

Chapter 98 DECEMBER 2009

ARTICLE I	4
GENERAL PROVISIONS	4
§98-1. <i>Scope.</i>	4
§98-2. <i>Interpretation.</i>	4
§98-3. <i>Word Usage.</i>	4
§98-4. <i>Statutory Authority; Purposes.</i>	4
§98-5. <i>Greenway Connections.</i>	5
ARTICLE II	6
ZONING DISTRICTS AND ZONING MAP	6
§98-6. <i>Establishment of Districts</i>	6
§98-7. <i>Zoning Map.</i>	11
§98-8. <i>Interpretation of District Boundaries.</i>	11
ARTICLE III	12
GENERAL REGULATIONS.....	12
§98-9. <i>Application of Regulations</i>	12
§98-10. <i>Schedules of Regulations.</i>	12
§98-11. <i>Schedule of Permitted Uses.</i>	12
§98-12. <i>Schedule of Area and Bulk Requirements.</i>	13
§98-13. <i>General Regulations.</i>	13
ARTICLE IV	15
SUPPLEMENTARY REGULATIONS	15
§98-14. <i>Accessory Buildings and Structures.</i>	15
§98-15. <i>Accessory Dwelling.</i>	15
§98-16. <i>Adult Use.</i>	17
§98-17. <i>Agricultural Protections.</i>	18
§98-18. <i>Airport/Heliport.</i>	19
§98-19. <i>Animal Husbandry.</i>	19
§98-20. <i>Bed-and-Breakfast.</i>	20
§98-21. <i>Camp.</i>	21
§98-22. <i>Caretaker / Guest Cottage.</i>	21
§98-23. <i>Club, Not-For-Profit Membership.</i>	22
§98-24. <i>Conservation Subdivisions</i>	23
§98-25. <i>Environmental Performance Standards.</i>	24
§98-26. <i>Erosion and Sediment Control</i>	27
§98-27. <i>Excavation, Grading, Rock Removal, and Tree Cutting</i>	27
§98-28. <i>Fences and Walls</i>	28
§98-29. <i>Floodplain Regulations.</i>	28
§98-30. <i>Forestry.</i>	28
§98-31. <i>Hamlet Residential Design Principles.</i>	28
§98-32. <i>Home Occupation.</i>	30
§98-33. <i>Impervious Surfaces.</i>	31
§98-34. <i>Junk Motor Vehicles.</i>	31
§98-35. <i>Kennel</i>	32
§98-36. <i>Manufactured Home Park.</i>	32
§98-37. <i>Mining</i>	34
§98-38. <i>Motor Vehicle Fueling Facility / Repair Shop / Washing Facility.</i>	35
§98-39. <i>Motor Vehicle Sales.</i>	37
§98-40. <i>Multi-Family and Two-Family Dwelling</i>	37
§98-41. <i>Off-Street Loading.</i>	39
§98-42. <i>Off-Street Parking</i>	39

§98-43. <i>Outdoor Storage</i>	44
§98-44. <i>Public Utility Facility</i>	45
§98-45. <i>Quarrying</i>	45
§98-46. <i>Signs</i>	46
§98-47. <i>Site Design & Architectural Standards for Non-Residential Development</i>	62
§98-48. <i>Steep Slope Protections</i>	71
§98-49. <i>Telecommunications Facilities</i>	72
§98-50. <i>Temporary Uses</i>	83
§98-51. <i>Transfer of Development Rights, Purchase of Development Rights, and Density Management</i>	84
§98-52. <i>Veterinary Clinic</i>	86
§98-53. <i>Water Protection</i>	87
§98-54. <i>Wind Generating Facility</i>	97
ARTICLE V	101
NONCONFORMING STRUCTURES AND USES.....	101
§98-55. <i>Continuance</i>	101
§98-56. <i>Unsafe Structures</i>	101
§98-57. <i>Expansion</i>	101
§98-58. <i>Construction Approved Prior to Adoption of Provisions</i>	101
§98-59. <i>Restoration</i>	102
§98-60. <i>Discontinuance</i>	102
§98-61. <i>Displacement</i>	102
§98-62. <i>Changes in District Boundaries; Reversion</i>	102
§98-63. <i>Cessation of Certain Uses</i>	102
§98-64. <i>Change to Another Nonconforming Use</i>	103
§98-65. <i>Exemption of Substandard Lots</i>	104
ARTICLE VI	105
SUBDIVISION, SPECIAL USE PERMIT AND SITE PLAN APPROVAL.....	105
§98-66. <i>Approval</i>	105
§98-67. <i>Special Use Permit</i>	105
§98-68. <i>Special Use Permit Application</i>	105
§98-69. <i>Special Use Permit Review Procedure</i>	106
§98-70. <i>General Standards</i>	107
§98-71. <i>Submission Requirements</i>	109
§98-72. <i>Reimbursable Costs</i>	111
§98-73. <i>Effect of Special Use Permit Approval</i>	111
§98-74. <i>Expiration</i>	112
§98-75. <i>Revocation</i>	112
§98-76. <i>Relief from Decisions</i>	112
§98-77. <i>Uses for which Site Plan Approval is Required</i>	112
§98-78. <i>Site Plan Procedure</i>	112
§98-79. <i>Formal Application to the Planning Board</i>	115
§98-80. <i>Submission Requirements for Formal Site Plan Application</i>	116
§98-81. <i>Standards for Site Plan Approval</i>	121
§98-82. <i>Surety</i>	125
§98-83. <i>Expiration of Site Plan Application</i>	125
§98-84. <i>Expiration of Site Plan Approval</i>	125
§98-85. <i>Planning Board Initiative</i>	126
§98-86. <i>Recreation Fees for Site Plans</i>	126
ARTICLE VII	128
ADMINISTRATION AND ENFORCEMENT.....	128
§98-87. <i>Zoning Administrator</i>	128
§98-88. <i>Building Permits</i>	129
§98-89. <i>Certificates of Occupancy</i>	131
§98-90. <i>Remedies and Penalties for Violation</i>	131
§98-91. <i>Consultant Fees</i>	132

ARTICLE VIII.....	136§§
PLANNING BOARD AND ZONING BOARD OF APPEALS	136
§98-92. <i>Planning Board Organization</i>	136
§98-93. <i>Powers of the Planning Board</i>	137
§98-94. <i>Zoning Board of Appeals General Duties</i>	137
§98-95. <i>Establishment and Powers of the Zoning Board of Appeals</i>	137
§98-96. <i>Procedure</i>	140
§98-97. <i>Effect of Appeal</i>	141
§98-98. <i>Relief from Decisions</i>	141
§98-99. <i>Reimbursable Costs</i>	142
ARTICLE IX.....	143
AMENDMENTS	143
§98-100. <i>Jurisdiction</i>	143
§98-101. <i>Notice and Referrals</i>	143
§98-102. <i>Protests</i>	143
ARTICLE X	144
DEFINITIONS	144
§98-103. <i>Terms Defined</i>	144
ARTICLE XI.....	147
MISCELLANEOUS.....	147
§ 98-104. <i>Conflict with other Laws</i>	147
§ 98-105. <i>Validity and Severance</i>	147
§ 98-106. <i>Repealer</i>	147
§ 98-107. <i>Exemptions</i>	147
§ 98-108. <i>Effective Date</i>	147

Adopted by the Town Board of the Town of Pleasant Valley December 16, 2009. Amendments noted where applicable.

ARTICLE I

General Provisions

§98-1. Scope.

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the Town of Pleasant Valley and, for said purposes, divides the town into zoning districts. Where references are made to boundaries defined by tax maps, these maps are dated ***insert date here***.

§98-2. Interpretation.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§98-3. Word Usage.

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "shall" is intended to be mandatory; the word "should" is optional but strongly recommended; the word "may" is optional; and "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

§98-4. Statutory Authority; Purposes.

This chapter is enacted pursuant to the Town Law, Chapter 62 of the Consolidated Laws, Article 16, in conformance with the updated Town of Pleasant Valley Comprehensive Plan, adopted by the Town Board on _[insert date]_. Its purpose is to advance the goals of the Comprehensive Plan as adopted to protect and promote public health, safety, morals, comfort, convenience, economy, town aesthetics, general welfare, and for the following additional purposes:

- A. To protect and preserve the rural and agricultural character of the Town by encouraging development in appropriate locations and limiting development in areas that would negatively impact the Town's historically rural pattern and scale of settlement. .
- B. To protect the economic value and environmental integrity of the Town's natural and scenic resources in order to maintain property values and preserve the remaining open and rural character of the Town. Important resources include the Wappinger Creek watershed, waterways, groundwater, aquifers, wetlands, agricultural land and soils, wildlife habitats, greenspaces, forests, and scenic ridgelines and meadows.
- C. To enhance the hamlets as walkable and well-designed centers, providing suitable areas for a harmonious mix of commercial, civic, and residential uses. Commercial uses should be focused in the hamlets, with areas outside of the hamlets maintaining their rural scale and character while supporting appropriate economic activities such as farming operations and eliminating the spread of strip business developments.

- [HL1]
- D. To ensure that the architecture and site design of new and renovated non-residential buildings are in harmony with the historic scale and character of the Town, to preserve and protect lands and buildings that are historically significant, and to enhance the aesthetic and architectural quality of the entire Town. [HL2]
 - E. To enhance transportation facilities in hamlet areas, with emphasis placed on traffic calming and pedestrian- and bike-friendly improvements, while maintaining a network of smaller country roads outside of the hamlets.
 - F. To encourage the continuation and expansion of agriculture and the preservation of greenspaces, and to avoid regulating agricultural uses in a manner that unreasonably restricts or regulates farm structures or farming practices.
 - G. To concentrate development in appropriate hamlet locations where municipal infrastructure is or can be made available, and to ensure access to light and air, conserve greenspaces, facilitate the prevention and fighting of fires, minimize the cost of municipal services, and accomplish the other purposes enumerated in §263 of the Town Law of New York State.
 - H. To encourage a variety of housing options.
 - I. To encourage the conservation of energy and the appropriate use of solar and other renewable energy sources. To encourage development plans that are properly designed to conserve the use of land and the cost of municipal services.
 - J. To provide a variety of recreation opportunities and park enhancements.
 - K. To protect the community from non-agricultural nuisances, odors, noise, pollution, and unsightly, obtrusive and offensive land uses and operations.

§98-5. Greenway Connections

The Town of Pleasant Valley encourages development that is compatible with Greenway Connections, Greenway Compact Program and Guides for Dutchess County Communities. In any discretionary decisions, the reviewing board shall apply the principles in “Greenway Connections,” adopted by the Town of Pleasant Valley as Local Law No. 3–2004, Chapter 11 of the Town Code entitled “Greenway Compact.” Copies of “Greenway Connections” are available online at www.dutchessny.gov.

[Interim3]

ARTICLE II

Zoning Districts and Zoning Map

§98-6. Establishment of Districts

In order to fulfill the purpose of this chapter, the Town of Pleasant Valley, New York, establishes and is hereby divided into the following zoning districts:

A. Conservation (CONS)

This category includes the land east of the Taconic State Parkway, and north to the Washington Hollow hamlet area. Large land holdings by the Institute of Ecosystem Studies, Rockefeller University, the Innisfree Foundation, and the Taconic-Hereford State Forest make this section of the Town particularly important for a coordinated conservation program. This land contains the lowest density residential district in the Town to prevent additional fragmentation of this environmentally sensitive area.

This district contains some of the most rugged land in the Town. The general combination of steep slopes, shallow soils and exposed bedrock over much of the terrain makes the siting of septic systems and foundations difficult. Road access is poor in many areas. Land uses should be limited to lower density, primarily single family residential, recreation, and other minimal impact activities that protect the unique features of this region. Where larger parcels are available for development, conservation subdivision techniques should be required to preserve the greenspace characteristics of the land and avoid construction on portions of the property with natural constraints.

B. Rural Agricultural (RA)

This district includes much of the land in the north and northwest sectors of the Town and connects across the Taconic State Parkway to lands north of the Washington Hollow hamlet. It is the largest category in terms of overall acreage.

The northwest sector contains a large percentage of the remaining agricultural land in Pleasant Valley. The areas surrounding Gretna Road, Malone Road, Fox Run, and sections of North Avenue, Netherwood Road, and Salt Point Turnpike all have extensive farmland. Protecting agriculture and the necessary food growing potential of the land is not only important to the Town's economy, but also contributes to the scenic and rural qualities that residents responding to the 2006 Community Survey so strongly supported.

Portions of this district contain significant natural constraints, including large areas with shallow soils or soils with low permeability, moderate and steep slopes, and sizeable wetlands, especially in the northwest section. Although most of this district still remains in large parcels, scattered areas have been subdivided into smaller pieces and flag lots lining the back roads in strip residential patterns.

This district is primarily designed for activities compatible with farming or farm-related businesses, and lower density residential and accessory uses. Recreation, low-impact resort uses, camps, golf courses, and fish and game preserves or clubs are also appropriate. A lower density residential designation, by itself, will not protect farm properties or rural qualities, but lower densities allow for more creative land siting decisions and conservation techniques. Where development at higher densities will significantly alter large tracts of land, conservation subdivision development from a lower overall density allows growth to be carefully placed off good farm soils or within the wood line. Conservation density development and other greenspace preservation techniques should be strongly encouraged in this district and on other large, undeveloped parcels.

The intent is to protect the district from overdevelopment, encourage continuation of agricultural uses, and discourage sprawl through the remaining rural areas. All development should be compatible with the natural limitations of the land.

