred dollars per day or imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than (\$700.00) seven hundred dollars per day nor more than (\$1,000.00) one thousand dollars per day or imprisonment for a period not to exceed 15 days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of this local law or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation.

3. Notwithstanding anything in this local law, the holder of the site plan approval may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this local law or any section of this local law. An attempt to do so shall subject holder of the approval to termination and revocation of said approval. The Village may also seek injunctive relief to prevent the continued violation of this local law, without limiting other remedies available to the Village.

g) Default and/or Revocation:

1. If small cell wireless facilities are repaired, rebuilt, replaced, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this local law or the permits or approvals granted hereunder, then the Code Enforcement Officer shall notify the holder of the approval in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within 10 days of the date of the postmark of the notice, or of the date of the personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this local law, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Officer may, at its sole discretion, order the violation remedied within 24 hours.
2. If within the period set forth in (1) above the small cell wireless facilities are not brought into compliance with the provisions of this local law, or approvals granted hereunder, or substantial steps are not taken in order to bring the affected small cell wireless facilities into compliance, then the Code Enforcement Officer may revoke such approvals granted hereunder, and shall notify the holder of the approvals within 48 hours of such action.

h) Removal of Small Cell Wireless Telecommunications Facilities:

1. Under the following circumstances, the Planning Commission may determine that the health, safety, and welfare interests of the Village warrant and require the removal of small cell wireless facilities:
  - a. Small cell wireless facilities have been abandoned (i.e. not used as small cell wireless facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by acts of god, in which case,

- repair or removal shall commence within 90 days of notification by the Code Enforcement Officer;
- b. Small cell wireless facilities fall into such a state of disrepair that it creates a health or safety hazard;
  - c. Small cell wireless facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required approval, or any other necessary authorization.
2. If the Code Enforcement Officer makes a determination as noted in (h)(1) of this subsection, then the Code Enforcement Officer shall notify the holder of the small cell wireless facilities within 48 hours that said small cell wireless facilities are to be removed. The Code Enforcement Officer may approve an interim temporary use agreement/permit, such as, for example, to enable the sale of the small cell wireless facilities.
  3. The holder of the approval granted hereunder, or its successors or assigns, shall dismantle and remove such small cell wireless facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Code Enforcement Officer. However, if the owner of the property upon which the small cell wireless facilities are located wishes to retain any access roadway to the facilities, the owner may do so with the approval of the Codes Enforcement Officer.
  4. If small cell wireless facilities are not removed or substantial progress has not been made to remove the facilities within 90 days after the approval holder has received notice, then the Code Enforcement Officer may order officials or representatives of the Village to remove the small cell wireless facilities at the sole expense of the owner or holder of the approvals granted hereunder.
  5. If, pursuant to this section, the Village removes, or causes to be removed, small cell wireless facilities, and the owner of the same does not claim and remove it from the site to a lawful location within 10 days, then the Code Enforcement Officer may take steps to declare the small cell wireless facilities abandoned, and sell them and their components and keep the proceeds from such facilities sale.
  6. Notwithstanding anything in this section to the contrary, the Code Enforcement Officer may approve a temporary use permit/agreement for the small cell wireless facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected small cell wireless facilities shall be developed by the holder of the site plan approval, subject to the approval of the Planning Commission, and an agreement to such plan shall be executed by the holder of the site plan approval and the Planning Commission. If such a plan is not developed, approved and executed within the 90 day time period, then the Village may take possession of and dispose of the affected small cell wireless facilities in the manner provided in this section.
- i) Relief: Any applicant desiring relief, waiver or exemption of procedures required by this local law may request such from the Planning Commission, provided that the relief or exemption is contained in the original application for either a site plan approval, or in the case of an existing or previously granted site plan approval, a request for modification of its facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the

applicant to prove. The applicant shall bear all costs of the Village in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, the requested waiver or exemption will have no significant effect on the health and safety, including but not limited to the nature and character of the community, and welfare of the Village, its residents and other service providers.

j) Adherence to State and/or Federal Rules and Regulations:

1. To the extent that the holder of an approval for a small cell wireless facility has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such approval shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, included, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and radio frequency (RF) emission standards.
2. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of an approval for a small cell wireless/microcell wireless facility, then the holder of such approval shall conform the permitted facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**AA. Regulating adult entertainment**

1.) Findings and Legislative Intent

- a) The Village Board of Trustees previously created an advisory committee to study and determine the potential economic and social impact of adult entertainment businesses in the event such businesses were to be established within the Village. Upon deliberations on the reports and recommendations of such committee, the Village Board determines that some uses, because of their very nature, have serious objectionable operational characteristics under certain circumstances, which produce a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. Based on review of numerous comprehensive secondary impact studies that indicated an increase in crime, prostitution and violence, and a decrease in residential property values, when adult entertainment establishments are permitted, the Board of Trustees of the Village found it in the public interest to enact additional regulations. The purpose of these regulations is to prevent or lessen the secondary effects of adult entertainment uses, and not to inhibit freedom of speech.

2.) Location Restrictions

Adult entertainment establishments shall be permitted as a special use, only in an industrial district, subject to the following restrictions:

- a) No adult entertainment establishment shall be allowed within 500 feet of any zoning district which is zoned to allow residential use or any single family, two family, or multiple family dwelling including structures devoted to both residential and commercial or business purpose, or within 500 feet of any residential dwelling;
- b) No adult entertainment establishment shall be allowed within 500 feet of any community center, child day-care center, nursery school, kindergarten or family day-care home or public or private school;
- c) No adult entertainment establishment shall be allowed within 500 feet of any religious facility or institution, counseling or psychiatric treatment facility;
- d) No adult entertainment establishment shall be allowed within 500 feet of any public park, playground, playing field, or their area in which large numbers of minors regularly congregate;
- e) No adult entertainment establishment shall be allowed within 500 feet of a train station or any school bus stop;
- f) No adult entertainment establishment shall be allowed in a Historic District, or within 500 feet of any structure listed in the National Register of Historic Places.
- g) No adult entertainment business shall be allowed within 500 feet of another existing adult use.
- h) Not more than one adult entertainment use shall be located on any lot.

The distances provided shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the adult entertainment establishment is to be located, to the nearest point of the lot or land use, from which the adult entertainment business is to be separated.

#### 4.) Other Restrictions

No adult entertainment establishment shall be conducted in any manner that allows the observation of any material depicting, describing or relating to sexual activities or anatomical areas, from any public way or from any property not registered as an adult entertainment establishment. This provision shall apply to any display, decoration, sign, show, window or opening.

There shall be no outdoor sign, display, or advertising of any kind other than one identification sign limited to only the name of the establishment. No loudspeakers or sound equipment shall be used by adult entertainment establishments that can be heard by the public from outside the establishment.

No person under the age of eighteen (18) years shall be permitted into or onto the premises.

Adult entertainment uses shall meet all other regulations of this local law.

- 5.) Penalties for Offenses. Any violation of this local law shall be subject to the penalties as set forth in Article XIII (F) "Penalties" of this local law.

## **ARTICLE VIII      NON-CONFORMING USES**

The lawful use of any building or lot existing at the time of the enactment of this local law may be continued although such use does not conform to the provisions of this local law and shall be deemed a non-conforming use.

- 1.) Discontinuance: When any existing non-conforming use of a lot or building has been discontinued for one (1) year, the lot and buildings shall thereafter be used only in conformity with this local law.
- 2.) Continuation of Existing Uses: Nothing herein contained shall require any change in plans, construction or designated use of a building or lot for which a building permit has been theretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and provided that such entire buildings shall be completed within one (1) year from the date of the passage of this local law. If an amendment to this local law is hereafter adopted incorporating additional areas in the zoning map or changing the boundaries of districts, the provisions of this local law with regard to existing buildings or uses of lots, or buildings under construction or building permits previously issued shall apply to existing buildings or uses of lots, or buildings under construction or permits previously issued in the area affected by such amendment.
- 3.) Changes: A non-conforming use shall not be changed unless changed to a conforming use. A non-conforming use, if changed to a conforming use, may not thereafter be changed back to any non-conforming use.
- 4.) Expansion: A building or lot arranged, designed or devoted to a non-conforming use at the time of the passage of this local law may not be expanded to an extent exceeding in aggregate fifty percent (50%) of the ground area of the existing building, unless the use of said building is changed to a conforming use. A non-conforming use of a lot may not be expanded to any other lot.
- 5.) Fire: Any building housing a non-conforming use burned by fire shall be replaced within one (1) year, in order to continue the non-conforming use.
- 6.) Abandonment: Whenever a non-conforming use has been discontinued for a period of one (1) year, such non-conforming use shall not be re-established on site.
- 7.) Existing Undersized Lots: Any separately deeded lot in existence prior to the adoption of this local law, and whose area and/or depth are less than the specified minimum density or lot requirements of this local law for the district, may be considered as complying with such minimum lot requirements, shall be allowed to have one (1) principal structure, and no variance shall be required, provided that the following are met. In any district where residences are permitted, such under-sized non-conforming lots may be used for not more than one single family dwelling.
  - a) The following minimum yard dimensions are maintained for residences:
    - side yards - not less than 8 feet.
    - rear yards - not less than 25 feet

Adopted May 28, 2019

- b) All other applicable laws and regulations related to potable water and sewage disposal facilities as required by the Village, the Albany County Department of Health, the New York State Department of Health, and/or the New York State Department of Environmental Conservation are satisfied.

## **ARTICLE IX SPECIAL USE PERMITS**

### **A. Authorization to Grant or Deny Special Uses.**

The Village Board of Trustees authorizes the Planning Commission to grant or deny special uses in accordance with the requirements set forth in this section. No special use listed in this local law may be permitted, enlarged or altered unless approved by the Planning Commission.

### **B. Applications for special use.**

Any application for a special use permit shall be made in writing. The application and required information shall be delivered to the Code Enforcement Officer at least ten (10) days prior to the date of the next regular meeting of the Planning Commission. Seven copies of the application and required information as set forth below shall be submitted.

