FINAL DRAFT

VILLAGE OF WAPPINGERS FALLS SMART CODE

PREPARED FOR:

THE VILLAGE OF WAPPINGERS FALLS, NY
ZONING REVIEW COMMITTEE

AUGUST 2014

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VILLAGE OF WAPPINGERS FALLS, NY
DRAFT ZONING CODE UPDATE
AUGUST 2014

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Article I: Introductory Provisions

Section # TITLE
This chapter shall be known as the Zoning Code of the Village of Wappingers Falls, New York.

Section # PURPOSE

It is the intention of the village to:

A. Guide its future growth and development in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, nonresidential and public areas within the village, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living, and future requirements, considering such conditions, trends and requirements both within the village and in relationship to areas outside thereof.

B. Provide adequate light, air and privacy, to secure safety from fire and other danger and to prevent overcrowding of the land and undue congestion of population.

C. Protect the character and the social and economic stability of all parts of the village, to encourage the orderly and beneficial development of all parts of the village and to protect and conserve the value of land and buildings appropriate to the various districts established by this chapter.

D. Bring about the gradual conformity of the uses of land and buildings throughout the village through the comprehensive law set forth herein and to minimize conflicts among the uses of land and buildings.

E. Promote the most beneficial relationship between the uses of land and buildings and the street system which serves these uses, having particular regard to the potential amount and intensity of such land and building uses in relationship to the traffic capacity of the street system, so as to avoid congestion in the streets and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the village.

F. Provide a guide for public action in the orderly and efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the village.

Section # GREENWAY CONNECTIONS

The Village of Wappingers Falls has adopted Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities, as amended from time to time, as a statement of land use policies, principles and guides to supplement other established land use policies in the village. In its discretionary actions under this Zoning Code, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

Section # APPLICABILITY.

A. No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or, arranged to be used, for any purpose except in accordance with this chapter.

B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.

C. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between private parties, except where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than is imposed by easements, covenants or agreements or by public ordinances, rules, regulations, licenses, certificates or other authorizations, the provisions of this chapter are intended to prevail.

D. Except where an application is submitted for the purpose of curing existing violations or will result in the curing of existing violations, no application under this chapter shall be accepted, processed or considered where there is an existing violation of any provision of the Village Code.

E. No application under this chapter shall be accepted without proof that the taxes, water and sewer bills, garbage bills, fines due and payable to the Village Justice Court and all other fees or fines payable to the Village for the property subject to the application are paid in full.

Article II: Establishment of Districts

Section # **CLASSIFICATION OF DISTRICTS**.

A. The Village of Wappingers Falls is hereby divided into the following districts:

Residential – R District
Residential Mixed Use District – RMU District
Village Residential – VR District
Village Mixed – VM District
Village Commercial – VC District
Commercial Mixed Use – CMU District

B. The Village of Wappingers Falls contains the following overlays:

Manufactured Home Overlay District
Historic Overlay District

C. The following tables provide descriptions of the character of each Zoning District and provide additional provisions:

Table 1: Zoning District Descriptions
TABLE 2A. RESIDENTIAL – R
Table 2B. RESIDENTIAL MIXED USE - RMU
Table2C VILLAGE RESIDENTIAL - VR
TABLE 2D. VILLAGE MIXED – VM
TABLE 2E. VILLAGE COMMERCIAL - VC
TABLE 2F. COMMERCIAL MIXED USE – CMU
Table 3. Private Frontages

Section # ZONING MAP

A. Said districts are bounded and defined as shown on a map entitled, " Village of Wappingers Falls, N.Y Zoning Map," adopted simultaneously herewith and hereby incorporated in and made part of this chapter. The Official Zoning Map, with all amendments thereto, shall be maintained on display at the office of the Village Clerk.

B. If any amendment is made to the Zoning Map by action of the Village Board of Trustees, the Code Enforcement Officer shall cause the Zoning Map to be revised accordingly.

C. The Official Zoning Map certified by the Village Clerk shall be the final authority as to the delineation of zoning districts and the location of district boundaries.

Section# INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the locations of any boundaries shown on the Zoning Map, the following rules shall apply:

A. District boundary lines are intended to follow streets, rights-of-way, watercourses or lot lines or be parallel or perpendicular thereto unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

B. Where district boundaries are indicated as approximately following streets, rights-of-way or watercourses, the center lines thereof shall be construed to be such boundaries.

C. Where district boundaries are so indicated that they approximately follow village boundary lines, they shall be construed to be coincident with such village boundary lines.

D. Where district boundaries cannot be determined by the Code Enforcement Officer through the use of center lines, existing property lines or by the Zoning Map, the Board of Appeals, upon hearing, shall determine such boundaries upon consideration of the purposes set forth in this chapter and all relevant evidence.

Section #. LOTS IN TWO OR MORE DISTRICTS OR MUNICIPALITIES

A. Where a lot in one ownership of record is divided by one or more district boundary lines, each of said divisions of the lot shall be subject to the regulations of the district in which it is located.

B. Where portions of a lot lie in two or more districts or municipalities and the area of the lot within any district or within the limits of the village (as the case may be) does not comply with the provisions of this chapter, the Code Enforcement Officer shall nevertheless issue a building permit, provided that the total area of the lot and the proposed setbacks comply with the most stringent zoning provisions applying to any part of the lot. However, where the area and/or setbacks do not so comply, the Board of Appeals, on direct application to it, may, after a public hearing, modify the area and setback requirements of the portion of such lot within the jurisdiction of the Board in such fashion and to such degree that the zoning requirements shall be affected to the minimum.

Section #. MULTIPLE PRINCIPAL BUILDINGS ON THE SAME LOT

Applicability:

The following shall apply where more than one Principal Building is proposed to be located on the same lot and/or where existing multiple buildings on the same lot are altered, relocated, or reconstructed.

A. Setbacks.

(1) Setbacks for all buildings along an access right-of-way shall be the same as those required by the table for the District in which the lot is located.

(2) Each principal building with its accessory building, if any, shall be treated as if it were located on a separate tax parcel and demonstrate that if subdivided each principle building could meet all of the lot size and District requirements where the lot exists.

B. Access. A public or private right-of-way shall be provided for access to each principal building. Shared rights-of-way are permitted.

(1) Such access shall consist of a right-of-way not less than 40 feet wide with a road width of a minimum of eighteen (18) feet.

(2) Any access roadway shall not have any portion which exceeds a maximum grade of 12%.

(3) Dead-end access roadways longer than 200 feet shall terminate in a turnaround. The right-of-way for such turnaround shall be a minimum of 140 feet diameter with an outside edge of roadway diameter of at least 110 feet.

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TABLE 1. DISTRICT DESCRIPTIONS

Table 1: Zoning District Descriptions. This table provides descriptions of the character of each Zoning District.

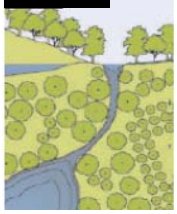
R

R- RESIDENTIAL

Residential Zone consists of low density residential areas, adjacent to higher zones that have some mixed use. Home occupations and outbuildings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and the roads irregular to accommodate natural conditions.

General Character:	Lawns and landscaped yards surrounding detached single-family houses; pedestrians occasionally
Building Placement:	Large and variable front and side yard Setbacks
Frontage Types:	Porches, fences, naturalistic tree planting
Typical Building Height:	1- to 2- Story
Type of Civic Space:	Parks, Greenways

RMU

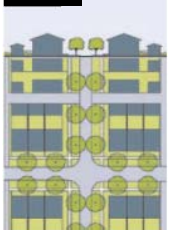


RMU - RESIDENTIAL MIXED USE

Residential Zone consists of limited lands for development due to topographic conditions. Land that is available for development will contain higher density residential units and limited commercial facilities.

General Character:	Natural landscape with residential development and limited
Building Placement:	Variable front and side yard setbacks
Frontage Types:	Porches, fences, dooryards, Stoops, Shopfronts, Galleries
Typical Building Height:	2- to 6-Story with some variation
Type of Civic Space:	Parks, Greenways

VR

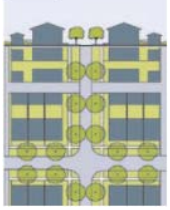


VR - VILLAGE RESIDENTIAL

Mixed Residential Zones consists of a mixed of residential types of housing. It may have a wide range of building types: single, Sideyard, and Rowhouses. Setbacks and landscaping are variable. Streets with curbs and side-walks define medium-sized Blocks.

General Character:	Mix of Houses, Townhouses and small Apartment buildings ; balance between greenspace and buildings; pedestrian friendly
Building Placement:	Shallow to medium front and side yard Setbacks
Frontage Types:	Porches, fences, dooryards
Typical Building Height:	2- to 3-Story
Type of Civic Space:	Squares, Greens

VM

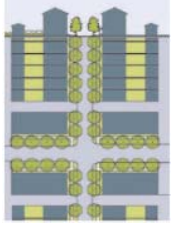


VM- VILLAGE MIXED

Village Residential Zones consists of residential and mixed-use urban fabric. It may have a wide range of building types: single, Sideyard, and Rowhouses. Setbacks and landscaping are variable. Streets with curbs and side-walks define medium-sized Blocks.

General Character:	Mix of Houses, Townhouses and small Apartment buildings with scattered Commercial activity; balance between greenspace and buildings; pedestrian friendly
Building Placement:	Shallow to medium front and side yard Setbacks
Frontage Types:	Porches, fences, dooryards
Typical Building Height:	2- to 3-Story with a few taller Mixed Use buildings
Type of Civic Space:	Squares, Greens

VC

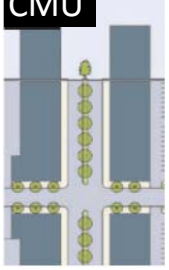


VC- VILLAGE COMMERCIAL

Village Commercial Zone consists of higher density mixed use building that accommodate Retail, Offices, Row- houses and Apartments. It has a tight network of streets, with sidewalks, steady street tree planting and buildings set close to the sidewalks.

General Character:	Shops mixed with Townhouses, larger Apartment houses, Offices, work place and Civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity
Building Placement:	Shallow Setbacks or none; buildings oriented to street defining a street wall
Frontage Types:	Stoops, Shopfronts, Galleries
Typical Building Height:	2- to 6-Story with some variation
Type of Civic Space:	Parks, Plazas, and Squares, median landscaping

CMU



CMU- COMMERCIAL MIXED USE

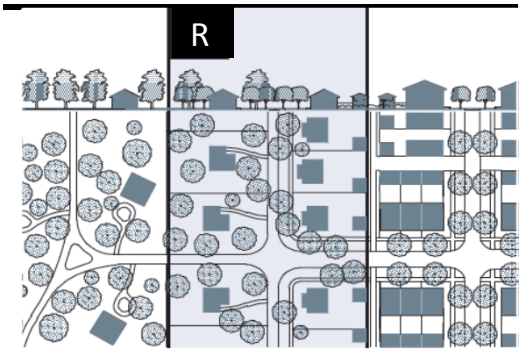
Commercial Mixed Use Zone consists of the highest density and height, with the greatest variety of uses of regional importance. It may have larger Blocks; streets have steady street tree planting and buildings are set close to wide sidewalks.

General Character:	Medium to high-Density Mixed Use buildings, entertainment, Civic and cultural uses. Attached buildings forming a continuous street wall; trees within the public right-of-way; highest pedestrian and transit activity
Building Placement:	Shallow Setbacks or none; buildings oriented toward the street, defining a street wall
Frontage Types:	Stoops, Dooryards, Forecourts, Shopfronts, Galleries and Arcades
Typical Building Height:	4-plus Story with a few shorter buildings
Type of Civic Space:	Parks, Plazas and Squares; median landscaping

TABLE 2A. RESIDENTIAL - R

DRAFT-NOT FOR DISTRIBUTION

Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION	
Principal Building Height and Stories	35' and 2 stories max.
Accessory	1 story max.
Shed	1 story max.

LOT OCCUPATION	
Lot Width	50 ft. min.
Lot Coverage	35% max.

SETBACKS - PRINCIPAL BUILDING	
(g.1) Front Setback Principal	15 ft. min.
(g.2) Front Setback Secondary	12 ft. min.
(g.3) Side Setback	8 ft. min.
(g.4) Rear Setback	25 ft. min.

SETBACKS - ACCESSORY	
(h.1) Front Setback Principal	20 ft. min. + bldg. setback
(h.2) Front Setback Secondary	5 ft. min.
(h.3) Side Setback	5 ft. min.

SETBACKS - SHEDS	
(h.1) Front Setback Principal	20 ft. min. + bldg. setback
(h.2) Front Setback Secondary	3 ft. min.
(h.3) Side Setback	3 ft. min.

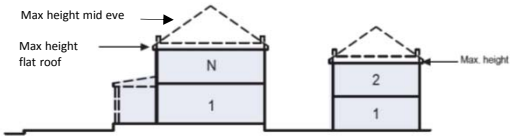
PRIVATE FRONTAGES (See Table 3)	
Common Lawn	permitted
Porch & Fence	permitted
Terrace or Lightwell	not permitted
Forecourt	not permitted
Stoop	not permitted
Shopfront & Awning	not permitted
Gallery	not permitted
Arcade	not permitted

PARKING PROVISIONS
(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums.

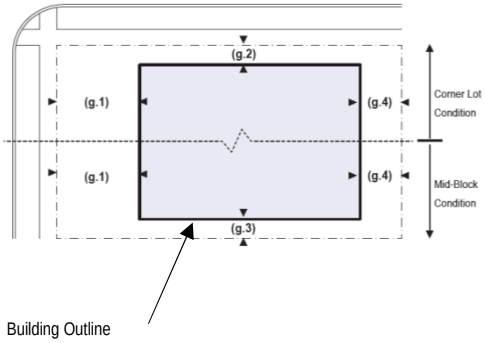
BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 14 feet in height from finished floor to finished floor.
3. Height: see building height definition.
4. Height exceptions do not apply to sheds.



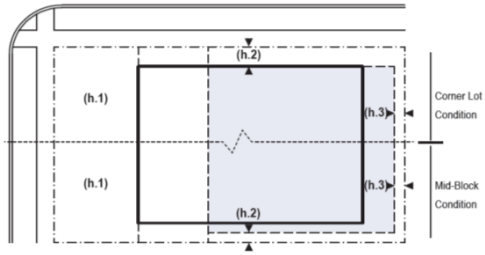
SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS - ACCESSORY BUILDING

1. The Elevations of the Accessory shall be distanced from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the second and third Layer as shown.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second Layer.
3. Trash containers shall be stored within the second or third Layer.

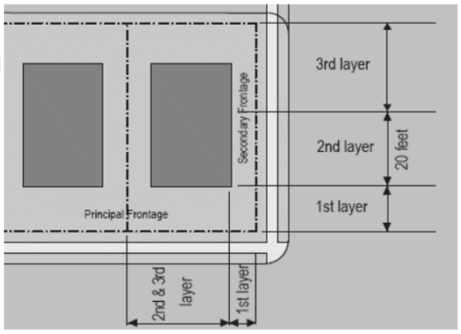
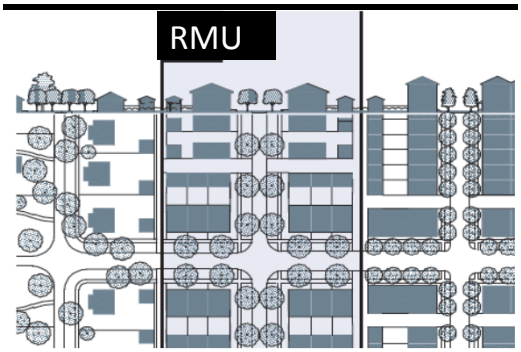


TABLE 2B. RESIDENTIAL MIXED USE-RMU

DRAFT-NOT FOR DISTRIBUTION

Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION

Principal Building Height	65' max, 5 stories max., 2 stories min.
Accessory	2 stories max.

LOT OCCUPATION

Lot Width	50 ft. min.
Lot Coverage	40% max.

SETBACKS - PRINCIPAL BUILDING

(g.1) Front Setback Principal	15 ft. min.
(g.2) Front Setback Secondary	12 ft. min.
(g.3) Side Setback	0 ft. min., 12 ft. max.
(g.4) Rear Setback	10 ft. min.

SETBACKS - ACCESSORY

(h.1) Front Setback Principal	20 ft. min. + bldg. setback
(h.2) Front Setback Secondary	5 ft. min.
(h.3) Side Setback	5 ft. min.

PRIVATE FRONTAGES (See Table 3)

Common Lawn	permitted
Porch & Fence	permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	not permitted
Gallery	not permitted
Arcade	permitted

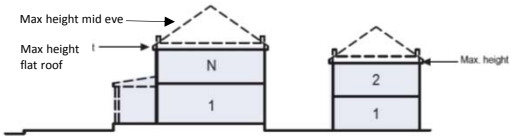
PARKING PROVISIONS

(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum.
Refer to metrics for exact minimums and maximums.

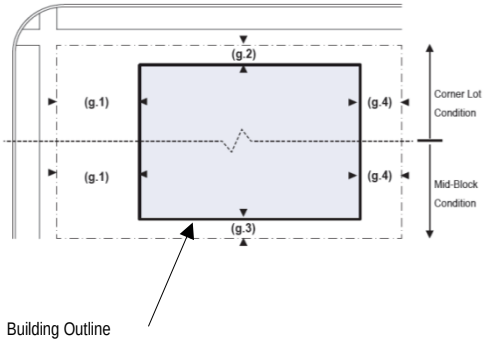
BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling.
3. Height: see building height definition.
4. Height exceptions do not apply to sheds.



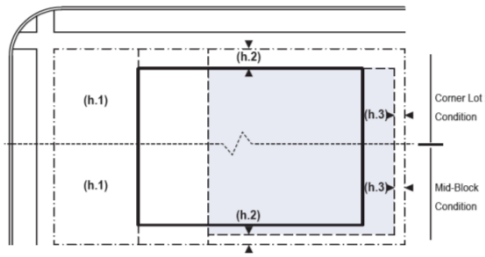
SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS - ACCESSORY BUILDING

1. The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the second and third Layer as shown.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second Layer.
3. Trash containers shall be stored within the second or third Layer.