[HL4]

C. Rural Residential (RR)

This district bridges the gap between the Conservation district along the eastern portion of town, and areas to the west that have experienced continued growth and development over the last decade. The area encompasses numerous DEC and NWI wetlands, as well as sections within the 100-year floodplain of the Wappinger Creek and tributaries.

According to the 2007 Municipal Aquifer Report, the soils in this area are predominantly Type C and Type C/D, meaning that slower aquifer recharge rates necessitate an appropriate change in development potential in order to protect water quality and quantity.

D. Lower Density Residential (LDR)

This district includes a large area located in the central portion of the Town, along with two smaller sections located in the areas of Netherwood and Salt Point. Although this category is sometimes less compatible with the surrounding agricultural nature of the northern portion of town, its inclusion reflects conformance with pockets of existing smaller parcel sizes.

E. Medium Density Residential (MDR)

This district includes many of the areas of Pleasant Valley that already contain suburban-scale single family home development. Further development in this district is likely to be consistent with the average density of already developed parcels. This land use category serves as a buffer for the less populated, more rural surrounding areas and helps maintain the focus of development in the Pleasant Valley hamlet center.

Natural limitations in these areas vary, with some areas containing good soils for development and others having more marginal soils. Because of their distance from community centers, central water and sewer connections are not projected, although more intensive development near the hamlet boundaries could be included in any future utility district. Actual density for any given project will be determined by the features of the particular parcel and the restraints placed on the land by the provision of individual wells and septic systems. While much existing development in these areas has taken on a pattern more typical of suburban locations, care should be used in new developments to

preserve the more rural features, including existing tree cover, areas of wetlands, steep slopes and other natural features, and traditional agricultural forms like hedgerows and stone walls. Most homes are on Class C and D soils. Development in adjacent districts and on nearby parcels should be at a lower density.

F. Higher Density Residential (HDR)

This district describes the mostly developed southwest section near the Town of Poughkeepsie line, south of the substation and wetland, and north of Wappinger Creek. It contains the parcels along the ridgelines of Clark and Timothy Heights, as well as the properties lining Bower Road and Route 44, and a large mobile home park. Most of this area is already zoned for higher density residential development. Because of its existing density and location near the Wappinger Creek, Route 44 Corridor and Pleasant Valley hamlet, this area may be included in any future consideration of a central utilities district.

This district, following the recommendations of the Comprehensive Plan, intends to maintain the essential residential character of this area with housing set back from a roadway lined with street trees to form an entrance transition to the hamlet of Pleasant Valley, allowing that other compatible low traffic volume uses would also be appropriate under special use permit conditions (for example and not limited to accessory apartments and multi-family housing options, family day care, bed and breakfast establishments, professional offices and home occupations). Existing spot or strip highway business uses, both here and in other non-commercial areas along Route 44, should be allowed to continue and treated under the nonconforming provisions of the zoning law.

G. Mixed Use Commercial District (MC)

This district is specific to the Route 44 corridor in an area between Mill Lane and Rossway Road, formerly part of the Neighborhood Commercial District. The purpose of this category is to allow for a variety of mixed uses, but in a contained area that eliminates the possibility of continuous strip development. Development and redevelopment in this area will involve improved site design, landscaping, and architecture, in an effort to “retrofit the strip” (as recommended in the Greenway Guides).

H. Office / Industrial (OI)

Two large areas that are currently zoned for light industry have been retained in this district. The largest area includes the electric substation at the western entrance to the Pleasant Valley hamlet, as well as two existing industrial uses and a large vacant property at the intersection of West Road and Salt Point Turnpike.

Office and industrial uses provide Pleasant Valley with the opportunity to create jobs and diversify the tax base. While they contribute to the economic well-being of the Town, improperly sited or buffered uses can detract from the immediate vicinity by, among other things, funneling truck traffic onto residential streets and country roads, and consuming large amounts of land for operations that may not be compatible with the more rural characteristics of the area. However, modern light industrial uses are more likely to have the appearance and impacts of an office park than a smoke-belching factory. For this reason, and to promote flexibility in land uses, offices as well as certain commercial uses compatible with manufacturing and warehouses (such as auction halls, auto sales and repair, building supplies, equipment rental, health clubs, and transportation facilities)

should be permitted in these industrial areas. Like and compatible uses should be grouped together.

I. Quarry (Q)

Mining is an essential component of the construction industry, providing needed raw materials as well as generating jobs and taxes. However, the effects of larger scale operations, such as noise, dust, erosion and visual impacts, can extend beyond their property boundaries. Truck traffic on local roads and through hamlet centers is also a concern. In addition, by removing topsoil, vegetation, overburden and bedrock materials that provide a natural filtering and cleansing medium for water moving over the surface and through the ground, underlying aquifers can be affected.

Under a recently enacted state law, local governments have limited control of larger mining operations, but can determine through zoning where mining and truck access on local roads are permitted. The Town should carefully review future mining permit applications to ensure that erosion and sediment controls, buffers from streams and property lines, reclamation plans, and performance standards are in place to minimize off-site impacts and to protect the aquifer and future water supply sources.

J. Special Flood Hazard (SFH)

This district contains the low-lying areas and major stream corridors defined on the Federal Emergency Management Agency's maps as 100-year floodplains. It primarily consists of the banks of the Wappinger Creek and its major tributaries. In contrast to the scattered state-regulated wetlands, the 100-year floodplains form continuous corridors.

Uses in the floodplain district should be generally limited to agriculture, forestry, recreation and other uses that would be minimally affected by high water. Structures that would house either humans or livestock should be sited elsewhere. Floodplain setbacks also provide stream protection, although the Town should supplement this category with separate stream protection guidelines that would help preserve and maintain the integrity of more minor waterways.

The major exception to these general floodplains recommendations must be the hamlet of Pleasant Valley, the center of which is almost entirely built in the 100-year floodplain. Improvements since the last great flood in the 1950s have reduced the high water potential, but floodplain regulations still apply in the hamlet center. The siting of septic systems in a flood prone area is a particular problem, adding another argument for central utilities in the hamlet area. Since the Plan recommends reinforcing, not abandoning the hamlet center, new construction must conform to the floodplain standards and, to the greatest degree possible, limit downstream consequences. Placing residential uses in upper floors, providing for first level parking, and flood-proofing non-residential structures are among the techniques for limiting damage due to future flooding.

K. Hamlet – Pleasant Valley (H-PV)

This district includes the business core of the hamlet, composed of an approximately ¼-mile walking radius that supports the traditional village concept of “park once and walk around.” The traditional land use pattern in Pleasant Valley is essentially rural in

character. The concentrated, mixed-use village or hamlet settings that evolved in the pre-automobile era still make sense from an economic and social perspective.

The hamlet of Pleasant Valley serves as the town center, hosting an array of shops, services, and government functions. It is located adjacent to the Wappinger Creek, at the confluence of several major roads. A large portion of the town center is located within the floodplain of the Wappinger Creek, making the addition of hamlet-scale residential difficult. The addition of central water and sewer will allow for appropriate, hamlet-scale infill development.

L. Hamlet - Washington Hollow (H-WH)

This district encompasses a small linear commercial hamlet that straddles the Pleasant Valley-Washington border, which has limited room for growth. There are possibilities, however, for a mixture of small-scale commercial, office, and more compact scale residential uses east and west of the intersection of Route 44 and Route 82. To make the best of the hamlet's constraints, good landscaping and architecture should be required of all new projects. The construction of excess driveways along Route 44 should be discouraged; consolidation and shared access are preferred.

M. Hamlet – Salt Point (H-SP)

In this district, mixed uses should continue to be encouraged at a scale that re-uses old buildings and provides some room for business and residential expansion. Sidewalks and other appropriately-scaled pedestrian amenities should be included. Signs should be improved to be more consistent with the hamlet's historic character. Architectural design standards should be established to ensure that new uses and new structures respect their historic setting. The store and post office building act as a centralizing feature and should be enhanced reminiscent of historic photos of the property.

Salt Point is unique in this part of the County and Town as a compact hamlet whose core of historic buildings is directly adjacent to actively farmed land. The traditional setting of this rural hamlet, together with its buildings and small-town functions, lend a charm and practical character to the area and merit preservation. Indeed, it is a special area within the whole Hudson Valley and is so recognized in the 2000 plan prepared by the Regional Plan Association.

N. Hamlet Residential (HR)

This district includes the three existing hamlets, Pleasant Valley and Washington Hollow, and Salt Point. This residential district surrounds and supports the mixed-use business core, and covers an area of approximately ½-mile radius from the center of its partner mixed use district.

Sprawl development should not be permitted to blur the hamlet's boundaries. The Town should place priority on supporting continued agricultural uses, use of conservation easements, and expansion of recreational opportunities, including creek access.

Residential development should be carefully designed and clustered away from prominent scenic entrances and important viewsheds.

§98-7. Zoning Map.¹

The location and boundaries of said zoning districts are shown on the map designated “Town of Pleasant Valley Zoning Map” (Zoning Map) The Zoning Map and all amendments thereto are part of this chapter and amendments are on file in the Town Clerk's office.

§98-8. Interpretation of District Boundaries.

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

- A. Along center lines and rights-of-way. Where district boundaries are indicated as approximately following the right-of-way lines of streets, highways, public utility easements or watercourses, boundaries shall be construed to be coincident with such lines.
- B. Along lot lines. Where district boundaries are so indicated that they approximately follow the town boundary line, property lines, lot lines or projections thereof, boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Parallel to center lines and rights-of-way. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines, right-of-way lines or projections thereof, boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Along watercourses. Where the boundary of a district follows an internal stream, lake or other body of water, said boundary line shall be deemed to follow the center line; where the boundary of the district follows an external stream, lake or other body of water located along the town boundary, the district line shall be deemed to follow the line of jurisdiction of the town.
- E. Along district boundaries. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
- F. Nondimensioned boundaries. In all other cases where not dimensioned, the location of boundaries shown on the Zoning Map shall be determined by the use of the scale.

¹ Editor's Note: The Zoning Map can be found at the end of this chapter.
12/17/09

ARTICLE III

General Regulations

§98-9. Application of Regulations.

In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum unless otherwise stated. This chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided, however, that 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 other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements, covenants or agreements, the provisions of this chapter shall prevail.

§98-10. Schedules of Regulations.

To facilitate public understanding and for convenience in administration, there is hereby declared to be a part of this chapter the following Schedule of Permitted Uses, Schedule of Area and Bulk Requirements.

§98-11. Schedule of Permitted Uses.²

No building or premises shall be erected or altered in any district, except for uses designated for the district in the following schedule. No use shall be allowed except as provided by the following schedule and is in compliance with all applicable provisions of this chapter. Site plan approval is required for all construction or use in any district except for a single-family residence and its accessory structures on an approved building lot. No certificate of occupancy shall be issued until all other applicable provisions of this chapter have been met.

Districts shown in the Schedule of Permitted Uses are as follows:

- CONS = Conservation
- RA = Rural Agricultural
- RR = Rural Residential
- LDR = Lower Density Residential
- MDR = Medium Density Residential
- HDR = Higher Density Residential
- MHP = Manufactured Home Park
- MC = Mixed Use Commercial
- HR = Hamlet Residential
- H-PV = Hamlet Pleasant Valley
- H-SP = Hamlet Salt Point
- H-WH = Hamlet Washington Hollow
- OI = Office Industrial
- Q = Quarry
- SFH = Special Flood Hazard

² Editor's Note: The Schedule of Permitted Uses can be found at the end of this chapter.
12/17/09

Permissions shown in the Schedule of Permitted Uses are as follows:

P = Permitted Use

P* = Permitted Use Subject to Site Plan Approval

SP = Special Use Permit AND Site Plan Approval Required

“-“ = Prohibited Use

§98-12. Schedule of Area and Bulk Requirements.³

No building shall be used, erected, constructed, enlarged, altered or arranged on a lot except in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.

[Interim5] §98-13. General Regulations.

- A. Building and structure height. No building or structure shall hereafter be erected or altered to exceed in height the limit designated for the district in which it is located.
- B. Appurtenant yard spaces. No yard, lot size or other area required for a building by this chapter shall, during the existence of such building, be occupied by or counted as yard space for another building.
- C. Use of yards.
 - (1) No structure shall be used, erected, constructed, enlarged, altered or arranged on a lot except in accordance with the front, side and back yard setback requirements as set forth in the Schedule of Area and Bulk Requirements. All structures which impede sight distances shall require site plan approval. A mailbox officially accepted by the United States Post Office for roadside mail delivery shall not be considered a structure.[Interim6]
 - (2) Minimum yards, as required herein, shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material, or for signs, except as otherwise specifically permitted herein.
- D. Yard clearance[HL7]. Boats and utility or camp trailers may not be stored, maintained or parked in any front yard, except in a residential driveway. No such vehicles, though properly set back, shall be used for living or sleeping purposes. .
- E. Porches and decks. Porches, including uncovered and unenclosed entrance porches, shall comply with the required setbacks of this chapter.
- F. Alteration of land. Alteration of land adjacent to any public road must receive approval of the appropriate highway superintendent.
- G. Trash receptacles.
 - (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.

³ Editor's Note: The Schedule of Area and Bulk Requirements can be found at the end of this chapter.
12/17/09

This shall not be construed to authorize any activity that is regulated under Chapter 57 of Town Code, Refuse Collection, Storage and Disposal.