- 1.) The application must include an Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act, Part 617 (SEQRA). No application shall be deemed complete until a Determination of No Significance has been made, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
- 2.) Fees. Fees for the special use permit application shall be in accordance with any fees established by the Village. All application fees are in addition to any required escrow fees as may be established by the Village Board of Trustees.
- 3.) Expenses. The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6 NYCRR Part 617.13. The Planning Commission may also incur other extraordinary expenses in order to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Planning Commission for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application. All reasonable fees shall be charged to the applicant. The Planning Commission shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit. The amount so determined by the Planning Commission shall be deposited by the applicant in escrow with the Village Clerk, in accordance with Local Law #1 of 2004 prior to the Planning Commission's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Commission determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Commission shall notify the applicant of the additional amount that must be deposited with the Village Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to Local Law #1 of 2004, the Planning Commission, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit be approved until such sums have been paid in full.
- 4.) Informal Consultation. Prior to submission of a formal application, applicants are encouraged to meet with the Code Enforcement Officer to review submission requirements. Applicants are also

encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any issues early in the application process.

### **C. Procedures**

- 1.) Coordination with Site Plan. For any application that requires both site plan and special use approvals, the Planning Commission shall review site plans and special use permit applications concurrently. All procedural and submission requirements shall be coordinated so as not to delay review and decision-making. To facilitate this coordination, any required information from Article X (Site Plan Review) shall accompany the special use permit application.
- 2.) Area Variance. Where a proposed special use permit contains one (1) or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XII, without the necessity of a decision or determination by the Code Enforcement Officer.
- 3.) Use Variance. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.
- 4.) Waivers. The Planning Commission may find that some requirements of this section are not requisite in the interest of the public health, safety or general welfare as applied to a project or application or are inappropriate to a particular special use application. In such cases, the Planning Commission may, in its sole discretion, waive any requirements for the approval, approval with modifications, or disapproval of proposed special uses submitted; provided such a waiver does not prevent or circumvent the purposes and intent of any Village law or regulation or the Comprehensive Plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Commission. In granting waivers, the Planning Commission may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Commission must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the special use permit application and supporting documents. Requirements of this local law may not be waived except as properly voted by the Planning Commission.
- 5.) Public Hearing and Notification Required. Within sixty-two (62) days of receipt of a complete application, the Planning Commission shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing. The Planning Commission shall send, or cause to be sent, notice of the public hearing to abutting property owners and those agricultural operators identified on the Agriculture Data Statement by certified mail, return receipt requested at least seven (7) days prior to the public hearing. An applicant for an approval requiring a public hearing may also be required to post a sign on the property to provide the public with notice that an application for an approval is pending.
- 6.) Notice to Applicant and Albany County Planning Commission. At least ten (10) days before such hearing, the Planning Commission shall mail such notices thereof to the applicant and to the Albany County Planning Board as required by Section 239-m of the General Municipal Law,

which shall be accompanied by a full statement of such proposed action. The County referral shall apply to real property within 500 feet of the following:

- a) The municipal boundary of the Village; or
- b) The boundary of any existing or proposed county or state park or other recreation area; or
- c) The right-of-way of any existing or proposed county or state street; or
- d) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- e) The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or
- f) The boundary of a farm operation located in an agricultural district, as defined by Article 25-aa of the New York State Agriculture and Markets Law.

The Albany County Planning Board shall have thirty (30) days to review the full statement of the proposed action. If the County Planning Board fails to report within 30 days, the Planning Commission may take final action on the proposed action without such report. However, any County Planning Board report recommending modification or disapproval of a project and which is received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the Planning Commission, the Planning Commission shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members.

- 7.) SEQRA. The Planning Commission shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- 8.) Other Agency Review. In its review, the Planning Commission may consult with the Village Conservation Advisory Council and professionals such as, but not limited to, an engineer, attorney, surveyor, or land use/environmental planner and other Village and county officials and boards, as well as with representatives of federal and state agencies, including the Albany County Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be borne by the applicant as per Article VI (B)(2) above.
- 9.) The Planning Commission shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Planning Commission may approve a special use permit application contingent upon final approval of such application by other agencies. The Code Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Planning Commission are met prior to issuing a zoning permit. Such zoning permit shall be approved prior to the Code Enforcement Officer issuing a building permit.
- 10.) Decisions.
  - a) Time of decision. The Planning Commission shall decide upon the special use permit application within sixty-two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and General Municipal Law Sections 239-l and 239-m. The time within which the Planning Commission must render its decision may be extended by mutual consent of the applicant and the Planning Commission.

- b) Type of Decision. In rendering its decision, the Planning Commission shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special use permit, the Planning Commission has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said special use permit, any such conditions must be met before issuance of permits by the Code Enforcement Officer.
- c) Filing. The decision of the Planning Commission shall be filed in the office of the Village Clerk within five (5) business days of the date such decision is rendered, and a copy thereof shall be mailed to the applicant.
- d) A special use permit shall be deemed to authorize only the particular special use or uses permitted. Once a special use permit has been granted, it shall apply to the approved use on that lot regardless of ownership, as well as to any subsequent use of the lot in the same use category as per Table 1, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.

#### **D. Lapses and Expiration.**

Special use permits will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit, unless other provisions are set forth by the Planning Commission in connection with its approval, three (3) years after approval. A special use permit will expire if the special use or uses shall cease for more than three (3) years for any reason. If a use subject to an approved special use permit had been in continual operation but has since lapsed in operation for more than three (3) years between Planning Commission approval and re-initiation of such use, the Planning Commission shall require a review of such use prior to reinstatement to ensure that all original conditions of the special use permit are still valid. In either case, the Planning Commission may, after review, reinstate, or reinstate with conditions such lapsed use. Such Planning Commission review shall be initiated through action by the Code Enforcement Officer.

#### **E. Renewal of Permit.**

The Planning Commission, as a condition of approval, may require that special use permits be renewed periodically. When the Planning Commission has established such a condition of approval, at least ninety (90) days prior to the expiration of a special use permit, the applicant shall apply to the Code Enforcement Officer for renewal of the special use permit. The Code Enforcement Officer shall inspect the lot and any building(s) or structures(s), verify that conditions of the permit have been met, and renew the permit for a time equal to the original special use permit. Where the Code Enforcement Officer determines that the applicant has not complied with the special use permit, permit renewal shall require Planning Commission approval.

#### **F. Existing Violation.**

No special use permit shall be issued for a lot in violation of this local law unless the granting of a special use permit and site plan approval will result in the correction of the violation.

**G. Deemed to be conforming.**

Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the special use permit shall affect only the lot, or portion thereof, which is the subject of the special use permit application.

**H. Expansion of Special Use.**

The expansion of any special use shall require amendment and approval of the special use permit by the Planning Commission in accordance with the procedures set forth in this local law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

**I. Factors for Consideration.**

In authorizing the issuance of a special use permit, the Planning Commission shall take into consideration the public health, safety, and welfare of the community, the purposes of this Local law, the general considerations as per Article VI, and the Comprehensive Plan, and shall prescribe appropriate conditions and safeguards to ensure the proposed use's scale and intensity are compatible with adjoining properties, and with the natural, historical and built environment and character in the area, and will accomplish the following objectives:

- 1.) The character and appearance of the proposed use, buildings, structures, lighting, and other uses on the lot shall be in general harmony with the character and appearance of the surrounding neighborhood. Location, arrangement, size, nature, intensity of operations, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible with the neighborhood in which it is located and with the small-town character of the Village and shall safeguard the values of surrounding properties from noise, glare, unsightliness, or other objectionable features.
- 2.) The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site and in adjacent areas. The proposed use shall not have any unmitigated significant adverse impacts as defined by the New York State Environmental Quality Review Act (SEQRA). Such determination shall be made by the Planning Commission or other designated lead agency.
- 3.) The proposed use shall not negatively impact traffic flow and pedestrian safety.
- 4.) There shall be adequate parking for the proposed use and for providing safe and accessible off-street parking and loading spaces. Spaces shall be provided to avoid parking in public streets except in the Main Street districts where on-street parking is available. In all locations, shared parking is encouraged where the peak parking demands of different uses occur at various times of the day.
- 5.) Vehicular traffic access and circulation, including intersections, street widths, drainage channelization structures and traffic controls shall be adequate to serve the special use and not negatively impact the overall traffic circulation system of the neighborhood and the Village.

Adopted May 28, 2019

- 6.) All proposed buildings, structures, equipment and/or material shall be readily accessible for fire, emergency services and police protection.
- 7.) The use will be consistent with the requirements established in this local law.
- 8.) The special use shall be in harmony with the orderly development of the district.
- 9.) Except for preexisting nonconforming lots of record, the use shall meet the prescribed area and bulk requirements for the district in which it is located.
  - a) In its review of special permit uses, the Planning Commission shall take into consideration the statement of policies and principles established in the Comprehensive Plan and the All Aboard Main Street Master Plan.
  - b) The level of municipal and other services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.

#### **J. Additional Conditions**

The Planning Commission shall impose additional conditions and safeguards to the special permit use as are directly related to and incidental to the proposed special use permit and which may be necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced. Restrictions and/or conditions may include those related to design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the resources of the Village.

## **ARTICLE X SITE PLAN REVIEW**

### **A. Purposes.**

In accordance with Village Law Section 7-725, the purposes of site plan review are to enable the Planning Commission to:

- 1.) Review the site plans for certain uses which may have significant impacts upon the surrounding area and the Village;
- 2.) Review the characteristics of such sites and the impacts of any improvements upon the surrounding area and the Village; and
- 3.) Seek the best possible site design and layout which fully complies with this local law and best furthers the objectives of the Village planning process.

### **B. Types of Proposals Requiring Site Plan Review:**

The following types of land use proposals or developments require site plan approval by the Village Planning Commission pursuant to Section 7-725 of the New York State Village Law.

- 1.) All uses identified in Table 1 with 'SPR' or Site Plan Review.
- 2.) Any use requiring a special use permit shall also require site plan approval. The special use and site plan review processes shall be conducted by the Planning Commission concurrently to the maximum extent feasible.
- 3.) All development and building proposals for non-residential uses.
- 4.) All building proposals for public and semi-public buildings.
- 5.) All proposals for multi-family residential buildings, whether conversion of existing buildings or new construction.
- 6.) All proposals to expand or demolish existing business or industrial facilities or any proposals to alter existing business or industrial sites in relation to parking access, landscaping storage or any other site feature.
- 7.) All changes of use in existing industrial or business buildings that changes site features or intensity of use.
- 8.) Some signs in Business or Industrial districts not otherwise authorized per sign section (F)(2).
- 9.) Fences in front yards.

