

APPENDIX B:
Summary of Proposed Changes

Final changes to Comprehensive Plan, Zoning Law, Zoning Map,
and Subdivision Regulations
November 16, 2009

Comprehensive Plan
Appendix “B”

These pages of the Comprehensive Plan were amended to include the 2006 Community Survey results. Added as Appendix “B” and adjusted title of Appendix “A” (maps).

Chapter 98 - ZONING

ARTICLE II
ESTABLISHMENT OF DISTRICTS:

- §98-6 (A-J) Use of the words “area”, “land” and “category” have been changed to “district”
- §98-6 L Speed limit reduction and narrowing of main intersection in Washington Hollow removed
- §98-6 M Salt Point - Narrowing of Hibernia Road and Salt Point Tpke to promote lower speeds removed

ARTICLE III
GENERAL REGULATIONS:

- §98-13 G(1) “Storage accessory to any one or two-family dwelling for the purpose of storing garbage, other than standard receptacles for household trash not in excess of ninety-five (95) gallons, shall be screened from view from a walkway or street.”

ARTICLE IV
ACCESSORY BUILDINGS AND STRUCTURES:

- §98-14 Accessory buildings cannot be erected within 15 feet (previously 10 feet) of side and rear property lines, septic tanks and leach fields

ANIMAL HUSBANDRY:

- §98-19 Delete existing language; replace as follows:

§98-19

The keeping, grazing, feeding, and care of animals other than household pets, other than in conjunction with a Farm Operation, as defined under Article 25-AA, Section 301, paragraph 11 of the New York State Agriculture and Markets Law, or other than as a Kennel shall be known as Animal Husbandry, shall be permitted as an accessory use on improved lots pursuant to the Schedule of Permitted Uses, and shall conform to the following conditions:

A. The minimum lot size for keeping large hoofed animals (such as horses, mules, llamas, cows, and hogs) as permitted by right shall be three acres. The minimum lot size for smaller animals (sheep, goats and ponies) as well as poultry and other large birds such as waterfowl, turkeys and peafowl, as permitted by right, shall be two acres. Animal Husbandry on property not meeting the acreage requirement, or as a primary use on any unimproved lot, shall depend on the circumstance of the property and shall be permitted only upon issuance of a special permit by the Zoning Board of Appeals. Animal Husbandry in practice before the adoption of this zoning code shall be deemed a non-conforming use with respect to these minimum lot size requirements, subject to the requirements of §98-63.

B. Proper housing and shelter shall be provided for the animals as per standard practices for each type of animal. Pens or other animal shelter shall be located a minimum of one hundred feet (100') from any neighboring residence or well. Pastures may be fenced at the property line.

C. Animals shall be confined to the owner's property.

D. Any area used as pasture shall be adequately fenced or secured to ensure confinement to the property in question. Adequate grass or forage shall be maintained for all grazing animals. The Zoning Administrator may consult with New York State Agriculture and Markets Law and with Cornell Cooperative Extension ("CCE") or, in the event CCE ceases to exist, its equivalent, to determine whether animal shelter and care in a particular circumstance meet minimum standards. The Zoning Administrator may rely upon the opinion of CCE officials or in the event CCE ceases to exist, its equivalent, and shall rely on guidelines established by Cornell Cooperative Extension relating to the housing and care of livestock and other farm animals, in making such determination.

E. Handling, storage, disposal or removal of all animal waste shall be done to ensure minimum impact on the environment and to avoid any impact on neighboring residences, whether from odor, associated pests or water run-off. Such animal waste shall be stored at least 100 feet from any wells,

residences or wetland or watercourse buffer and must be screened from view from public roadways or neighboring residential properties,

F. The Comprehensive Plan seeks to preserve agriculture and to retain farming as a viable economic enterprise in the Town of Pleasant Valley. Therefore, to encourages participation in 4H and Future Farmers of America (FFA) animal husbandry programs, the Zoning Administrator and/or the Zoning Board of Appeals may make practical accommodations of regulation 98-19 where active 4H and FFA participation is involved.

G. The Zoning Administrator has express approval to enter any property to investigate any formal complaint filed regarding a specific practice of Animal Husbandry.