- (2) Storage accessory to any non-residential or multi-family residential premises, in which a receptacle is used in common by the inhabitants of two or more dwellings, shall be screened from view from a walkway or street.
- H. Storage of alcohol, gasoline, crude oil, liquefied petroleum gas or other highly flammable substance. The storage of these liquids in aboveground tanks in an amount greater than five hundred fifty (550) gallons per tank shall be permitted only when such tanks up to and including ten thousand (10,000) gallons' capacity are placed no less than fifty (50) feet from all property lines and when all such tanks of more than ten thousand (10,000) gallons' capacity are placed not less than one hundred (100) feet from all property lines. Any such storage having a capacity greater than five hundred fifty (550) gallons per tank shall be properly diked with earthen dikes having a capacity of not less than one and one-half (1 1/2) times the capacity of the tank or tanks surrounded.
- I. Prohibitions.
- (1) Installation of an underground fuel tank or tanks, whose combined capacity is less than 1,100 gallons. This applies to all uses throughout the Town, including single-family, two-family, and multi-family dwellings.
 - (2) Land application of septage, sludge, or human excreta, including land application facilities defined in the New York Codes Rules & Regulations (NYCRR) Title 6 Department of Environmental Conservation. This prohibition shall not apply to land application of treated wastewater for irrigation when duly approved by county, state or federal agencies with regulatory jurisdiction.

[lc8]

ARTICLE IV

Supplementary Regulations

§98-14. Accessory Buildings and Structures.

In a residential district an accessory building or structure, such as a private garage, shall not be constructed in front of nor be of a height greater than the principal building, nor shall such accessory buildings and structures be erected within 15 feet of side and rear property lines, operative septic tanks and leach fields. No accessory building or structure shall be used for commercial activities except in conjunction with a permitted commercial use or special use permit for a commercial activity, as per §98-11, Schedule of Permitted Uses. Prohibited commercial activities include repair of vehicles and/or machinery, except those owned by the property owner and/or immediate family. Nothing in this section shall prohibit the development of landscaping, lighting, fencing and walls in accordance with the applicable provisions of this chapter.

§98-15. Accessory Dwelling.

A. Intent. It is the specific purpose and intent of this provision to provide the opportunity for the development of small dwelling units designed, in particular, to meet the special housing needs of relatives of families living in the Town of Pleasant Valley. Furthermore, it is the purpose and intent of this section to allow the more efficient use of the Town's existing stock of dwellings, to protect and preserve property values and to maintain the one-family character of the one-family residence districts of the Town of Pleasant Valley.

B. Accessory Dwelling in Single-Family Dwelling

A special use permit is required to create an Accessory Dwelling as part of a Single-Family Dwelling, subject to the following provisions:

- (1) Only one (1) Accessory Dwelling is permitted per Lot, and shall be clearly subordinate to the Single-Family Dwelling;
- (2) The Lot containing the Accessory Dwelling shall meet the minimum acreage requirement of the applicable zoning district;
- (3) No Accessory Dwelling shall be created on a Lot where two or more Dwellings exist in violation of the permitted density, or as a nonconforming use, in the district in which the Lot is located. No Accessory Dwelling shall be created on a Lot where a Two-Family or Multi-Family Dwelling exists;
- (4) Owner-occupancy is required. The owner(s) of a property on which there is an Accessory Dwelling must occupy one of the two residential units on the property. Appropriate proof of owner-occupancy is required;
- (5) No more than one (1) bedroom is permitted in the Accessory Dwelling, and the number of residents in the Accessory Dwelling shall be limited to no more than two (2) persons;

- (6) The Gross Floor Area of the Accessory Dwelling shall be greater than 400 square feet and shall not exceed 35% of the entire Gross Floor Area of the Single-Family Dwelling, but shall at no point exceed 650 square feet;
- (7) The Accessory Dwelling shall be self-contained, with separate cooking, sleeping, and sanitary facilities for use by the occupant(s);
- (8) The Accessory Dwelling shall have safe and proper means of entrance. Stairways leading to any story above the ground floor shall be located within the walls of the building wherever practicable. Exterior stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall an exterior stairway or fire escape be located on any wall fronting on a street;
- (9) Off-street parking shall be in accordance with §98-42 and shall be on the Lot on which the Accessory Dwelling is located;
- (10) Design and construction of any addition or alteration to accommodate the Accessory Dwelling must be compatible with the parent structure, and must comply with §98-12, Schedule of Area and Bulk Requirements;
- (11) Any legally established Accessory Dwelling on a Lot with a Single-Family Dwelling that is in existence at the time of the adoption of this amendment shall not be subject to the provisions outlined above;
- (12) The special use permit for an Accessory Dwelling shall expire two (2) years from the date of issuance, and can be renewed pursuant to re-inspection and re-certification of the Accessory Dwelling by the Zoning Administrator;
- (13) The special use permit for the Accessory Dwelling shall terminate if title to the property is transferred by sale, foreclosure, or the owner's death, or if the owner is no longer utilizing one of the residences on the property as their primary residence;
- (14) To limit the overall impacts of the addition of Accessory Dwellings throughout the community, the Town of Pleasant Valley may approve no more than a maximum of six (6) new Accessory Dwelling special use permit requests on an annual basis. Permit renewals are not counted as part of this maximum;
- (15) If the water supply is from a private source, the applicant shall certify that the water supply is potable and of adequate flow. Failure to promptly correct any water quality or quantity problems shall result in immediate revocation of the special use permit;
- (16) No special use permit shall be granted for an Accessory Dwelling without approval or certification from the Dutchess County Department of Health regarding the adequacy of the septic system;
- (17) The Accessory Dwelling shall conform to all applicable local, state, and federal codes and requirements, including the New York State Uniform Fire Prevention and Building Code;
- (18) The owner is responsible for ensuring that any occupant(s) of an Accessory Dwelling abide by the Town of Pleasant Valley Town Code, in particular Chapter 70 "Nuisances";

(19) Continued compliance with all of these regulations is required. Failure to do so will result in the immediate revocation of the special use permit.

C. Accessory Dwelling in an existing detached Accessory Structure

A special use permit is required to create a detached Accessory Dwelling in an existing gatehouse, garage, barn or similiary Accessory Structure on a Lot with a Single-Family Dwelling, subject to the conditions found within §98-15(A) and the following provisions:

- (1) The existing Accessory Structure shall not be enlarged by more than 25% of its original Gross Floor Area to accommodate the proposed Accessory Dwelling, the size of which shall meet the square footage requirement as outlined in §98-15(A)(6) above;
- (2) Construction to enlarge an existing Accessory Structure in order to accommodate an Accessory Dwelling shall only be permitted if the existing Accessory Structure conforms to §98-12, Schedule of Area and Bulk Requirements;
- (3) Construction associated with adaptation of an existing Accessory Structure shall be performed in a way that retains the character of the structure. The design and construction of the adaptation of the Accessory Structure must be compatible with the primary Single-Family Dwelling on the Lot;
- (4) Construction of a new detached structure is not permitted for the purpose of situating an Accessory Dwelling. Any structure used for conversion to an accessory apartment must have been constructed prior to the adoption of these regulations.

§98-16. Adult Use.

The Town of Pleasant Valley finds that adult uses may have negative impacts upon the neighborhood and surrounding area where they are located. Such impacts include physical deterioration, disinvestment, and increased crime. Adult uses shall be allowed by special use permit in the Quarry District only. In addition to all applicable special use permit and site plan criteria in Article 7, such uses shall satisfy the following additional standards:

- A. No Adult Use shall be located within 1,000 feet of any single-family, two-family, or multi-family residence, or of any school, day-care center, library, religious institution, park, or other public recreation area, or recreational business.
- B. No Adult Use shall be located within 1,000 feet of any other Adult Use.
- C. No more than one (1) freestanding sign, not exceeding 12 square feet, shall be permitted for an Adult Use in a location visible from a public street. Such sign shall be limited to the name of the business. One (1) wall-mounted sign, not exceeding six (6) square feet, shall be permitted on the building, provided that it complies with §98-46 below.
- D. Adult uses shall be set back at least 200 feet from all public rights-of-way and shall be screened from view by a buffer at least 50 feet wide consisting of trees and shrubs.

§98-17. Agricultural Protections.

The Town recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment, and quality of life in the Town of Pleasant Valley, as outlined in the Town's Comprehensive Plan and stated as Goal 2.4 (p.19) in the Plan. Accordingly, the following regulations, in addition to New York's Agricultural and Markets Law, shall be followed:

- A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices with this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research, and improved technologies.
- B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:
 - (1) Reasonable and necessary to the particular farm or farm operation;
 - (2) Conducted in a manner that is not negligent or reckless;
 - (3) Conducted in conformity with generally accepted and sound agricultural practices as defined by § 25AA of NYS Agriculture and Markets Law;
 - (4) Conducted in conformity with all state and federal laws and regulations;
- C. Nothing in this regulation shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.
- D. In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchasers of property within an agricultural district or of property with boundaries within 500 feet of a farm operation located in an agricultural district. A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.
- E. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy for a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.

F. This regulation and its provisions are in addition to all other applicable laws, rules and regulations.

§98-18. Airport/Heliport.

The development of any airport and/or heliport shall only be allowed for the sole purpose of personal transportation for the property owner. Commercial and/or charter flights shall not be permitted from any airport and/or heliport facility.

§98-19. Animal Husbandry.

§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.

§98-20. Bed-and-Breakfast

A. To qualify as a Bed-and-Breakfast, it must adhere to the following requirements:

- (1) The operators of the Bed-and-Breakfast, as owners of the property, must reside in and continue to reside in the dwelling as their principal residence. Should the Bed-and-Breakfast dwelling be no longer owner-occupied, the special use permit (as required below) shall be revoked.
- (2) The primary use of the dwelling will continue to be that of a single family residence. The operation of the Bed-and-Breakfast dwelling will be incidental and secondary to its primary use.
- (3) No paying guests shall stay for more than fourteen consecutive nights.
- (4) Other than members of the owner's family who are residents on the premises, the number of employees is restricted to one at any one time.

- B. A building permit and a subsequent certificate of occupancy for a change of use are required for all Bed-and-Breakfast dwellings to ascertain adherence to any applicable Town laws and codes. Department of Health approval shall be required.
- C. Bed-and-Breakfast dwellings require the granting of a special use permit by the Zoning Board of Appeals.
- D. The operator of a Bed-and-Breakfast dwelling may display signs on the premises which must comply with the provisions of the Code of the Town of Pleasant Valley applicable to signs.

§98-21. Camp.

- A. The minimum lot size shall be ten (10) acres of land.
- B. No building or parking area shall be located within one-hundred (100) feet of any property line, or within two-hundred fifty (250) feet of any existing neighboring residence.
- C. No facility for active recreational use (e.g. ballfield) shall be located within one hundred (100) feet of any property line.
- D. No activity area, recreational facility, or dwelling structure (including tents) shall be closer than two-hundred (200) feet from any residential property boundary.
- E. Plans for outdoor public address systems shall be submitted to and approved by the Planning Board. Systems should be designed to minimize noise pollution off-site. Hours of use shall be limited to between 8:00 a.m. and 8:00 p.m. daily, except in the case of emergencies.
- F. Outdoor lighting for safety or other purposes shall be directed downward to prevent light pollution. Lighting shall be contained within the property and shall not spill over onto neighboring properties.

§98-22. Caretaker / Guest Cottage.

- A. Not more than one (1) Caretaker/Guest Cottage shall be permitted in addition to the principal residence on a residential Lot.
- B. The Caretaker/Guest Cottage shall be located on a Lot which meets or exceeds 20 acres.
- C. Location. The applicant must satisfy one of the three options below:
 - (1) Located on same lot as Principal Structure with no subdivision possible: The Caretaker/Guest Cottage, must satisfy all setback requirements for a Principal Structure as set forth in §98-12 Schedule of Area and Bulk Requirements and must be placed in a manner that shall not allow for future subdivision based upon compliance with current zoning regulations. The approval of the

Caretaker/Guest Cottage is conditioned on the provision that an area variance for future subdivision will never be allowed, or;

- (2) Located so as to require subdivision: The Caretaker/Guest Cottage, if placed in a manner that will allow subdivision based upon compliance with current zoning regulations, the lot must be subdivided at the time of application, or;
 - (3) Protection of lot in perpetuity removes subdivision requirement: The Caretaker/Guest Cottage, if placed in a manner that will allow a future subdivision based upon compliance with current zoning regulations but subdivision is not desired, the parcel shall be restricted from further subdivision by conservation easement or deed restrictions enforceable by the Town.
- D. The Gross Floor Area of the Caretaker/Guest Cottage shall contain, at a minimum, the minimum required by current New York State Uniform Fire Prevention and Building Code and shall not exceed 60% of the entire Gross Floor Area of the Principal Dwelling.
- E. The Caretaker/Guest Cottage shall be permitted to have kitchen facilities necessary for the occupants or guests residing therein.
- F. There shall be no exchange of money or rental of a Caretaker/Guest Cottage. Violation of this provision shall result in the imposition of fines pursuant to a fine schedule as set by the Town Board.
- G. If the water supply is from a private source, the applicant shall certify that the water supply is potable and of adequate flow. Failure to promptly correct any water quality or quantity problems shall result in immediate revocation of the special use permit.
- H. No special use permit shall be granted for a Caretaker/Guest Cottage without approval or certification from the Dutchess County Department of Health regarding the adequacy of the septic system.

§98-23. Club, Not-For-Profit Membership.