### **C. Requirements for a Site Plan:**

Site plans shall include; where appropriate:

- 1.) Title of development, date, north point, scale, and name and address of record owner and of engineer, architect, land planner or surveyor preparing the site plan.
- 2.) Identification as to what district the lot is in and what overlay area, if any.
- 3.) The exterior dimensions, location and design (including architectural features) of all existing and proposed uses, buildings, structures, street access, vehicular and pedestrian circulation, parking areas, loading and storage areas, areas showing ingress and egress, exterior lighting, screening and buffers, signs, utility (water, sewer and electric) locations and connections, storm water drainage, fences, retaining walls, exterior furniture, outdoor storage, other structures and landscaping at a scale and detail sufficient to permit the study of all elements on the plan.
- 4.) Boundaries of the lot(s) plotted to scale.
- 5.) Ownership identification of all adjacent lands including across streets, railroads and waterways, identified of uses of such lands.
- 6.) Location and identification of any existing or proposed right-of-way, easements, setbacks, reservations and areas dedicated to public use on site or adjacent to the property.
- 7.) Description of the method of sewage disposal; and location, design and construction materials of such facilities; and a description of the method of securing public water and location, design and construction of such facilities.
- 8.) Location of fire and other emergency zones, including the location of fire hydrants, if any.
- 9.) Description of any noise to be produced and if any, how much or how often.
- 10.) Identification of any permits from other governmental bodies required for the project's implementation.
- 11.) Elevations for all new or renovated buildings, including an illustration of façade, roof, windows and all other exterior materials and features.
- 12.) Floor plans and facade sketches of all buildings.
- 13.) Elevations and design for all signs including sign height, size, and lighting.
- 14.) Existing natural features such as waterways, bodies of water, wetland, aquifers, steep slopes, floodplains, and existing vegetation. Features to be removed and to be preserved should be indicated. Identify if all or some of the lot is located within an area of flood hazard of the Vly or Black Creek.
- 15.) Any historical or archaeological resources on the lot or within two-hundred (200) feet of the lot(s).

- 16.) Extent and amount of cut and fill for all disturbed areas, including before and after profiles.
- 17.) Cross sections of such features as streets, and drainage systems. Include a grading and drainage plan, and a stormwater/erosion plan if required, showing any proposed drains, culverts, berms, retaining walls, fences, or other structures.
- 18.) Adjacent building outlines and other outstanding features within two-hundred (200) feet or as required by the Planning Commission.
- 19.) Appropriate Environmental Assessment forms pursuant to State Environmental Quality Review (SEQR).
- 20.) Location and design of all energy distribution and storage facilities including oil, gas, electrical, and solar energy.
- 21.) Spill Prevention Plan: Including a complete description of the proposed use and operations; a list of toxic or hazardous chemicals to be used, handled, and/or stored; a description of how these chemicals will be used, handled, stored and disposed of; and procedures for containing or cleaning up spills and notifying appropriate local and state officials. Upon a finding by the Planning Commission, that, due to unique circumstances or special conditions peculiar to the site, certain of the information normally required as part of the site development plan is inappropriate or unnecessary, the Planning Commission may vary or waive such requirements wherever, in the opinion of the Planning Commission, such waiver will not be detrimental to the public health, safety, or general welfare, or have the effect of nullifying the intent and purpose of the site plan submission.
- 22.) Stormwater Pollution Prevention Plan: A stormwater pollution prevention plan consistent with the requirements of the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity - GP-0-15-002, and the performance and design criteria and standards of Local Law 3 of 2011 shall be required for site plan approval. The approved site plan shall be consistent with the provisions of this local law. The stormwater management and erosion control plan shall show measures for attenuation of peak discharge, erosion/sediment control, surface water quality protection, and groundwater quality protection during and following construction.
- 23.) Additional Requirements for Site Plans. If, in the opinion of the Planning Commission, projects could have traffic or visual impacts, the applicant shall submit, at their expense, traffic impact and/or visual impact assessment as follows. Costs for all reports, assessments, or plans required by the Planning Commission shall be borne by the applicant pursuant to this local law.
  - a) Traffic Impact Analysis. A multi-model traffic impact analysis shall be conducted anytime a commercial development is proposed for the Creekside Commercial district and in other districts when a development will generate more than one-hundred (100) cars per day. A multi-modal impact assessment evaluates not only impacts on traffic patterns and flow, but on pedestrian and cyclist movement and on bus transportation. Such studies shall also focus on egress and ingress in front of a proposed business and other broader impacts of traffic on Maple Avenue, Altamont Road, and Helderberg Parkway. The impact analysis shall also evaluate a 'transit zone' located at least within a one-half (½) mile of the proposed use.

- b) The traffic impact analysis shall include the following:
  - 1. Internal traffic flow analysis.
  - 2. Existing and projected average daily traffic and peak hour levels. Peak hour shall be defined in part by the uses existing in that district. In the Creekside Commercial District, peak hour shall include morning and afternoon school opening and closing times.
  - 3. Existing and projected intersection levels of service (LOS).
  - 4. Directional vehicular flows resulting from the proposed project.
  - 5. Proposed methods to mitigate the estimated traffic impact.
  - 6. Identification of any pedestrian crossing issues.
  - 7. The methodology and sources used to derive existing data and estimations.
  - 8. Impacts of traffic on transit, walking, and biking through the district or along main transportation links to that district.
  - 9. Any such study shall also take into account cumulative conditions reflecting residential development occurring outside the Village that would generate traffic to the school(s).
- c) Visual Impact Report. The visual impact assessment shall be prepared by a registered landscape architect or other qualified professional and shall include:
  - 1. A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
  - 2. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes;
  - 3. The Planning Commission may require use of photo-simulations or balloon tests as part of the visual impact assessment.

#### **D. Administration**

- 1.) Applicants are encouraged, but not required, to request a meeting with the Planning Commission to review their applications for site plan review prior to formal submission to the Code Enforcement Officer as prescribed in the following paragraph. This will enable the Planning Commission to evaluate the proposal and provide advice to the applicant as to what may or may not be required in the application. The Planning Commission may also discuss any potential waivers that an applicant seeks pursuant to (D) (6) of this section.
- 2.) An application for site plan review shall be made to the Code Enforcement Officer (CEO) on the form established by the Village with the fee as required for submission as may be set by the Village Board of Trustees, and with plan materials as set forth in this local law, not less than ten (10) calendar days before the regular meeting of the Planning Commission. The CEO shall review the application to identify if it is a complete submission. The CEO shall forward the application to the Planning Commission for its consideration at the next Planning Commission meeting with a recommendation on the completeness of the submission and classification of the action on the application pursuant to SEQR.
- 3.) The Planning Commission, at said meeting, shall make a determination of completeness of the submission. If the Planning Commission determines that the application is a complete submission, the date of this Planning Commission meeting shall be the submittal date of the

application. If the application is determined to be an incomplete submission, a written statement providing details as to information that is lacking and the steps to be taken to submit a complete application must be sent to the applicant within three (3) business days.

- 4.) No application shall be deemed complete for decision making without compliance with SEQR, including, where necessary, a lead agency determination, a negative or positive declaration and submission of an acceptable Draft Environmental Impact Statement.
- 5.) Application for Area Variance. Where a proposed site plan contains one or more features which do not comply with this local law related to area and dimensions, applications may be made to the Zoning Board of Appeals for an area variance pursuant to section 7-712-b of New York State Village Law, without the necessity of a decision or determination of the Code Enforcement Officer.
- 6.) Waiver of Requirements. The Planning Commission is authorized to, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval. Any such waiver shall be in writing and shall be approved by the majority of the Planning Commission and may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.
- 7.) Public hearing and Notification. The Planning Commission shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Planning Commission's acceptance of the site plan submission as complete for review. A legal notice shall be advertised in the Village's official newspaper at least five (5) days before the hearing. The Planning Commission shall give the applicant at least ten (10) days' notice by mail of the Public Hearing. The Planning Commission shall send or require the applicant to send notice of the Public Hearing to adjoining and abutting property owners at least seven (7) days prior to the public hearing. The applicant shall submit certified mail receipts to the Planning Commission. The costs related to any legal notice or mailings shall be borne fully by the applicant. An applicant for an approval requiring a public hearing may also be required to post a sign on the property to provide the public with notice that an application for an approval is pending.
- 8.) Coordinated Review. The Planning Commission may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of Federal, State and County agencies, including but not limited to the Albany County Soil Conservation Service, the New York State Department of Transportation, the New York State Department of Environmental Conservation, and the State or County Department of Health, whichever has jurisdiction.
- 9.) Required Referral. Prior to taking the final action on the site plan, and at least ten (10) days prior to the Public Hearing, and where applicable, the Planning Commission shall refer the plan to the Albany County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law. The County referral shall apply to real property within 500 feet of the following:
  - a) Any Village boundary; or
  - b) The boundary of any existing or proposed county or state park or other recreation area; or
  - c) The right-of-way of any existing or proposed county or state street; or

- d) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- e) The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or
- f) The boundary of a farm operation located in an agricultural district, as defined by Article 25-aa of the Agriculture and Markets Law.