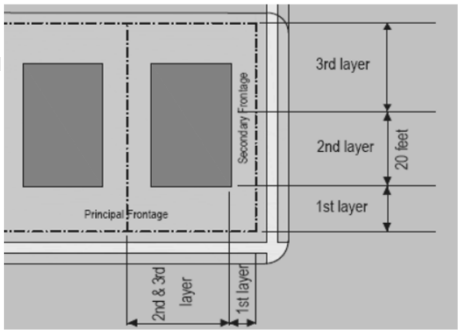
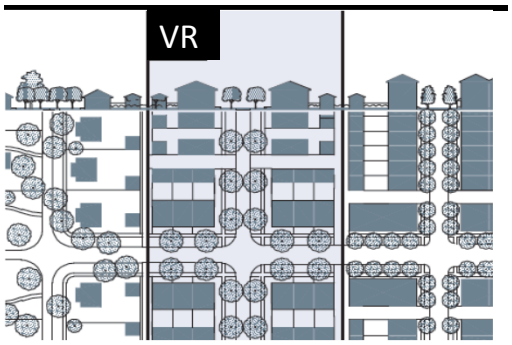


TABLE 2C. VILLAGE RESIDENTIAL - VR

DRAFT-NOT FOR DISTRIBUTION

Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION

Principal Building	46' max, 3 stories max., 2 min.
Accessory	1 stories max.
Shed	1 stories max.

LOT OCCUPATION

Lot Width	25ft. min.
Lot Coverage	60% max.

SETBACKS - PRINCIPAL BUILDING

(g.1) Front Setback Principal	10 ft. min.
(g.2) Front Setback Secondary	10 ft. min.
(g.3) Side Setback	0 ft. min.
(g.4) Rear Setback	10 ft. min.

SETBACKS - ACCESSORY

(h.1) Front Setback Principal	20 ft. min. + bldg. setback
(h.2) Front Setback Secondary	3 ft. min.
(h.3) Side Setback	3 ft. min.

PRIVATE FRONTAGES (See Table 3)

Common Lawn	permitted
Porch & Fence	permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	not permitted
Gallery	not permitted
Arcade	not permitted

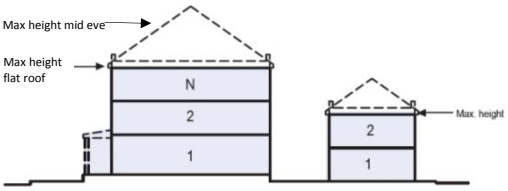
PARKING PROVISIONS

(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums.

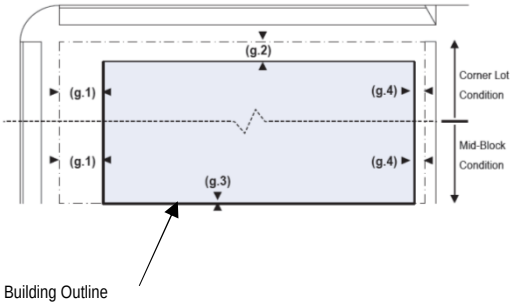
BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 18 feet.
3. Height: see building height definition.



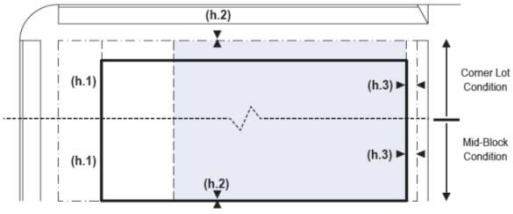
SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS - ACCESSORY BUILDING

1. The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the second and third Layer.
2. Covered parking shall be provided within the third Layer.
3. Trash containers shall be stored within the second or third Layer.

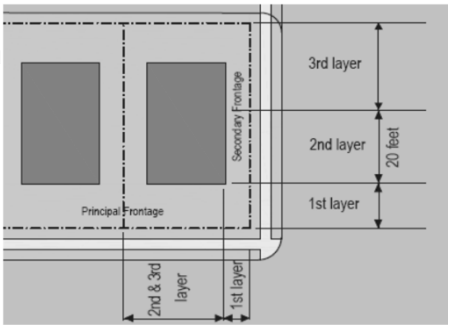
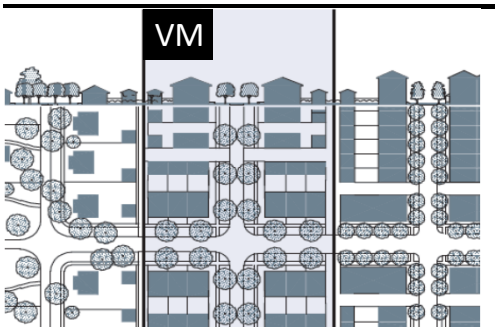


TABLE 2D. VILLAGE MIXED - VM

Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION	
Principal Building	53' max, 3 stories max., 2 min.
Accessory	2 stories max.
LOT OCCUPATION	
Lot Width	25ft. min.
Lot Coverage	75% max.

SETBACKS - PRINCIPAL BUILDING	
(g.1) Front Setback Principal	10 ft. min.
(g.2) Front Setback Secondary	10 ft. min.
(g.3) Side Setback	0 ft. min.
(g.4) Rear Setback	10 ft. min.

SETBACKS - ACCESSORY	
(h.1) Front Setback Principal	20 ft. min. + bldg. setback
(h.2) Front Setback Secondary	5 ft. min. or 3 ft. at corner
(h.3) Side Setback	5 ft. min.

PRIVATE FRONTAGES (See Table 3)	
Common Lawn	permitted
Porch & Fence	permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	permitted
Gallery	not permitted
Arcade	not permitted

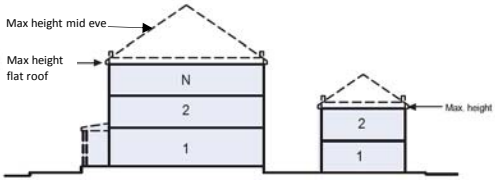
PARKING PROVISIONS

(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums.

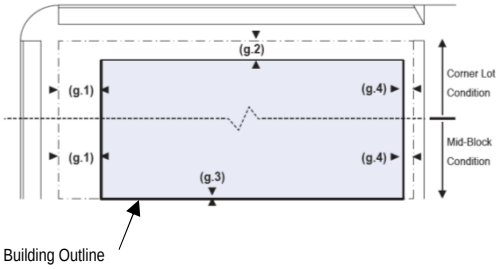
BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 25 feet.
3. Height: see building height definition.



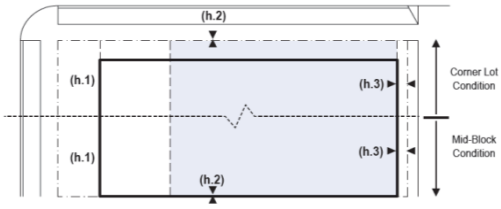
SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS - ACCESSORY BUILDING

1. The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the second and third Layer.
2. Covered parking shall be provided within the third Layer.
3. Trash containers shall be stored within the third Layer.

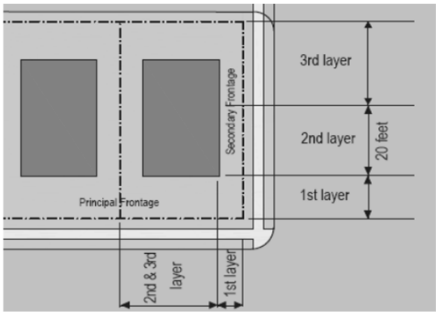
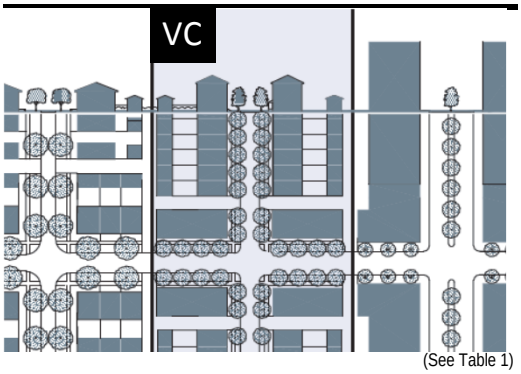


TABLE 2E. VILLAGE COMMERCIAL - VC

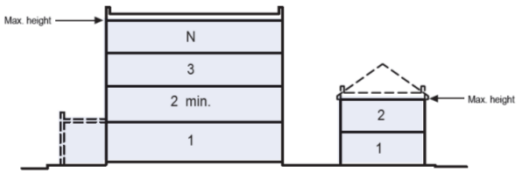
Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 12 feet in height from finished floor to finished floor, except for a first floor with a maximum of 14 ft and a minimum of 12 ft.
3. Height: See building height definition.



BUILDING CONFIGURATION	
Principal Building Height and Stories	65' max, 5 stories max., 2 stories min.
Accessory Building	2 stories max.

LOT OCCUPATION	
Lot Width	20 ft. min.
Lot Coverage	100% max.

SETBACKS - PRINCIPAL BUILDING	
(g.1) Front Setback Principal	2 ft. min., 12 ft. max.
(g.2) Front Setback Secondary	2 ft. min., 12 ft. max.
(g.3) Side Setback	0 ft. min., 24 ft. max.
(g.4) Rear Setback	3 ft. min.
Frontage Buildout	80% min. at setback

SETBACKS - ACCESSORY	
(h.1) Front Setback Principal	40 ft. max. from rear prop.
(h.2) Front Setback Secondary	5 ft. min.
(h.3) Side Setback	5 ft. max.

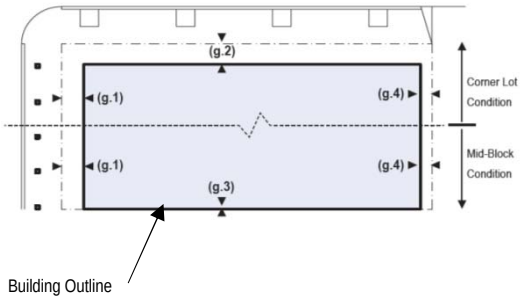
PRIVATE FRONTAGES (See Table 3)	
Common Lawn	not permitted
Porch & Fence	permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	permitted
Gallery	not permitted
Arcade	permitted

PARKING PROVISIONS
(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums.

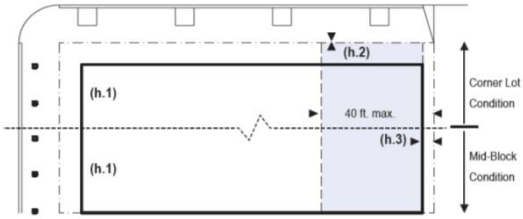
SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS - ACCESSORY BUILDING

1. The Elevations of the Accessory shall be distanced from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown.
2. Covered parking shall be provided within the third Layer as shown.
3. Trash containers shall be stored within the third Layer.

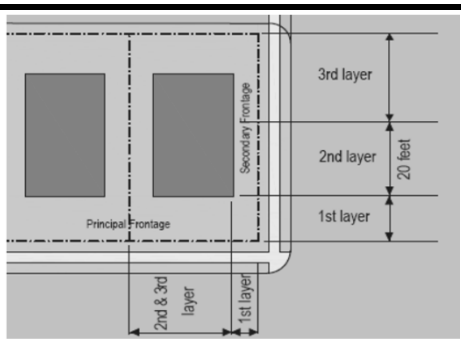
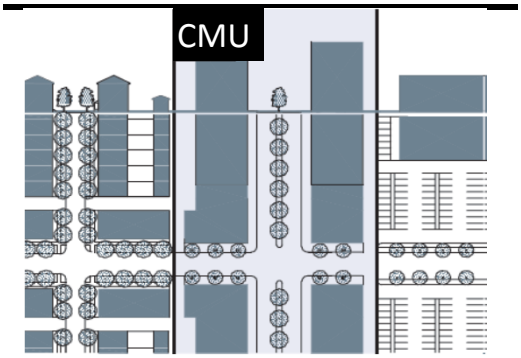


TABLE 2F. COMMERCIAL MIXED USE - CMU

DRAFT NOT FOR DISTRIBUTION

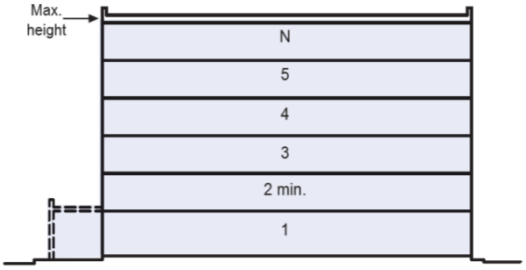
Village of Wappingers Falls



(See Table 1)

BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories excluding Attics.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 25 feet.
3. Height: see building height definition.



BUILDING CONFIGURATION	
Principal Building (*)	95' max, 8 stories max, 2 stories min.
Accessory	N/A

(*) Within 100' of an adjacent zoning district the principal building height shall be 65' max, 5 stories max, 2 stories min

LOT OCCUPATION	
Lot Width	100 ft. min.
Lot Coverage	85% max.

SETBACKS - PRINCIPAL BUILDING	
(g.1) Front Setback Principal	2 ft. min., 12 ft. max.
(g.2) Front Setback Secondary	2 ft. min., 12 ft. max.
(g.3) Side Setback	0 ft. min., 24 ft. max.
(g.4) Rear Setback	0 ft. min.
Frontage Buildout	80% min. at setback

SETBACKS - ACCESSORY	
(h.1) Front Setback Principal	N/A
(h.2) Front Setback Secondary	N/A
(h.3) Side Setback	N/A

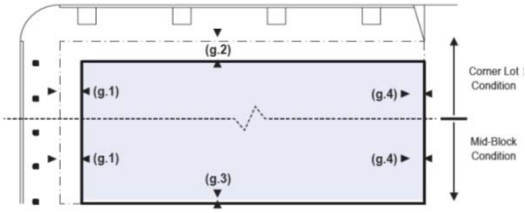
PRIVATE FRONTAGES (See Table 3)	
Common Lawn	not permitted
Porch & Fence	not permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	permitted
Gallery	permitted
Arcade	permitted

PARKING PROVISIONS
(See Article VI Parking and Off-Street Loading)

"N" stands for any Stories above those shown, up to the maximum.
Refer to metrics for exact minimums and maximums.

SETBACKS - PRINCIPAL BLDG.

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



Building Outline

PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown.
2. Covered parking shall be provided within the third Layer as shown.
3. Trash containers shall be stored within the third Layer.

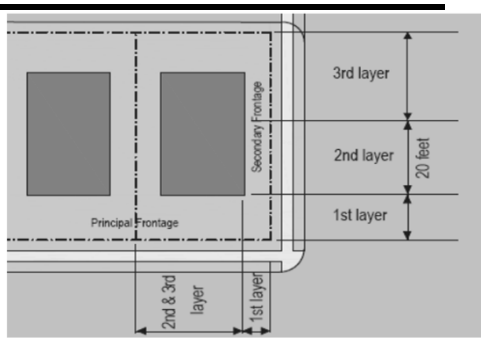
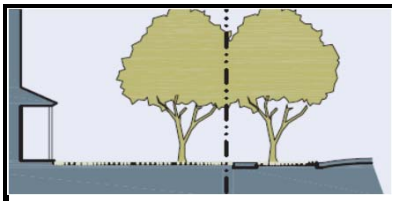
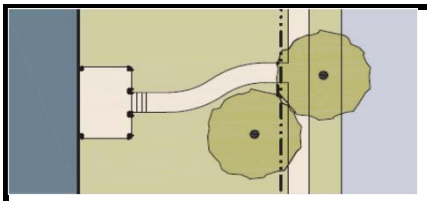
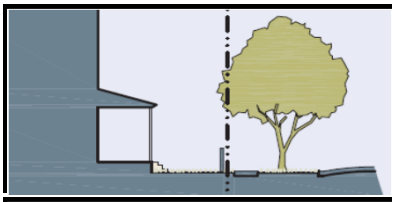
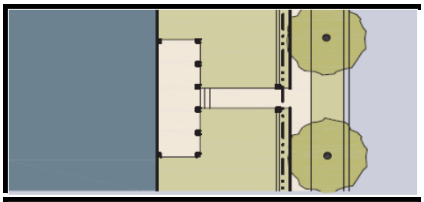
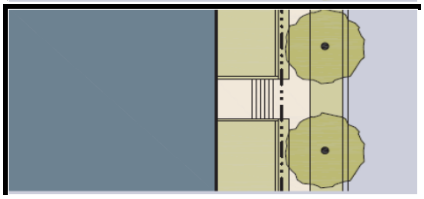
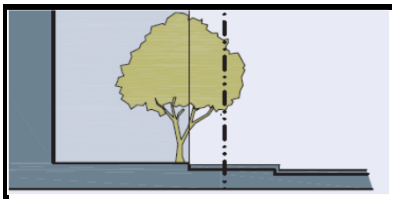
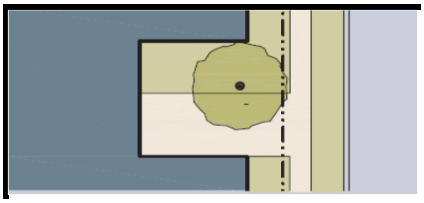
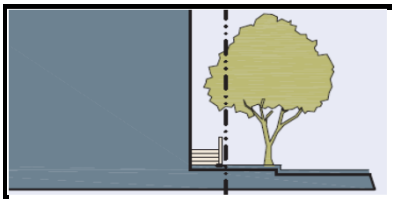
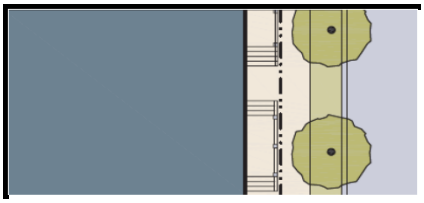
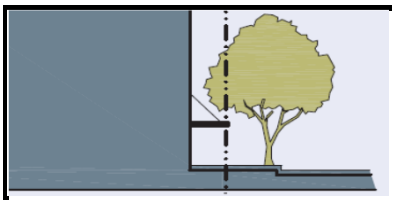
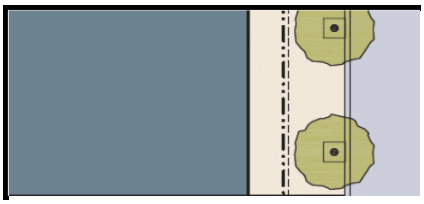
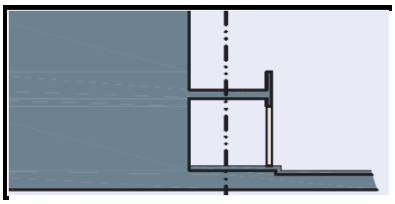
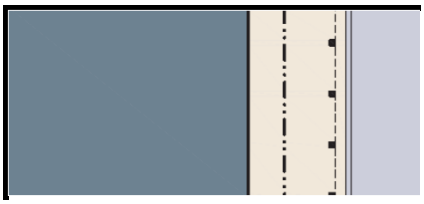
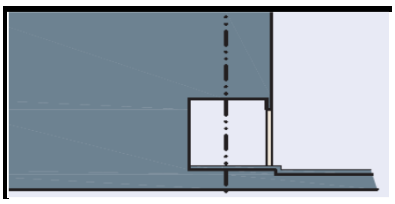
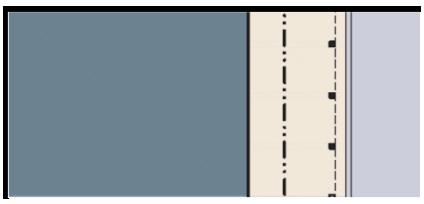