- A. All Clubs except shooting preserves, rod and gun clubs or other similar clubs involving the discharge of firearms, are subject to the following requirements:
- (1) No building or parking area shall be located within one-hundred (100) feet of any property line, or within two-hundred fifty (250) feet of any existing neighboring residence.
 - (2) No facility for active recreational use (e.g. ballfield) shall be located within one-hundred (100) feet of any property line.
 - (3) Plans for outdoor public address systems shall be submitted to and approved by the Planning Board. Systems should be designed to minimize noise pollution off-site. Hours of use shall be limited to between 8:00 a.m. and 8:00 p.m. Monday

through Saturday, and between 10:00 a.m. and 7:00 p.m. Sunday, except in the case of emergencies.

- (4) Outdoor lighting for safety or other purposes shall be directed downward to prevent light pollution. Lighting shall be contained within the property and shall not spill over onto neighboring properties.
- (5) Except as may be further restricted by the Planning Board in its consideration of a specific application, hours of operation for any outdoor recreational use or facility authorized under this subsection shall be limited to the period from 8:00 a.m. through 8:00 p.m. daily.

B. Shooting preserves, rod and gun clubs, or other similar clubs are subject to the following requirements:

- (1) Shooting preserves shall be licensed pursuant to ECL §11-1903;
- (2) All Clubs shall operate pursuant to all applicable Federal, State and local laws;
- (3) A minimum of fifty (50) acres of land is required;
- (4) No building, parking area, or other facility shall be located within three-hundred (300) feet of any residential property line;
- (5) No target range or other facility for the discharge of firearms shall be located closer than five-hundred (500) feet from any property boundary, and shall be directed away from any neighboring residence, watercourse, wetland and related buffer;
- (6) Plans for outdoor public address systems shall be submitted to and approved by the Planning Board. Systems should be designed to minimize noise pollution off-site. Hours of use shall be limited to between 8:00 a.m. and 8:00 p.m. Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. Sunday, except in the case of emergencies.
- (7) Outdoor lighting for safety or other purposes shall be directed downward to prevent light pollution. Lighting shall be contained within the property and shall not spill over onto neighboring properties.
- (8) Except as may be further restricted by the Planning Board in its consideration of a specific application, hours of operation for any outdoor activity involving the discharge of firearms shall be limited to the period from 8:00 a.m. through 8:00 p.m. daily.
- (9) At the Planning Board's discretion, the Board may require documentation that the on-site activities at the shooting preserve do not exceed off-site noise level limits.

§98-24. Conservation Subdivisions

A conservation subdivision permits greater design flexibility and smaller average lot sizes than otherwise possible in a conventional lot-by-lot subdivision in order to preserve greenspaces on the remainder of the property without increasing building potential for the tract as a whole. Conservation subdivisions are authorized under §278 of the Town Law of the State of New York and under Chapter 82 (§82-4), Town of Pleasant Valley Subdivision of Land.

In order to implement the policies and goals of the Town's Comprehensive Plan and the hamlet illustrative sketch plans contained within the Comprehensive Plan, conservation subdivisions can be combined with Transfer of Development Rights between adjacent and adjoining property owners. [HL9]

§98-25. Environmental Performance Standards.[Interim10]

The intent of these provisions is to protect the public health, safety, and welfare by limiting conditions which are obnoxious, offensive, or hazardous to neighboring property owners. Uses established or maintained shall conform to standards contained herein, unless excepted elsewhere in this law, for the continuance of any certificate of occupancy or special use permit. Nothing herein shall prevent a property owner from pursuing private nuisance remedies. This regulation shall not apply to farm or forestry operations engaged in customary agricultural practices, except where necessary to protect public health and safety.

A. Noise

- (1) Sound levels shall be determined at the property line of the lot from which the noise is emitted. Sound measurements shall be accomplished through a sound-level meter having an A-weighted filter and constructed in accordance with specifications of the American National Standards Institute or currently accepted standard for the measurement of sound.
- (2) No person, firm or corporation shall allow the emission of sound which, as measured at the property lines, has a sound level in excess of: Sixty (60) decibels on the A-weighted scale between the hours of 8:00 a.m. and 8:00 p.m.; and Fifty (50) decibels on the A-weighted scale between the hours of 8:00 p.m. and 8:00 a.m. Nothing herein shall prevent, however, occasional noise from residential uses or normal agricultural uses.
- (3) No internal combustion engine shall be operated at any time without a muffler designed and manufactured to suppress exhaust noises.
- (4) These noise regulations are meant to limit habitual, long-term noise violations. The Zoning Administrator and the Zoning Board of Appeals may exempt temporary or infrequent noises. The following uses and activities shall also be exempt from the noise regulations:
 - (a) Noises from forestry or agricultural operations on a farm as defined herein.
 - (b) Temporary construction noises between the hours of 7:00 a.m. and 8:00 p.m.
 - (c) Transient noises from moving sources, such as automobiles, trucks except those in commercial operations, and except as otherwise restricted by the laws of the Town of Pleasant Valley.
 - (d) Noises from safety signals, warning devices and emergency pressure relief valves.
 - (e) The sound of bells or chimes from a church or other place of worship.

- B. Smoke or Particulate Matter. Any emission of smoke or particulate matter, from any source, shall comply with all local, state and federal regulations.
- C. Glare and Heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is located. All exterior lighting, including security lighting, in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties. Special efforts shall be required, such as limiting hours of lighting or the planting of vegetation and the installation of light shields, to alleviate the impact of objectionable or offensive light and glare produced by exterior sources on neighboring residential properties or public thoroughfares. In particular, no use shall produce glare so as to cause illumination beyond the property on which it is located in excess of five-tenths (0.5) foot-candle.
- D. Electromagnetic Interference. No land use or operation shall be allowed which produces any perceptible electromagnetic interference with normal radio or television reception outside the boundaries of the lot on which such use or operation takes place; however, nothing herein shall be construed to apply to occasional use of farm machinery or shall be applied in any manner which is inconsistent with any state or federal regulation relating to electromagnetic interference.
- E. Toxic or Noxious Matter. No land use or operation shall be permitted which permits or causes the escape of any toxic or noxious fumes, gases or other matter outside the building in which the use is conducted.
- F. Radiation. No emission of radiation or discharge of radioactive gases, liquids or solids shall be permitted. The handling, storage or disposal of radioactive materials or waste by-products, whether or not licensed by the Atomic Energy Commission, shall be conducted only in accordance with the standards established in Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation," as amended, and in accordance with any other applicable laws or regulations.
- G. Vibration. No activity shall cause or create a steady state or impact vibration discernible at any lot line.
- H. Liquid or Solid Wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws, and regulations of the Dutchess County Department of Health, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste from any commercial or industrial activity shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.
- I. Fire and Explosion Hazards. All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, DEC regulations, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be observed.

- J. Odor. No person, firm or corporation, excluding farms, forestry, and agricultural operations, shall permit the emission of any offensive odor at the property line of the lot from which the odor is emitted.
- K. Outside Storage Related to Commercial or Industrial Activities. Materials, supplies and products shall not be stored in any required setback area. All permitted outside storage areas shall be neatly kept, fenced, and screened from any existing or proposed road or any adjoining residential property.
- L. Fences. The Planning Board may require the fencing or screening, or both, of any hazardous or potentially dangerous conditions which in the opinion of the Board might cause injury to persons or damage to property. The Zoning Board of Appeals may require appropriate fencing or screening as a condition to granting a variance.
- M. Procedure.
- (1) Complaints under the above Environmental Performance Standards shall be made to the Zoning Administrator or other authorized officer. The decisions of the Zoning Administrator are subject to administrative review by the Zoning Board of Appeals.
 - (2) In the case of any application for the establishment of a use subject to the performance standards, the Planning Board may require the applicant, at their own expense, to provide such evidence, as it deems necessary to determine whether the proposed use will conform to said standards.
 - (3) If the Planning Board deems it necessary, independent expert advice may be obtained, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of their application. The report of any expert consultants shall be promptly furnished to the applicant.
 - (4) During the course of site plan review, the Planning Board will determine if the applicant's proposal will conform to the performance standards.
- N. Enforcement. If, in the judgment of the Zoning Administrator or the Town Board, there is violation of the performance standards:
- (1) The Zoning Administrator shall give written notice, by registered or certified mail, to the owner and tenants of the property upon which the alleged violation occurs, describing the particulars of the alleged violation and the reasons why it is believed that there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator within a reasonable time limit set by said official. The notice shall state that, upon request of those to whom it is directed, technical determinations of the nature and extent of the violation as alleged will be made, and that, if violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate, and that, if it is determined that no violation exists, costs of determination will be borne by the town.

- (2) If, within the time limit set, there is no reply, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, he shall note, “violation corrected” on his copy of the notice and shall retain it among his records.
- (3) If there is no reply within the time limit set and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the time limit set, here shall proceed to take action in accordance with Article VII of this chapter.

[Interim11]§98-26. Erosion and Sediment Control

All activities regulated by Chapter 74, Stormwater Management and Erosion and Sediment Control, of the Town of Pleasant Valley Town Code shall obtain approval by the applicable board of the Town.

§98-27. Excavation, Grading, Rock Removal, and Tree Cutting

- A. No excavation or grading or clear-cutting in preparation for site development shall be undertaken prior to the granting of any special use permit, site plan, or subdivision approval required for such development.
- B. Excavation of any area exceeding 2,000 square feet and/or clear-cutting of any area exceeding three acres shall require a zoning permit from the Zoning Administrator, unless such excavation or clear-cutting is performed pursuant to an approved site plan, special use permit, subdivision, or building permit or as a normal and customary activity in conjunction with a forestry or a farm operation (as defined in Article II).
- C. No further action shall be taken on a property if a violation of subsection B above occurs until the violation has been remedied; either by restoration or restitution.
- D. Excavation and grading necessary for the construction of a structure for which a building permit has been issued shall be permitted, provided that it does not adversely affect natural drainage or structural safety of buildings or lands, cause erosion or sedimentation, or create any noxious conditions or hazard to public health or safety.
- E. In the event that construction of a structure is stopped prior to completion and the building permit expires, the premises shall be promptly cleared of any rubbish or building materials by the property owner, and any open excavation with a depth greater than two feet below existing grade shall either be promptly filled in and the topsoil replaced or shall be entirely surrounded by a fence at least six feet high that will effectively block access to the area of the excavation.
- F. The Planning Board may, in connection with a project site plan or subdivision, may require an applicant to furnish an irrevocable letter of credit, certified check, or other form of security to guarantee reclamation of areas to be excavated or graded if a project is abandoned. Such security shall be for an amount reasonably related to the potential cost of such reclamation and shall be in a form deemed acceptable by the Town Attorney.
- G. For regulation of mining and quarrying, see §98-33 of this chapter.

- H. Excavation and grading activities shall comply with applicable permit requirements of Chapter 74, Stormwater Management and Erosion and Sediment Control, of the Pleasant Valley Town Code.

§98-28[le12]. Fences and Walls

- A. A no-fee building permit shall be required for the construction of a fence or wall.
- B. Fences and walls in Front Yards. No fence, wall or other structure in the nature of a fence or wall may be erected in excess of four (4) feet in height above the surrounding ground area in the Front Yard of a Lot.
- C. 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.
- D. No fence shall be so constructed as to impair the sight distance along any street.
- E. Industrial fencing. For an industrial use in the Office Industrial district, fences of openwire construction may be erected in any required yard.

§98-29. Floodplain Regulations.^[Interim13]

Floodplain regulations are found in Chapter 50, Flood Damage Prevention, of the Town of Pleasant Valley Town Code.

§98-30. Forestry.

Forestry shall be permitted by right subject to compliance with best management practices established by the New York State Department of Environmental Conservation (BMP Guidelines). Anyone proposing to undertake forestry shall apply for and receive a permit from the Zoning Administrator before commencing such regulated activity. Fees for such permits shall be set by the Town Board. The Zoning Administrator may determine that the proposed activity is in compliance with the BMP Guidelines and issue the required permit. If, however, the Zoning Administrator does not find the proposed activity in compliance with the BMP Guidelines, the application shall be referred to the Planning Board for modifications to bring the proposed activity into compliance with the Guidelines before the required permit is issued. The cutting of trees solely for the private use of the property owner or tenant is not considered “forestry”, but is subject to the regulations found in §98-27(A) and (B).

[HL14]§98-31. Hamlet Residential Design Principles.

Purpose. The purpose of these principles is to guide residential development in the Hamlet Residential district to support and enhance the associated Hamlet district by encouraging, among other things, homes that are oriented toward the street and sidewalks connecting residential areas to the Hamlet.

A. Architecture.

- (1) The preferred design and dimensioning of new residential structures in the Hamlet Residential district should reflect the historic context of the associated Hamlet district. Appropriate styles may include, but are not limited to, Colonial, Victorian, Craftsman, American Foursquare, Saltbox, Federal and Greek Revival.
- (2) Useful information on basic form can be found in the “Building Form Guidelines” booklet published by the Dutchess County Department of Planning and Development, and available through the Town of Pleasant Valley.
- (3) 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.
- (4) Vinyl and aluminum siding are discouraged.
- (5) Neon and/or alarming exterior colors are discouraged.

B. Building Location and Orientation.

- (1) In order to support and enhance traditional hamlet development patterns, primary residential structures should be placed to the front of the lot and facing the street.
- (2) For any associated garage or accessory structure, whether attached or detached to the principal structure, a minimum setback of twenty (20) feet from the front building line of the primary residential structure is preferred.