The Albany County Planning Board shall have thirty (30) days to review the full statement of the proposed action. If the County Planning Board fails to report within thirty (30) days, the Planning Commission may take final action on the proposed action without such report. However, any County Planning Board report recommending modification or disapproval of a project and which is received after thirty (30) days or such longer period as may have been agreed upon, but two (2) or more days prior to final action by the Planning Commission, the Planning Commission shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

- 10.) SEQR. No application shall be approved without full compliance with SEQRA (Part 617). No application for site plan review shall be considered complete for Planning Commission decision making until either a negative declaration has been issued or a draft environmental impact statement has been accepted.
- 11.) Planning Commission Decision. Within sixty-two (62) days of the close of the public hearing, the Planning Commission shall render a decision on the site plan. The Planning Commission's action shall be in the form of a written statement to the applicant stating whether the site plan is approved, disapproved or approved with modifications. The Planning Commission's statement may include modifications to be incorporated in the final site plan. Conformance with such modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Commission's statement will contain the reasons for such findings. In such a case, the Planning Commission may recommend further study of the site plan and resubmission to the Planning Commission after it has been revised or redesigned.
- 12.) Conditions. The Planning Commission shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of the site plan, any such conditions must be met in connection with the issuance of permits by the Code Enforcement Officer.
- 13.) Extension of Time. The time period in which the Planning Commission must render its decision on the site plan may be extended only upon mutual consent of the applicant and the Planning Commission. Failure of the Planning Commission to act within the time period specified or agreed upon between the applicant and Planning Commission, shall not constitute Planning Commission approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.
- 14.) Planning Commission Decisions.
  - a) Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Commission shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Village Clerk. A copy of the written

- statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- b) Approval with Modifications. The Planning Commission may approve the site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Planning Commission shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval and after payment by the applicant of all applicable fees and reimbursable costs due the Village, the Planning Commission shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Village Clerk.
  - c) Disapproval. The Planning Commission shall make a written statement if disapproval is the decision. Upon disapproval of the site plan, the Planning Commission shall, within five (5) business days, file the statement with the Village Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Commission's reasons for disapproval.
- 15.) The final decision by the Planning Commission must be made in writing, specifying any conditions that may be attached to an approval and the reasons that Planning Commission approved or denied the proposal.
- 16.) Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure in this local law or the Village Subdivision Regulations, the Planning Commission shall attempt to integrate, as appropriate, site plan review as required herein with other approvals.
- 17.) Inactivity by Applicant on Site Plan During Review. Should there be inactivity on the part of the applicant for over one year on any application, the Planning Commission shall consider any requested restart as a new application and shall follow all procedures pursuant to this local law starting with sketch conference.
- 18.) Guarantee of Site Improvements for Site Plan Review
- a) General. After the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed, or a performance guarantee pursuant to this sub-section has been provided by the applicant for improvements not yet completed.
  - b) Inspections. Prior to the Planning Commission Chairperson or designee signing the site plan, the applicant may be required to pay to the Village Clerk an inspection fee escrow established by the Village Board of Trustees. Inspections during installation of improvements shall be made by the engineer and/or Code Enforcement Officer to insure conformity with the approved plans and specifications as contained in the contract and this local law. The applicant shall notify the Building Inspector when each phase of improvements is ready for inspection.
  - c) Termination of approval. In cases of site plan approvals for which no guarantee of completion of site plan improvements has been required by the Planning Commission, the approval shall be deemed terminated if construction is not completed within two (2) years of approval.
  - d) Performance Guarantee Options. So that the Village has the assurance that the construction and installation of such improvements including but limited to storm sewers, water supply,

sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with the site plan approval, the Planning Commission may require that the applicant enter into one of the following agreements with the Village.

1. Furnish bond executed by a surety bond company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be 1) based on an estimate furnished by the applicant; and 2) approved by the Village Board.
  2. Deposit certified check in an escrow account sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
- e) Phased Development. The Planning Commission may further request, subject to Board of Trustees approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the Village of all construction and installation covered by such deposit. The Village will not release the performance bond for one phase of development until that phase has been approved. Further, no bond for subsequent phases will be accepted until the prior phase has been approved.
- 19.) Any approval shall expire after two years from the date of such approval unless the applicant shall have obtained all other necessary permits and approvals and commenced, and substantially proceeded with, construction of the project in full conformity with the approved site plan.
- 20.) Appeals Procedure. Any person aggrieved by a decision of the Planning Commission may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the final decision by the Planning Commission in the office of the Village Clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

#### **E. General Criteria for Site Plan Review**

In considering and acting upon Site Plans, the Planning Commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the prospective occupants of the proposed development and of the immediate neighborhood in particular, and may prescribe such appropriate conditions and safeguards as may be required in order to further the expressed intent of this local law and accomplish the following objectives in particular:

- 1.) The proposed use, building, design and layout shall meet provisions of this local law and other regulations, standards and ordinances of the Village and the State of New York.
- 2.) The proposed use, design and layout will be such that the location, size, character and appearance of all site development and buildings will be in harmony with the appropriate and orderly development of the surrounding area.
- 3.) The proposed use and layout will be of such a nature that it will provide safe and efficient vehicular or pedestrian traffic movement.

- 4.) The proposed location and height of buildings or structure, walls and fences, exterior lighting, parking, signage, loading, storage areas and landscaping shall be such that it will not interfere or discourage the appropriate development or the use of land adjacent to the proposed site or unreasonably affect its value.
- 5.) Signs shall be in accordance with the regulations of this local law and, in addition, shall be so designed and located as not to present a hazard, glare or unattractive appearance to either adjacent property or to motorists.
- 6.) At least twenty (20) percent of any previously undeveloped lot, proposed to be developed for business or industrial use, shall be landscaped and maintained as open space.
- 7.) The proposed development shall provide for proper drainage, street alignment and other engineering aspects. The Planning Commission may require the review of such factors by engineering authorities selected by the Village, the cost of which is to be borne by the applicant.
- 8.) The proposed development shall provide that proper fire protection, fire control and fire-fighting access are incorporated into the site plan, in accordance with the Building Code.
- 9.) Streets, pedestrian walks, parking facilities and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings and be appropriately landscaped.
- 10.) Stormwater management and erosion and sediment control methods shall conform to the requirements of the Village of Voorheesville Stormwater Management and Erosion & Sediment Control Law. (Reference: Local Law # 3 of 2006.)
- 11.) Sewage disposal facilities shall be designed to protect groundwater and surface water resources.
- 12.) Procedures and facilities for the handling, storing, and disposing of hazardous and toxic materials shall be adequate to protect surface water and groundwater resources.
- 13.) The design and layout of the proposed use will not represent a significant impact on the environment or result in a waste of the land and other natural resources of the Village. To the greatest possible extent, development will be in harmony with the natural environment and adequate compensatory devices will be prescribed to offset potential significant deterioration resulting from the project.
- 14.) In any district, whenever a proposed non-residential use abuts a residential district, the site layout shall include use of screening (fencing, berms), lighting controls (pole height, lighting intensity or color, or fixture), additional setbacks, noise control (screening or placement of noise generating use within a structure), or other methods to mitigate any potential nuisances

## **F. Specific Site Development Criteria.**

### 1.) Landscaping Standards

- a) Landscaping shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
- b) Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Village's environment. Street trees shall be provided for along the frontage every thirty (30) feet on center. See Appendix A for list of appropriate street trees.
- c) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan. Should existing street trees be removed, the Planning Commission shall require replacement using species from Appendix A.
- d) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- e) Materials and design of paving, retaining walls, fences, curbs, benches, etc. shall be of good appearance, easily maintained and indicative of their function.
- f) Any above-grade loading facility and parking facility shall be screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- g) Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public streets.
- h) The light level at the lot line shall not exceed 1-foot candle measured at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, no lights shall be above eighteen (18) feet in height.

### 2.) Circulation Standards

- a) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, streets, driveways, off-street parking and loading space. All proposed traffic accesses will be adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located near street corners or other major access points; and satisfy other similar safety considerations.
- b) Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- c) Pedestrian connections between parking areas and buildings shall be provided by dedicated pedestrian walkways.
- d) Access from and egress to public streets shall be approved by the appropriate highway department, including town, county, state, federal, to the extent that said street department has jurisdiction over such access.
- e) Other factors to be considered include turning movements in relationship to intersections, adequacy of sight distances, location and access of off-street parking and minimization of pedestrian-vehicular contacts.

3.) Architectural Standards

The Planning Commission shall ensure architecture that is compatible with the character and scale of the surrounding neighborhood. This includes building size, height, massing and appearance. Signage and lighting will be compatible and in scale with building elements and will not predominate the overall visual impact of the project. Textures of buildings and paved areas will be sufficiently varied to prevent a massive or monolithic appearance, particularly areas of asphalted paving for parking. Stone walls, historic structures, natural features like mature trees and other historically significant structures shall be considered during the site plan review process.

In addition to specific design standards that may be required for a specific zoning district or a particular use pursuant to this local law, site plan shall seek to eliminate or mitigate excessive uniformity, dissimilarity, poor quality of design or building out of context with the surroundings.

- a) The Planning Commission may withhold approval of the application in order to prevent extremes of dissimilarity of new construction, and the intrusion of incongruous structures, so as to protect the appearance of the neighborhood and preserve property values.
  - b) In making a determination, the Commission shall consider the general design, arrangement, and exterior materials and color of the proposed building(s), and the relation of such features to other properties within two-hundred (200) feet of the site.
  - c) The design of buildings and the parking facilities shall take advantage of the existing topography of the project site where appropriate.
  - d) All buildings shall be arranged to avoid undue exposure to concentrated loading or parking facilities where possible and shall be oriented to preserve visual and auditory privacy between adjacent buildings.
  - e) All buildings shall be accessible to emergency vehicles and equipment.
- 4.) Noise. Structures shall be located, constructed, and insulated to prevent on-site noise from interfering with the use of adjacent properties. Methods for reducing noise shall be used where appropriate, and shall include: fencing, walls, and natural buffers, such as berms and landscape planting with deciduous and coniferous trees and large shrubs.
- 5.) Drainage. The proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical. Drainage plans shall be reviewed by the Village Engineer prior to approval. Drainage systems shall be designed to decrease the downstream impact of peak stormwater flow and velocity on the Vly Creek. Low Impact Design (LID) such as but not limited to rain gardens, grassed roofs, permeable pavers, bioretention basins, rain barrels and other low impact development techniques as per Chapter 5 of the New York State Department of Environmental Conservation Stormwater Management Design Manual shall be incorporated into the site design to the greatest extent practicable.
- 6.) Circulation. On-site sidewalks shall properly relate to existing and proposed buildings. They shall be designed to permit the safe, efficient and convenient movement of vehicles, pedestrians, and bicyclists on site, and the safe connections with adjoining properties where appropriate. Landscaped, paved, and comfortably graded pedestrian walks shall be provided along the frontage, from building entrances to streets, parking areas, and adjacent buildings, and shall be

Adopted May 28, 2019

separated from motor vehicle circulation. For any use to which the public is expected to visit, the site plan shall make proper provision for buildings and site developments that are accessible to and functional for physically disabled persons, such as by provisions of walks and ramps of suitable width and grade, curb cuts, identified wide parking spaces and ground level building entrances, as required in the Building.