H. The application fee for a Special Use Permit shall be waived for Animal Husbandry applications. However, to the extent that the Planning, Zoning or any other reviewing board or agency of the Town engages professional consultants in connection with an animal husbandry special permit application or any portion thereof, the applicant shall be subject to applicable escrow requirements as set forth throughout the Town Code.

I. Any property used for the conduct of Animal Husbandry pursuant to this Section shall not automatically be deemed a “Farm” as that term is defined nor shall any such property be entitled to the protections of §98-17.

BED & BREAKFAST:

§98-20 Definition of “bed and breakfast” removed

FENCES:

§98-28 B Section changed to specifically designate front yard fence and wall can be no higher than 4 feet.

§98-28 C New section added - “Fences and walls in Side and Rear Yards. In any residential district, the height of such fence, wall or other structure in the nature of a fence or wall that is located in a required Side Yard or Rear Yard which is not adjacent to a street may exceed six (6) feet in height to a maximum of ten (10) feet in height, provided that such fence or wall is set back from the nearest property line a distance equal to the one-half (½) the height of the fence or wall.”

HAMLET RESIDENTIAL DESIGN:

§98-31 A(3) (new language highlighted) “The Town of Pleasant Valley encourages compliance with Energy Star (international standard for energy-efficient consumer products), LEED certification (Leadership in Energy and Environmental Design), or other nationally recognized standards or certifications that encourage and/or certify environmentally sustainable construction and development.”

§98-31 C(2) Minimum width of sidewalks changed from 4 feet to 5 feet.

HOME OCCUPATION:

§98-32 A Section “A” removed. Definition of “Home Occupation” removed.

MANUFACTURED HOMES:

§98-36 C(1)(b) Manufactured home end clearance from rear lot line changed from 40 feet to 20 feet.

OFF STREET PARKING:

§98-42 O Planning Board’s determination of off street parking requirements removed.

New section added: “The following table sets forth the required number of off-street parking spaces to be provided with respect to each of the uses specified. The required number shall be the maximum allowed. The Planning Board may reduce the number of off-street parking spaces required for any use specified if, after consideration of all factors which may affect the parking needs of a particular use, the Planning Board determines that the required number of parking spaces would be excessive and could result in an unwarranted increase in impervious surfaces and/or storm water runoff.”

Tables are no longer “guidelines”, now “requirements”.

TRANSFER OF DEVELOPMENT RIGHTS:

§98-51 A Definition of “Purchase of Development Rights” now includes the language: “The severance of certain rights to develop land pursuant to the purchase of those rights from the landowner”

WIND GENERATING FACILITY:

§98-54 D(10) New section added: The maximum height for a Private Wind Power Generating Facility is one-hundred feet (100') to the top of the blade in its vertical position.

ARTICLE V

CESSATION OF CERTAIN USES:

§98-63B New Section added: Notwithstanding any other provision of this Chapter, Animal Husbandry on sub-standard lots which use was in existence prior to adoption of this section, may continue until such time as the sub-standard real property is sold or otherwise transferred or conveyed to a new owner. Following any such conveyance, there shall be no right to conduct Animal Husbandry on the real property without first obtaining a special permit pursuant to §98-19. (B, C, & D are now C, D, & E)

SUBDIVISION LOTS:

§98-65 A(1) New sections (a) and (b) added regarding a lot area of 8,000 sq. ft.:
“(a)For lots of one (1) acre or less in area, no more than twenty-five percent (25%) of the lot shall be subject to periodic flooding or be within the one-hundred year floodplain. (b) For lots greater than one (1) acre in area, at least thirty thousand (30,000) square feet of dry land shall be provided.”

§98-65 A(5) New section added: “All minimum yard requirements for a lot must be satisfied by measurement on dry land.”

§98-65 A(6) New section added: “when the nonconforming lot is below the minimum average density lot size or lot size, the owner of the lot does not own a contiguous lot or lots with which the nonconforming lot could be merged to reduce the nonconformity of the lot.