C. Sidewalks.

- (1) All streets within the Hamlet Residential district should include a network of sidewalks connecting the residential areas with the nearby Hamlet district.
- (2) Sidewalks should be a minimum of five (5) feet wide.
- (3) Provision for handicap accessibility is required.

D. Driveways, Curb Cuts and Rear Lanes.

- (1) The number of curb cuts throughout the district should be kept to a minimum. To help minimize the number of individual driveways, narrow rear-lot lanes can be utilized to establish convenient access to garages and trash collection areas without requiring a separate driveway that interrupts the flow of the streetscape to the front of the house.
- (2) The maximum width for a driveway curb cut should be no more than twelve (12) feet.

E. Streets and Circulation.

- (1) Any new street(s) should be arranged in a grid-like pattern and should provide connections to nearby streets wherever possible and practical.
- (2) Cul-de-sacs are appropriate only in response to challenging topography, and should otherwise be prohibited.

F. Landscaping.

- (1) The provision of street trees, preferably native species, should be along residential streets at a spacing of approximately twenty (20) to thirty (30) feet on-center.
- (2) The need for tree removal and clear-cutting for development should be minimized.

G. Parking. On-street parking is appropriate and encouraged along residential streets.

§98-32. Home Occupation.

A. To qualify as a home occupation, this activity must:

- (1) Be carried out by at least one owner/occupier of the residence.
- (2) Be restricted to the employment of one (1) additional person who is not an owner-occupier or family member of an owner-occupier.
- (3) Be carried out wholly within the dwelling unit or accessory structure. There shall be no exterior storage of materials, equipment or vehicles other than those used for personal conveyance.
- (4) Preserve the residential character of the premises and have no negative impact on the environment, such as offensive odors, noise, vibration, smoke, fume, dust, heat or glare.
- (5) Exclude the use of the premises as a retail store or any business which maintains stock-in-trade for sale or exchange, except for incidental sale of items normally used in conjunction with the service provided.
- (6) Be restricted to a total area not exceeding 25% of the habitable space within the dwelling unit or a maximum of 500 square feet (whichever is less), whether the activity is conducted within the dwelling unit and/or an accessory structure, as per provisions of the New York State Uniform Fire Prevention and Building Code.

B. A building permit and subsequent certificate of occupancy for change of use are required for all home occupations to ascertain adherence to any applicable law or code.

C. Certain home occupations are permitted by right and shall not require a special use permit or site plan approval,

- (1) These home occupations shall have:

- (a) No employees outside of the owner-occupiers and family members in residence.
- (b) No negative traffic impact on the neighborhood.
- (c) No signs.
- (d) No retail sales from the premises, and no stock in trade.

(2) Examples of such home occupations may include, but are not limited to, consultants, designers, interior decorators or technical writers.

D. All other home occupations require a special use permit. Site plan is a required condition of the special use permit. The Planning Board may waive Site Plan requirement when deemed appropriate.

E. The operator of a home occupation, other than those permitted by right (see Subsection D above), may display one sign on the premises. It must comply with any provision of the Code of the Town of Pleasant Valley applicable to signs.

[HL15]§98-33. Impervious Surfaces.

Any impervious surface is considered a Structure, and as such is required to obtain a no-fee building permit prior to construction if such structure is not part of a special permit and/or site plan application. This includes impervious parking lots and driveways, except paving and/or repaving of existing driveways.

§98-34. Junk Motor Vehicles.^[Interim16]

A. Intent. The outdoor storage of junk motor vehicle parts constitutes health, fire and safety hazards, is generally unsightly and tends to depreciate the value of property in the neighborhood. Therefore, it is prohibited.

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

- (1) Junk motor vehicle. Any unregistered motor vehicle for which a registration with DMV is required to operate.
- (2) Motor vehicle. Any self-propelled vehicle manufactured for use on public highways.
- (3) Outdoor storage. The placing, maintaining or keeping in a place other than a building.

C. Outdoor storage of junk motor vehicles or motor vehicle parts is prohibited, except in a licensed salvage yard or automobile service or body repair shop as per §98-38.

D. The Zoning Administrator is authorized, per §98-87, to issue a permit for the following exceptions to subsection C above for an unregistered vehicle owned by the property owner:

- (1) Storage of unregistered vehicle permit. The permit will specify a reasonable purpose subject to the approval of the Zoning Administrator, and will be for no

more than 180 days. Not more than one permit per calendar year per parcel will be issued.

- (2) Vehicle for sale permit. A permit will be issued for no longer than 60 days with no more than 2 permits per calendar year per parcel.

§98-35. Kennel

Commercial kennels shall be permitted in certain residential zones (see the Schedule of Permitted Uses) only upon compliance with the following additional regulations:

- A. The minimum acreage of a lot with a kennel shall not be less than five (5) acres.
- B. Work spaces, pens, or other facilities, except outdoor runs, shall be located within a completely enclosed, soundproof building, and such kennel shall be operated in such a manner as to produce no objectionable noise, odors, or other nuisances beyond the boundaries of the site on which it is located. Such facility shall assure a buffer zone sufficient to prevent any increase in the average preexisting background noise levels on the site.
- C. No such facility shall be constructed within 100' feet of any public road or property line.
- D. All such facilities shall at all times be maintained in a safe and sanitary condition.

§98-36. Manufactured Home Park.

Single and individual manufactured homes outside of manufactured home parks are prohibited in all zoning districts of Town, except as they may be permitted as emergency or temporary housing, temporary construction uses, and as temporary farm worker dwellings. Existing manufactured homes, as of the date of adoption of this Code, may be replaced by manufactured homes that comply with currently applicable federal and state building standards and must comply with all setback requirements. In order to ensure proper use of waste disposal systems, water supplies and electricity, the provision of adequate emergency access, and the conservation of municipal resources, manufactured home parks are confined to the Manufactured Home Park Districts.

Manufactured home parks are subject to the following regulations:

- A. Park size and capacity. Each manufactured home park shall have a minimum area of ten (10) acres and shall contain no more than one (1) manufactured home for each ten-thousand (10,000) square feet of gross area, including land used for access roads, recreation, service facilities and screen planting.
- B. Size of lots. No manufactured home lot shall be less than 6,000 square feet, nor shall any lot have less than fifty (50) feet of frontage on an access road.
- C. Clearances.

(1) Each manufactured home shall be located on the lot with the following minimum clearances:

(a) sides, 15 feet from side lot lines;

(b) ends, 20 feet from rear lot lines, 25 feet from access roads.

(2) In computing these clearances, auxiliary rooms, porches and similar accessories connected to or associated with the manufactured home shall be considered as part of the manufactured home.

D. Parking.

(1) There shall be at least two (2) off-street parking spaces for each manufactured home within the manufactured home lot.

(2) Visitor Parking. There shall be one (1) off-street parking space for every two (2) manufactured homes within the park, located throughout the park. Each off-street parking space shall be at least nine (9) feet wide and at least eighteen (18) feet long.

E. Recreation area. A minimum of 10% of the total park area shall be set aside and used for open space or recreational area for the park. Such land shall be suitable for such use and shall be maintained by the owner of the park in a neat and usable condition for the residents of the manufactured home park. Setbacks from streets and property lines required in Subsection B(3) above shall not be deemed to be a part of the required recreation or open space areas.

F. Screening and landscaping. Each manufactured home park shall have a landscaped area at least twenty (20) feet wide along exterior lot lines and public roads, suitably planted and maintained to provide visual screening from adjacent properties. The Planning Board may also require a fence for additional screening if appropriate. At the option of the Planning Board, existing vegetation can be used in lieu of screening requirements.

G. Internal road system. Manufactured home parks shall have an internal road system capable of meeting the needs of public safety and welfare, as determined by the Planning Board, which may require two or more access points for the purpose of emergency service. Two or more access points are mandatory for applications of 20 or more lots.

H. Underground utilities. All utilities shall be placed underground.

I. Street signs and numbering. All internal roads will be adequately marked with signs to facilitate the provision of emergency services. Each unit must be separately numbered for convenient identification.

J. Skirting. All manufactured home units must be fully skirted within 30 days of their placement on site.

K. Standards. All replacement manufactured home units must be in conformance with the Federal Mobile Home Construction and Safety Standards.

L. Additional provisions. Each manufactured home park shall provide sanitary conveniences, service and utilities, including water supply, sewage disposal and garbage disposal, commensurate with the following:

- (1) Adequate water supply and sewage disposal facilities shall be provided in full accordance with the requirements of the Town of Pleasant Valley and Dutchess County Department of Health.
- (2) Refuse disposal.
 - (a) Adequate refuse receptacles with covers shall be provided for each manufactured home.
 - (b) These receptacles shall be kept in sanitary condition and emptied at least weekly.
 - (c) Central refuse receptacles may be required by the Planning Board.
 - (d) These receptacles shall be screened .
- (3) Mailboxes. Mail delivery will be made to a central location in an enclosed structure of a consistent style and color.
- (4) Maintenance.
 - (a) All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will be a menace to the health of any occupant or the public or constitute a nuisance.
 - (b) All required improvements, including landscaping and screening, shall be maintained.
- (5) Snow removal. Internal drives shall be kept free of snow by the park owner or homeowners' association.

M. Emergency housing. Emergency residential temporary use may be granted for up to three (3) months by the Zoning Administrator and extended up to an additional nine (9) months by special use permit. A use shall be termed an emergency residential temporary use only if it is a residential temporary use arising from the catastrophic loss of a previously established residential use and is limited to the property of the lost use during construction of a replacement residence. Failure to comply with this subsection, after written notice of violation, shall entitle the town to remove the temporary building or building or manufactured home from the premises at the property owner's expense. Failure to enforce this section in any specific instance shall not be deemed a waiver of the town's right to enforce this section at any subsequent time.

§98-37. Mining[117]

A. Introduction. The New York State Mined Land Reclamation Law requires the issuance of a permit for mining if more than 750 cubic yards or 1,000 tons, whichever is less, of minerals from the earth are mined within any 12 consecutive months. Such permits are issued by the NYS Department of Environmental Conservation. In addition, a special use permit from the Zoning Board of Appeals shall be obtained by the owner of the property,

or the entity responsible for the mining operation, prior to the commencement of any site activity related to mining.

B. Considerations and requirements to be included in the contents of Special Use Permit are as follows:

- (1) Angle of repose. The final slope of material in the excavation or pit shall be at least equal to the normal angle of repose of the material.
- (2) Lateral support. There shall be adequate lateral support at all times for the soil of adjoining lots.
- (3) Water resources. The natural water supply of adjoining lots shall be unimpaired. The final contours shall be such as to prevent the accumulation of stagnant waters.
- (4) Restoration. Within one (1) year after the termination of operations, all area except that covered by buildings or intended to be covered by buildings for which valid construction permits have been issued, or covered by a permanent body of fresh water or included in the sites for existing or planned roads, shall be covered with topsoil to the depth of three (3) inches and shall be seeded.
- (5) Invalidation. Whenever a construction permit becomes invalid or if a planned road does not become an existing road within three (3) years after termination of operations, any area from which natural products have been extracted or which has been involved in extraction operations shall be covered with topsoil to the depth of three (3) inches and shall be seeded.
- (6) Performance security. Security acceptable to the Town Board shall be given to the Town Board at the time of the issuance of the special use permit, to guarantee fulfillment of the conditions under which the permit is issued.
- (7) Application referral. In addition to the required referral to the Planning Board, all applications for special use permits shall be referred to the Conservation Advisory Council for its recommendations.

§98-38. Motor Vehicle Fueling Facility / Repair Shop / Washing Facility.

"Fueling Facility" is taken to include the sale of fuel and maintenance products for motor vehicles, as well as other ancillary convenience items. "Repair Shop" is taken to include the commercial or industrial performance of general maintenance and repair activities on motor vehicles. "Washing Facility" is taken to include the manual or automated washing/cleaning of motor vehicle exterior and/or interior surfaces.

- A. All fuel shall be stored in underground tanks located at least thirty-five (35) feet distant from the public right-of-way and lot lines and shall be solely for the purpose of the business on said lot.
- B. No damaged, wrecked or partly disassembled motor vehicle shall be stored on the premises for more than thirty (30) days if a registered vehicle or for more than ten (10) days if unregistered or having temporary plates. All vehicles awaiting repair shall be stored indoors or within a screened enclosure conforming to the setback requirements for the building. At no point shall any damaged, wrecked, or partly disassembled motor vehicle be visible from any public right-of-way.

- C. All activities associated with the Repair Shop shall take place within an enclosed structure.
- D. Fuel pumps and wash bays shall be accessible by the largest vehicle to be serviced, with waiting space for as many such vehicles as may reasonably be expected to arrive at the same time, in such a manner that neither vehicles being serviced nor those waiting interfere with the flow of traffic on/to/from the public roadway. One-way traffic at pump islands is preferred, that is, in the same direction for both sides of the island.
- E. No gasoline pump shall be placed closer to any side property line than fifty (50) feet.
- F. All washing facilities that include a convenience store, or associated building, shall construct the washing facility to the rear of the building.
- G. A minimum of seven (7) waiting spaces shall be provided on the washing facility premises if the conveyor line is one hundred (100) feet or less in length. Such spaces shall be increased by one (1) space for each additional fifteen (15) feet or part thereof, that the conveyor line exceeds one hundred (100) feet. The building exit for vehicles that have completed the washing process shall be at least fifty (50) feet distance from the nearest point of the public sidewalk in front of the exit.
- H. Any automatic vehicle wash shall be designed and/or soundproofed such that the noise emanating wherefrom, as measured from the property line, shall be no more audible than the ambient noise emanating from the ordinary street traffic and from other commercial or industrial uses in the area.
- I. An automobile washing facility shall be enclosed for all operations, except final hand drying operations.
- J. All motor vehicle service stations that include a convenience store shall construct the convenience store to the front of the pumps and canopy.
- K. Provision of a direct sidewalk connection, where applicable, to the convenience store or station building shall be provided.
- L. Provision of pedestrian amenities, such as bike racks and benches, shall be provided when applicable.
- M. Any canopy shall be constructed to coordinate with the motor vehicle service station building or convenience store architecture and roofline, and where possible, be connected to the station building or convenience store.
- N. The canopy shall have recessed, non-glare lighting under the canopy, with no off-site light spillage.
- O. All waste material shall be stored within a structure or enclosed within fencing at least six (6) feet high and not visible at any property line of the establishment.