## **ARTICLE XI PLANNING COMMISSION**

### **A. Appointment of Members and Terms.**

- 1.) The Planning Commission shall consist of seven (7) members appointed by the Board of Trustees. Members now holding office for terms that do not expire at the end of a Village calendar year shall, upon the expiration of their term, hold office until the end of the Village calendar year and their successors shall then be appointed for terms which shall be seven (7) years.
- 2.) If a vacancy shall occur other than by expiration of a term, it shall be filled by the Board of Trustees to fulfill the remaining unexpired term of that member.
- 3.) The Board of Trustees may appoint at least one (1) person as an Alternate Member of the Planning Commission for a term of seven (7) Village calendar years. All provisions of this local law relating to Planning Commission member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members. The Chairperson of the Planning Commission may designate the alternate member to substitute for a member who is unable to participate in deliberations and decisions of the Planning Commission due to conflict of interest on an application or due to absence. When so designated: the alternate member shall possess all the powers and responsibilities of such member of the board; shall be allowed to participate in discussions of the proceedings; and shall be allowed to vote. Such designation of the alternate member shall be entered into the minutes of the initial Planning Commission meeting at which the substitution is made. At all other times, an alternate member may participate in discussions of the proceedings but may not vote except due to the disqualification of a regular member and a designation of substitution by the Chairperson.

### **B. Board Composition.**

- 1.) All members of the Planning Commission shall be residents of the Village. Unless the Board of Trustees is serving as the Planning Commission, no person who is a current member of the Board of Trustees shall be eligible for membership on the Planning Commission. No person shall be disqualified from serving as a member of the Village Planning Commission by reason of serving as a member of the Town or County Planning Board.
- 2.) Mandatory Training. All members and alternate members of the Planning Commission shall comply with the requirements of New York State Village Law Section 7-718 that require all Planning Commission members and alternate members to complete a minimum of four (4) hours of training each year. No Planning Commission member shall be eligible for reappointment if they have not completed this training as required.
- 3.) Removal.
  - a) The Board of Trustees shall have the power to remove, after public hearing, any member of the Planning Commission for cause. Any Planning Commission member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by this local law or other law established by the Board of Trustees. Cause for removal of a member may include one (1) or more of the following:

- 1.) Any undisclosed or unlawful conflict of interest.
  - 2.) Failure to attend 33% of the meetings during one (1) calendar year.
  - 3.) Failure to attend four (4) consecutive meetings.
  - 4.) Failure to complete mandatory training requirements.
  - 5.) No member who has been removed for cause shall be reappointed.
- 4.) Chairperson. The Mayor, with the approval of the Village Board, shall appoint one of the Planning Commission members as Chairperson, to preside at all meetings and hearings and to fulfill the authorized duties of that office. In the absence of the Chairperson, the Planning Commission may designate a member to serve as chairperson. The acting Chairperson shall have all the powers of the Chairperson. All meetings of the Planning Commission shall be held at the call of the chairperson and at such other times as such Board of Trustees may determine. The Chairperson, or acting chairperson, may administer oaths to applicants, witnesses, or others appearing before the Planning Commission and may compel the attendance of witnesses.
- 5.) Costs and Expenses. The Planning Commission shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding any appropriation that may be made by the Board of Trustees for the Planning Commission.

### **C. Voting Procedures.**

- 1.) Quorum. No business shall be transacted by the Planning Commission without four (4) members of the Planning Commission being present.
- 2.) Voting. Every motion or resolution of the Planning Commission shall require for its adoption, the affirmative vote of a majority of all the members of the Planning Commission, not just those present. Where an action is the subject of a referral to the Albany County Planning Board, and in the event that the Albany County Planning Board recommends disapproval of the application within the thirty (30) day time period allowed them, the Planning Commission shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after taking final action on an application, the Planning Commission shall file a report of the final action it has taken with the Albany County Planning Board.
- 3.) Assistance to Planning Commission. The Board shall have the authority to call upon any department, agency or employee of the Village for assistance as the Planning Commission deems necessary. All costs incurred by any department, agency or employee for aiding in a proceeding shall be borne by the applicant.

### **D. Decisions.**

- 1.) Decisions. Every decision of the Planning Commission shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.
- 2.) Final decision. All deliberations and decisions of the Planning Commission shall occur at a meeting open to the public and shall state any special circumstances or conditions to be imposed.

Adopted May 28, 2019

Decisions of the Planning Commission shall be final upon adoption of a resolution of Planning Commission by a majority of the members of the Planning Commission and the filing of the resolution with the office of the Village Clerk.

- 3.) Notification of decision. Within five (5) business days following the final decision on any action before the Planning Commission, a notice of such decision shall be mailed to the applicant and such decision shall be filed in the office of the Village Clerk.

**E. Conflicts.**

No member of the Planning Commission shall participate in the hearing or disposition of any matter in which he or she has an interest.

**F. Appeals.**

Any person or persons, jointly or severally aggrieved by any final decision of the Planning Commission, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of the decision of the Planning Commission in the office of the Village Clerk.

## **ARTICLE XII ZONING BOARD OF APPEALS**

### **A. Purpose.**

A Zoning Board of Appeals shall be maintained and operate in accordance with Article 16 of the New York State Village Law, Sections 7-712 and 7-712-a and 7-712-b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such boards by the New York State Village Law and any other applicable State law; and shall fulfill its duties in accordance with those grants of authority and in accordance with this local law.

### **B. Membership.**

The Zoning Board of Appeals shall consist of five (5) members appointed by the Village Board for staggered terms of five (5) calendar years.

- 1.) All members and alternate members of the Zoning Board of Appeals shall be residents of the Village. No person who is a member of the Board of Trustees shall be eligible for membership on the Zoning Board of Appeals.
- 2.) The Board of Trustees may appoint at least one (1) person as an alternate member of the Zoning Board of Appeals for a term of five (5) calendar years. All provisions of this local law relating to zoning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members. The Chairperson of the Zoning Board of Appeals may designate the alternate member to substitute for a member who is unable to participate in deliberations and decisions of the Zoning Board of Appeals due to conflict of interest on an application or matter before the Zoning Board of Appeals or for excused absence. That designation of the alternate member shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. When so designated: the alternate member shall possess all the powers and responsibilities of such member of the Zoning Board of Appeals; shall be allowed to participate in discussions of the proceedings; and shall be allowed to vote. At all other times, an alternate member may participate in discussions of the proceedings but may not vote except due to the disqualification of a regular member and a designation of substitution by the Chairperson.

### **C. Training and attendance requirements.**

- 1.) Each member of the Zoning Board of Appeals and each alternate member shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one (1) year may be carried over by the member into succeeding years in order to meet this requirement.
- 2.) To be eligible for reappointment to the Zoning Board of Appeals, a member or alternate member shall have completed the required training.

**D. Vacancy in office.**

If a vacancy shall occur other than by expiration of term, the Board of Trustees shall appoint a new member for the unexpired term.

**E. Removal of members.**

The Board of Trustees may remove, after public hearing, any member or alternate member of the Zoning Board of Appeals for cause. Cause for removal of a member or alternate member may include one or more of the following:

- 1.) Any undisclosed or unlawful conflict of interest.
- 2.) Failure to attend 33% of the meetings during one calendar year.
- 3.) Failure to complete mandatory training requirements.

**F. Chairperson.**

The Board of Trustees shall appoint one of the Zoning Board of Appeals members as chairperson to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Zoning Board of Appeals members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may be provided by the rules of the Zoning Board of Appeals. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board of Trustees may determine. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths to applicants, witnesses, or others appearing before the Zoning Board of Appeals, and may compel the attendance of witnesses.

**G. Zoning Board of Appeals Clerk and Public Record.**

Upon recommendation by the Zoning Board of Appeals in coordination with the Planning Commission, the Board of Trustees shall appoint a Zoning Board of Appeals Clerk who shall attend all proceedings of the Zoning Board of Appeals and, upon request, the proceedings of any of its committees.

- 1.) The Zoning Board of Appeals Clerk shall keep minutes of the proceedings of the Zoning Board of Appeals, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep record of its examinations and other official actions.
- 2.) The Zoning Board of Appeals Clerk shall keep a file of all records of the Zoning Board of Appeals, and those records shall be public records open to inspection at reasonable times and upon reasonable notice.

**H. Board of Appeals procedure.**

- 1.) Meetings, minutes, records. Meetings of the Zoning Board of Appeals shall be open to the public, in accordance with the requirements of the New York State Open Meetings Law, except

for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

- 2.) Filing requirements. 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 (5) business days and shall be a public record.
- 3.) Assistance to Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Village (e.g. the Building Department or Conservation Advisory Council) for such assistance as the Zoning Board of Appeals deems necessary. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant to the extent permitted by law.
- 4.) Jurisdiction. The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Codes Enforcement Officer of any ordinance or local law adopted pursuant to New York State Village Law. For the purposes of this local law, the administrative official charged with enforcement shall include the Code Enforcement Officer as applicable pursuant to the provisions of this local law. Where a proposed special use, site plan, or subdivision contains one or more features which do not comply with this local law, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination by the Code Enforcement Officer.
- 5.) Powers of the Board. The Zoning Board of Appeals shall have the power to grant use and area variances upon appeal from a decision or determination by the Code Enforcement Officer and also on appeal, to interpret the provisions of this local law. The Zoning Board of Appeals may, on appeal, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation or determination of the Code Enforcement Officer, and shall make such order requirement, decision, interpretation or determination, as in its opinion, ought to have been made in the matter by the Code Enforcement Officer and to that end shall have the powers of the Code Enforcement Officer.
- 6.) Filing of administrative decision and time of appeal.
  - a) Each order, requirement, decision, interpretation or determination of the Code Enforcement Officer charged with the enforcement of this local law shall be filed in the office of such Code Enforcement Officer, within five (5) business days from the day it is rendered and shall be a public record.
  - b) All appeals must be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer by filing with the Code Enforcement Officer and with the Zoning Board of Appeals a notice of appeal. The notice of appeal shall: specify the grounds for such appeal; the relief sought; identify specifically the section of the Zoning Law or other code or law involved; describe precisely and in detail either the interpretation claimed or the variance or other relief that is sought and the grounds upon which it is claimed the relief should be granted. The notice of appeal shall be accompanied by a short or full Environmental Assessment Form as required by the New