TABLE 3. PRIVATE FRONTAGES

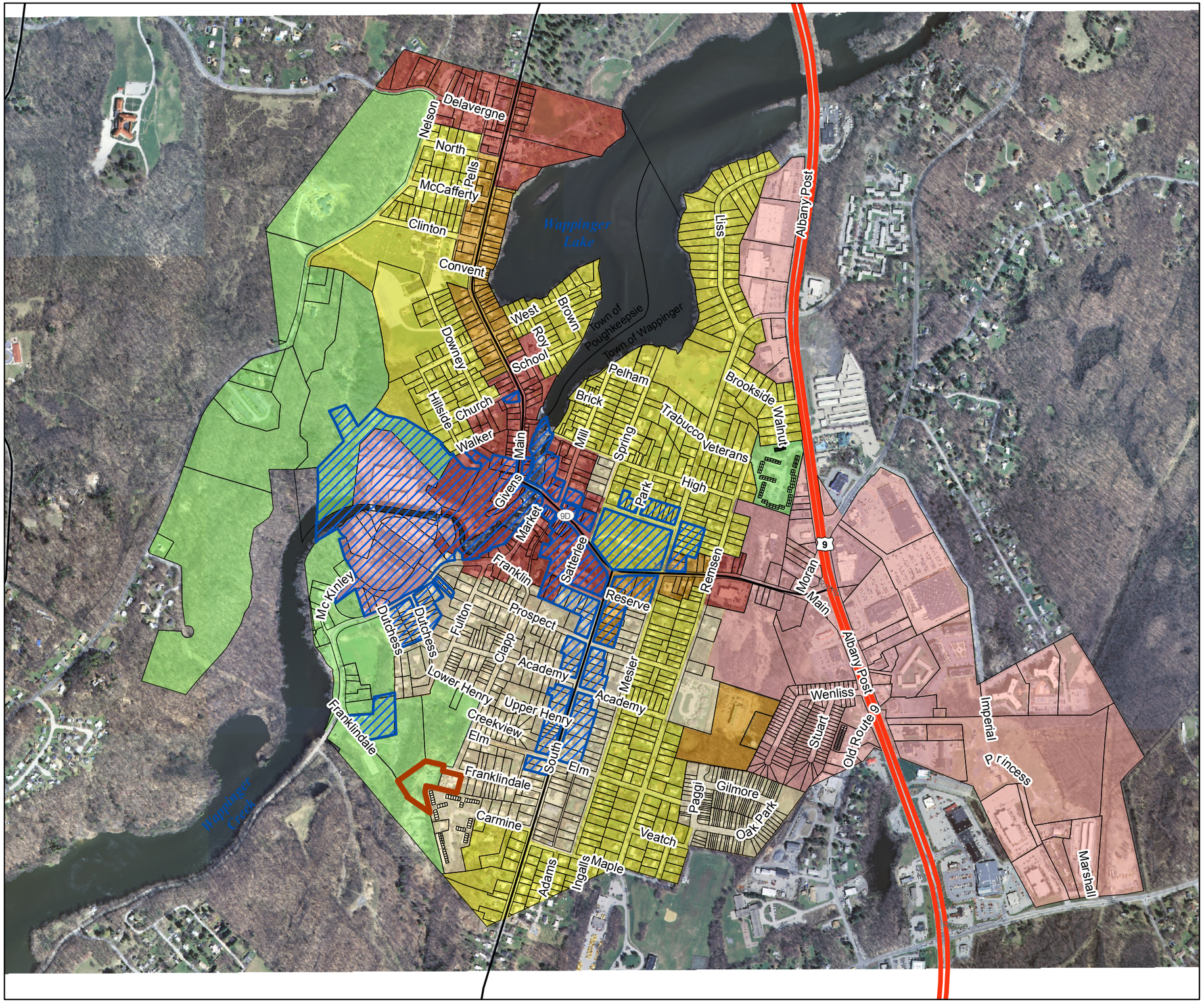
Village of Wappingers Falls

Private Frontages. The Private Frontage is the areas between the building Facades and the Lot lines.

	SECTION	PLAN
	LOT ▶ PRIVATE ▶ FRONTAGE ◀ R.O.W. ◀ PUBLIC FRONTAGE	LOT ▶ PRIVATE ▶ FRONTAGE ◀ R.O.W. ◀ PUBLIC FRONTAGE
a. Common Yard: a planted Frontage wherein the Façade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Thoroughfares.		
b. Porch & Fence: a planted Frontage where the Façade is set back from the Frontage Line with an attached porch permitted to Encroach. A fence at the Frontage Line maintains street spatial definition. Porches shall be no less than 5 feet deep.		
c. Terrace or Lightwell: a frontage wherein the Façade is setback back from the Frontage Line by an elevated terrace or sunken Lightwell. This type buffers Residential use from urban Sidewalks and removes the private yard from public encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: Dooryard.		
d. Forecourt: a Frontage wherein the Façade is close to the Frontage Line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.		
e. Stoop: a Frontage wherein the Façade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to ensure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.		
f. Shopfront: a Frontage wherein the Façade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has substantial glazing on the Sidewalk level and an awning that should overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.		
g. Gallery: a Frontage wherein the Façade is aligned with the Frontage Line with an attached cantilevered shed or lightweight colonnade overlapping the Sidewalk. This type is conventional for Retail use. The Gallery should be no less than 10 feet wide and should overlap the sidewalk to within 2 feet of the Curb.		
h. Arcade: a colonnade supporting habitable space that overlaps the Sidewalk, while the Façade at Sidewalk level remains at or behind the Frontage Line. This type is conventional for Retail use. The Arcade shall be no less than 12 feet wide and should overlap the Sidewalk to within 2 feet of the Curb. See Table 8.		

Village of Wappingers Falls, NY Zoning Map

FINAL DRAFT
July 2014



Legend

Zoning Districts

- R-Residential
- RMU-Residential Mixed Use
- VR-Village Residential
- VM-Village Mixed
- VC-Village Commercial
- CMU-Commercial Mixed Use
- Historic District
- Manufactured Mobile Home Overlay
- Highways
- Secondary Roads

600 300 0 600 Feet

Village of Wappingers Falls
SMART CODE DEVELOPMENT

N

DRAFT-NOT FOR DISTRIBUTION

DRAFT - NOT FOR DISTRIBUTION

a. RESIDENTIAL	RMU	R	VR	VM	VC	CMU[1]	Supp Regs
Dwelling, One Family	■	■	■	■			
Dwelling, Two Family	■		S	S	S	S	
Dwelling, Multi Family	■		S	S	S	S	
Dwelling, Supported Living	■	S	S	S	S	S	
Dwelling, Street Level	■	■	■	S			
Dwelling, Accessory	■	S	S	S	S	S	✓
Home Occupation 1	■	■	■	■	■	S	✓
Home Occupation 2	■	■	■	■	■	X	✓
Manufactured Home/Manufactured Home Park[3]			S				✓
b. LODGING							
Hotel (no room limit)	X				■	X	
Inn (up to 12 rooms)	X		X	S	X	X	
Bed & Breakfast (up to 5 rooms)	X	S	X	X	X	X	
c. COMMERCIAL							
Amusement Centers/Arcades						X	
Amusement Facility, Accessory						X	✓
Conference Center	X				S	X	
Daycare Center	X				S	X	
Fitness Center	X		S		■	X	
Funeral Home			■		■	X	
Indoor Recreation	X				S	X	
Marina					S	S	
Medical Clinic					S	X	
Office, Business	X			X	■	X	
Office, Medical	X		S	■	■	X	
Office, Professional	X		S	■	■	X	
Outdoor Recreation	X		S			X	
Restaurant			S	S	■	X	
Retail			S	X	■	X	
Shopping Center						X	
Theater					X	X	
Tavern				S	S	X	

d. OTHER: AGRICULTURE[2]	RMU	R	VR	VM	VC	CMU	Supp Regs
Animal Hospital					S	X	
Kennel						S	
Garden Nursery				S	S	X	
e. AUTOMOTIVE[2]							✓
Towing/Automobile Service						X	✓
Car Wash						X	✓
Drive-Through Facility						S	✓
Gasoline/Convenience Station						X	✓
Auto Sales						X	✓
f. MUNICIPAL/CIVIC							
Club or Lodge				S	X	X	
Education Facility					X	X	
Hospital					X	X	
Library					■	X	
Museum				S	X	X	
Parking Structure	X			S	X	X	
Religious Assembly			S	X	X	X	
Municipal/Institutional	■	■	■	■	■	■	
g. INDUSTRIAL[2]							
Laboratory						X	
Light Industrial Facility						X	
Heavy Equipment Facility						X	
Technology/Research Facility					X	X	
Utility Distribution						X	
Wholesale Distribution						X	

■ BY RIGHT
X BY SITE PLAN REVIEW
S BY SPECIAL PERMIT
BLANK = NOT ALLOWED

[1] For uses in the CMU within the Historic District or a Special Use Permit is required.

[2] In the CMU District that is covered by the Historic District Overlay, the uses in the agricultural, automotive, and industrial categories are prohibited.

[3] Manufactured Home Overlay

Article III: Use Regulations

Section# Use Regulations

The accompanying Table 4 Use Table lists the permitted uses of land and buildings and the standards and requirements applying to such uses for the various zoning districts. Only those uses specifically listed in the schedules for each district are permitted by right, site plan review, or subject to issuance of a Special Use Permit. If a use is not listed it is prohibited. Unless otherwise indicated, requirements and standards listed in the tables shall be deemed to be the minimum in every instance of their application. The accompanying tables are herewith incorporated as a part of this chapter.

Table 4 Use Table

Article IV: General Regulations

Section # FENCES

A. During Site Plan Review, if required, the Planning Board may modify the following standards. Other applicants who wish to modify these standards who are not subject to site plan review must receive a variance from the Zoning Board of Appeals.

B. Fences and walls may be permitted without a principal use and may be located in front, side and rear yard setback areas as long as a distance to allow for maintenance is provided.

C. The height of fences and all walls shall not exceed four (4) feet in front yards, six (6) feet side yards, and six (6) feet in rear yards. Corner lots shall be considered to have two front yards. Retaining walls over four (4) in height require a design professional.

D. The finished side of the fence and all walls shall face neighboring properties or the street.

E. Fences and all walls shall not encroach on any public right-of-way.

F. The owner of the fence or wall must maintain both sides of the fence or wall in good condition.

G. See Site Triangles.

Section# LIGHTING

A. No replacement or installation of new lighting fixtures shall be permitted unless in conformance with this section.

B. For projects that require Planning Board review, the Planning Board may modify the following standards. Applicants who wish to request a modification to these standards and who are not subject to site plan review, must receive a variance from the Zoning Board of Appeals. The submission shall contain information that the Planning Board or Code Enforcement Officer determines is necessary, including but not limited a plan indicating levels of illumination in footcandles at ground level.

C. **Exemptions.** The following uses shall be exempt from the provisions of this section:

(1) Temporary circus, fair, carnival, religious, or municipal/institutional use.

(2) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(3) Temporary lighting, including holiday lighting for no more than two months per year.

(4) Lighting that is considered a landscape design element and is integral to the aesthetic value of the design. Uplighting is prohibited in landscape design.

D. General requirements for all zoning districts.

(1) All outdoor lights and illuminated signs shall be designed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property.

(2) Light trespass. Light trespass shall not to exceed 0.25 footcandles at the property line.

(3) Height. Unless specified elsewhere herein, the maximum allowable height of a freestanding luminaire shall be 20 feet. The maximum allowable height of a building- or structure-mounted luminaire shall be 15 feet.

(4) Electrical feeds. Electrical feeds to lighting standards shall be run underground, not overhead.

(5) Time controls. All nonessential lighting shall be time controlled. "Nonessential" can apply to display, aesthetic, parking and sign lighting.

(6) Illuminance and uniformity. Lighting levels and uniformity ratios shall be based on the recommendations of the Illuminating Engineering Society of North America.

(7) Recommended outdoor lighting types. Table 1 presents recommended outdoor lighting types.

Table 1: Outdoor Lighting Options

Lighting Type	Color	Comments
LED	Full spectrum, white light	Attractive low-wattage accent and display lighting, or for residential uses
Metal halide	Clear white light	Best for pedestrian and retail areas; products look good and parking lots feel brighter, safer
High-pressure sodium	Full spectrum, white light	Recommended only where light distribution is valued more than appearance, such as highway lighting

(8) Shielding. All outdoor fixtures, with the exception of those using lamps not requiring shielding cited in Table 2, shall be fully shielded and installed in such a way that no light is emitted above a horizontal plane running through the lowest part of the fixture. The lighting shall also be shielded to prevent direct glare and/or light trespass, and shall be, as much as physically practical, contained to the target area.

Table 2: Shielding Requirements

Fixture Lamp Type	Shielded
High-pressure sodium, metal halide, quartz fluorescent, and incandescent over 50 watts	Fully
Any light source of 50 watts or less	None
Other sources	As approved by the Planning Board

(9) Prohibitions.

(a) Uplighting is prohibited. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping, and other objects lit for aesthetic or other purposes must be lit from the top and shine downward.

(b) The use of laser lighting for outdoor advertising or entertainment and the operation of searchlights for advertising purposes are prohibited.

(c) The use of mercury vapor and low-pressure sodium lamps is prohibited.

(d) Unshielded wallpack-type fixtures are prohibited.

(e) Lighting that changes in color, intensity, direction, etc.

(10) Nonconforming outdoor lighting.

(a) All outdoor lighting fixtures that do not conform to the provisions herein shall be deemed nonconforming and shall be brought into compliance with the provisions of this section within three years from the effective date of this code, and such lapse of time shall be deemed sufficient to amortize the cost thereof.

Section # PERFORMANCE STANDARDS

The following activity standards shall apply to all uses in all districts:

A. **Noise.** No continuous hum, intermittent noise or noise with any noticeable shrillness of a volume of more than 50 decibels, measured at lot lines shall be permitted.

B. **Vibration.** No vibration shall be discernible at the lot lines or beyond shall be permitted.

C. **Smoke.** No emission of visible grey smoke of a shade equal to or darker than No. 2 on the Ringelmann Chart, measured at the point of emission shall be permitted.

D. **Odors.** No obnoxious odor shall be noticeable at the lot line or beyond shall be permitted.

E. **Fly ash; dust.** No emission which can cause any damage to human or animal health or vegetation or other forms of property or any excessive soiling shall be permitted.

F. **Liquid or solid wastes.** No discharge into any present or future disposal system, public or private, or streams or into the ground of any materials of such nature or temperature as to contaminate groundwater or surface water supply shall be permitted.

G. **Radioactivity.** No activities which emit dangerous radioactivity at any point, as covered by federal government standards shall be permitted.

H. **Fire and explosion hazard.** No process or storage of material in such manner as to create undue hazard by reason of fire or explosion shall be permitted.

I. **Electrical emissions.** Electrical operations shall not create disturbances to other types of electrical transmissions in the vicinity shall be permitted.

J. **Vermin.** No material shall be stored either indoors or outdoors in a manner which attracts vermin shall be permitted.

Section # PROJECTIONS INTO SETBACKS

A. The following features may extend into any required setback, not to exceed the distance specified:

   (1) Cornices, canopies, eaves or any similar features, none of which is less than 10 feet above grade: two feet six inches.

   (2) Open fire escapes: four feet.

   (3) A chimney: 18 inches.

B. No fire escape on a dwelling converted to or used for multifamily occupancy shall be constructed on the front or side thereof which faces on a street.

Section # SITE TRIANGLES

On all corner lots, no building, fence, wall or other structure, hedge or other planting more than three feet in height, other than posts, columns or trees separated by not less than six feet from each other, shall be erected, placed or maintained within the triangular area formed by the intersecting street lines in a way that obstructs the view.

Section # SWIMMING POOLS

A. All swimming pools shall be considered structures and meet the setback requirement accessory building provisions of this chapter.

B. Private pools shall not be located within a front yard in any district.

C. All appurtenant structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings and structures shall comply with all applicable requirements of this chapter.

D. Pools shall be completely surrounded by a substantial fence in conformity with all New York State and Local rules and regulations.

Section # SATELLITE DISHES & ANTENNAS

A. Applicability: Dish, satellite, ham radio, CB, cellular phone, shortwave or other major antenna structures shall be subject to the provisions of this section.

B. Setbacks: shall abide by the dimensional requirements for the district in which it is located.

C. Shall not be mounted on the front of any buiding.

D. Should not be visible from the public right-of-way.

ARTICLE V Supplemental Use Regulations

Section # ACCESSORY DWELLINGS

A. Only one accessory dwelling per one family dwelling shall be permitted.

B. The owner(s) of the one-family dwelling with which the accessory dwelling is located shall occupy at least one of the dwelling units on the premises.

C. An accessory dwelling unit may be located either in the principle building or in an accessory building.

D. Accessory dwelling units shall be a minimum of 750 square feet of habitable area and a maximum of 1,000 square feet of habitable area.

E. At least one occupant of each dwelling unit shall be a family member as defined herein.

Section # ACCESSORY AMUSEMENT FACILITY

A. Limit established. When amusement game machines constitute an accessory use no more than two such machines, in total, may be maintained in the subject premises.

B. Not applicable to amusement center/arcade. The foregoing limitation shall not be applicable to amusement centers or arcades as permitted under this chapter when established in compliance therewith, where such machines are operated as a principal use.

Section # AUTOMOTIVE USES

A. The storage of vehicles, equipment, or fuel pumps shall not be permitted within 20 feet of a zoning district boundary or in any required setback.

B. All major repair and service work shall be accomplished indoors or screened from view.

C. All automobile parts, dismantled vehicles including unregistered/inoperable vehicles, and similar articles shall be stored within a building or screened from view.