- P. Outdoor storage and display of accessories shall be prohibited.
- Q. If a use is abandoned for a period beyond three hundred sixty (360) days, fuel storage tanks shall be filled with a noncombustible substance.
- R. Road frontage. The minimum road frontage of the lot shall be one hundred twenty-five (125) feet, with a minimum depth of one hundred (100) feet.
- S. Site plan approval. No site plan approval shall be given to a proposed Motor Vehicle Fueling Facility if the proposed site is within a one-thousand-five-hundred-foot radius of an existing station, such distances to be measured between the nearest two (2) points located any place on the property boundaries of each parcel in question.

§98-39. Motor Vehicle Sales.

"Sales" is taken to include new and used vehicles, requiring storage and display area for the vehicles.

- A. The principal use of the property shall be the sale of motor vehicles. Permissible accessory uses include repair shops, provided that such repair shops comply with all the regulations to which a repair shop would be subject to as a principal use.
- B. All such establishments shall have a fully enclosed sales building with a showroom area.
- C. All outdoor display and service areas, including driveways and parking facilities, shall be paved. Motor vehicles and equipment shall be kept at least twenty (20) feet from the right-of-way and property lines and shall be neatly arranged on the lot.
- D. Required front yards may be used only for necessary driveways. Side and rear yards may be used for customer parking and the parking of for-sale vehicles, but no structures or parking shall be permitted within any required landscaping or buffering area. In no case shall there be a buffer of less than twenty (20) feet along any property line. All plant materials within a required landscaping or buffering areas shall be of such a size, species, and density that they will result in the least possible transmission of headlight glare from the property.
- E. Display lighting shall be shielded and shall be so located and maintained as to not constitute a hazard of nuisance to the traveling public or neighbors. In particular, banners, temporary signs, balloons, flags, and other signage not in conformance with the Town's sign regulations shall be prohibited.
- F. Sale of a registered vehicle, other than as a commercial motor vehicles sales business, requires that the vehicle shall be owned by the property owner, be located on the owner's property, and shall be limited to the selling of one vehicle at any given time.

§98-40. Multi-Family and Two-Family Dwelling

- A. Multi-family dwellings shall be permitted in the town under the following regulations:

- (1) All area and bulk requirements shall conform to the Schedule of Area and Bulk Regulations as found in this Chapter.
- (2) The minimum floor area of each dwelling unit shall be as follows: 400 square feet for a studio apartment; 500 square feet for a one-bedroom apartment; 700 square feet for a two-bedroom apartment; and 900 square feet for a three-bedroom apartment.
- (3) Site plan approval shall be required by the Town Planning Board.
- (4) Height. In the Hamlet districts, upper-floor residential use is encouraged above shops and businesses. In these districts, two-story buildings are preferred, although three-story buildings may be permitted by the Planning Board if deemed appropriate.
- (5) No building shall exceed one hundred and fifty (150) feet in length.
- (6) No multi-family dwellings shall be located closer than fifty (50) feet to any other principal building.
- (7) Architectural design and arrangement of buildings shall conform to the architectural guidelines of this Chapter §98-47. Appropriate building materials, lighting, and landscaping, shall be provided to ensure compatibility with the desired character of the neighborhood.
- (8) Usable open space, excluding parking, must be provided for the tenants. This open area shall be a minimum of one hundred fifty (150) square feet per bedroom for adaptation of existing structures and at least forty percent (40%) of the gross lot area for new structures.
- (9) A recreation fee will be charged for all new rental units as provided for in the current fee schedule. On-site dedication of land or construction of recreational facilities can be an alternative to a recreational fee.
- (10) Adequate water supply and sewage disposal facilities shall be provided in full accordance with the requirements of the Town of Pleasant Valley and Dutchess County Department of Health.
- (11) Central refuse receptacles may be required by the Planning Board. These receptacles shall be screened and designed in a manner that facilitates control of odor.
- (12) Maintenance.
 - (a) All related service buildings shall be maintained in a clean, sightly condition and kept free of any condition that will be a menace to the health of any occupant or the public or constitute a nuisance.
 - (b) All required improvements, including landscaping and screening, shall be maintained.
- (13) Snow removal. Internal drives shall be kept free of snow by the multi-family owner or homeowners' association.
- (14) Maximum Density. The maximum density for new multifamily dwellings shall be:

- (a) Eight (8) units per acre with both common or municipal water and sewer;
 - (b) Four (4) units per acre with either common or municipal water or sewer;
 - (c) Two (2) units per acre with no common or municipal water or sewer.
- B. Two-family dwellings. Lots containing two-family dwellings shall be at least twice the minimum lot size in the district.

§98-41. Off-Street Loading.

- A. On the same premises with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained adequate space for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- B. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity.
- C. Each off-street loading space shall be a minimum of fifteen (15) feet in width and fourteen (14) feet in height. "Large" loading spaces shall be a minimum of sixty (60) feet in length, and "small" loading spaces shall be a minimum of forty (40) feet in length. These minimum requirements are exclusive of space for access and turning.

§98-42. Off-Street Parking

- A. Off-street automobile parking spaces and truck loading areas for the various permitted uses shall be required at the time any of the main buildings or structures of such uses are constructed, moved, enlarged, or altered, in accordance with the requirements set forth in the Off-Street Parking and Loading Schedule. Each automobile parking space shall be nine by eighteen (9 x 18) feet to accommodate an automobile eighteen (18) feet in length or as follows:

Angle	Stall Length	Minimum Stall Width	Aisle Width
90°	18'	9'	24'
60°	19'	9'	16'
45°	18'	9'	13'
On-street	22'	7' – 8'	10'–12' travel lane

Note: Handicapped parking spaces shall be provided in accordance with all State and Federal ADA regulations (ICC/ANSI A117.1).

- B. Parking lots in new commercial and industrial development shall be placed to the rear or side of the structure. The use of shared driveways and internally linked circulation or service roads between adjacent parcels shall be encouraged. The Board shall require written assurance and/or deed restrictions, satisfactory to the Town's attorney, binding the

owner and all heirs and assignees to permit and maintain such internal access and circulation and inter-use of parking facilities.

C. Combination of uses.

- (1) In the case of a combination of uses, the total number of off-street parking spaces shall be determined by the Planning Board and shall take into account shared parking strategies.
- (2) Applicants are required to investigate shared-parking strategies to reduce the total number of parking spaces. The applicant must provide information about the peak parking demand of the uses on the lot to determine an appropriate reduction to the total number of parking spaces. Such information must take into account the parking demand of residents, employees, customers, visitors, and any other users of the site in question. It must also take into account parking demand on both weekends and weekdays, and both during the daytime and overnight. The Planning Board may require interconnected parking areas if deemed appropriate.

D. Fractional space. Whenever a fraction of a space is required for the sum of requirements, a full space shall be provided.

E. Location of required spaces.

- (1) Required off-street automobile parking spaces shall be provided on a buildable portion of the same lot.
- (2) There shall be provision within the parking area for snow storage.

F. Construction of nonresidential parking areas.

- (1) Non-agricultural. Parking areas shall be paved with a year-round dustless surface. Use of appropriate pervious materials is encouraged. Such parking areas shall be kept free of obstructions and unsightly objects. Intersections of parking areas with sidewalks of street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.
- (2) Agricultural and agricultural related uses. Parking shall be sufficient to accommodate the use and shall be adequate for the health, safety and welfare of the public. Paving and lighting requirements shall be waived by the Planning Board unless such requirements are deemed necessary by the Code Enforcement Officer.

G. No off-street automobile parking or storage space shall be designed, arranged or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property, or (except in connection with a one-family dwelling), where it is necessary to use any part of a street right-of-way for approach, turning and exit of an automobile.

H. Unobstructed access to and from a street, designed so as to not require the backing of any vehicle across a sidewalk or a traffic lane, shall be provided for all parking and loading spaces. Such access driveway width shall be consistent with the aisle width of the

required parking. In general, such driveways shall be at least twenty-six (26) feet in width, except where the Planning Board determines that a lesser width is sufficient.

- I. Drive-thru businesses. The drive-thru aisle(s) shall be sufficient to accommodate stacking of vehicles without causing obstructions or interference to emergency access, sidewalks, driveways, parking spaces, and/or traffic lanes. Drive-thru accommodations shall be located so as to cause the least visual intrusion to public view. The applicant shall provide data as to the maximum expected vehicle stacking, and an illustrative plan showing the capability of providing such vehicle stacking safely.
- J. Parking area grades. The maximum slope within a parking area shall be five percent (5%).
- K. Heavy equipment. The parking of trucks (except pickup trucks), moving vans, school buses, heavy construction equipment and similar commercial vehicles is prohibited in all residential districts except during deliveries and actual operations and except for one (1) vehicle used principally as a personal conveyance, which shall not be parked in the required front yard or within the required side yard.
- L. Driveways:
 - (1) No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any residential district for the servicing of any use located in a business or industrial district
 - (2) No driveways shall be located or designed such that they interfere with the normal traffic movements of any intersection.
 - (3) Driveway center lines shall intersect a street line at no less than the minimum standard of the appropriate reviewing agency (local, county, or state).

M. Driveway grades:

Requirements for new driveways shall conform to Chapter 43, Section 3, Standard requirements for new driveways, in addition to the following:

- (1) The maximum grade for any new driveway accessory to a single-family dwelling, and connecting its off-street parking area to a street, shall be ten percent (10%), except where it can be demonstrated to the satisfaction of the approving authority that, because of unreasonable hardship affecting a particular property, the construction of a driveway shall be permitted, provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed fifteen percent (15%).
- (2) The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting the required off-street parking area to the street shall not exceed seven percent (7%), except that the approving authority shall have the same power to permit increased grades here as above, provided that such grades shall in no case exceed fifteen percent (15%).
- (3) Notwithstanding the maximum permitted grades specified above, no driveway serving a use other than a single-family dwelling shall have a grade in excess of

three percent (3%) within thirty (30) feet of the edge of pavement, or within twenty-five (25) feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.

- (4) Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the automobile in the driveway. All sight easement areas are to remain free of any man made or natural objects that would prohibit a free line of sight of 300 to 400 feet, to be determined by posted speed limit, measured along the center line of the road.
- (5) Pavement materials shall conform to specifications as outlined in the Specifications section of Town of Pleasant Valley Highway Specifications.

N. Landscaping: Parking lots shall be screened from the road and the landscaping plan shall be subject to Planning Board review. The following are minimum requirements:

- (1) A continuous area of a lot consisting of ten (10) or more parking spaces shall be provided with not less than one (1) shade tree for each ten (10) cars or fraction thereof, which trees shall not be less than three (3) inches diameter at breast height.
- (2) In all off-street parking areas containing twenty-five (25) or more parking spaces, at least fifteen percent (15%) of the area between the inside perimeter of the parking surface of the parking area shall be curbed and landscaped with appropriate trees, shrubs, and other plant materials as determined necessary by the Planning Board to assure the establishment of a safe, convenient and attractive parking facility.
- (3) All such landscaped areas shall be properly maintained thereafter in a sightly and well-kept condition.
- (4) A Letter of Credit, its amount to be approved by the Town Board with the recommendation of the Planning Board, may be required to ensure maintenance of required landscaping for a minimum of one (1) year.
- (5) Whenever a parking area abuts a residential district, a wooden privacy or stockade fence, or compact evergreen hedge shall be established and maintained along the district boundary lines.
- (6) Where the Planning Board finds it appropriate to use pervious paving material(s), such as grass pavers, in order to provide groundwater recharge and reduce stormwater runoff volume, the applicant may be required to provide such pavement in parking areas, driveways, and/or pedestrian areas.
- (7) All parking lot design shall take into consideration Article XXI, Greenway Guide E3, Parking Lots.

O. Schedule.

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 may result in an unwarranted increase in impervious surfaces and or storm water run-off or other SEQRA related issues .

For structures and land uses that do not fall within the categories listed, requirements shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each use (at the time of site plan submittal the latest edition of the Institute of Transportation Engineers (ITE) Parking Generation report and the American Planning Association (APA) Parking Standards should be consulted).

USE	REQUIRED OFF-STREET PARKING SPACES
RESIDENTIAL	
Dwellings	2 per dwelling unit
Dwelling, Accessory	2 per accessory dwelling unit
AGRICULTURAL	
For all Agricultural uses	See §98-42(F)(2)
NON-RESIDENTIAL	
Business, General	1 per 250 sf of GFA
Business, Recreational	1 per 5 customers/users based on maximum capacity, plus 1 per 2 employees
Club	2 for each 1,000 sf of GFA
Day Care Center/Home	0.35 per person (licensed capacity)
Educational Institution (Private)	1 per classroom, plus 1 for every 50 students for elementary and middle schools and plus 1 for every 10 students for high school, based on enrollment capacity
Group Home	1 per every 2 employees
Home Occupation	1 in addition to spaces required for residential dwelling, plus 1 for the non-resident employee, if any
Hospital	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient, plus 1 per 4 medical staff
Light Industry	1 per 400 sf of GFA
Lodging Facility	1 per guest room, plus 1 per every 2 employees
Motor Vehicle Fueling Facility/Repair Shop	2 spaces per service bay, plus 3 for every 1,000 sf of GFA; spaces within service areas of building and at pumps and access lanes shall not be counted.