SURETY:

§98-82 Add language pertaining to the installation of infrastructure and improvements and cross reference Town Law §274-a (7). The applicant may be required to provide a Letter of Credit or other form of surety approved by the Town Board in sufficient amounts to cover the full costs of required infrastructure and improvements and duration to assure that all

infrastructures and improvements underlying all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutter, street trees, water mains, fire alarm signal devices including necessary ducts and cable or other connecting facilities, sanitary sewers and storm drains or combined sewers or other public improvements proposed shall all be installed in accordance with standards, specification and procedures acceptable to the appropriate town departments. The form of the bond as secured by the Letter of Credit or other form of security shall be approved by the Town's attorney. The need for a Letter of Credit and its amount shall be approved by the Town Board, with the recommendation for the Planning Board and in accordance with Town Law §274-a(7).

VIOLATIONS:

§98-90 B Add Fines: Not to exceed \$350.00 for a first offense; not less than \$350.00 not more than \$750.00 for a second offense; and not less than \$750.00 not more than \$1,000.00 for a third offense.

CONSULTANT FEES:

§98-91 Delete and add the following:

A. Every application for a permit or approval described in paragraph "B" below shall be accompanied by such fees as set forth on the Fee Schedule adopted, and amended from time to time, by the Town Board.

B. Every applicant, and landowner if different, shall be jointly and severally responsible for payment of all reasonable and necessary costs of Consultant Services (defined hereafter), where the Town Board, Planning Board, Zoning Board of Appeals, Superintendent of Highways, Zoning Administrator, and/or any other Town of Pleasant Valley agency or department uses the services of private engineers, attorneys or other consultants (collectively, "Consultant Services") (1) for purposes of engineering, scientific land use planning, environmental or legal reviews of the adequacy or substantive details of applications, or issues raised during the course of review of such applications, for: (a) special permits, (b) site plan, (c) subdivision of land, (d) sign permits, (e) use variances, (f) area variances, (g) applications for rezoning of parcels to accommodate site-specific land development proposals or otherwise, (h) applications to amend the provisions of the Town Code, (i) lot line realignment, (j) interpretations of the Town Code, (k) highway permits, (l) driveway permits, (m) wetland permits or (n) for any other principal or ancillary

land use or development permits or approvals permitted or required under the Town Code, and/or (2) to assist in assuring or enforcing an applicant's compliance with the terms and conditions of all the aforementioned administrative and legislative permits or approvals. In no event shall that responsibility be greater than the actual cost to the Town of such Consultant Services. The review expenses provided for in this paragraph "B" are in addition to application or administrative fees required pursuant to any other provisions of this Article and the Town Code.

C. The Town Board, Planning Board, Zoning Board of Appeals, Superintendent of Highways and/or Zoning Administrator may require advance periodic monetary deposits ("Escrow Deposits"), to be held on account of the applicant or landowner (the "Escrow Account"), by the Town of Pleasant Valley to secure the reimbursement of the Town's Consultant Service expenses. Escrow Deposits shall be made and maintained according to the Schedule of Escrow Funds periodically adopted and updated by the Town Board. The Town may make payments from the deposited funds, for Consultant Services, after audit and approval by the Town Board of itemized vouchers for such services. Upon request, the Town shall supply copies of such vouchers to the applicant, appropriately redacted where necessary to shield legally privileged communications between Town officers or employees and the Town's consultants. When the Escrow Account is depleted as set forth on the Schedule of Escrow Funds, the Town shall cause the applicant or landowner to deposit additional sums into the Escrow Account, pursuant to the Schedule of Escrow Funds, to meet such expenses. Notwithstanding the foregoing, when it appears to the Town that pending or anticipated vouchers will deplete the Escrow Account below the minimum permitted levels set forth on the Schedule of Escrow Funds, then Town shall cause the applicant or landowner to deposit additional monies into the Escrow Account, in the same manner as if the actual balance in the Escrow Account had fallen below minimum permitted levels set forth on the Schedule of Escrow Funds.