D. Automotive uses require a minimum lot size of 3 acres.

E. Automotive use structure shall be setback a minimum of 25 ft. from all property lines.

F. Each vehicle for sale is permitted one sign per vehicle with a maximum area of one square foot; this sign shall be displayed from inside the vehicle. Such vehicles shall use no other advertising or devices to attract attention.

G. No more than one (1) unregistered and/or inoperative vehicle shall be stored on the premises for more than 60 days except for auto sales.

H. Island canopy lighting fixtures shall be recessed into the canopy ceiling so that the bottom of the fixture is flush with the ceiling.

I. Car Washes:

(1) Car wash structures shall not be closer than two hundred (200) feet from a zoning district boundary.

(2) Four (4) stacking spaces per bay shall be provided on the lot.

(3) As part of Site Plan Review for car washes, evidence of an adequate long-term source of public or private water shall be submitted to show that water usage will not affect surrounding properties.

Section # HOME OCCUPATIONS

A. Each dwelling unit may have one type 1 home occupation, one type 2 home occupation, two type 1 home occupations, or a combination of one type 1 and one type 2 home occupations. A dwelling unit may not have two type 2 home occupations.

B. All home occupations shall:

(1) Be conducted by a resident of the lot.

(2) Be compatible with the other uses allowed in the district.

(3) Maintain the character of the neighborhood.

(4) Ensure the peace, privacy, quiet, and dignity of the area.

(5) Avoid excessive noise, traffic, nuisance, fire hazard, safety hazard, and other adverse effects of business uses.

(6) Be conducted within the residence of the property owner or within the accessory buildings in such a way as to be clearly subordinate to a primary residential use.

(7) Not display any evidence of the home occupation outside the building, except for signage as allowed in this chapter.

C. **Home Occupations 1.**

(1) No more than one non-resident employee is allowed.

(2) Outside display of product or equipment shall not be permitted.

D. **Home Occupations 2.**

(1) No more than two non-resident employees shall be allowed.

(2) Outdoor storage or work area shall be screened from view of neighboring properties and the public's rights-of-way.

(3) Off-street parking shall not be allowed in the front setback.

E. All home occupations 1 and 2 in the R District shall:

(1) Not perform of any services on-site

(2) Not serve customers on-site

(3) Not store any materials onsite

(4) Not be allowed any signage

(5) Not have delivery or pick-up services that would exceed the average volume for the residential neighborhood where the home occupation is located.

Section # MANUFACTURED HOMES

A. Purpose. The purpose of this section is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Village of Wappingers Falls and of its inhabitants by establishing specific requirements and regulations governing the installation of manufactured homes.

B. The installation of the manufactured home shall conform to the requirements of the NYS Building Code and the United States Department of Housing and Urban Development and the dimensional district in which it is located.

C. The manufactured home shall have an approved metal, wood, or other suitable skirting or framing, properly ventilated and attached, which shall enclose the area from the bottom of the floor line of the manufactured home to the ground, and which shall be installed within thirty (30) days of the installation of the manufactured home.

Section # SOLAR COLLECTORS

A. The preferred location for solar collectors is on the roof of a structure. Solar collectors which are not located on the roof or walls of a building, (i.e. free-standing solar collectors) shall be considered accessory structures and shall abide by the dimensional requirements for the district in which it is located.

B. Solar collectors shall not obstruct or otherwise impede the views from existing buildings on neighboring properties.

Article VI: Parking and Off-Street Loading

Section # PARKING AND OFF-STREET LOADING REQUIREMENTS

A. Intent

This Article establishes requirements for off-street parking and loading for new construction and for the expansion or change to existing uses. The purpose of this Article is to ensure that structures and land uses have an adequate level of off-street parking to avoid congestion on surrounding streets while avoiding excessive parking.

B. Applicability

(1) Off-street parking and loading requirements shall apply to all zoning districts.

(2) All structures and land uses hereafter erected, enlarged, created, changed, or extended shall be provided with the amount of off-street automobile parking space and loading and unloading space to meet the needs of persons making use of such structures or land.

C. Front Yard Parking

(1) Parking prohibited in the front yard in any district for all structures and uses existing or structures and uses as they may be changed under this code.

D. Parking Evaluation Process

(1) Required off-street parking facilities shall be completed before a certificate of occupancy shall be issued.

(2) The building department and the Planning Board shall make a determination of the required number of parking spaces and the size and location of loading and unloading zones based on the Parking Table and criteria below.

(3) The Planning Board shall have the authority during site plan and special permit review to regulate the number of spaces and alter the size and location of loading zones required by the building department.

E. Parking Criteria

(1) The proposed parking shall not result in any adverse impacts on the subject site or within the District.

(2) On-site parking shall be balanced against lot size, dimensional limitations and topography.

(3) Parking should be located on the same lot as the use it is intended to serve if practicable.

(4) On-street parking space may be used as an alternative to on-site parking where availability can be demonstrated.

(5) The availability of public parking within a reasonable distance from use.

(6) The availability of off site private parking.

(7) The availability of shared parking.

F. Shared Parking Requirements

Shared is allowed either on the same, adjacent or nearby parcels, provided:

(1) There is a covenant on the separate parcel or lot guaranteeing the maintenance of the required off-street parking facilities during the existence of any of the principal uses having beneficial use of the shared parking. Said covenant shall:

(a) Be executed by the owner of said lot or parcel of land and the parties having beneficial use thereof;

(b) Be enforceable by any one or all of the parties having beneficial use thereof; and

(c) Be enforceable against the owner, the parties having beneficial use, and their heirs, successors and assigns.

G. Land Dedication

An applicant for a building permit may offer to grant and convey to the village appropriately located and developed land for parking. If the Planning Board finds that the proposed land is appropriate for parking, the Board of Trustees, at its discretion, may accept such land.

H. Screening

(1) Off-street parking areas for all non-residential uses and apartment buildings located within 50 feet of a single family or a multi-family dwellings shall be shielded by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.
(2) Parking lots shall be screened from all street or rights-of-way in such a manner as to facilitate adequate sight distance at points of egress.

I. Parking lot landscaping requirements.

(1) Buffer planting shall be installed between the parking lot and adjacent properties.
(2) Buffer planting shall be installed between the parking lot and the street.
(3) If existing trees and vegetation are left on the site, these may be used in lieu of new plantings.

J. Parking lots with more than 40 (Forty) cars shall be designed in accordance with the following:

(1) One tree planted on the perimeter of the parking lot for every 10 cars or fraction thereof.
(2) One tree planted in the interior of a parking lot (on traffic islands) for every 10 cars or fraction thereof.

(3) Internal traffic islands including one for every 20 cars or part thereof to reduce the impact of the parking area and provide safety for vehicles moving within the area.

K. New plantings shall comply with the following sizes:

(1) Major tree 3-1/2" caliper
(2) Flowering tree 2-1/2" caliper
(3) Evergreen tree 4-6' height
(4) Shrub 2-3' height or spread

L. Parking space size.

(1) Perpendicular parking (90˚)
   a. Each parking space shall be nine feet by eighteen feet (9’ x 18’).
   b. The minimum aisle width shall be twenty-four feet (24’) for two-way traffic.
   c. The minimum aisle width shall be twenty-two feet (22’) for one-way traffic.

(2) Angled parking (60˚)
   a. Each parking space shall be nine feet by twenty-two feet (9’x 22’)
   b. The minimum aisle width shall be twenty-three feet (23’) for two-way traffic.
   c. The minimum aisle width shall be eighteen feet (18’) for one-way traffic.

M. Stacked parking restrictions.

(1) Except as otherwise provided herein, parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle.
(2) Stacked or valet parking may be allowed at the discretion of the Planning Board if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the Village ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces continue to apply for stacked parking.
(3) Tandem Parking is allowed for single-family detached dwelling units.

N. Loading Areas

(1) Off-street loading facilities shall be provided for each commercial or industrial use unless it is demonstrated that the use does not require a dedicated loading area.
(2) Off-street loading facilities shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.
(3) Any required off-street loading berth shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length.

a. RESIDENTIAL	RMU	R	VR	VM	VC	CMU
Dwelling, One Family	2 per unit	3 per unit	4 per unit	5 per unit	NA	NA
Dwelling, Two Family	1 per unit	NA	1 per unit	1 per unit	1 per unit	1 per unit
Dwelling, Multi Family	1 per unit	NA	1 per unit	1 per unit	1 per unit	1 per unit
Dwelling, Supported Living	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit
Dwelling, Street Level	1 per unit	1 per unit	1 per unit	1 per unit	NA	NA
Dwelling, Accessory	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit
Home Occupation 1	None	None	None	None	None	None
Home Occupation 2	1 per employee	1 per employee	1 per employee	1 per employee	1 per employee	1 per employee
Manufactured Home/Manufactured Home Park	NA	NA	1 per unit	NA	NA	NA
b. LODGING						
Hotel (no room limit)	1 per room	NA	NA	NA	1 per room	1 per room
Inn (up to 12 rooms)	Per SPR	NA	Per SPR	Per SPR	Per SPR	Per SPR
Bed & Breakfast (up to 5 rooms)	Per SPR	Per SPR	Per SPR	Per SPR	Per SPR	Per SPR
c. COMMERCIAL						
Amusement Centers/Arcades	NA	NA	NA	NA	NA	Per SPR
Amusement Facility, Accessory	NA	NA	NA	NA	NA	Per SPR
Conference Center	1 per 400 gfa	NA	NA	NA	1 per 400 gfa	1 per 400 gfa
Daycare Center	None	NA	NA	NA	None	None
Fitness Center	1 per 400 gfa	NA	1 per 400 gfa	NA	1 per 400 gfa	1 per 400 gfa
Funeral Home	NA	NA	1 per 4 seats	NA	Per SPR	Per SPR
Indoor Recreation	Per SPR	NA	NA	NA	Per SPR	Per SPR
Marina	NA	NA	NA	NA	Per SPR	Per SPR
Medical Clinic	NA	NA	NA	NA	1 per 500 gfa	Per SPR
Office, Business	X	NA	NA	Per SPR	Per SPR	Per SPR
Office, Medical	X	NA	1 per 500 gfa	Per SPR	Per SPR	Per SPR
Office, Professional 2	X	NA	1 per 500 gfa	Per SPR	Per SPR	Per SPR
Outdoor Recreation	Per SPR	NA	Per SPR	NA	NA	Per SPR
Restaurant	NA	NA	1 per 400 gfa	Per SPR	None	Per SPR
Retail	NA	NA	1 per 400 gfa	Per SPR	None	Per SPR
Shopping Center	NA	NA	NA	NA	NA	Per SPR
Theater	NA	NA	NA	NA	None	Per SPR
Tavern	NA	NA	NA	1 per 400 gfa	None	Per SPR

1. NA = Not Applicable as use is not allowed
2. Per SPR = As determined by Site Plan Review
3. gfa = Gross Floor Area
4. None = no parking required

d. OTHER: AGRICULTURE	RMU	R	VR	VM	VC	CMU
Animal Hospital	NA	NA	NA	NA	Per SPR	Per SPR
Kennel	NA	NA	NA	NA	NA	Per SPR
Garden Nursery	NA	NA	NA	Per SPR	Per SPR	Per SPR
e. AUTOMOTIVE						
Towing/Automobile Service	NA	NA	NA	NA	NA	Per SPR
Car Wash	NA	NA	NA	NA	NA	Per SPR
Drive-Through Facility	NA	NA	NA	NA	NA	Per SPR
Gasoline/Convenience Station	NA	NA	NA	NA	NA	Per SPR
Auto Sales	NA	NA	NA	NA	NA	Per SPR
f. MUNICIPAL/CIVIC						
Club or Lodge	NA	NA	NA	1 per 500 gfa	Per SPR	Per SPR
Education Facility	NA	NA	NA	NA	Per SPR	Per SPR
Hospital	NA	NA	NA	NA	1 per 400 gfa	Per SPR
Library	NA	NA	NA	NA	1 per 400 gfa	Per SPR
Museum	NA	NA	NA	1 per 400 gfa	Per SPR	Per SPR
Parking Structure	NA	NA	NA	NA	NA	NA
Religious Assembly	NA	NA	1 per 400 gfa	1 per 400 gfa	1 per 400 gfa	Per SPR
Municipal/Institutional	1 per 1000 gfa	1 per 1000 gfa	1 per 1000 gfa	1 per 1000 gfa	1 per 1000 gfa	1 per 1000 gfa
g. INDUSTRIAL						
Laboratory	NA	NA	NA	NA	NA	Per SPR
Light Industrial Facility	NA	NA	NA	NA	NA	Per SPR
Heavy Equipment Facility	NA	NA	NA	NA	NA	Per SPR
Technology/Research Facility	NA	NA	NA	NA	Per SPR	Per SPR
Utility Distribution	NA	NA	NA	NA	NA	Per SPR
Wholesale Distribution	NA	NA	NA	NA	NA	Per SPR

Article VII: Signs

Section# Signs

A. Purpose

(1) The purpose of this section is to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to encourage the use of signs as a means of communication, protect pedestrian and vehicular safety, protect property values, protect and enhance the aesthetic environment, enhance the Village's historic character, and improve the Village's ability to attract sources of economic development.

B. Applicability

(1) A sign permit is required for all signs as defined in this section which are: placed, erected, constructed, altered, relocated, enlarged, or reconstructed in the Village.

(2) Unless specified otherwise herein, signs require review and approval of the Planning Board.

C. Prohibited signs. All signs not specifically permitted are prohibited. Prohibited signs include but are not limited to:

(1) Off-premises signs, including billboards.

(2) Abandoned signs. Exceptions may be made if the sign is found to have historic merit as determined by an historic registry and/or the Code Enforcement Officer.

(3) Roof signs.

(4) Portable signs, except sidewalk signs.

(5) Internally illuminated signs.

(6) Neon signs, except when used as an accessory sign.

(7) Signs with flashing, blinking, intermittent, or moving lights, or any artificial light which does not maintained stationary and constant intensity and color at all times, except signs displaying time and/or temperature.

(8) Mounted or portable search lighting used to project moving or stationary overhead light beams.

(9) Signs that contain or consist of ribbons, balloons, streamers, spinners or similar moving, fluttering or revolving devices.

(10) Signs that contain or consist of banners or pennants, unless such sign is a temporary sign.

(11) Rotating signs.

(12) Signs which may obstruct the view of any official traffic sign or signal, the sight distance triangle at any street intersection, or the public right-of-way.

(13) Posters.

D. Exempt Signs Not Requiring a Permit.

(1) Memorial signs or tablets denoting names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(2) Nonilluminated accessory sign located in a window no more than two square feet in size and/or no more than 10% of the glass area or window in which they are displayed.

(3) Nonilluminated displayed on premises for sale or lease shall be subject to the following:

(a) Displayed on the premises for sale or lease,

(b) Located on the front wall of a building or, if freestanding, does not exceed six (6) feet in height to its highest point**,**

(c) Not located nearer than 15 feet to any lot line or the edge of pavement of any street,

(d) All such signs shall not exceed four (4) square feet in sign area per face,

(e) Shall be limited to one per parcel or building, and

(f) Shall be removed within seven (7) days of the sale or lease of the parcel or building.

(1) Signs located on a car, boat, trailer or other similar item of personal property offered for sale, where said sign is single-sided only, is no more than two (2) square feet in size, and is limited to one per parcel.

(2) Works of art that do not include a commercial message.

(3) Any sign required by New York State Law.

(4) Directional Signs. Directional signs of a public or quasi-public nature identifying or locating a Village, hospital, public building, parking lot, church, college, service or civic club, educational, cultural or public recreational building, including informational signs relating to the opening of an event of public interest.

E. Permit Procedures.

(1) Any person desiring to procure a permit for a sign shall file with the Code Enforcement Officer a written application on a form prescribed by the Village, including payment of the applicable fee.

(2) Temporary Signs.

(a) All signs of a temporary nature must receive permits before being displayed, except those specified herein. Planning Board approval is not required for temporary signs, and the Code Enforcement Officer shall issue or deny a sign permit.

(b) The permit shall note the date of the first day the sign may be displayed and the date it must be removed.

(3) Seasonal Signs.

(a) All signs of a seasonal nature must receive permits before being displayed and require Planning Board approval.

(4) Permanent Signs.

(a) The Planning Board, upon receipt of a complete application for a sign permit, shall consider the application either independently or in conjunction with Site Plan Review.

(b) If the Planning Board conducts an independent review apart from Site Plan Review it shall approve, approve with modifications, or deny the application within 62 days unless extended by mutual agreement with the applicant.

(c) If the sign application is approved, the Code Enforcement Officer shall issue a sign permit.

F. Sign Permit Expiration.

(1) A permit issued for an approved sign shall be valid for six months from the date of the permit. If the sign is not installed before the expiration of six months, a new permit shall be required.

G. Temporary Signs

(1) The sign shall not be placed so as to cause traffic hazards or obstruction of clear vision and shall be located fully on the property on which the business is being conducted, but shall not be affixed to utility poles.

(2) The date of issuance of the temporary permit shall be affixed to the sign.

(3) Activities or events.

(a) Activity or event signs shall require a permit prior to being displayed.

(b) Activity or event signs shall only be displayed on private property and shall be limited to one such sign per establishment for a period not exceeding two weeks.

(c) No establishment may be granted a permit for an activity or event sign within 90 days of the expiration of the establishment's previous permit for an activity or event sign.

(d) Such signs shall not exceed 12 square feet in area.

(e) Such signs shall not exceed 6 feet in height unless affixed to a building.

(3) Project signs

(a) Project signs must receive permits before being displayed, and such permits shall be renewed annually. The permit shall note the date of the first day the sign may be displayed and the date it must be renewed.

(b) Each project shall be permitted a total of three (3) signs, each sign shall not exceed six (6) square feet in area,

(c) Removed upon completion of the project,

(d) Shall not exceed six (6) feet in height unless affixed to a building,

(e) Shall be setback a minimum of fifteen (15) feet from all property lines unless affixed to a building,

(f) Shall not be illuminated.

(5) Sidewalk Signs

(a) Sidewalk signs must receive permits before being displayed, and such permits shall be renewed annually. The permit shall note the date of the first day the sign may be displayed and the date it must be renewed.

(b) Sidewalk signs shall only be permitted in the VM, VC, and CMU Districts.

(c) Sidewalk signs should mimic the architecture of the establishment or building they represent.

(d) Notwithstanding the foregoing, in the VR district, places of religious assembly and clubs or lodges shall be permitted sidewalk signs.