USE	REQUIRED OFF-STREET PARKING SPACES
NON-RESIDENTIAL (cont'd)	
Motor Vehicle Wash Facility	2, plus 1 per each 2 peak shift employees, plus 5 stacking spaces per wash bay
Motor Vehicle Sales	1 per 500 sf of salesroom and/or office. These spaces shall not be used to park for-sale or for-rent cars.
Nursing Home	1 space per 4 beds, plus 1 space per employee

Office (including medical)	3 per 1,000 sf of GFA, excluding storage areas
Restaurant or Bar	1 for every 3 seats, or 1 per 100 sf GFA, whichever is greater
Restaurant, Fast Food	1 for every 2 seats, or 1 per 75 sf GFA, whichever is greater, plus 3 stacking spaces for drive-thru window
Theater or Religious Institution	1 space for every 5 fixed seats; 1 per 100 sf in places without fixed seats; plus spaces for any associated residential use
Veterinary Clinic (MC, OI, H-PV, H-SP, H-WH District)	4 per doctor in usual attendance, plus 1 per employee
Veterinary Clinic (CONS, RA, RR District)	See §98-52
Warehouse, Self-Service Storage	1 per 1,000 sf of GFA, but not less than 4 spaces
GFA = Gross Floor Area sf = Square Feet	

§98-43. Outdoor Storage.

Outdoor Storage is defined as, “Land used for the keeping of materials or equipment outside any building or structure. The term “outdoor storage” does not include “junkyards.” Land used for temporary storage of construction materials or equipment, as an accessory use to a construction project, is not to be considered outdoor storage.” Sheds are not considered Outdoor Storage. See §98-13(G) for residential trash receptacles.

- A. No flammable or explosive liquids, solids or gases shall be stored aboveground. Tanks or drums of fuel directly connected to heating devices or appliances located on the same premises as the tanks or drums of fuel may be permitted provided they meet the requirements of the NFPA and the Town. No more fuel than is necessarily required for the principal use shall be stored on the premises.
- B. All outdoor storage facilities shall be enclosed by a fence or wall and landscaping, adequate to conceal such facilities and the contents thereof from adjacent property and shall meet all required setbacks for the district in which they are located. This provision shall not apply to outdoor storage of new motor vehicles or other vehicles on the premises of motor vehicle sales or rental establishments.
- C. No materials or wastes shall be stored on any premises in such form or manner that they may be transferred off such premises by natural causes or forces, such as wind or rain.
- D. All materials or wastes that might cause fumes or dust, or which constitute a fire hazard or which may be edible by, or otherwise attractive to rodents or insects, shall be stored outdoors only in enclosed containers.
- E. No material or equipment stored outdoors shall exceed a height of ten (10) feet above grade within fifty (50) feet of a property line. In no case shall material or equipment stored exceed the height of the principal building on the property.

- F. Any outdoor storage not conforming to these regulations shall be subject to fines as determined by the Town fee schedule. Once cited by the Zoning Administrator as not conforming, there shall be a one (1) month period given from the time of the citation to correct the non-conformity, before a fine is charged to the owner of the land.

[Interim18]§98-44. Public Utility Facility.

In order to protect neighboring properties from any associated facility noises, facility lighting and/or detriments to the visual qualities of the surrounding area, adequate screening of the facility and sound barriers consisting of landscaping and/or fencing shall be provided if the need for such additional protection is determined necessary by the Planning Board in the site plan review process.

§98-45. Quarrying.

The Town has only one active quarry and intends to limit quarrying to the Quarry District. The present operation includes quarrying and the production, storage and distribution of asphalt and cement. Both additional uses are hereby permitted in the Quarry District. [Interim19]

- A. Dust and noise. No quarry operation shall increase the ambient level of atmosphere dust beyond the limits of the Quarry District, nor shall any quarry emit an injurious amount of noise or a destructive amount of vibration beyond such limits. The requirements of §98-25(A) and (B) shall also apply.
- B. Setbacks. All new operations within a quarry shall be set back at least 250 feet from the property lines of the quarry.
- C. Road surface. All roads within any quarry which are located within five hundred (500) feet of any residence district boundary shall be provided with dustless surface satisfactory to the Town Highway Superintendent.
- D. Site plan approval. The location and site plan of any building within five hundred (500) feet of any street or property line shall be subject to approval by the Planning Board.
- E. Fencing. There shall be a six-foot chain link fence or other acceptable fencing erected around all excavated areas that abut a public highway or private property other than that belonging to the quarry's owner.
- F. Restoration. Within one (1) year after the termination of operations, all the area except that covered by buildings or intended to be covered by buildings for which valid construction permits have been issued, or covered by a permanent body of fresh water or included in the sites for existing or planned roads, shall be covered with topsoil to a depth of three (3) inches.
- G. Performance security. Security acceptable to the Town Board shall be given to the Town Board at the time of the issuance of the special use permit, to guarantee fulfillment of the conditions under which the permit is issued.

- H. Application referral. In addition to the required referral to the Planning Board, all applications for special use permits shall be referred to the Conservation Advisory Council for its recommendations.

§98-46. Signs.

A. Purpose.

The purpose of this section is to promote and protect the public health, safety, and welfare by regulating signs of all types. The appearance, character, and quality of a community are affected by the location, size, and construction of its signs. This section is intended to encourage the use of legible, uncluttered signs as a means of business identification, to reduce hazards and distractions to motorists and pedestrians traveling on the public way, to protect property values, to protect and enhance the desired aesthetic environment, to enhance the Town of Pleasant Valley's ability to attract and retain sources of economic growth, and to promote the public health, safety and welfare of the community.

B. Definitions.

A-FRAME SIGN — An A-frame easel or sandwich-board-style sign.

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 — Any visual message on an awning.

BACKLIT SIGN — A sign consisting of opaque lettering with the light source hidden behind the letters, creating a glow or halo effect around the letters.

BANNER — Any temporary sign made from fabric or any nonrigid material and supported at two or more points.

BENCH SIGN — Any sign painted on or otherwise attached to a bench or other seat meant to be seen by the public.

BILLBOARD — An off-premises sign which is leased or rented for profit.

CHANGEABLE SIGN — A sign with the capability of content change by means of manual or electronic input.

CORNICE – Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang. (Typically, where the top of the wall meets the roof.)

DIRECTIONAL SIGN – Any on-premise sign providing directions or instructions for the convenience of the general public, identifying public parking areas, fire zones, entrances, exits and other similar signs.

EXTERNALLY ILLUMINATED SIGN – A sign lighted by external light, preferably down-lit from above.

FLAG — Any fluttering device made from fabric or any nonrigid material and supported by at least one point.

FREESTANDING SIGN — Any sign not attached to or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are monument signs, pole signs, and post-and-arm signs.

HEIGHT, SIGN — 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.

INFLATABLE SIGN — Any display capable of being expanded by air or other gas and used on a permanent or temporary basis.

INTERNALLY ILLUMINATED SIGN — A sign lighted by or exposed to artificial lighting that shines through a plastic or other translucent or transparent covering. Neon signs are considered internally illuminated.

MONUMENT SIGN — A freestanding sign with a base affixed to the ground.

NON-COMMERCIAL SIGN — A sign containing copy which does not promote a business, commodity, service, or entertainment.

OBSOLETE SIGN — Any sign that no longer advertises a bona fide business or products available for purchase or that advertises a dated event the date of which has passed. Obsolete signs are subject to removal pursuant to §98-46(K).

OFF-PREMISES 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.

POLE SIGN — A sign that is mounted on a freestanding pole or poles.

POST-AND-ARM SIGN — A freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which the sign hangs.

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. This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

PRIMARY SIGN — An establishment's principal sign, i.e. the sign which identifies the business to passersby.

PRINCIPAL FAÇADE —The face of a building that contains the primary entrance to the establishment.

PROJECTING SIGN — A sign attached to a building wall or structure that projects horizontally or at a right angle more than four inches from the face of the building.

ROOF SIGN — Any sign mounted above the cornice line, or over or on the roof or parapet of a building.

SECONDARY SIGN — A sign which communicates accessory information such as hours of operation, “open/closed”, etc.

SHOPPING PLAZA — Five or more establishments sharing a single lot.

SIGN — Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, when such is in view of the general public. This definition includes anything designed to attract attention to the site where the sign is located, including but not limited to pennants, streamers, and balloons. This definition does not include flags and insignia of any government or of any political, civic, military, professional or religious organization.

SIGN AREA — Includes all faces of a sign measured as follows:

- When any sign is framed or outlined, all of the area of the frame or outline shall be included;
- Sign measurement shall be based upon the entire area of the sign with a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural supports if they are not used for advertising purposes;
- The area of a sign consisting of an insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible enclosing all of the letters and symbols;
- 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.

TEMPORARY SIGN — Any sign that is displayed only for a specified period of time as per §98-46(G) and is not permanently mounted.

WALL SIGN — A sign which is painted on or attached to the outside wall of a building, with the face of the sign in the plane parallel to such wall so that only one side is visible to the public, and not extending more than nine (9) inches from the face of such 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 three feet of the window and directed at outside passersby.

C. Permit Required.

- (1) A sign, as defined herein, may be placed, erected, constructed, painted, altered, relocated, enlarged, reconstructed, displayed, lit, or maintained only as expressly permitted in this section and upon issuance of a sign permit by the Zoning Administrator or any duly appointed deputy administrator.
- (2) Unless specified otherwise herein, all permanent signs require review and approval of the Planning Board.

D. Permit Procedures.

- (1) Applications shall be made in writing to the Zoning Administrator on forms prescribed and provided by the Town and shall be accompanied by an application fee, payable to the Town of Pleasant Valley, in accordance with the current fee schedule. The application shall contain:
 - (a) Name, address, telephone number, and email address of the applicant and property owner.
 - (b) Location of the building, structure, or land upon which the sign now exists or is to be erected, and the location of the property where the sign is to be erected.
 - (c) The lineal frontage of the storefront or building for which a sign is to be placed.
 - (d) For permanent signs, a scaled drawing of the sign showing:
 - (i) Type of sign, shape, size, and materials.
 - (ii) Graphic design, including pictorial matter, letters, materials, and colors.
 - (iii) The visual message, text, copy, or content of the sign.
 - (iv) The method of illumination, if any, including type of lamp and wattage, and the position of lighting.
 - (v) Landscaping, if any, including number and types of vegetation, location of plantings, and planting and maintenance schedule.
 - (e) If a new permanent sign is to be erected, or an existing permanent sign is to be altered in size or elevation, a plan, drawn to scale, shall be submitted showing the following:
 - (i) If a freestanding sign, a full description of the placement of the proposed sign, specifying its location on the premises, its orientation, any proposed landscaping, and its position in relation to adjacent buildings, structures, roads, driveways, property lines, other signs, lighting fixtures, walls, and fences. The location of the sign as shown on the plan must demonstrate that the sign is not located in any town, county or state right-of-way.
 - (ii) If an awning, window, wall, or projecting sign, a full description of the placement of the proposed sign, which shall include location on the awning, window, wall or building; the size of the awning, total window area of the principal façade of the building, projection from the building face (if relevant), and the proposed sign's position in relation to adjacent signs and lighting fixtures.

- (2) For all signs, if the applicant is not the owner of the property on which the sign is to be located, the applicant must provide to the Town either written permission from the property owner to place the sign on the property, or a copy of a contract or lease showing that the applicant has care, custody and control of the property on which the sign is to be located.
- (3) Within a reasonable time after the filing of a completed application for a sign permit and the payment of the required fee, but not longer than ten (10) days, the Zoning Administrator shall review the application to determine if the proposed sign is in compliance with all the requirements of this section, §98-46, and if it is in compliance shall refer it to the Planning Board, if required. If referral to the Planning Board is not required and all other requirements are satisfied, the Zoning Administrator shall issue the sign permit.
 - (a) The Planning Board, within a reasonable time of its receipt of a complete application for a sign permit, but not longer than ninety (90) days if not in conjunction with a site plan and/or special use permit application, shall consider the application and shall approve, approve with modifications, or deny the application and notify the Zoning Administrator of its decision on this matter. If the sign permit is approved, the Zoning Administrator shall issue a sign permit.
- (4) Once a permit has been issued, no permit shall be required for a sign to be repainted or repaired in accordance with the approved design, graphics, and messaging of the sign.
- (5) Any sign requiring a permit which is removed for a period of more than thirty (30) days cannot be re-erected unless a new sign permit application is submitted and a new permit is issued in accordance with §98-46(D) above. This subsection shall apply regardless of when the sign which was removed was originally erected and regardless of whether said removed sign was the subject of a validly issued sign permit.
- (6) Time Limit. If a sign is not erected within six (6) months following the issuance of a sign permit for said sign, the sign permit will automatically become void.

E. Exempt Signs.

The following signs are exempt from the permit and approval requirements of this section. All Exempt signs shall be removed within seven (7) days of obsolescence. Each exempt sign shall comply with all other provisions of this chapter.