York State Environmental Quality Review Act (SEQRA), and by other documents relevant to the appeal specified by the Zoning Board of Appeals. The appellant shall also be required to pay a filing fee at the time of the filing of the appeal in an amount to be established by the Board of Trustees. Upon receiving a notice of appeal, the Code Enforcement Officer shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

- 7.) Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer determines and certifies in writing to the Zoning Board of Appeals, after the notice of appeal has been filed with the Code Enforcement Officer, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer from whom the appeal is taken and on due cause shown.
- 8.) Public Hearing and Notification. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. The appellant and any other parties to the appeal shall be given written notice of the hearing date and of the fact that at such hearing he or she may appear in person or be represented by an attorney or other agent. Said notice shall be provided at least ten (10) days in advance of the hearing and shall be provided to the appellant by certified mail. The Zoning Board of Appeals shall additionally provide notice as follows:
  - a) The Zoning Board of Appeals shall give public notice of such public hearing by publication in an official paper of general circulation in the Village and on the Village's website at least ten (10) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Village prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
  - b) If a New York State Park or New York State Street shall be located within five hundred (500) feet of the property affected by the appeal, at least ten (10) calendar days prior to such public hearing, the Zoning Board of Appeals shall send notices to the regional State Park Commission having jurisdiction over the State Park or Parkway.
  - c) The Zoning Board of Appeals shall also give notice to the Albany County Planning Commission as required by Section 239-m of the New York State General Municipal Law. Such notice shall be in writing sent at least ten (10) calendar days prior to such public hearing.
  - d) If the land affected by the appeal lies within five hundred (500) feet of a boundary, the Clerk of the Zoning Board of Appeals shall also submit at least ten (10) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.
  - e) In any application or appeal the Clerk of the Zoning Board of Appeals shall provide written notice of the public hearing, along with the substance of the variance appeal or application, to: the current owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is the subject of the appeal. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing and posted on Village website. Such notice shall be provided by certified mail at

- least ten (10) calendar days prior to the date of the hearing. Compliance with this notification procedure shall be certified to by the Clerk.
- f) The names and addresses of surrounding property owners to be notified in accordance with the forgoing shall be taken from the current New York State real property records. The current owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is the subject of the appeal.
  - g) With regard to notices to be provided to the non-governmental owners of abutting, opposite and properties located within five hundred (500) feet of the property which is the subject of the appeal, provided that there has been substantial compliance with the provisions of this Zoning Law regarding those notices, provided that there has been substantial compliance, failure to give notice in exact conformance with the requirements shall not be deemed to invalidate an action taken by the Zoning Board of Appeals.
  - h) An applicant for an approval requiring a public hearing may also be required to post a sign on the property to provide the public with notice that an application for an approval is pending.
- 9.) Referrals and Notice to Albany County Planning Board & Village Planning Commission.
- a) When required, at least ten (10) days before such hearing, the Zoning Board of Appeals shall mail notice to the Albany County Planning Board as required by Section 239-m of the New York State General Municipal Law. The notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the New York State General Municipal Law. No action shall be taken by the Zoning Board of Appeals until an advisory recommendation has been received from the Albany County Planning Board or thirty (30) calendar days have elapsed since the County Planning Board received such full statement. In the event that the Albany County Planning Board recommends disapproval of the requested variance or the attachments of conditions thereto within such time period or at a later date prior to final action by the Zoning Board of Appeals, the Zoning Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after such final action, the Zoning Board of Appeals shall file a report of the final action it has taken with the Albany County Planning Board.
  - b) No referral to the Planning Commission is required for area variances on residential structures or lots. For area variances on commercial structures or lots or when a use variance is requested, the Zoning Board of Appeals shall send to the Village Planning Commission a copy of the appeal or application, and shall request that, in response, the Planning Commission submit to the Zoning Board of Appeals an advisory opinion on said appeal or application. The Planning Commission shall submit a report of such advisory opinion to the Zoning Board of Appeals prior to the date of the public hearing. If the Planning Commission fails to do that within thirty-five (35) days of the date that the Zoning Board of Appeals sent its request for a recommendation, then the Planning Commission's recommendation shall be deemed to be favorable to the appeal or application.
- 10.) Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part 617 of the New York Code, Rules and Regulations.

- 11.) Time of Decision. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the hearing is completed. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board.
- 12.) Voting Requirements.
  - a) Decision of the Board. Except for the voting requirements for rehearing below, every motion or resolution of a Zoning Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the Albany County Planning Board, the voting provisions of Section 239-m of the New York State General Municipal Law shall apply.
  - b) Default Denial of Appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Zoning Board of Appeals is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by this local law, the appeal is denied. The board may amend the denied motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in this local law.
- 13.) Filing of Decision and Notice. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- 14.) Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Zoning Board of Appeals not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

#### **I. Permitted Action by the Zoning Board of Appeals.**

- 1.) Orders, Requirements, Decisions, Interpretations, Determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, 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 Code Enforcement Officer, and to that end, shall have all the powers of such Code Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.
- 2.) Use Variances. 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.

- 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.
- 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, the applicant must meet all four conditions below.
  1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  4. That the alleged hardship has not been self-created.

3.) Area Variances.

- a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein. In addition, the Zoning Board of Appeals shall also have the power to grant area variances which are necessary in the course of site plan, special use permit and subdivision application for which application for such area variance may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations as authorized by New York State Village Law Sections 7-712 and 7-712 a-c.
- b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the 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 Zoning Board of Appeals shall also consider:
  1. 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;
  2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  3. Whether the requested area variance is substantial;
  4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  5. 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 area variances, 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.

**J. Imposition of Conditions.**

Adopted May 28, 2019

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 this local law, and shall be imposed to minimize any adverse impact such variance may have on the neighborhood or community

**K. Relief from Decisions.**

Any person or persons, jointly or severally aggrieved by any final decision of the Zoning Board of Appeals, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be governed by the specific provisions of CPLR Article 78 except that the action must be commenced as therein provided within thirty (30) days after the filing of the decision of the Zoning Board of Appeals in the office of the Village Clerk.

**L. Strict Construction.**

All provisions of this Article pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in strict conformity with all provisions of law and of this Article and in strict compliance with all limitations contained therein, provided however, that if the procedural requirements set forth in this Article have been substantially observed, no applicant or appellant shall be deemed deprived of the right of application or appeal.

**M. Other Provisions of New York State Village Law.**

All other provisions of New York State Village Law Section 7-712-a with regard to Zoning Board of Appeals procedure not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals.

**ARTICLE XIII        ADMINISTRATION AND ENFORCEMENT**

**A. Building Inspector, Code Enforcement Officer**

- 1.) General: Except as otherwise specifically provided by law, ordinance or regulations, the Code Enforcement Officer, is hereby given the duty, power and authority to enforce the provisions of this local law. No building, structure or fence shall hereafter be erected or structurally altered within the area covered by this local law until a permit authorizing the same shall have been issued by the Code Enforcement Officer. The Code Enforcement Officer will prioritize his/her efforts and investigate bona fide complaints.
- 2.) Rules and Regulations: The Board of Trustees shall from time to time pass rules and regulations governing the power and duties of the Code Enforcement Officer and the fees to be charged.
- 3.) Duties and Powers:
  - a) The Code Enforcement Officer shall administer and enforce all of the provisions of laws, ordinances and regulations applicable to the construction, alternation, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.
  - b) He/she shall receive applications and shall issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the lot for which such applications have been received or such permits have been issued for the purpose of insuring compliance with laws, ordinances and regulations governing building construction.
  - c) He/she shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction with the requirements of such laws, ordinances or regulations. He/she shall make all inspections which are necessary or proper for the carrying out of his/her duties, except that he/she may accept written reports of inspections from Code Enforcement Officers or other designated, qualified employees of the Village or from generally recognized and authoritative service and inspection bureaus, provided the same are certified by a responsible official thereof.
  - d) Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations governing building construction, he/she may require the performance of tests, or verification by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.
  - e.) Fire Safety Inspections:
    1. Fire safety inspections of areas of public assembly defined in Part 606 of Title 9 of the Officer Compilation of Codes, Rules and Regulations shall be conducted at least once per year.
    2. Fire safety inspections of all multi-family dwellings and all non-residential occupancy structures shall be conducted at least once every two years and may be conducted at other times consistent with local conditions.
    3. The Code Enforcement Officer shall respond to all bona fide complaints regarding conditions or activities allegedly failing to comply with the Building Code of New York State Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) and may make appropriate inspections in connection with such complaints.

4. Right of Entry: The Code Enforcement Officer or any member of a fire department or fire company specifically authorized by the Code Enforcement Officer to do so, upon showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or lot at any reasonable hour, and no person shall interfere with or prevent such entry.
5. Tests: Whenever there are reasonable grounds to believe that any material, construction equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Code Enforcement Officer may require the same to be subjected to tests in order to furnish proof of such compliance.
- f) The Code Enforcement Officer shall administer and implement Local Law # 3 of 1997, entitled "Flood Damage Prevention" as the same may be from time to time amended.

## **B. Conservation Advisory Council**

The Conservation Advisory Council of the Village, created under Article 12F of the New York State General Municipal Law, will advise in the development, management and protection of the natural resources within the Village. At the invitation of either the Board of Trustees, Zoning Board of Appeals, Planning Commission or Code Enforcement Officer, the Conservation Advisory Council shall serve in an advisory capacity and review proposed actions in regard to their potential environmental impact and the administration of SEQRA and shall make appropriate recommendations to the body with approval authority over the action in question. The CAC can also conduct studies, field work, or data collection that may be needed to further the understanding of the natural resources within the Village. In all respects, the Council shall serve in an advisory capacity in cooperation with other official municipal bodies active in the area of community planning.

## **C. Building Codes**

- 1.) All construction, and construction permit procedures, shall conform to the Building Code.
- 2.) All electrical installation/work shall be in compliance with the Building Code and any amendment or revisions thereof. Inspections and re-inspections of such electrical installations shall be made by duly authorized representative(s) of any bona-fide electrical inspection agency, who shall certify to the Village and the applicant as to such compliance or shall report in writing as to non-compliance. Applications for inspection or reinspection shall be made by the owner of the property on which electrical installation or work is to be done, or by the owner's agent.
  - a) Each such inspection agency shall annually furnish a certificate of insurance to the Village showing statutory Worker's Compensation coverage for employees and automobile and public liability coverage for property damage and personal injury, including wrongful death, in an aggregate amount including excess liability of six (6) million dollars.
  - b) Failure to provide such certificate of insurance shall make such inspection agency ineligible to make electrical inspections within the Village until the required certificate is filed.
- 3.) All plumbing, septic tanks, filtration plants and drain fields shall comply with the Building Code. All septic systems, filtration plants and drain fields shall have the approval of Albany County Health Department.