(e) Sidewalk signs shall be a minimum of 30 inches tall and a maximum of 36 inches tall, with a maximum sign area of 24 inches wide by 36 inches high on each sign face.

(f) Sidewalk signs shall be located so as not to interfere with pedestrian safety or cause a safety hazard, may only be displayed during business hours, and must be kept in good condition, or they will be removed by the Code Enforcement Officer and the permit revoked.

(g) In the VR district, churches and fraternal organizations are allowed one sidewalk sign.

(4) Signs advertising a garage sale, yard sale, barn sale, tag sale, or similar temporary sale and special events.

(a) Said signs are allowed up to four square feet per face in area, located fully on the property on which such sale is being conducted, but shall not be affixed to utility poles.

(b) Shall not exceed one per parcel and may be displayed for a period of up to two days in advance of the sale and shall be removed within one day after the sale.

H. Seasonal Signs.

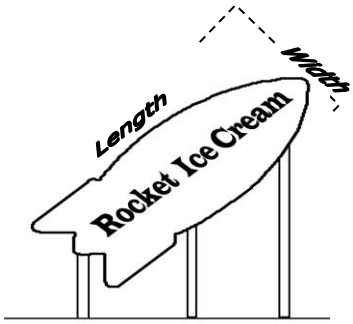
(1) One seasonal sign per business establishment is permitted.

(2) The sign may be constructed of cloth, canvas, fabric, plywood, or other light materials and does not need to be permanently mounted.

(3) The sign shall be maintained in good condition and appearance.

(4) A seasonal sign permit shall be valid for a period of up to three months from the date of Planning Board approval and may be renewed on one occasion for up to three additional months, subject to Planning Board approval.

I. Measurement of Sign Display Area



(1) In measuring the square foot area of signs, the entire face of the sign and, in the case of any open sign made up of individual parts, letters, figures or designs, shall be measured as one sign. Signs that have a structure that is integral to the message shall be measured as part of the display area. However, if the multiple faces of any sign are separated in any manner other than by being mounted on common posts, they shall be considered as separate signs. The area of a window sign consisting only of letters and symbols affixed or painted on glass shall be calculated as the smallest polygon or circle possible enclosing all of the letters and symbols. Only one (1) side of double faced signs shall be measured when determining the area.

J. Sign Types and Sizes

(1) 'X' indicates sign type is not allowed.
(2) A maximum of one of each type of sign is allowed per establishment.
(3) In no case shall any wall or awning sign exceed 30 square feet.
(4) Only one multi-tenant sign is allowed per lot

	RMU	R	VR	VM	VC	CMU
Temporary	Permitted: see temporary sign section					
Seasonal	X	.3 sq ft per ft of building frontage		.5 sq ft per ft of frontage		
Wall	X	.5 sq ft per ft of frontage		1 sq ft per ft of frontage		
Freestanding	16 sq ft			32 sq ft		36 sq ft
Awning	X	X	X	1 sf per linear ft of building length along a lot frontage		
Projecting	5 sq ft			9 sq ft		
Sidewalk	X	X	X	6 sq ft		
Multi-Tenant	X	X	X	X	X	36 sq ft
Window	25% of total glass area of the window on which the sign is displayed					

K. Design Criteria.

(a) Design criteria. All signs shall comply with the following design criteria.

(b) Whenever feasible, multiple signs should be combined into one to avoid clutter.

(c) A sign's design shall be compatible with the architectural character of the building on which it is placed and not cover any architectural features on the building.

(d) To the extent possible, adjacent signs on the same or adjoining building should be placed within the same horizontal band and be of reasonably harmonious materials and colors.

(e) No internally lit signs; any illumination shall be external, except neon lighting used in an accessory sign.

(f) Maintenance. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.

(2) General rules by sign type.

(a) Awning signs.

[1] Awning graphics should be affixed flat to the surface of the valance and shall indicate only the name and/or address of the enterprise or premises.

[2] Only awnings over ground floor doors or windows may contain signs.

[3] A maximum one sign per awning face is permitted.

[4] An awning sign may only be externally illuminated.

[5] Awnings shall be affixed at a consistent height of eight (8) feet and extend no higher than 12 feet.

[6] Awnings shall project at least three (3) feet but no more than 6 feet.

(b) Freestanding signs.

[1] No more than one (1) freestanding sign may be located on a lot.

[2] Freestanding signs shall not be placed so as to impair visibility for motorists.

[3] No freestanding sign or its support shall exceed a height of six (6) feet.

[4] A freestanding sign shall meet the minimum front and side yard setbacks for accessory buildings except in no case shall the sign be less than five (5) feet from the front property line and 10 feet from the side property line.

[5] The Planning Board may require that landscaping be used at the base of a freestanding sign if such landscaping will make the sign more compatible with the surrounding area.

(c) Multi-Tenant signs.

[1] The multi-tenant sign shall not be located within the clear sight triangle at any intersection.

[2] The sign shall be constructed of the same or similar architectural elements and in similar materials and colors as the building(s).

[3] No multi-tenant sign or its support shall exceed a height of 10 feet.

[4] The Planning Board may require that landscaping be used at the base of a multi-tenant sign if such landscaping will make the sign more compatible with the surrounding area.

(d) Projecting signs.

[1] Projecting signs may not extend above the height of the lowest point of the roofline, and shall have no more than two faces.

[2] They shall be securely anchored and shall not swing or move in any manner.

[3] Projecting sign must be located at least 25 feet from any other projecting sign.

[4] The lowest point of the projecting sign shall be a minimum of 10 feet or a maximum of 15 feet above the sidewalk.

[5] Signs shall have a minimum projection of six (6) inches and a maximum projection of five (5) feet from the building face.

(e) Wall signs.

[1] The visible edge or border of a wall sign may extend up to four inches from the face of the wall to which it is attached, and may not extend any distance beyond or above the building in any direction.

[2] In a single-story building, the placement of wall signs must be above the display window and below the cornice.

[3] Where the design of an existing building facade incorporates a specific area for a wall sign, the height and length of the sign shall be restricted to the dimensions of this area.

[4] A wall sign cannot cover windows or architectural details.

L. Removal of signs.

(1) Abandoned signs. Abandoned signs shall be removed within 30 days after cessation of the business or cessation of the sale of the products or services from the premises. The Code Enforcement Officer shall give written notice to the last named owner of the real property where the sign is located and the permit holder, if any, at the permit holder's last known address of record, who shall, unless good cause is shown, remove the sign within 30 days

from the date of the written notice. If no action is taken by the owner or permit holder, within said time period, the Code Enforcement Officer may cause the sign to be removed. At the sole discretion of the Village, the reasonable and necessary costs incurred for removal shall be charged against the real property from which the sign was removed, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Village.

(2) If any temporary or sidewalk sign is not removed by the expiration of the time limit noted on the application, the Code Enforcement Officer, after seven days' written notice to the permit holder to remove such sign(s) (computed from the date of mailing), and after failure of the permit holder to do so, will cause said sign(s) to be removed at the owner's expense.

(3) Unsafe signs. The Code Enforcement Officer may cause any sign that is a source of immediate peril to persons or property to be removed immediately and without notice.

M. Nonconforming signs.

(1) No replacement or installation of a new sign shall be permitted unless in conformance with this section. Nonconforming signs that are the subject of subdivision, special use permit and/or site plan applications, certificates of occupancy, non-violation letters, or other permit, approval, entitlement, or authorization from the Village of Wappingers Falls shall be subject to all of the terms and conditions of this section.

(2) All outdoor lighting fixtures that do not conform to the provisions herein shall be deemed nonconforming and shall be brought into compliance with the provisions of this section within three years from the effective date of this code, and such lapse of time shall be deemed sufficient to amortize the cost thereof..

Article VIII: Site Plan Review

Section # Site Plan Review

A. Purpose

(1) The purpose of this article is to authorize the Village Planning Board to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth herein, by examining such design elements which relate to parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, impact of the proposed use on adjacent land uses and such other elements as may be related to health, safety and general welfare of the community.

B. Applicability

(1) Uses as designated in the Use Table or any use not listed as a Type II Action under NYCRR 617 State Environmental Quality Review.

(2) Prior to the issuance of a permit by the Code Enforcement Officer a detailed site plan shall be submitted to the Planning Board for its review and approval in accordance with the standards and procedures as outlined below.

(3) Applications within the Historic District Overlay, development shall take into consideration the historic character of the neighborhood.

C. Sketch plan

(1) A sketch plan conference between the Planning Board and applicant shall be held to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the sketch plan conference the applicant shall provide, at a minimum, the following:

(a) Name and address of applicant and authorization from the owner, if different from applicant.

(b) Name and address of owner(s) of record, if different from applicant.

(c) Name and address of person or firm preparing the plan and map.

(d) Current zoning classification of property, including exact zoning boundary if in more than one district.

(e) Property boundary line plotted with approximate distances and area shown.

(f) North arrow, scale and date.

(g) Locations and names of existing streets.

(h) A brief narrative and preliminary concept plan drawn to scale showing the locations of principal buildings, accessory buildings, accessory structures, parking areas, and other planned features, and any significant anticipated changes to the existing topography and natural features.

(2) If the Planning Board determines that the information submitted for sketch plan review is sufficient, it may, at its discretion, accept and approve a site plan review application at the sketch plan meeting without requiring additional information or scheduling a separate site plan review.

D. Formal Application Content

(1) If additional information is requested by the Planning Board after the sketch plan conference, a complete application for formal site plan review shall be submitted to the Planning Board at least 10 business-days in advance of the scheduled meeting date. Ten (10) copies of the complete application for site plan approval shall be submitted to the Code Enforcement Officer.

(a) The Code Enforcement Officer or the Planning Board may request submission of any of the items listed below. The Code Enforcement Officer and the Planning Board are not limited to this list and may request any additional information it deems necessary or appropriate for the review of the application.

(b) In determining the amount of information it will require, the Code Enforcement Officer or the Planning Board shall consider the type of use, its location, and the size and potential impact of the structures of the project.

(c) The proposed site plan shall show the information requested by the Code Enforcement Officer Planning Board on maps that are scaled appropriately to illustrate the information requested.

(d) Site plan checklist:

[1] Existing conditions.

a) Legal data.

i. Name and address of applicant and authorization of owner, if different from applicant.

ii. Name and address of owner(s) of record, if different from applicant.

iii. Name and address of person or firm preparing the plan and map.

iv. Current zoning classification of property, including exact zoning boundary if in more than one district.

v. Property boundary line plotted to scale. Distances, angles and area shall be shown.

vi. North arrow, scale and date.

vii. Locations, widths, elevations and names of existing and proposed adjacent streets.

viii. Property lines and names of owners of adjoining parcels.

ix. Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.

x. The current deed and all existing deed restrictions or covenants applying to the property.

xi. The identification of any local, state or county permits required for execution of the project.

xii. Other requirements which the Planning Board might deem necessary, including, but not limited to, a licensed survey.

b) Natural features.

i. Geological features, such as depth to bedrock and the location of rock outcrops.

ii. Topographic features, including a map showing existing contours.

iii. Vegetative cover, including existing wooded areas, significant isolated trees and similar features.

iv. Soil characteristics, such as load bearing capacity and drainage capacity.

v. Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.

c) Existing development and infrastructure.

i. Location and dimensions of major buildings and structures and their use.

ii. Location and width of roads and paths, including site access.

iii. Location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown.

iv. Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

(2) Proposed Development New Conditions

(a) Grading and drainage plan showing proposed topography at appropriate contour intervals. This information shall be combined as an overlay with the map of existing topography.

(b) Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.

(c) Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.

(d) Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross sections of roadways and sidewalks showing grades, widths and location and size of utility lines.

(e) Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.

(f) Location and size of stormwater infrastructure and protection measures.

(g) Location, design and construction materials of all energy systems, including oil, electric, gas, solar and other alternative systems.

(h) Location and design of outdoor lighting fixtures and a lighting plan.

(i) Location, size and design and construction materials of all signage.

(j) General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.

(k) Estimated project construction schedule with possible phasing plan for large projects.

(l) Additional specifications for materials and colors.

(m) Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey and as-built drawings.

(n) Environmental Review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form EAF or a draft EIS, as required by SEQRA.

E. Professional Assistance

(1) If the Village determines that review of the application requires professional assistance to make informed decisions, the Planning Board or the Code Enforcement Officer may engage the services of professional consultants during site plan review, at the expense of the applicant. The cost of assistance is separate and apart from any other fees or costs associated with SEQRA review.

F. Criteria for Site Plan Review

(1) In considering the approval of the site plan, the Planning Board shall consider if the project complies with the following:

(a) A positive relationship to adjacent and nearby land uses both public and private.

(b) A suitable location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

(c) Visual compatibility with surroundings.

(d) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

(e) An acceptable location, arrangement, appearance and sufficiency of parking and off-street loading.

(f) The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.

(g) The adequacy of stormwater and drainage facilities.

(h) The adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.

(i) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(j) The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

(k) The projects impact on the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.

(l) The adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(m) Effect on air and water quality standards applicable primarily to industrial site development plans.

(n) Effect on energy consumption and conservation.

G. Planning Board Action

(1) Following review of submitted formal application items, the Planning Board shall determine the application's completeness. Once the application is determined to be complete by the Planning Board, it shall be deemed received and the Planning Board shall either schedule a public hearing or render its decision in accordance with the timeframes below.

(2) If the Planning Board is conducting a special permit review as part of a site plan review, the Planning Board shall refer to additional criteria in the Special Permit Review Section.

(3) Notices. Applications which meet the criteria of 239-l and 239-m of the General Municipal Law must be sent to the Dutchess County Department of Planning and Development prior to the Planning Board decision. Applications that meet the criteria of 239–nn shall notify neighboring municipalities.

(4) The Planning Board shall comply with the State Environmental Quality Review Act (SEQRA).

(5) Public Hearings.

(a) Within 62 days following the receipt of a complete application by the Planning Board, the Planning Board shall hold a public hearing if a public hearing is deemed necessary.

(b) In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the potential for environmental impact.

(c) Applicants may request a public hearing.

(d) No site plan review project may be disapproved without a public hearing.

(e) Public Hearing Notice:

i. The Village Clerk shall notice the public hearing by publication in the official newspaper at least five days prior to the date of the public hearing.

ii. The Village Clerk shall post said notice in the Village Hall

iii. The applicant shall obtain from the Village the names and addresses of property owners within of 200 feet from the property lines.

iv. The applicant shall receive from the Village Clerk a property owner notification and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 14 days but no more than 21 calendar days prior to the scheduled public hearing.

v. Prior to the public hearing, the applicant shall submit to the Planning Board confirmation of this property owner notification using a "certificate of mailing" provided by the U.S. Postal Service.

vi. Prior to the public hearing the applicant shall pay the cost of sending or publishing any notices or a reasonable fee relating thereto.

(1) Planning Board decision. Within 62 days after a required public hearing or within 62 days after the receipt of a complete application by a Planning Board where no public hearing is required, the Planning Board shall render a decision, unless the period is extended by mutual agreement between the applicant and the Planning Board. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on the criteria of this Chapter.

(2) Waiver of requirements. The Planning Board may, when reasonable, waive these requirements of this Article for site plans submitted for approval. Any such waiver may only be exercised when such a waiver is consistent with the Comprehensive Plan, the purposes of the district where the project is located, where it will not damage the integrity of this code chapter, and is found to be pertinent to the public health, safety and general welfare of the residents of the Village of Wappingers Falls.

(3) The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines or requirements as to intensity of development as provided in this chapter shall be respected. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this chapter.

(4) Filing of decision. The decision of the Planning Board shall be filed in the office of the Village Clerk and a copy thereof mailed to the applicant within five days after such decision is rendered. The decision shall contain such findings of fact and conditions as are required by this Code.

Article IX: Special Use Permit

A. Intent

(1) The intent of this Article is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.

(2) The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Village.

(3) All uses designated a special use permit are permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth in this section and such conditions as the Planning Board may determine.

B. Application Content

(1) All special use permit review and approval shall occur as a part of Site Plan review. Applicants shall refer to the Site Plan Review for application content.

C. Criteria

(1) The Planning Board shall consider the following general criteria, in addition to criteria set forth in the Site Plan Review, when making a determination for a special use permit:

(a) Compatibility of the proposed use with the principles of the district, the purposes set forth in this chapter, and the goals of the Comprehensive Plan.

(b) Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.

(c) Compatibility of the height of buildings, walls, fences and the nature and extent of landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(d) Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, including accessibility to fire, police, and emergency vehicles and sufficient water supply and appurtenances for fire-fighting purposes.

(e) The overall impact on the site and its surroundings considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.

(f) Restrictions and/or conditions on 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 natural or scenic resources of the Village.

(g) Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the viability of the Village.

(h) Compatibility with the historic character and use of the structure or structures and the historic character of the site and in the surrounding area, if applicable.

D. Special Use Permit Review

(1) If a use is designated as needing a special permit in the Use Table, such use shall be granted approval, approval with conditions, or denied in conjunction with site plan approval process.

(2) As part of approval process the Planning Board shall consider the criteria listed herein.

(3) A public hearing is required for all special permit uses.

(4) The Planning Board shall schedule and notice a public hearing in accordance with the timeframes and process under Site Plan Review.

(5) The special use permit process shall be concluded in conjunction with Site Plan Review.

E. Planning Board Action

(1) The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.

F. Special Use Permit expiration, revocation and enforcement

(1) Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

(2) All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

(3) Expiration of special permits. A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if said use or uses shall cease for any reason or if all required improvements are not made within one year from the date of issue.

Article X: Planned Development District (PDD) Provisions

Intent.

A. Planned Development Districts (PDDs) provide a procedure for allowing flexible land use and design through creative planning and design. PDDs allow development matched to the unique characteristics of the site and allow innovative development techniques that might not otherwise be possible through strict application of standard use, area, bulk and density specifications.

B. Approved PDDs will enable greater flexibility than conventional zoning while providing a customized regulatory framework that recognizes the unique environmental, physical, and cultural resources of the project area and neighborhood. PDD legislation adopted by the Village Board will replace the existing zoning for the parcel or parcels becoming PDDs and will become basis for detailed design, review and control of subsequent development.

C. Planned Development Districts shall advance the goals of the Comprehensive Plan, promote innovation in the design and layout of structures and encourage compact, pedestrian-oriented development and redevelopment, ensure adequate provision of community services, and preserve significant natural features and permanently protect open space resources.