D. The Town Board shall review and audit all vouchers and shall approve payment only of such engineering, legal and other consulting expenses as are necessarily incurred by the Town in connection with the review and consideration of any application as set forth in paragraph "B" above, or for the monitoring, inspection or enforcement of any permits or approvals or the conditions attached thereto. For the purpose of this review and audit, a fee shall be reasonable in amount if it bears a reasonable relationship to the average charge by engineers, attorneys or other consultants to the Town for services performed in connection with similar applications or if there be no similar projects within the Town, then for similar projects

located in Dutchess and Columbia Counties and surrounding area, to the extent that such similar projects may exist. In this regard, the Town Board may take into consideration the complexity, both legal and physical, of the project proposed, including without limitation, the size, type, and nature of the project, number of buildings to be constructed, the amount of time to complete the project, together with any special features but not limited to, the topography of the land on which such project is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities or parks to be constructed and special conditions or considerations as the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it was charged by the engineer, attorney, or other consultant for a service which was rendered in order to protect or promote the health, safety, welfare or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other environmental factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities, to correct any defects arising during any post-dedication maintenance period, avoid claims and liability, and such other interests as the Town may deem relevant.

E. The owner(s) of the subject real property, if different from the applicant, shall be jointly and severally responsible to reimburse the Town of Pleasant Valley for funds expended to compensate for services rendered to the Town under this section by private engineers, attorneys or other Consultant Services. In order for a land use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal and other consulting fees incurred by the Town (collectively, "Consultant Services' Fees"). In the event of failure to reimburse the Town for such fees, the following shall apply: (1) The Town may seek recovery of unreimbursed Consultant Services' fees by action brought in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney's fees expended by the Town in prosecuting such action. (2) Alternatively, and at the sole discretion of the Town, a default in reimbursement of such Consultant Services' fees expended by the Town shall be remedied by charging such sums against the real property which is the subject of the land development application, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as Town-assessed taxes and shall be paid to the Town

Comptroller, to be applied in reimbursing the fund from which the costs were defrayed for the Consultant Services' fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.

F. Upon submission of an application for any permit or approval covered under this Section 98-91, and prior to being placed on any agenda, the applicant and/or owner shall deposit such funds as required pursuant to the Schedule of Escrow Funds, together with any applicable fees as set forth on the Town of Pleasant Valley Schedule of Fees, each as may be periodically adopted and updated by the Town Board. In the event any Escrow Deposit is depleted below the minimum permitted amount, the application shall be removed from the agenda of the reviewing board and review of such application shall cease and shall not recommence until such time as the Escrow Deposit has been replenished as required. In no event shall the Chairman of the Planning Board sign a final site plan or subdivision plat unless and until all Consultant Services' Fees incurred by the applicant have been paid. In all cases, no Certificates of Occupancy shall be issued unless and until all Consultant Services' Fees incurred by the applicant have been paid.

G. Every applicant, and landowner, if different, shall, upon submission of an application subject to the provisions of this Section 98-48.1, execute and deliver an escrow agreement, acceptable in form and content to the Attorney to the Town, acknowledging the obligations set forth herein.

H. In the event that a Positive Declaration is made in accordance with the New York State Environmental Quality Review Act (SEQR), all subsequent consultant review fees that are necessary for the preparation or review of an EIS shall be reimbursed to the Town in accordance with the procedures established under SEQR and under this Zoning Law. The applicant shall maintain the basic escrow account for the continued review of the application that is not directly related to the preparation or review of an EIS. The Town may require the applicant to establish a separate escrow account for the consultant services costs necessary for the preparation or review of an EIS. All deposits, reimbursements and refunds shall be made in accordance with the provisions of this Zoning Law.

J. Notwithstanding the provisions of A-H above, no escrow shall be required for any application to the Zoning Board of Appeals unless the Zoning Board determines that the subject application will require Consultant review. If such a determination is made by the Zoning Board of Appeals, at any time prior to final approval of any application before it, then the provisions of A-H above shall be fully applicable as if they had been required upon submission of the initial application.

ARTICLE IX

AMENDMENTS:

§98-101

Add time limit of forty-five (45) days for the return of report from the Planning Board.