- 4.) No structure shall be constructed, located, extended, converted or altered, and no land shall be excavated or filled in any area of special flood hazard except in compliance with Local Law No. 3 of 1997 entitled "Flood Damage Prevention".

#### **D. Building Permit**

General: No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion of any structure or change in the nature of the occupancy of any building or structure or cause the same to be done, without first obtaining a separate building permit from the Code Enforcement Officer for each such building or structure; except that no building permit shall be required for the performance or ordinary repairs which are not structural in nature. All activities regarding building permits shall conform to the requirements of the Building Code including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit.

Application for a building permit: Shall be made to the Code Enforcement Officer on forms provided by him and shall contain the following information:

- 1.) A description of the land on which the proposed work is to be done;
- 2.) A statement describing the use or occupancy of all parts of the land and of the building or structure;
- 2.) The valuation of the proposed work;
- 3.) The full name and address of the owner and of the applicant, and the names and addresses of their responsible officers if any of them are corporations;
- 4.) A brief description of the nature of the proposed work;
- 5.) A duplicate set of plans and specifications as set forth in the section below entitled "Plans and Specifications" and
- 6.) Such other information including certified survey by a surveyor, engineer or authorized person licensed in the State of New York as may be reasonably required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.

Application: Shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the application is authorized to make such application.

Construction Documents, Plans and Specifications: Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys and where required by the Code Enforcement Officer, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings.

The Code Enforcement Officer may waive the requirement for filing plans.

Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Code Enforcement Officer.

Issuance of Building Permit: The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He/she shall approve or disapprove the application within a reasonable time.

Upon approval of the application and upon receipt of the legal fees therefore, the Code Enforcement Officer shall issue a building permit to the applicant upon the form prescribed by him/her and shall affix his/her signature or cause his/her signature to be affixed thereto.

Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "reviewed." Onset of such reviewed plans and specifications shall be retained in the files of the Code Enforcement Officer and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Code Enforcement Officer or his/her authorized representative at all reasonable times.

If the application together with plans, specifications and other documents filed therewith describe proposed work which does not conform to all of the requirements of the applicable building regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause such refusal together with the reasons therefore, to be transmitted to the applicant in writing.

Performance of Work Under Building Permit: A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of one (1) year after the date of its issuance. For good cause, the Code Enforcement Officer may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with applicable building codes, ordinances and regulations and this local law. All work shall conform to the approved application, plans and specifications, except that no building permit shall be valid insofar as it authorizes the performance of work or the use of materials which are not in accordance with the requirements of applicable building regulations. Approval is personal and cannot be transferred or assigned without the permission of the Code Enforcement Officer.

Building permits shall:

- 1.) Become invalid unless the authorized work is commenced within six (6) months following the date of issuance.
- 2.) Expire twelve (12) months after the date of issuance. A building permit which has become invalid or which has expired may be renewed upon application by the permit holder, payment of

the applicable fee, and approval of the application by the Code Enforcement Officer. A building permit may be extended by the Code Enforcement Officer for a period not to exceed twelve (12) months. The fee for the extension shall be one-half (1/2) the fee of the cost of the original permit, except that in no case shall the fee be less than the minimum fee allowed for in the fee schedule. At the end of the twelve (12) month extended period, a new permit shall have to be applied for.

**Revocation of Building Permit:** The Code Enforcement Officer may revoke a building permit theretofore issued and approved in the following instances:

- 1.) Where he/she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- 2.) Where he/she finds that the building permit was issued in error and should not have been issued in accordance with applicable laws.
- 3.) Where he/she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or
- 4.) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Officer.

**Stop Orders:** Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of this local law and any applicable building Codes, ordinances or regulations; or not on conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued; or in an unsafe and dangerous manner, he/she shall notify the owner of the property, or the owner's agent, or the persons performing the work, to suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building or structure under construction and sending a copy of the same by certified mail, return receipt requested.

**Unsafe Buildings:** All buildings or structures which are structurally unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard, or otherwise dangerous to human life, property or safety of the public or to the occupants of the structure, or which in relation to existing uses constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, rodent infestation, fire or abandonment, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible, are, severally, for the purpose of this section, unsafe buildings. All such unsafe buildings are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with Local Law #1 of 1981 which provides for the repair or removal of unsafe buildings and collapsed structures. Under such law, the Code Enforcement Officer shall examine or cause to be examined every building reported as unsafe or damaged and shall make a written report to the Board of Trustees of his/her findings and recommendations.

**Notice of Defects:** Whenever the Code Enforcement Officer shall find any building or structure, or portion thereof, to be an unsafe building as defined in this Section, he/she shall, in the same manner

as provided for the service of stop orders under Article XIII of this local law, give to the owner, agent, or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building, or structure, or portion thereof. Whenever a building structure or equipment has been condemned under the provisions of the Building Code, a notice shall be posted in a conspicuous place in or about the building structure affected by such notice. If the notice pertains to equipment, it shall also be placed on the condemned equipment. No person shall occupy a placarded premise or shall operate placarded equipment. The placard shall be removed whenever the defect or defects on which the condemnation and placarding action were based have been eliminated.

#### **E. Certificate of Compliance**

General: No building hereafter erected shall be used or occupied in whole or in part until a certificate of compliance shall have been issued by the Code Enforcement Officer. No building hereafter enlarged, extended, or altered, or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of compliance shall have been issued by the Code Enforcement Officer. No change shall be made in the use or type of occupancy of an existing building unless a certificate of compliance shall have been issued by the Code Enforcement Officer.

A Certificate of Compliance shall be required for any work which is the subject of a building permit and/or zoning permit for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of compliance.

Inspection Prior to Issuance of Certificate: Before issuing the certificate of compliance, the Code Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use of occupancy; and he/she may conduct such inspections as he/she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. The Code Enforcement Officer may require a certified survey if he/she deems the same is needed to establish compliance with the local law.

There shall be maintained by the Code Enforcement Officer a record of all such examinations and inspections together with a record of findings of violations of any law.

Issuance of Certificate of Compliance / Occupancy: When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building codes, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Code Enforcement Officer shall issue a certificate of compliance upon the form provided by him/her. If it is found that the proposed work has not been properly completed, the Code Enforcement Officer shall refuse to issue a certificate of compliance and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

Adopted May 28, 2019

The certificate of compliance shall certify that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, ordinances and regulations, and shall specify the use or uses and the extent to which the building or structure or its several parts may be put.

Temporary Certificate of Occupancy: Upon request, the Code Enforcement Officer may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

## **F. Penalties**

Any person or corporation who shall erect, construct, reconstruct, alter, repair, covert, move, demolish, occupy or maintain any building or structure or land, or divide any land into lots, blocks or sites contrary to any provision of this local law or any rule or regulation adopted hereunder, or who shall fail to comply with the written notice, directive or order of the Code Enforcement Officer, or who shall construct, alter, occupy or use any building or structure in a manner not permitted by an approved building permit or certificate of compliance, shall be in violation of this local law, and in addition to any remedies provided for in Article 7 of the Village Law of the State of New York, as the same may from time to time be amended, shall be punishable for each such violation by a fine of up to two hundred fifty dollars (\$250.00) or by imprisonment for up to fifteen (15) days or both.

Each day that a violation continues shall be deemed a separate violation.

**ARTICLE XIV            AMENDMENTS**

- A. The Board of Trustees may from time to time amend, supplement, change, modify or repeal this local law including the Zoning Map, by proceeding in the following manner:
- 1.) The Board of Trustees by resolution adopted at a stated meeting shall fix the time and place of a public hearing and the proposed amendment and cause ten (10) days public notice thereof to be given stating the purpose of the proposed amendment.
  - 2.) Every proposed amendment, unless initiated by the Planning Commission, shall be referred to the Planning Commission for an advisory opinion. The Planning Commission shall report its recommendations to the Board of Trustees, accompanied by a statement of the reasons for such recommendations, prior to the public hearing. If the Planning Commission fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Board of Trustees, the Board of Trustees may act without such report.
  - 3) Whenever the majority of the taxpayers shall present to the Board of Trustees a petition duly signed and acknowledged requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for or of the Zoning Map, it shall be the duty of the Board of Trustees to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed above.

**ARTICLE XV            SEPARATE VALIDITY**

If any section, paragraph, subdivision, clause, phrase or provision of this local law shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this local law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

**ARTICLE XVI           INTERPRETATION, CONFLICT WITH OTHER LAWS**

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**ARTICLE XVII        REPEALER**

This local law expressly repeals, abrogates and annuls the following zoning and land use codes of the Village, including all amendments thereto:

1. Article XIV, Local Law No. 1 for 1956 (Village Ordinance)
2. Local Law No. 1 for 1957 (Zoning Ordinance)
3. Local Law No. 2 for 1984 (Revised Zoning Code)
4. Local Law No. 4 for 2006 (Revised Zoning Code)

Adopted May 28, 2019

This local law in no way impairs any provision of any other existing ordinance, regulation, law or private restriction relating to the use of buildings or lots (including, but not limited to, Local Law No. 3 for 1998 [Subdivision Control]; Local Law No. 3 for 2006 [Storm Water Management & Sediment Erosion Control]; Local Law No. 2 for 2015 [Flood Damage Prevention]; and Local Law No. 2 for 2016 [Keeping of Chickens]), provided that where this local law imposes a greater restriction than is imposed by such existing provisions, the provisions of this local law shall control.

**ARTICLE XVIII      EFFECTIVE DATE**

This law shall become effective upon filing with the New York State Department of State.