D. Planned Development Districts shall encourage a mix of uses on one site which is not attainable through traditional zoning. The intent of PDDs is not to circumvent the variance or traditional zoning amendment process in order to establish single uses which would not normally be allowed by the underlying zoning district.

E. While flexibility is encouraged, it is intended that conformance with the Comprehensive Plan, municipal service availability and the purposes of this chapter shall ensure that the general welfare is protected through equal treatment under this uniform procedure. The Village Board shall consider the health, safety and welfare of the residents, as well as the aesthetics of all proposed project approvals.

Objectives.

In order to carry out the intent of this chapter, all approved PDDs shall:

A. Produce a development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.

B. Preserve significant natural topography, geological features, scenic vistas, and ecosystems.

C. Prevent the disruption of natural drainage patterns, soil erosion, and uncontrolled surface water drainage.

D. Preserve and integrate historically significant structures and sites with viable adaptive uses.

E. Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs.

F. If residential in land use, provide a maximum choice in occupancy tenure (e.g., individual ownership, leaseholds, and condominiums), type of housing (e.g., detached houses, Town houses, garden apartments), lot size, and community facilities.

G. Provide an adequate and integrated system of open space and recreation areas designed to tie the PDD together internally and link it to the larger community.

H. Use creative design on the site which allows an orderly transition of land uses.

I. Adhere to any applicable economic conditions, post-development agreements, or environmental mitigation which may be required.

General standards.

A. In accordance with the criteria set forth below, the existing use, dimensional, sign and parking regulations may be altered in order to establish a planned development district; provided, however, that the standards are met.

B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In cases of ownership by multiple parties, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.

C. Location requirements. Planned Development Districts may be created in any zoning district of the Village.

D. Maximum residential density. The overall residential density of an approved PDD may exceed the maximum conventional development potential of the underlying district by no more than 25% as measured in dwelling units per acre.

E. Minimum setbacks. The minimum setbacks required for the underlying zoning district(s) shall be met at the periphery of the PDD.

F. Water supply and sewage disposal. PDDs which include a significant number of residential units should be served by a community water system and be provided with sewage disposal facilities, if appropriate, in accordance with the requirements of the Village, the county and the New York State Departments of Health and Environmental Conservation.

Application review and approval procedure.

A. General. Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Development District in accordance with the following procedures.

B. Sketch Plan Review Procedure.

(1) Prior to the formal filing of a PDD application, the applicant shall submit a sketch plan of the proposal to the Village Board.

(2) During Sketch Plan Review, the Village Board, in its legislative capacity, establishes the boundaries of the proposed PDD and set limits on the nature and range of uses, geometric and site controls and overall project planning. Specifically, the Village Board shall review the sketch plan according to the following criteria:

[1] The proposal conforms to the Comprehensive Plan.

[2] The proposal meets local and regional needs.

[3] The proposal meets the intent and objectives and general requirements of this section.

(3) Once the Village Board has accepted a PDD sketch plan for consideration, it shall refer the sketch plan to the Planning Board. Such refusal or acceptance and referral shall take place within thirty (30) days of the submittal of the PDD sketch plan.

(4) The Planning Board, upon receipt of the referral, shall have forty-five (45) days to issue an advisory report to the Village Board on the PDD sketch plan. Failure to issue an advisory report within forty-five (45) days shall be equivalent to a neutral recommendation. The advisory report shall make a recommendation as to whether the sketch plan, as submitted, meets the following sketch plan review criteria:

[1] The proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.

[2] There are adequate services and utilities available or proposed to be made available in the construction of the development.

(5) Within forty-five (45) days of the Planning Board action, the Village Board shall take action to approve, with or without conditions, or disapprove the proposed PDD sketch plan, based on the criteria set forth above.

(6) If approved or approved with conditions and accepted, the applicant may proceed to formal PDD application.

(7) The Sketch Plan shall include:

[1] A map identifying the boundaries and physical characteristics of the proposed PDD, including uses and ownership of abutting lands.

[2] A conceptual development plan including a succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any lots and structures.

[3] The proposed amount, location and use of open space.

[4] Any anticipated changes in the existing topography and natural features.

[5] The location of the site with respect to nearby streets, rights-of-way, adjacent properties, easements and other pertinent features within two-hundred (200) feet.

[6] The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.

[7] Preliminary use and dimensional requirements, including:

(i) Permitted uses, conditional and accessory uses;

(ii) Maximum development intensity of residential uses;

(iii) Floor area ratio for non-residential uses;

(iv) Lot coverage;

(v) Build-to distances from public and private ways;

(vi) Setbacks for structures and parking areas;

(vii) Minimum lot size;

[8] In addition, the following documentation shall accompany the sketch plan:

(i) Evidence of how the proposed mix of land uses is compatible with the goals of local and area-wide Plans.

(ii) General statement as to how common open space is to be owned and maintained.

(iii) Description of ownership of the site.

C. Formal application.

(1) After sketch plan review is complete, a formal application for establishment of a Planned Development District shall be made in writing to the Village Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the SEQRA.

(2) The Village Board shall refer the application back to the Planning Board within thirty (30) days. The Village Board shall also refer the application according to the requirements of General Municipal Law 239 -m, -n, and –nn and SEQRA.

(3) The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section. However, fully engineered plans and construction details are not required at this stage in the process. The following information is required; however, the level of detail shall be sufficient to provide the Planning Board with enough information to understand the proposed PDD:

[1] The desirability of the proposed land use in the proposed location.

[2] The existing character of the neighborhood.

[3] Access, circulation, parking, and transportation management.

[4] Proposed location, type and size of signs and driveways.

[5] Existing state; county or Village highways that provide access to the area.

[6] Vehicular traffic circulation features, including proposed highways and roadways within the PDD.

[7] Mobility (bikes, pedestrians, etc.) through the district.

[8] The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity.

[9] The conceptual footprint, height and bulk of buildings and the intended use for such buildings.

[10] Other site improvements.

[11] Phasing program if phases are proposed.

[12] General landscaping concept and features.

[13] Preservation of open space and natural areas, including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection.

[14]Infrastructure improvement preliminary plans, including water supply source and delivery, drainage and energy.

[15]The general plan for the collection and disposal of sanitary wastes.

[16]The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general (if a full environmental assessment form was provided instead of a draft EIS).

[17]Compatibility with the Comprehensive Plan.

[18]Permitted uses, conditional and accessory uses.

[19]Maximum development intensity of residential uses.

[20]Floor area ratio for nonresidential uses.

[21]Lot coverage.

[22]Build-to distances from public and private ways.

[23]Setbacks for structures and parking areas.

[24]Minimum lot size.

[25]The number, size and location of automobile parking areas and loading areas and the proposed access to such areas.

[26]Minimum lot frontages and building massing.

[27]Preservation of historic structure(s).

[28]Design standards and guidelines.

[29]A proposed amendment to the Zoning Code, including, at a minimum, a written metes and bounds description of the property and standards for development.

[30]All material and data necessary to conduct review under the State Environmental Quality Review Act.

Planning Board action.

A. The Planning Board may require such changes in the preliminary plans as are found necessary or desirable to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.

B. The Planning Board shall make the required findings outlined below and recommend approval, approval with modifications or disapproval to the Village Board of such PDD

application, and shall report its findings to the Village Board within sixty-two (62) days following the date of referral from said Village Board, unless mutually agreed to by the applicant and the Planning Board.

C. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project, nor imply a permit for said project.

Required findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

A. That the PDD is consistent with the objectives and standards of this chapter.

B. That adequate community facilities and services exist and/or are to be accommodated as part of this planned development.

C. That the PDD establishes a mix of uses and a physical development pattern which would not be attainable through a traditional zoning amendment, as described in this code.

D. That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan.

E. That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable.

F. That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas.

G. That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the predevelopment open space resources potentially available for protection.

H. That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

Village Board action.

A. Upon receipt of the Planning Board's findings and recommendation, the Village Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment. In particular, any application for creation of a Planned Development District shall be considered a Type 1 action under SEQRA.

B. Following receipt of Planning Board's findings and recommendation, the Village Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Village Law of the State of New York.

C. The Village Board shall render a decision on the application within sixty-two (62) days of the public hearing, unless an extension of time is agreed to by the applicant and Village Board, according to the following criteria:

(1) That the PDD is consistent with the purpose and intent of this Code including, where applicable, the objectives and standards of this Chapter;

(2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;

(3) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;

(4) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;

(5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;

(6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

(7) The Village Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:

[1] Visual and acoustical screening

[2] Land Use mix

[3] Pedestrian and vehicular circulation system

[4] Parking and snow removal

[5] Sites for public services

[6] Protection of natural and/or historical features

[7] Requirements or conditions identified during the SEQR process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements

D. If the change of zone is approved by the Village Board, the Official Village Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Village Law.

Site plan review within established PDD.

A. Application. Application for approval of a building project within an established Planned Development District shall be made in accordance with the procedures Site Plan Review. Application shall be made by the owner(s) or developer(s) of the area to be occupied by the building project.

B. No building permit or certificate of occupancy shall be issued for any project within a PDD until the Planning Board determines that the proposed project is consistent with the approved PDD.

(1) The development standards approved by the Village Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.

(2) A building project within a Planned Development District shall conform in all respects to the approved plans.

(3) The Planning Board, as appropriate, shall document that the following requirements have been met prior to approval of a development project within a PDD:

[1] The project is in conformance with the approved Planned Development District.

[2] The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project.

[3] All other zoning requirements of the district, except those modified or specifically deemed not applicable by the administrative officer, shall be met.

[4] The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.

Subdivision review.

Applications for subdivision in a Planned Development District shall be made to the Planning Board in accordance with Subdivision Chapter of the Code of the Village of Wappingers Falls. In the event of a conflict between such subdivisions regulations and this chapter or any requirement imposed hereunder, the provisions of this chapter of such requirements shall apply.

Consultant review fees.

The Planning Board may require an applicant for any review, permit or approval to deposit in escrow a reasonable amount established by the Planning Board to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by such engineer, consultant or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within forty-five (45) days of final action on the application.

Conditions to run with land.

All conditions imposed by the Village Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

Expiration of approval.

A. PDD legislation Repealer.

(1) The Village Board shall act to return the property to its prior zoning district classification if it finds that:

[1] Performance requirements which may have been specified by the Village Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Village Board, upon specific application and for good cause, authorizes an extension of such performance requirement.

[2] The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Village Board which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.

(2) If a Planned Development District expires, any buildings constructed or used may continue as a nonconforming use and such shall continue to be bound by the previous PDD approval.

PDD Amendment Procedure

A. An application for amendment of an established Planned Development District shall be made in writing to the Village Board and shall be accompanied by the applicable fee. The

application shall also be accompanied by a full environmental assessment form or draft EIS as required by SEQRA. The Village Board shall refer the application to the Planning Board within thirty (30) days of the receipt of application.

B. The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

C. Procedure. The procedure for an amendment of an existing PDD shall be the same as that required to establish a new PDD, as described herein.

Article XI: Non-Conforming Uses Structures and Lots

Section # Non-Conforming Uses
Any nonconforming use, which existed lawfully at the time of adoption of this Code, may be continued, subject to the following provisions.

A. Expansion, modification, or replacement

(1) Expansion. A nonconforming use, which existed at the time of adoption of this Code, may be expanded within any portion of the existing structure in which it is located. A nonconforming use shall not be expanded beyond the area of the existing structure in which the use is located, unless granted a use variance from the Zoning Board of Appeals.

(2) Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity.

(3) Replacement. If a nonconforming use is replaced by another use, such use shall conform to the regulations of the district in which it is located.

B. Discontinuance

(1) If a nonconforming use is discontinued for a period of one year (12 consecutive months), such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.

C. Destruction and restoration

(1) If any structure in which a nonconforming use is conducted is hereafter damaged, removed, or destroyed by fire, wind, explosion, or other natural cause, to the extent of 75% or more of its fair market value at the time of such damage, application for any reconstruction or restoration of such structure for a building permit, to resume the non-conforming use shall be made within one year and the structure for the nonconforming use shall be constructed within one additional year unless the permit is renewed.

Section # Non-Conforming Structures

A. Continuation

(1) Any nonconforming structure, which existed lawfully or if a valid building permit has been issued at the time of adoption of this Code may be maintained.

B. Modification and Replacement

(1) A nonconforming structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

(a) Modification.

[1] A nonconforming structure shall not be added to or enlarged or altered in any manner, in a way, which increases its nonconformity. All such modifications which increase the nonconformity shall require an area variance from the Zoning Board of Appeals.

[2] Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(b) Replacement. A nonconforming structure may be replaced on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner or in a way which increases its nonconformity. After 24 months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

Section # Non-Conforming Lots

A. A new structure may be created on nonconforming lot legally existing prior to the adoption of this code so long as such new buildings or structures complies with all of the regulations of the district in which it is located.

B. Lawfully existing structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the regulations of the district in which it is located.

Section # Uses Not Affected By Transfer

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

Article XII: Administrative Provisions

Section # Administration

A. Permits and Fees.

(1) Permit required. No structure shall be erected, constructed, enlarged, altered or moved and no land or structures shall be used until a zoning permit has been issued by the Code Enforcement Officer. No zoning permit shall be authorized or issued for a use subject to special permit or site plan until approval has been obtained.

(2) Fees.

(a) Fees shall apply for required or authorized zoning procedures

(b) The applicant shall be responsible for the review incurred by the Village of Wappingers Falls for professional engineers, planners, architects or attorneys during the subdivision, site plan or the permit application review process

(3) Exceptions. Anything in this chapter to the contrary notwithstanding, no zoning permit shall be required for a repair that does not require a building permit and does not exceed 25% of the fair market value.

(4) Notice required. Before undertaking any repair authorized by the foregoing subsections, the property owner or occupant shall file with the Code Enforcement Officer of the village a notice setting forth in general the nature and extent of such proposed repair and the estimated cost thereof.

(5) Permit procedure.

(a) Application for zoning permit. Any such application for a zoning permit shall be made in duplicate, shall state the use and occupancy proposed and shall be accompanied by ten copies of all plans drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of all structures to be built on the lot and of any structures that are to remain, the nature of any proposed alteration, extension, removal, demolition or structural change, the proposed excavation or grading in connection with such building, the existing and intended use of each structure or part thereof and of any separate use of the land, the number of families the building is designed to accommodate, the estimated cost of any structure or improvement, and such other information with regard to the application that may be necessary to determine compliance and provide for enforcement of this chapter. If approval is

required from the County Health Department or other agency for any such proposed work, such approval shall be obtained in writing and submitted along with the application for a zoning permit.

(b) Prior building permits. Any building, extension or alteration for which a building permit has been duly granted, the construction of which has been started before the effective date of this chapter or of an amendment thereto may be completed in accordance with plans on file with the Code Enforcement Officer, provided that such construction is diligently prosecuted and the building is completed within two years of the date of the issuance of the permit therefor. If any of the requirements shall not have been fulfilled within the prescribed period or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this chapter.

(c) Amendments to permits.

[1] Any amendments to the building permit or to the plans and specifications accompanying the same must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Code Enforcement Officer. If the change involves a change in the site plan, the applicant shall gain approval from the Planning Board.

[2] No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board and shall be in conformity with the plans approved by said Board.

(d) Approval

[1] The Code Enforcement Officer, after determining that such proposed work, use and occupancy are in compliance with all provisions of this chapter and other applicable ordinances and codes, may approve any such application and issue a zoning permit in connection therewith. An order from the Board of Appeals varying the application of any provisions of this chapter shall be acceptable in lieu of compliance with said provisions. The Code Enforcement Officer shall return to the applicant one copy of such application and plans, endorsed as approved.

[2] Such zoning permit shall, among other things, briefly describe the premises, the nature of the improvement, the estimated cost and the intended use or purpose to be made of the improvement and premises. It shall bear date of issuance and be signed by the Code Enforcement Officer. No building, land or premises shall be used for any purpose other than that stated in the permit.

[3] The Code Enforcement Officer, if he determines that such proposed work, use and

occupancy are not in compliance with all provisions of this chapter and other applicable ordinances and codes, shall disapprove such application and shall return to the applicant one copy of such application and plans endorsed as disapproved with the reasons stated in writing thereon.

(e) Expiration, extension, rescission.

[1] Every zoning permit issued shall become void after the expiration of one calendar year immediately following the date of issuance, and any further work on any premises after the expiration date or extension period of such zoning permit has passed shall constitute a violation of this chapter. Prior to such expiration date, the applicant may either apply to the Code Enforcement Officer for a new zoning permit or for an extension of the expiration date of the original permit.

[2] The Code Enforcement Officer may for just cause extend the expiration date of any zoning permit for a reasonable time period and may attach reasonable conditions to such extension relating to the work involved or situations that exist as a result of the work.

[3] Rescission of permits. The Code Enforcement Officer may for just cause rescind a zoning permit which he has issued. Where, in the opinion of the Village Board, any zoning permit hereafter issued by the Code Enforcement Officer was improperly or unlawfully issued or was procured through fraud or deception, the Village Board shall direct the Code Enforcement Officer to rescind the same.

(f) Inspection; right of entry.

[1] The Code Enforcement Officer or a duly authorized deputy shall have the right to enter upon any land at any reasonable hour in the course of his duties.

[2] Location of buildings to be staked before construction. The building location on the lot shall be staked out on the ground before construction is started so that the Code Enforcement Officer may determine by measurement on the lot that the yard requirements for the district in which the use is located are met.

[3] The Code Enforcement Officer shall inspect or cause to be inspected any building, structure or portion thereof after completion of any work for which a zoning permit was issued and be assured that all plans as approved are complied with before issuing a certificate of occupancy.

(g) Appeals. Any person allegedly aggrieved as a result of an action by the Code Enforcement Officer in regard to a zoning permit may appeal to the Board of Appeals.

(h) Permit approval affected by proposed zoning amendments. Whenever the Village Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, and for a period of 60 days following the date of such resolution, no building or structure shall be erected, enlarged or altered and no permit shall be issued for the erection, enlargement or alteration of any building of structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment if adopted by the Village Board.

(6) Zoning permits to be conditional. Every zoning permit issued shall be conditioned upon continued compliance with all of the requirements upon which the same was issued or which were imposed in connection with any site plan approval, variance, special permit or otherwise, and in the event of noncompliance, the Code Enforcement Officer shall rescind the zoning permit.

(7) For any application for a zoning permit that meets the definition of land development activities, as such are defined in § 131-3, the applicant is required to submit a stormwater pollution prevention plan (SWPPP) and otherwise comply with the provisions of Chapter 131, Stormwater Management, Article I, Erosion and Sediment Control.