DEFINITIONS:

§98-103

Definition of “awning”, “co location”, “monopole”, “purchase development rights”, “sign”, “telecommunications facility”, “telecommunications tower” and “transfer of development rights” removed.

There is now a designation in the beginning of this Article that the definitions for “Signs”, “Telecommunications Facilities”, “Transfer of Development Rights, Purchase of Development Rights, and Density Management”, “Water Protection” and “Wind Generating Facility” can be found in the specific sections relating thereto.

Schedule of Area and Bulk Requirements See changes on page 163 to the first two rows of table “minimum lot size” and “average density”

ZONING MAP

District abbreviation added after district names in the legend were added.

A scale was added.

Wetlands layer was removed since it is not a district.

Chapter 82

ARTICLE II DEFINITIONS:

§82-8 Language of definition for “subdivision” removed: “The term “subdivision” may include any alteration of lot line(s) or dimensions of any lot(s) or site(s) shown on a plat previously approved and filed in the office of the county clerk or register of the county in which such plat is located.” That is the definition of resubdivision.

ARTICLE IV FEES:

§82-15 B Add new language at the end: The review expenses provided for in this paragraph “B” are in addition to application or administrative fees required pursuant to any other provisions of this Article and the Town Code.

§82-15 D New language at the end: For the purpose of this review and audit, a fee shall be reasonable in amount if it bears a reasonable relationship to the average charge by engineers, attorneys or other consultants to the Town for services performed in connection with similar applications or if there be no similar projects within the Town, then for similar projects located in Dutchess and Columbia Counties and surrounding area, to the extent that such similar projects may exist. In this regard, the Town Board may take into consideration the complexity, both legal and physical, of the project proposed, including without limitation, the size, type, and nature of the project, number of buildings to be constructed, the amount of time to complete the project, together with any special features but not limited to, the topography of the land on which such project is located, soil conditions, surface water, drainage conditions, the nature and extent of

highways, drainage facilities, utilities or parks to be constructed and special conditions or considerations as the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it was charged by the engineer, attorney, or other consultant for a service which was rendered in order to protect or promote the health, safety, welfare or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other environmental factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities, to correct any defects arising during any post-dedication maintenance period, avoid claims and liability, and such other interests as the Town may deem relevant.

§82-15 H New subsection: In the event that a Positive Declaration is made in accordance with the New York State Environmental Quality Review Act (SEQR), all subsequent consultant review fees that are necessary for the preparation or review of an EIS shall be reimbursed to the Town in accordance with the procedures established under SEQR and under this Zoning Law. The applicant shall maintain the basic escrow account for the continued review of the application that is not directly related to the preparation or review of an EIS. The Town may require the applicant to establish a separate escrow account for the consultant services costs necessary for the preparation or review of an EIS. All deposits, reimbursements and refunds shall be made in accordance with the provisions of this Zoning Law.

DRIVEWAY:

§82-21 C New section added: “Where driveway access from a major street may be necessary for several adjoining lots the Planning Board may require that such lots be served by a combined access driveway, or private road, in order to limit possible traffic hazard on such street.”

LOTS:

§82-22 A(5) Section removed regarding existing nonconforming lots as it is covered in Zoning..

§82-22 B New sections added (note that the number appears to be off in this section): “(1) Average Density. There shall be no minimum lot size in a subdivision, provided that the Dutchess County Department of Health shall assure that where on-site wells and on-site sewage treatment and

disposal systems are planned, adequate minimum lot sizes are provided to assure the health and safety of the residents of the subdivision and the subdivision meets the policies outlined in §82-4 above. (2) The minimum individual lot frontage shall be 50 feet. (3) Lots gaining access from an existing state or county highway shall comply with minimum road frontage requirements for the district.”

§82-22 E Sections (1), (2) and (3) were removed from this section and added to §82-22 B above. Section (4) removed which stated: There shall be no required area, bulk or dimensional standards for house siting on lots in a subdivision that meets the policies outlined in §82 4 above, except where such subdivision abuts an existing residential lot, a public trail, and/or an agricultural use.

ARTICLE V

§82-26 B Form A: Resource Analysis Assessment removed; it now states that Form A is available from the Planning Board Secretary.

END