By ORDER OF THE VILLAGE BOARD, VILLAGE OF VOORHEESVILLE

Adopted \_\_\_\_2019

**Appendix A. Approved Street Trees**

<i>All Aboard, Voorheesville: Main Street Master Plan – Recommended Street Trees</i>				
<b>Common Name</b>	<b>Botanical name</b>	<b>Size</b>	<b>Ht-Width</b>	<b>Growth rate</b>
<b>Small/Flowering Street Trees</b>				
Autumn Brilliance Serviceberry	Amelanchier canadensis 'Autumn Brilliance'	S	25-15	Med
Crabapple	Malus spp.	S	20-20	Med
Japanese lilac	Syringa reticulata	S	20-15	Slow
<b>Large Urban Street Trees</b>				
Honeylocust 'Skyline'	Gleditsia triacanthos 'Skyline'	L	45-35	Fast
American sycamore	Platanus occidentalis	L	80-50	Fast
Homestead elm	Ulmus 'Homestead'	L	55-35	Fast
Frontier elm	Ulmus x 'Frontier'	L	40-30	Fast
Gingko 'Saratoga'	Gingko biloba 'Halka'	L	45-40	Slow
Gingko 'Magyar'	Gingko biloba 'Magyar'	L	50-25	Slow
Silver Linden	Tilia tomentosa	L	60-40	Med

**SOURCE: RECOMMENDED URBAN TREES, Urban Horticulture Institute, Cornell University, 2009.**

Adopted May 28, 2019

**Maps**

Zoning Map

Wellhead and Aquifer Protection Overlay District Map

Floodplain Map

# Village of Voorheesville Albany County, NY

## Zoning Districts

- Village Boundary
  - Town Boundary
  - Property Boundaries
  - Water
  - Streams
- ## Roads
- State Route
  - County Road
  - Local Road
  - Private Road
  - Railroad

## Zoning Concept Districts

- R-A, Residential A
- R-B, Residential B
- R-C-1, Residential C1
- R-D, Residential D
- MF, Multi-family
- RC-2, Residential C2
- MU-BR, Mixed Use Business Residential
- MSE, Main Street East
- MSW, Main Street West
- CC, Creekside Commercial
- GB, General Business
- B-B, Business B
- I, Industrial
- C, Conservation



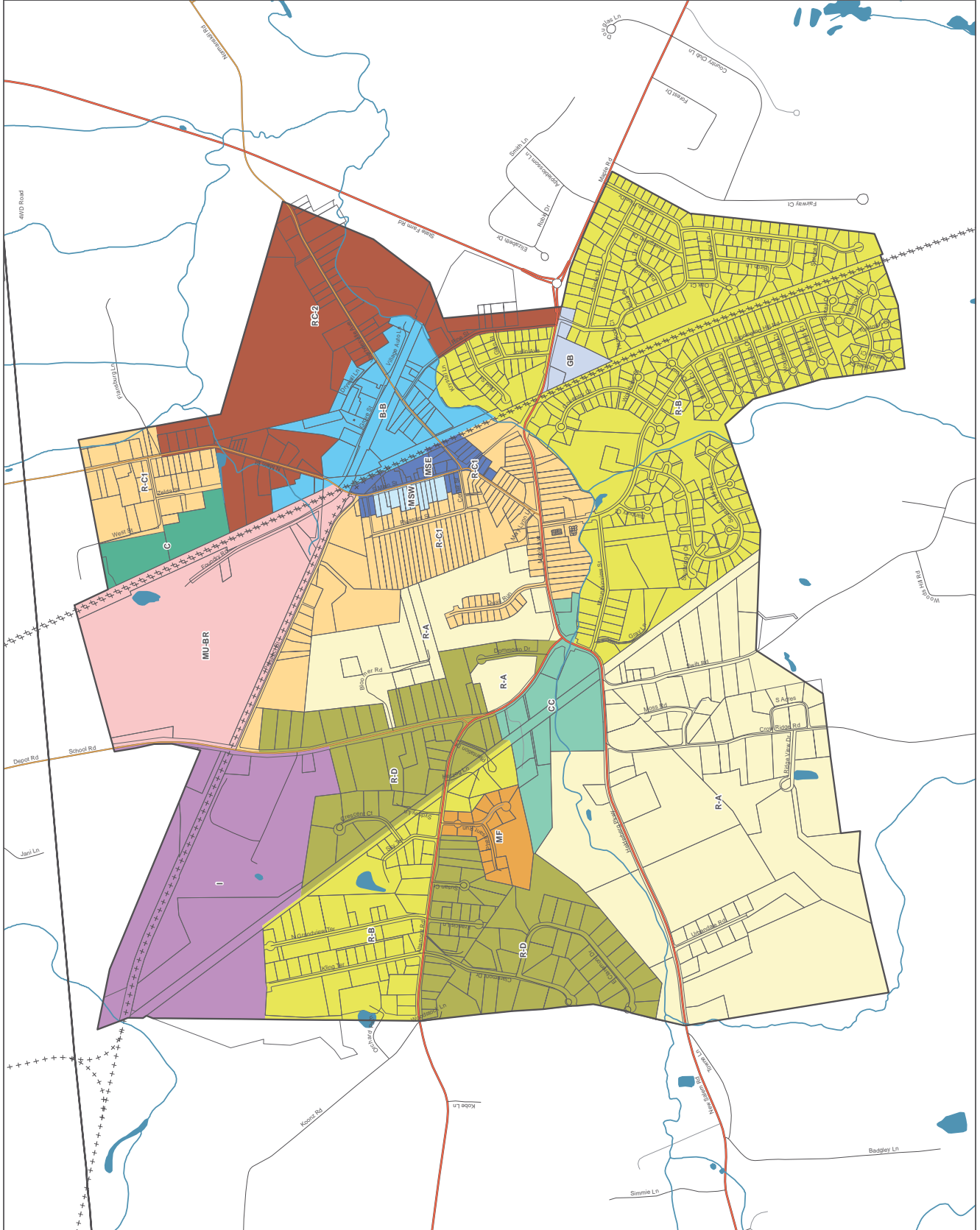
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4-2-2019

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# Village of Voorheesville Albany County, NY

- Flood Hazards**
- Village Boundary
  - Town Boundary
  - Property Boundaries
  - Water
  - Streams
- Roads**
- State Route
  - County Road
  - Local Road
  - Private Road
  - Railroad
- Flood Hazards**
- 100 Year Hazard
  - 500 Year Hazard

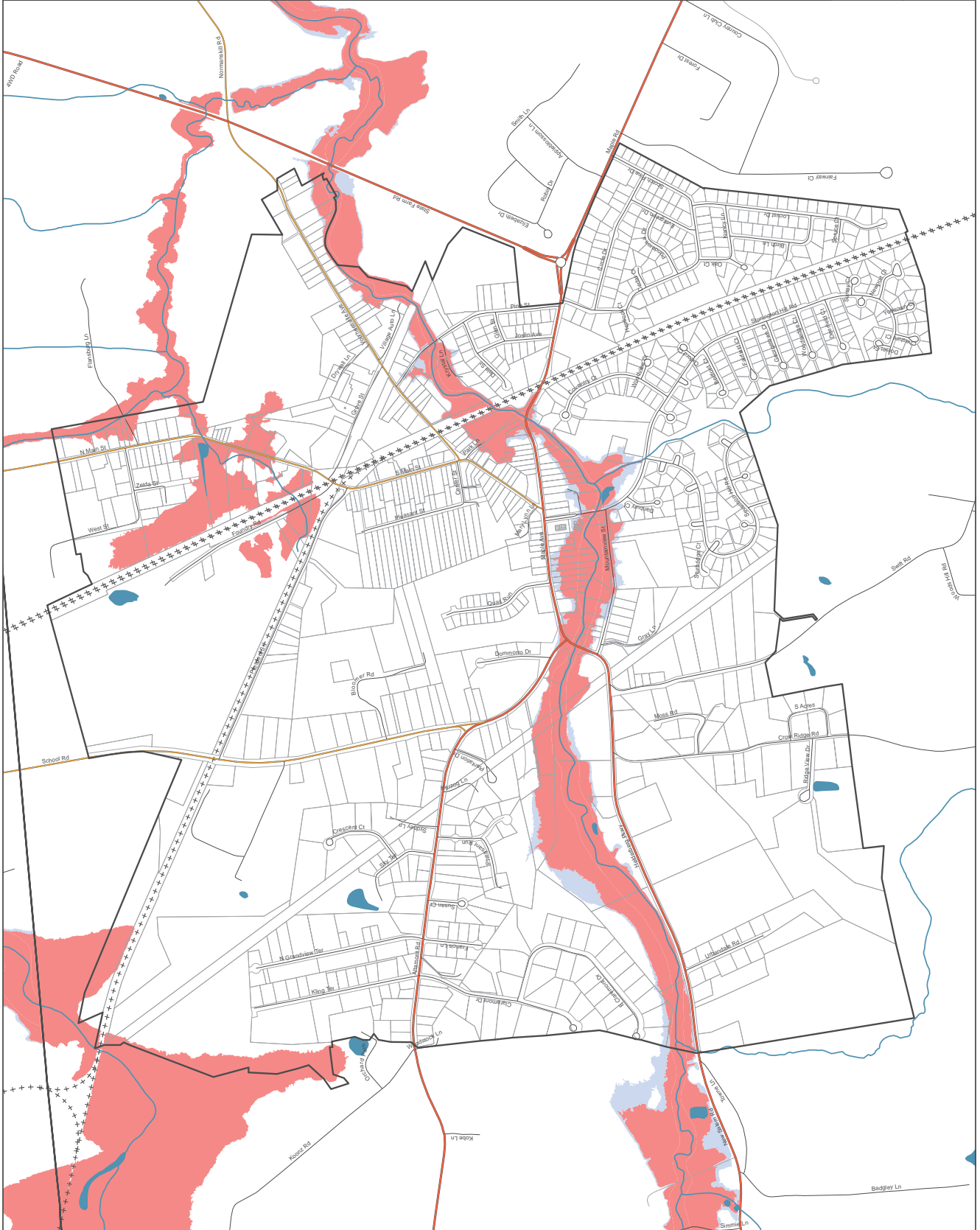


Map Date:  
11-2-2017

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# Village of Voorheesville Albany County, NY

## Wellhead and Aquifer Protection

-  Village Boundary
-  Town Boundary
-  Property Boundaries
-  Water
-  Streams
- Roads**
-  State Route
-  County Road
-  Local Road
-  Private Road
-  Railroad
- Protection Areas**
-  Wellhead Protection Area
-  Aquifer Protection Area



Map Date:  
11-2-2017

0 0.05 0.1 0.2 0.3 Miles



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