(8) Uniform Code. In addition to the provisions of this section, all permits shall also be governed by the provisions of Chapter 64, Building Code Administration. Where there is a conflict between the provisions of this chapter and Chapter 64, the more restrictive provision shall apply.

Section # Certificate of Occupancy.

A. Certificate of occupancy required. It shall be unlawful for any person to use or permit the use of any building or premises or part thereof hereafter erected, relocated, altered, repaired, converted or extended, to change the use of an existing building or part thereof or to occupy or use land or to change the use of land for other than tilling the soil until a certificate of occupancy shall have been issued by the Code Enforcement Officer.

B. Application and approval of certificate of occupancy. It shall be the duty of the Code Enforcement Officer to issue a certificate of occupancy, provided that he has determined by inspection that the building and the proposed use of the building or land conform with all the requirements herein set forth. Such certificate shall state that such building or premises or part thereof and the proposed use thereof specifically described in the certificate are in complete conformity with the provisions of this chapter or any approvals under the Village Code. In case the Code Enforcement Officer shall refuse to issue a certificate of occupancy, his reasons shall be stated, in writing, on the application, and one copy thereof shall be returned to the applicant.

C. Temporary certificate of occupancy. Pending the issuance of a certificate of occupancy, a temporary certificate of occupancy may be issued by the Building Inspector/Code Enforcement Officer for a period not exceeding 90 days, renewable for two consecutive periods not exceeding 30 days each, during the completion of construction or alteration of any building. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the village respective to the use or occupancy of the land or building or any other matter covered by this chapter, and such temporary certificate shall not be issued except under such restrictions and provisions as outlined by the Building Inspector as will adequately assure the safety of the occupants of the building and of adjacent buildings and land.

D. Copies of certificates; existing uses. The Code Enforcement Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon written request from the owner and by payment by him to the village of the specified fee specified. The Code Enforcement Officer shall issue a certificate of occupancy for any building or premises existing at the time of the enactment of this chapter, certifying, after inspection, that the extent and kind of use and disposition conforms with the provisions of this chapter.

E. Fees. Each application for a certificate of occupancy shall be accompanied by a fee according to the schedule in as adopted by resolution of the Board of Trustees.

F. Appeals. Any person allegedly aggrieved by an action of the Code Enforcement Officer with regard to a certificate of occupancy may appeal to the Board of Appeals.

G. Uniform Code. In addition to the provisions of this section, all certificates of occupancy shall also be governed by the provisions of Chapter 64, Building Code Administration. Where there is a conflict between the provisions of this chapter and Chapter 64, the more restrictive provision shall apply.

Article XIII: Enforcement

Section ## Enforcement

A. Code Enforcement Officer. Unless otherwise provided, this chapter, as adopted, shall be enforced by the Code Enforcement Officer, in accordance with the provisions herein.

B. Rules, regulations and forms. The Code Enforcement Officer shall have the authority to make, adopt and promulgate such written rules, regulations and forms as he may deem necessary for the proper enforcement and administration of this chapter and to secure the intent thereof. Such rules, regulations and forms shall not be in conflict with the provisions of this chapter of the Code of the Village of Wappingers Falls, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules, regulations and forms shall have the same force and effect as the provisions of this chapter and be subject to the same penalties for violation thereof. Such rules, regulations and forms shall be submitted to the Village Board of Trustees by the Code Enforcement Officer, which shall move to approve, reject or modify such rules, regulations or forms within 30 days after submission. Failure to so move shall be construed to constitute approval thereof. Said rules, regulations and forms as approved by the Village Board of Trustees shall be on file and available to public view.

C. Inspections and reports. The Code Enforcement Officer shall make a written report of each inspection made in connection with his duty in enforcing the provisions of this chapter and shall keep a file of such reports in accordance with the provisions of § 64-15.

D. The Code Enforcement Officer shall administer and enforce the provisions of this chapter covering disposition of unoccupied or unsafe buildings or structures.

E. Conformity to certificate of occupancy. A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect as long as such building and the use thereof or of such land is in full conformity with the provisions of this chapter and any requirements made pursuant thereto. On the serving of notice by the Code Enforcement Officer of any violation of any of said provisions or requirements in respect to any building or the use thereof or of land, the certificate of occupancy for such use shall thereupon be rescinded and a new certificate of occupancy shall be required for any further use of such building or land.

Section ## Penalties for offenses.

A. Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this chapter and any use of any land or any building which is conducted,

operated or maintained contrary to any of the provisions of this chapter shall be and the same is hereby declared to be unlawful. Any owner, lessee, tenant, occupant, architect or builder or the agent of any of them who violates or is accessory to the violation of any provisions of this chapter, as adopted or amended, or who fails to comply with any of the requirements thereof or who erects, constructs, alters, enlarges, converts, moves or uses any building or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this chapter, as adopted, shall be guilty of a violation which is an offense punishable by a fine as provided herein.

B. Notice of violation.

(1) Whenever, in the opinion of the Code Enforcement Officer after proper examination and inspection, there appears to exist a violation of any provision of this chapter or of any rule, regulation or condition adopted or imposed pursuant thereto, he shall serve a written notice of violation on the person or corporation committing or permitting the same.

(a) Such notice may be served personally or by certified mail addressed to the premises where such violation exists or by posting a copy of the same upon said premises. The notice of violation shall set forth:

[1] The nature and details of such violation.

[2] Recommended remedial action which if taken will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

[3] The date of compliance by which the violation must be remedied or removed.

(b) If such violation does not cease within such time as the Code Enforcement Officer may specify, he shall institute such of the actions hereinafter set forth as may be necessary to terminate the violation.

(2) The Code Enforcement Officer may extend the date of compliance called for in a notice of violation after written application if, in his opinion, there is reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.

C. Certificate of zoning compliance. On re-inspection following the expiration of the date of compliance as specified in the notice of violation, if the violation has been remedied or removed in accordance with the specified remedial action and there is no longer a violation of any provision of this chapter, then a certificate of zoning compliance shall be issued by the Code Enforcement Officer.

D. Legal action by the village. On re-inspection following the expiration of the date of compliance as specified in the notice of violation or as extended in accordance herein, if the remedial action specified has not been carried out and there is still in existence, in the opinion of the Code Enforcement Officer, a violation of a provision of this chapter, then the Code Enforcement Officer shall immediately refer the matter to the Village Attorney, who shall thereupon institute appropriate legal action to restrain, prevent, enjoin, abate, remedy or remove such violation and to take whatever other legal action is necessary to compel compliance with this chapter.

E. Failure to apply for zoning permit or certificate of occupancy. Any person who fails to apply for a zoning permit or certificate of occupancy as required by and in accordance with this chapter and who proceeds to construct, erect, relocate, alter, extend or structurally change a building or part thereof or who subsequently proceeds to occupy or use such building or part thereof or who proceeds to occupy or use or change the use of land shall be required to file the applications and plans and pay the fees as provided. The Code Enforcement Officer shall inspect or cause to be inspected such building or land and shall issue either a notice of violation or a certificate of occupancy.

F. Violations, penalties and injunctions. Any person violating any provision of this chapter may be punished as provided in § 20-2006 of the Village Law.

Article XIV: Variance and Appeals

Section # Variance and Appeals

Purpose

A. Appeals. Applicants, or any officer, department, board or bureau of the Village has the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this Code to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed 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 assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

B. Variances

(1) Area variance. The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this Code. In making its determination, the Zoning Board of Appeals shall take into consideration the Area Variance Criteria and Standards as set forth in this Article.

(2) Use variances. The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the Code. In making its determination, the Zoning Board of Appeals shall take into consideration the Use Variance Criteria and Standards as set forth in this Article.

Application

A. Applications shall be in writing and must be filed with the Code Enforcement Officer within sixty (60) days after the order, requirement, decision, interpretation, or determination that is being appealed. Such application shall refer to the specific provisions of this Code involved and shall specify the grounds for the variance requested, the interpretation claimed, or the reversal of an order, requirement, decision, or determination of an administrative official and the relief sought.

(1) The applicant shall supply the Zoning Board of Appeals with:

(a) A legal description of the property.

(b) A map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof.

(c) Plans and elevations necessary to show the proposed variance.

(d) The setbacks and location of all existing and proposed structures.

(e) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision.

Hearing on Appeal

A. The Zoning Board of Appeals shall fix a reasonable time within sixty-two (62) days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing.

B. The Village Clerk shall notice the public hearing by publication in the official newspaper at least five days prior to the date of the public hearing.

C. The Village Clerk shall post said notice in the Village Hall

D. The applicant shall obtain from the Village the names and addresses of property owners within 200 feet from the property lines.

E. The applicant shall receive from the Village Clerk a property owner notification and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 14 days but no more than 21 calendar days prior to the scheduled public hearing.

F. Prior to the public hearing, the applicant shall submit to the Zoning Board of Appeals confirmation of this property owner notification using a “certificate of mailing” provided by the U.S. Postal Service.

G. Prior to the public hearing the applicant shall pay the cost of sending or publishing any notices or a reasonable fee relating thereto. Upon the hearing, any party may appear in person or by agent or attorney

H. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after such hearing. 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 of Appeals.

I. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify, any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer charged with the enforcement of this Code. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.

J. Imposition of conditions. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the variance granted on the property, and to specify the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning Code and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

K. 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 of persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

L. Stay upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this Code, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal is filed, 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 which may be granted by the Zoning Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and for due cause shown.

M. Expiration of Appeal decision. Unless otherwise specified by the Zoning Board of Appeals and without any further hearing by the Zoning Board of Appeals, a decision on any appeal, including the granting of area and use variances, shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within one (1) year of the date on which the decision is filed. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Code Enforcement Officer, who shall grant such extension if there have been no material changes in the circumstances surrounding the application. If the Code Enforcement Officer is unable to determine whether there have been material changes in the circumstances surrounding the application, the Code Enforcement Officer shall refer the request for extension to the Zoning Board of Appeals for decision.

Area Variance Criteria and Standards

A. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer charged with the enforcement of such Code, to grant area variances from the area or dimensional requirements of such Code.

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 any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board 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.

Use Variances Criteria and Standards

A. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such Code, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the Code.

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 establish such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:

(1) Under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;

(2) 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) The requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) The alleged hardship has not been self-created.

C. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved 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.

Planning Board Referral

A. The Zoning Board of Appeals may refer completed use and area variance applications to the Planning Board for its review and recommendation. If referred, in no case shall final action be taken until said Planning Board has submitted its advisory opinion. A failure by the Planning Board to provide an opinion within 45 days shall be deemed a neutral opinion and allows final action to be taken by the Zoning Board of Appeals.

Article XV: Amendments

Section # General Provisions.

The Village Board may, from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter pursuant to law.

A. Referral to Planning Board. Every such proposed amendment of text or change in the Zoning Map shall be referred to the Planning Board for report thereon before the public hearing provided by the Village Law. In recommending the adoption of any such proposed amendment, the Planning Board shall state its reasons for such recommendation, describing any condition that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the Comprehensive Plan of land use for the village and would be in furtherance of the purposes set forth in this code. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

B. The Planning Board may, by resolution, propose an amendment to the Village Board suggesting a change or repeal of specific portions of the regulations. Within ninety (90) days from the time such resolution is filed with the Village Clerk it shall be the duty of the Board to vote on such proposed amendment.

Hearing on proposed amendment; notice thereof.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing.

Adoption of amendment.

After the public hearing and referral to and report by the Planning Board, a majority vote of the members of the Village Board shall be required to amend this chapter, except as described in the Protest petition process.

Protest petition.

If a written protest against a proposed amendment, supplement or change is presented to the Village Board, signed by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending one hundred (100) feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Village Board.

Periodic review.

From time to time, at intervals of not more than three (3) years, the Planning Board shall re-examine the provisions of this chapter and the location of district boundary lines and shall submit a report to the Village Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

Article XVI: Definitions

Section # GENERAL USE OF LANGUAGE

A. For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows.

(1) All words used in the present tense include the future tense; all words in the singular number include the plural number and vice versa; the word "person" includes corporations and all other legal entities; the words "lot," "plot," "tract of land" and "premises" shall one include the other; the word "premises" shall include land and buildings thereon.

(2) "Occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied," unless the natural construction of the wording indicates otherwise.

(3) The word "shall" is always mandatory.

(4) Unless otherwise specified, all distances shall be measured horizontally.

(5) The word "village" means the Village of Wappingers Falls; the term "Village Board" means the Board of Trustees of said Village; the term "Village Clerk" means the Village Clerk of said Village; the term "Code Enforcement Officer" means the Code Enforcement Officer of said Village or the Zoning Enforcement Officer of said Village as defined in the Code of the Village of Wappingers Falls; the term "Board of Appeals" means the Zoning Board of Appeals (ZBA) of said Village; the term "Planning Board" means the Planning Board of said Village.

<u>GENERAL DEFINITIONS</u>

ACCESSORY USE
Any use that is Customarily Incidental and subordinate to an allowable principal use of a lot or structure.

ACCESSORY STRUCTURE
Any structure affixed to land or any movable structure which is Customarily Incidental, subordinate to, and associated with, a permitted principle structure.

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

ALTER
To move a building from one location or position to another, or to change or rearrange the existing facilities of a structure, or any change in the supporting members of a structure including, but not limited to, bearing walls, columns, beams or girders.

AMUSEMENT CENTER/ARCADE
Any place, site, structure or building or part thereof which provides more than three amusement game machines.

AMUSEMENT FACILITY, ACCESSORY
Any place, site, structure or building or part thereof which provides three or more amusement game machines only as an accessory to a principal use.

AMUSEMENT GAME MACHINE
Any mechanical, electrical or electronic machine or device used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin or for the operation or use of which a charge is made.

ANTENNA
A device which transmits and/or receives radio frequencies, telecommunications signals or electromagnetic waves.

APPLICANT
A person who applies for a permit.

AUTOMOTIVE USES:

a. **AUTO SALES** A structure or lot for the display, sale, rental, or lease of new or used motor vehicles.
b. **CAR WASH** Mechanical facilities for the washing or waxing of automobile, light trucks, and vans.
c. **TOWING/AUTOMOBILE SERVICE** Any area of land, including structures thereon, that is used or designed to be used for the maintenance, servicing, repair or painting of vehicles, rebuilding engines or transmissions, bodywork, framework, or welding**.**
d. **GASOLINE/CONVENIENCE STORE** Any area of land, including structures thereon, that is used for the sale of gasoline, oil or other motor vehicle fuel, including a convenience store, provided that the store is an integral part of the gasoline station, excluding towing and automobile service.
e. **DRIVE-THROUGH USE** An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles**.**

BASEMENT
That portion of the building having more than one-half of the floor-to-ceiling height below the average grade of the adjoining ground.

BED & BREAKFAST
A dwelling having a resident host in a single-family home with common dining and leisure rooms and separate guest lodging rooms for overnight accommodation, the rates for which include breakfast and

lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The Bed and Breakfast establishment shall have not more than five (5) guest rooms.

BUILDING
Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, property, animals or chattels. See **STRUCTURE**

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

BUILDING HEIGHT
The vertical distance to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof, if the roof is of any other type. Building height shall not apply to chimneys, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above roof, nor to domes, towers, stacks, or spires, if not used for human occupancy and which occupy not more than 20 percent of the ground floor area of the building; nor to ornamental towers, observation towers, licensed amateur radio station, and other like structures, which do not occupy more than 20 percent of the lot area.

Building height shall be measured as follows:

A. If the building adjoins the front property line or is not more than 10 feet distant therefrom: measured at the center of the front wall of the building from the established grade of the curb or, if no grade has been officially established or no curb exists, measured from the average level of the finished ground surface across the front of the building.
B. If the building is more than 10 feet from the front property line: measured from the average level of the finished grade adjacent to the exterior walls of the building. Where the finished grade surface is made by filling, the level of such finished grade, for the purpose of this definition, shall not be deemed to be more than three feet above the established grade of the curb.
C. When a lot fronts on two or more streets of different levels, the lower street or the average elevation of the lot with regard to the abutting streets may be taken as the base for measuring the height of the building.

BUILDING PERMIT
Written permission issued by proper municipal authority for the demolition, construction, repair, alteration or addition to a structure. Interchangeable with zoning permit, as used herein.

CEMETERY
Land used or intended to be used for the burial of biological remains and dedicated for that purpose.

CHANGE OF USE
Any new use for an existing site or structure that substantially differs from the previous use.

RELIGIOUS ASSEMBLY
A place for public worship, including, but not limited to, a church, synagogue or mosque.

CLUB or LODGE
A not-for-profit organized to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and constitution and bylaws. Provided that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the use of membership and purposes of such club. Commercial organizations, such as but not limited to tennis clubs, racquet clubs and physical fitness clubs, shall not be considered clubs.

CODE ENFORCEMENT OFFICER
A person appointed by the Village Board to administer and enforce the Village Code. References to the Code Enforcement Officer may be construed to include the Building Inspector, Zoning Enforcement Office, or other person appointed to administer and enforce the Village Code by the Village Board.

CONVENIENCE STORE
Any structure or portion thereof used for the retail sale of a variety of goods, which may include dairy products, baked goods, fresh or prepared meats, beverages, fresh or prepared foods such as sandwiches and coffee, and fresh fruits and vegetables, in a form ready for either on-site or off-site consumption, and which may also include the sale of minor amounts of canned foods, dry goods, and household, health, and stationery supplies, and which may also include limited seating for on-site consumption without wait service.

COVERAGE
That percentage of the lot area covered by the combined area of all structures and impervious surfaces on the lot.

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

DAY-CARE CENTER
A site, building, or place designed and/or operated to provide day care and/or instruction for twelve or more persons and operated on a regular basis for a fee.

DISCONTINUE
To break the continuity of or cease to operate.

DRIVEWAY
A private way providing access for vehicles to a parking space, garage, dwelling, or other structure.

DWELLING

A structure designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include automobile court, hotel, motel, inn, boarding- or rooming house, mobile home trailer, tourist home or tent.

DWELLING UNIT
One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family, which shall not be less than 500 square feet of habitable area. And there shall be a minimum of 70 square feet of habitable area provided for sleeping accommodations for the first person and an additional 50 square feet of habitable area for each additional person.

a. DWELLING UNIT, ACCESSORY
A second dwelling unit either in or added to a single-family dwelling, or in a separate accessory structure on the same lot as the principal structure, for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping. Such a dwelling shall be clearly accessory and incidental to the principal dwelling.

b. DWELLING, ONE-FAMILY
A detached building (not including a manufactured home) which is designed or used exclusively as living quarters for one family.

c. DWELLING, TWO-FAMILY
A dwelling containing two dwelling units only.

d. DWELLING, MULTI-FAMILY
A building containing more than two dwelling units or a part of a building above a permitted business use containing more than two dwelling units.

e. DWELLING, STREET LEVEL
A dwelling unit that is below the second story of any structure.

f. DWELLING, SUPPORTED LIVING
Any establishment where three or more persons, suffering from or afflicted with or convalescing from any infirmity, disease or ailment are habitually kept or boarded or housed for remuneration, other than municipal or incorporated hospitals and establishments licensed by the State Commissioner of Mental Hygiene.

EDUCATION FACILITY
Any building or part thereof which is designed, constructed and used for the education or instruction in any branch of knowledge which includes public or private, elementary, secondary, vocational or religious education.

FAMILY
One or more persons related by blood, marriage or adoption, or one or more persons residing as a housekeeping unit sharing household expenses.

FENCE
A structure designed to or which, in fact, does divide, enclose or screen a parcel of land or portion thereof.

FLOOR AREA, GROSS
A square foot number representing the entire area of a building including all stories, common areas, storage, mechanical areas, and space occupied by interior structures and partitions excluding basement area.

FLOOR AREA, GROUND
The sum of the horizontal areas of the ground floor of a building measured from the exterior face of exterior walls, but not including open porches, decks, terraces, garages or exterior staircases.

FRONTAGE
The extent of a building or of land along the street bearing the legal US Postal Address.

FUNERAL HOME
A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.

GARAGE, PRIVATE RESIDENTIAL
A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the resident thereof, and which is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC
A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GLARE
The reflection of harsh, bright light; and the physical effect resulting from high luminance or insufficiently shielded light sources in the field of view.

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

GRADE, FINISHED
The "finished grade" at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

GROUND FLOOR
The first floor of a building other than a cellar or basement which is located not more than 2 feet below nor 6 feet above the average finished grade.

HABITABLE AREA
Area in a structure for living, sleeping, eating or cooking. Maintenance or utility space, parking garages and similar areas are not considered habitable space.

HOME OCCUPATIONS I

Any use conducted entirely within a dwelling unit or its accessory building(s), which use is clearly incidental to the use of the dwelling unit as a place of residence. Examples include music teachers, lawyers, dentists, plumbers, electricians and physicians, but are not limited to the above.

HOME OCCUPATIONS II
Any use which is clearly incidental to the use of the dwelling unit as a place of residence, which is conducted primarily within a dwelling unit or its accessory building(s) but which may require the storage of machinery and equipment on the lot, or where office activities are conducted within the house or accessory building, but the services offered are conducted primarily off premises. Examples include auto repair shops, plumbing shops, electrical repairs shops and repair services, but are not limited to the above.

HOTEL/MOTEL
A commercial facility providing transient lodging containing six or more units and where the customary uses such as restaurant facilities, meeting rooms, recreation facilities playgrounds, game rooms, snack bars, and leisure rooms are provided for use by the lodger and the general public, including resorts, tourist cabins. (Excluding travel trailers, travel vehicles or motor homes.)

HOUSEHOLD PETS
Any animal customarily kept by humans for companionship, accustomed to living in human habitation and is dependent on people for food and shelter.

INN
A commercial facility, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 12 guest rooms.

JUNK AUTOMOBILE
Any unregistered, old or secondhand motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, motor vehicle shall mean all vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways or for use in agricultural or construction activity.

JUNKYARD
Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials.

KENNEL, COMMERCIAL
An establishment in which more than four animals more than one year old are housed, rehabilitated, groomed, bred, boarded, trained or sold.

KENNEL, PRIVATE
The fenced or enclosed area used to keep household animals.

LIGHT INDUSTRIAL USE

A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location.

LIVESTOCK
Horses, cows, pigs, sheep, goats, deer, llamas, alpacas, emus, ostriches, chickens, ducks, geese and similar animals and birds.

LOADING SPACE
Any off-street space available for the loading or unloading of goods and having direct usable access to a street.

LOT
A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

LOT AREA
The total horizontal area included within lot boundaries.

LOT, CORNER
A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT COVERAGE
That portion of the lot that is covered by buildings, structures, and impervious surfaces.

LOT DEPTH
The horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

LOT LINE, FRONT
In the case of a lot abutting upon only one street, the line separating the privately owned property from the public right of way lot that bears the legal US Postal Service address; in the case of any other lot, the owner may elect any lot line abutting a street as the "front lot line."

LOT LINE, REAR
The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length or if the lot comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the front line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINE, SIDE
The property line or lines extending from the front lot line to the rear lot line.

LOT, MINIMUM AREA OF
The smallest lot area established by the Zoning Chapter on which a use or structure may be located in a particular district.

LOT WIDTH

The average horizontal distance between the side lot lines, measured at right angles to the lot depth.

MEDICAL CLINIC
A place for the diagnosis, treatment or other care of ailments.

MANUFACTURED HOME
A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of Article 21-B of the Executive Law of New York State except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States code. The definition of manufactured homes shall not include self-propelled recreational vehicles, travel trailers, or modular structures. If built prior to 1976, a manufactured home is referred to as a mobile home. All regulations referring to manufactured homes shall be equally applied to mobile homes.

MANUFACTURED HOME PARK
Any plot of ground upon which two or more manufactured homes occupied for dwelling or sleeping purposes are or can be located, regardless of whether or not a charge is made for such accommodation. The term "manufactured home park" shall include the terms "house trailer park," "mobile home trailer park," "trailer camp" or other similar phrase.

MAJOR REPAIR
The repair, rebuilding, reconditioning of engines, trailers, transmission, drivetrain, auto body work, frame work, welding, and painting or similar activities.

MUNICIPAL USE
Services traditionally provided by local government, including water and sewer, roads, parks, public utilities, and police and fire.

NONCONFORMING LOT
Any legally created lot of record on the effective date of this chapter which does not meet the minimum lot area and/or lot width requirements of this chapter for the zoning district in which such lot is situated.

NONCONFORMING STRUCTURE
Any structure which is in existence within a given zoning district on the effective date of this chapter but which is not in conformance with the dimensional regulations for that zoning district.

NONCONFORMING USE
A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful until the time this chapter or amendments thereto, rendering it unlawful, became effective.

OFFICE, CLINICS/MEDICAL

A place where one or more doctors or dentists furnish medical or dental care to persons on an outpatient basis. A place for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises. A facility for human ailments operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients. A "medical or dental clinic" is an organization of specializing physicians or dentists, or both, who have offices in a common building. A clinic may include laboratory facilities in conjunction with normal clinic services, but shall not include inpatient care.

OFFICE, BUSINESS
A room, wing or detached building housing the office of a service or sales agency, not engaged in the manufacture or sale of goods, and wherein no storage space for merchandise is permitted, such as a travel agency, airline ticket agency, office of telephone or electric utility, or real estate office.

OFFICE, PROFESSIONAL
The use of offices and related spaces for such professional services that are provided by attorneys, architects, engineers and similar professions. A professional office excludes uses permitted in a "business office" and "medical offices/clinics."

OFF-STREET PARKING
An area used as a parking lot.

OUTDOOR LIGHTING

FOOTCANDLE (fc)
A measure of light falling on a surface amounting to one lumen per square foot. (Lux is the metric equivalent of footcandles.)

FULLY SHIELDED FIXTURE
An outdoor lighting fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above the horizontal plane from the base of the fixture. Fully shielded fixtures must be installed in a horizontal position as designed, or the purpose of the design is defeated, and direct glare will result.

GLARE
The eye's line-of-sight contact with a direct light source that causes annoyance, discomfort, or loss in visual performance and ability.

HEIGHT OF THE LUMINAIRE
The vertical distance from the finished grade of the ground directly below the center line of the luminaire to the lowest direct-light-emitting part of the luminaire.

ILLUMINANCE
Density of luminous flux incident on a surface. Unit is footcandle or lux.

LIGHT EMITTING DIODE (LED)
A type of diode that emits light when current passes through it. Depending on the material used the color can be visible or infrared.

LIGHT TRESPASS
Light from an artificial light source that intrudes into an area where it is not wanted or does not belong. Light trespass includes glare from direct light as well as unwanted spill light.

LUMEN

A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this section, the lumen output shall be the initial lumen output of a lamp as rated by the manufacturer.

LUMINAIRE

The complete lighting fixture including the lamp (i.e., bulb), lens (used to direct and distribute light) and the wiring. The luminaire is typically mounted on a pole or other fixed object.

NIT

A NIT is defined as a unit of illuminative brightness described as candela outper per square meter (cd/M2). The higher the number of NITs, the brighter the display.

OUTDOOR LIGHTING

The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

OUTDOOR LIGHTING FIXTURE

An electrically powered illuminating device or other outdoor lighting fixture including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination or advertisement. Such devices shall include but are not limited to search, spot, flood, and area lighting for buildings and structures; recreational areas; parking lot lighting; landscape lighting; signs (advertising and other); streetlighting; product display area lighting; building overhangs, and open canopies.

RECESSED CANOPY FIXTURE

An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

UNIFORMITY RATIO

The ratio of average to minimum illumination.

UPLIGHTING

Any light source that distributes illumination above a ninety-degree horizontal plane.

WALLPACK FIXTURES

A lighting unit designed for direct mounting on building walls whose primary function is to light building exteriors.

OUTDOOR RECREATION USE

Any recreation use particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices or rides. These recreational uses may include a bike, jeep or all-terrain vehicle trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, public park, and public beach for activities such as soccer, baseball, football, tennis and water-related activities.

OUTSIDE BAR

A specified area or facility not accessory to a permitted restaurant or tavern where patrons are seated and/or stand at said facility and where alcoholic beverages are prepared and/or served and/or consumed by said patrons. A portable service bar without seating shall not be considered an outside bar as defined herein.

OWNER-RESIDENT

A party who holds fee title to the premises and actually lives or dwells in a dwelling unit situate therein.

PARKING AREA

An off-street area containing one or more parking spaces with passageways and driveways appurtenant thereto.

PARKING SPACE
An off-street space available for the parking of one motor vehicle on a transient basis having direct usable access to a street.

PARKING, STACKED
The placement of parking spaces in a parallel line one in back of the other such that one or more spaces must be driven across in order to access another space or spaces.

PARKING LOT
An open area, other than a road, to be used for the storage of operable passenger automobiles and/or commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

PARKING LOT, COMMERCIAL
An parcel land or portion thereof used for the storage of operable passenger automobiles and/or commercial vehicles as a commercial enterprise.

PARCEL OF PROPERTY
See LOT.

PERSON
Any individual, firm, partnership, trust, company, association, corporation (including a government corporation), or village, state or federal government and any agency thereof.

PORCH
A roofed-over structure projecting out from the wall or walls of a main structure and often open to the weather.

PREMISES
A single lot, plot or parcel of land that has been assigned its own parcel identification number, and the structures situated thereon.

PUBLIC UTILITY USE
Means any public utility use, equipment or structure which is not a "major public utility use." A public utility use does not include any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law.

REPAIR
The restoration or replacement of any damaged or deteriorated building, structure or portion thereof, together with any necessary prior dismantlement, provided that no relocation or expansion is effected thereby, and provided further that the cost of such restoration or replacement, computed at the then-prevailing rates, does not exceed an amount equal to 25% of the fair market value of the entire building or structure above the foundation thereof.

RESTAURANT

An establishment, excluding taverns, where food and drink is prepared, served, and sold for on-premises consumption to patrons seated at tables. Full service restaurants shall not be permitted to have a *drive through use* as part of their operation.

RETAIL
Establishments providing goods, merchandise or services to the general public, for a fee, such as, but not limited to, banks, gift shop, dry cleaners, laundromats, supermarkets and food stores, convenience store, barber and beauty shops.

RIGHT-OF-WAY
Permission for passage over land of another.

ROADSIDE STAND
A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

SETBACK
The horizontal separation distance from the property line, highway right-of-way line or, in the case of shoreline property, from the mean high water mark to the building line. (See definition of "building line.")

SETBACKS – FRONT
A front lot line setback shall be measured from any ROW, any common driveway, or common entryway or roadway, or any vehicular easement. Rights-of-way shall be considered a front lot line and shall require a front setback.

SHORELINE
The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams within the Village.

SIGN
Any material, structure or device, or part thereof, composed of lettered or pictorial matter displaying an advertisement, announcement, notice or name, and including any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

ABANDONED SIGN
A sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located, or which promotes a dated event, the date of which has passed. A sign shall be considered abandoned if the business it advertises has not been in operation for 30 days.

ACCESSORY SIGN
A sign communicating information incidental to the conduct of business, such as "Open" and hours of operation.

AWNING

Any non-rigid material such as fabric or flexible plastic that is supported by a frame that is attached to an exterior wall.

AWNING SIGN
A sign or graphic printed on or in some fashion attached directly to the awning.

BILLBOARD
See off premise sign.

DOUBLE-FACED SIGNS
Signs designed to be viewed from two directions and which at no point are thicker than 24 inches measured from the exterior surface of each face, and the two faces of the sign are either parallel or the angle between them is 30° or less.

FREESTANDING SIGN
Any sign not attached to or part of any building but permanently affixed, by any other means, to the ground. This definition shall not include portable signs.

FRONT or FACE
The outer surface of a building, which is visible from any private or public street or highway.

HEIGHT
The height of a freestanding sign shall be measured vertically from the established average grade directly below the sign, to the highest point of the sign, including support structures and ornamentation. Elevation added by artificial beams, mounds or similar forms shall be excluded from the calculation of average grade.

INTERNALLY ILLUMINATED SIGN
Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent matter including TVs/Computer Screens/CRTs or any flat screen device.

NEON SIGN
A sign that uses a lighting device consisting of a transparent container within which a gas is energized by an applied voltage and thereby made to glow. Neon rope lighting shall be included in this definition.

OFF-PREMISE SIGN
A sign which promotes products, services or activities conducted, sold or offered somewhere other than upon the same premises where the sign is located.

PORTABLE SIGN
A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not permanently affixed to the ground, a building, structure or another sign. Included are signs displayed on a parked or moving vehicle or trailer or other vehicle where the primary purpose of the vehicle is to promote a product, service business, or other activity. This definition includes a vehicle hanging or displaying a banner sign whose primary purpose is for advertising. It does not apply to sidewalk signs or signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

POSTER
A sign affixed to trees, other natural vegetation, rocks, or utility poles.

PROJECT SIGNS
A sign denoting the developer, architect, engineer, contractor or subcontractors on the premises where construction, repair, renovation is in progress or will occur in the near future.

PROJECTING SIGNS
A sign other than a wall sign which projects from and is supported by a wall or roof of a building, structure.

ROOF SIGN
A sign erected on a roof or extending in height above the main roofline of the building on which the sign is erected.

SEASONAL SIGN
Any sign that is displayed for a specified period of time related to a seasonal business.

TEMPORARY SIGN
Any sign that is displayed only for a specified period of time that is not a seasonal sign and is not permanently mounted.

WALL SIGN
A sign that is painted on or attached directly to the outside wall of a building, with the face of the sign parallel to the wall and having a visible edge or border extending not more than four inches from the face of the wall.

WINDOW SIGN
A sign visible from a sidewalk, street or other public place, affixed or painted on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

STORY
That portion of a building, other than the basement, between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the surface of the floor and the ceiling above the floor of such story.

STREET
A way which is an existing state, county, Village or village highway or a way shown upon a subdivision plat approved by the Village Planning Board as provided by law or on a plat duly filed and recorded in the office of the County Clerk.

STREET LINE
The line dividing a lot from a street right-of-way.

STRUCTURE

Any object constructed, installed or placed on the land to facilitate land use and development or subdivision of land, including but not limited to buildings, sheds, dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto. Structures exceed 100 square feet which shall be a measurement of the entire structure including all parts of the same that are separated by less than 3 feet.

SWIMMING POOL
Any artificial body of water or receptacle for water having a depth at any point greater than two feet and used or intended to be used for swimming or bathing and constructed, installed or maintained in or above the ground out of doors. A swimming pool shall be deemed a structure for all purposes under the provisions of this chapter.

SWIMMING POOL, COMMERCIAL
A receptacle for water having a depth at any point greater than two (2) feet, used or intended to be used for swimming, and constructed, installed, or maintained in or above the ground and is directly associated with with a commercial use such as a hotel/motel, inn, or bed and breakfast or operates soley as a for-profit business. A commercial swimming pool shall be deemed a structure for all purposes under the provisions of this chapter.

TAVERN
An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may also be served as accessory to the principal use and where entertainment may be provided.

TERRACE
An uncovered flat platform of earth with or without a surface material or retaining walls. A terrace with a roof or awning shall be considered a porch.

THEATER
A building or part of a building used for motion pictures or live performances which may include dinner theaters.

UNDERTAKE
The commencement of a material disturbance of land, including the commencement of road construction, grading, the installation of utilities, clearing of building sites, excavation (including excavation for the installation of foundations, footings and septic systems), or commencement of landscaping or any other material disturbance of land preparatory or incidental to a proposed land use or development or subdivision.

USE
The specific purpose for which land, water or a building or structure is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, ACCESSORY
A use which is customarily incidental and subordinate to the principal use of a lot, water area or a building and located on the same lot or water area therewith.

VOLATILE SUBSTANCES, GAS OR LIQUIDS

Combustible solids, liquids or gases, including but not limited to butane, propane, gasoline, kerosene, alcohol or other combustible substance.

WALL, RETAINING
A wall that is more than two feet in height or exceeds 100 square feet in area.

WAREHOUSING
A building or part of a building used for the storage and distribution of goods wares, merchandise, substances or articles. Warehousing does not include individual/personal storage units, and does not include wholesale or retail sales, or a regional or national distribution center.

YARD
An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT
A yard extending across the full width of the lot and lying between the front lot line and the nearest line of the principal building.

YARD, REAR
A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE
A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

Article XVII: Repealer and Severability

Section # Repealer

Chapter 151 of the Village of Wappingers Falls Code adopted on 9/9/1970, together with changes and amendments thereto prior to the effective date of this Local Law, are hereby repealed and declared to be of no effect.

Section # Severability

The invalidity of any section, subsection, paragraph, sentence, clause or provision of this article shall not affect the validity of any other part of this chapter as a whole or any part thereof other than the part so decided to be invalid.

Section # Effective Date
Upon the enactment by the Village Board, and filing with the Secretary of State, this chapter shall become effective as provided by law.