- (1) Historical markers, tablets and statues, memorial signs and plaques indicating names of buildings and dates of erection, not exceeding six (6) square feet.
- (2) On-premise directional or traffic control signs painted on the road surface, identifying parking areas, fire zones, entrances and exits, and similar signs painted on the road surface. Business names and personal names shall not be allowed. The Planning Board shall limit the number of signs of this type to the minimum necessary in order to avoid duplicative or extraneous signs of this type.

- (3) Non-illuminated warning, private drive, posted, or no trespassing signs, not exceeding one (1) square foot.
- (4) Number and name plates identifying residents, mounted on a house, apartment, or mailbox, not exceeding one (1) square foot total.
- (5) Temporary nonilluminated “For Sale” or “For Rent” real estate signs, and signs of a similar nature, not exceeding two (2) square feet, concerning the premises upon which the sign is located. All such signs shall be limited to one per premises.
- (6) One temporary sign, not exceeding four (4) square feet, listing the architect, engineer, and/or contractor, on the premises while construction, renovation, or repair is in progress.
- (7) A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election may be posted on private property. Such signs shall be no larger than any other Exempt sign permitted in this section.
- (8) Any sign mandated by a governmental unit.
- (9) Lettering or signage on commercial motor vehicles used primarily for related business transportation. Motor vehicles must be registered and insured.
- (10) Decorative or seasonal flags which do not contain any advertising messages except the word “open” may be displayed only during business hours. Limit of one per establishment.
- (11) Temporary indoor window signs, affixed to or visible through the glass. Indoor window signs shall be restricted to a maximum of 25% of the total square footage of all windows on the principal façade or six (6) square feet, whichever is greater.
- (12) On-premises sign(s), not to exceed a total of twenty-four (24) square feet in sign area, for a farm stand, u-pick, or other similar agricultural operation.
- (13) Non-commercial signs. Such sign shall be no larger than any other Exempt sign permitted in this section.
- (14) Non-illuminated secondary signs totaling not more than one (1) square foot in size per establishment.

F. Prohibited Signs

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

- (1) Bench signs, except commemorative plaques.
- (2) Billboards.
- (3) Electronic Changeable signs.
- (4) Fluttering devices such as streamers, ribbons, balloons, spinners, pennants and groupings of flags, except as permitted under §98-46(E)(10), §98-46(G)(2)(a) and §98-46(G)(2)(b).

- (5) Handwritten signs promoting a business, commodity, service, or entertainment.
- (6) Inflatable signs.
- (7) Internally illuminated signs, including neon signs, except as permitted in §98-46(I)(1)(f).
- (8) Off-premises signs, except as permitted under the Exempt Sign provisions of §98-46(E)(8).
- (9) Pole signs.
- (10) Portable signs.
- (11) Posters temporarily affixed to buildings, telephone poles, etc.
- (12) Roof signs.
- (13) Rotating or otherwise moving signs.
- (14) Televisions used outdoors in conjunction with a non-residential use.
- (15) No sign shall be illuminated by or contain flashing, intermittent, changing, rotating, or moving lights.
- (16) No sign which may be confused with or obstruct the view of any authorized traffic sign or signal, or which obstructs the sight distance triangle of any street intersection.
- (17) No sign shall be placed in or extend into any town, county, or state highway right-of-way.
- (18) In no event shall any illuminated sign or lighting device be placed in a way permitting light to be directed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or other nuisance.
- (19) No sign may be attached to a building wall or structure that projects horizontally or at a right angle more than nine (9) inches from the face of the building, except for Projecting signs as outlined in §98-46(I)(1)(a)(i), §98-46(I)(1)(a)(iii), and §98-46(I)(2)(a)(iii).
- (20) No advertising message shall be extended over a succession of signs placed along a street or highway.
- (21) No temporary sign may be painted directly on a window surface.

G. Temporary Signs

All signs of a temporary nature must receive permits before being displayed, except those specified under §98-46(E) Exempt Signs. Planning Board approval is not required for temporary signs, except where fluttering devices are also proposed as outlined below, and the Zoning Administrator or any duly appointed deputy administrator shall issue or deny a temporary sign permit within a reasonable length of time. Both the permit and the sign shall note the date of the first day the sign may be displayed and the date it must be removed.

- (1) Removal of temporary signs:

Upon issuance of a sign permit, a cash security deposit, in accordance with the current fee schedule, shall be deposited with the Zoning Administrator or any duly appointed deputy administrator to ensure removal of the sign(s) upon expiration of the permit period. If any temporary sign is not removed by the expiration of the time limit noted on the application, the Zoning Administrator or any duly appointed deputy administrator, after seven (7) days written notice to the permit holder to remove such sign(s) as computed from the mailing date, and after failure of the permit holder to do so, will cause said sign(s) to be removed, and the cash security deposit shall be forfeited to the Town.

(2) Temporary signs are allowed for:

- (a) Promotions/Events: Temporary signs for promotions, sales, or other events may be granted a temporary sign permit. Each establishment may be granted temporary sign permits for no more than ninety (90) days total during the calendar year. Each temporary sign permit is valid for no more than two (2) temporary signs. The maximum aggregate total square footage allowed by the temporary sign permit is eighteen (18) square feet. Temporary signs for Grand Openings are considered separately under §98-46(G)(2)(b). The Zoning Administrator may allow fluttering devices such as balloons or groupings of flags to be used in addition to, and at the same time as, the temporary signs, for no more than ten (10) days total during the calendar year, so long as such fluttering devices do not interfere with public safety.
- (b) Grand Opening: One temporary sign, which is displayed for not more than thirty (30) days, relating to a Grand Opening may be granted a temporary sign permit. Such sign shall be limited to six (6) square feet in residential districts and twenty-four (24) square feet in all other districts. No establishment shall display more than one (1) such temporary sign, and no business shall be granted more than one temporary sign permit for a Grand Opening event. The Zoning Administrator may allow fluttering devices such as balloons or groupings of flags to be used in addition to, and at the same time as, the temporary Grand Opening sign, for no more than ten (10) days total during the permitted 30-day time period, so long as such fluttering devices do not interfere with public safety.
- (c) Subdivision Real Estate Sales: Temporary real estate signs are permitted for each subdivision receiving final plat approval by the Planning Board.
 - (i) One such sign may be located on each side of the property which has frontage on a town, county, or state highway or street on which the subdivision fronts, or at the intersection of a newly created road for the subdivision and a town, county or state highway or street. Said sign(s) shall be located at least ten (10) feet from the property line and shall be permitted up to a maximum of one year from the date of signature of the map by the Planning Board Chair. Upon written application from the subdivider, the Planning Board may extend this period for one (1) additional year, when the Planning Board deems that the circumstances warrant such extension. The subdivider shall post a cash security deposit, payable to the Town of Pleasant Valley, in

accordance with the current fee schedule, as a reasonable condition of removal.

- (ii) Each such sign shall be single-sided only, shall not exceed four (4) feet in height, and the total sign area of each sign shall not exceed eighteen (18) square feet.

(d) Nonilluminated “Yard Sale” or similarly descriptive signs. Said signs are allowed up to two (2) square feet, located fully on the property on which such sale is being conducted, but shall not be affixed to utility poles. Such sign shall not exceed one (1) per premises and shall be removed within one (1) day after the sale. Not more than three (3) such temporary sign permits may be issued for one property within any one calendar year. Off-premises yard sale signs are prohibited.

H. Permanent Signs within Residential Districts

Within residential districts, the following signs are permitted:

- (1) For each dwelling unit, one non-illuminated nameplate, professional sign, or sign indicating a permitted home occupation on the property upon which the sign is located, with an area of not more than six (6) square feet per face.
- (2) For subdivisions, mobile home parks, or condominium, townhouse, or apartment complexes, one non-illuminated Monument sign containing an area of not more than eight (8) square feet and located not more than five (5) feet above ground level at its highest point, identifying the subdivision, mobile home park, or complex, may be displayed. Such sign shall be set back at least ten (10) feet from the edge of the pavement of any public road and shall not obstruct safe sight lines.
- (3) For pre-existing, nonconforming non-residential uses in a residential district, and for allowable non-residential uses in a residential district, the sign regulations of §98-46(I)(1)(a) and §98-46(I)(1)(b) shall be applied.

I. Permanent Signs within all other Districts

(1) Hamlet (H-PV, H-SP, H-WH) and Mixed Use Commercial (MC) districts.

- (a) Where a property contains one (1) establishment, not more than one (1) primary sign shall be permitted, except as permitted in §98-46(I)(d) and §98-46(I)(f). Such sign shall be one of the following sign types:
 - (i) Projecting sign, located on the establishment’s principal façade, no larger than four (4) square feet on each of two sides with a maximum projection of four (4) feet from the building face, and a minimum ground clearance of eight (8) feet and maximum ground clearance of ten (10) feet.
 - (ii) Window sign, located on the establishment’s principal façade, not larger than 20% of the total window area of the principal façade or a maximum of twenty (20) square feet, whichever is less.
 - (iii) Awning sign, located on the establishment’s principal façade, projecting at least four (4) feet into the sidewalk but not more than seven (7) feet, with lettering up to six (6) inches in height and on the valance only. The sign area may cover a maximum of 50% of

the valance, or a maximum of eight (8) square feet, whichever is less.

- (iv) Post-and-arm sign, no larger than four (4) square feet on each of two sides, with a maximum pole height of six (6) feet if no stone planter base is included, or a maximum pole height of seven (7) feet if a stone planter base is included.
 - (v) Wall sign, located on the establishment's principal façade, as large as one (1) square foot for every three (3) lineal feet of an establishment's principal façade or a maximum of twenty-four (24) square feet, whichever is less.
 - (vi) Monument sign, no larger than sixteen (16) square feet on each of two sides. The Monument sign shall be no higher than six (6) feet from the ground. This applies to all components of the sign including support posts/columns, decorative millwork, and other similar features.
- (b) Where a property contains two (2) to four (4) establishments:
- (i) One (1) primary sign is permitted for each establishment, as permitted in §98-46(I)(1)(a)(i,ii,iii,iv,v), **OR**
 - (ii) One (1) Monument sign is permitted for the property, as permitted in §98-46(I)(1)(a)(vi), that is for the identification of all establishments located on the property.
- (c) Where a property is defined as a shopping plaza, having five or more establishments:
- (i) Each establishment is permitted one (1) primary sign as permitted in §98-46(I)(1)(a)(i,ii,iii,v). Freestanding signs may not be displayed by individual establishments located within a shopping plaza.
 - (ii) One (1) additional sign in the form of a Monument Sign shall be permitted for identifying the name of the plaza itself, and shall conform to the following standards:
 - [a] The Monument sign shall be no larger than forty (40) square feet.
 - [b] Essential supporting framework shall not be included in determining the overall square footage of a sign. However, all other components such as decorative millwork, embellishments, and other similar features shall be included in the calculation.
 - [c] The Monument Sign shall be no higher than eight (8) feet from the ground. This applies to all components of the sign including support posts/columns, decorative millwork, and other similar features.
 - [d] The Monument sign may also contain individual tenant panels to identify businesses located within the plaza. Each tenant panel shall be no larger than two (2) square feet.
 - [e] If the number of tenant panels greatly exceeds what can be accommodated while still maintaining legibility, this maximum size may be increased by the Planning Board to

no more than sixty (60) square feet to accommodate the additional tenant panels.

- (iii) One or more Directional signs, for internal direction, shall be permitted, provided that the individual signs are no more than two (2) square feet and are limited to generic text such as “entrance,” “exit,” and “parking.” Permits will be granted only if the applicant can clearly demonstrate necessity to the Planning Board based on motorist safety.
- (d) Where a sign on the principal façade of an establishment cannot be seen from a public street and where the business is not located in a shopping plaza, the Planning Board may, applying the standards of §98-46(N) Relief, consider approval of an additional sign of one of the types listed in §98-46(I)(1)(a) above, which is visible to a public street.
- (e) Each establishment is also permitted one accessory A-frame easel or sandwich-board-style sign. These signs are determined to be an appropriate type of signage for sidewalk areas in pedestrian-friendly districts. They are intended to address pedestrians in close proximity to the establishment, and are not appropriate for communicating with drivers on nearby roadways. These signs shall conform to the following standards:
 - (i) The sign shall only be displayed during business hours.
 - (ii) The sign shall not block the sidewalk or create a safety hazard of any type.
 - (iii) The sign shall be temporarily attached to the front of the building during use, and the base of the sign shall be located no farther than twenty-four (24) inches from the face of the building it is attached to.
 - (iv) The sign shall not be located in the right-of-way of any town, county, or state road.
 - (v) The sign shall have no more than two (2) faces, and each face shall have a sign area no larger than six (6) square feet.
 - (vi) The sign shall conform to the design standards listed in §98-46(J)(3)(f).
- (f) The following additional sign(s) shall be permitted for a drive-through establishment:
 - (i) One or more Directional signs, for internal direction, shall be permitted, provided that the individual signs are no more than two (2) square feet and are limited to generic text such as “entrance,” “exit,” “parking,” “drive-through,” “teller,” and “ATM.” The Planning Board shall limit the number of signs of this type to the minimum necessary in order to avoid duplicative or extraneous signs of this type.
 - (ii) For a drive-through food service establishment, one (1) menu board sign, not to exceed twenty-four (24) square feet. Internal illumination is permitted only if the background is a dark color as per §98-46(J)(2)(d).

(g) For subdivisions, mobile home parks, or condominium, townhouse, or apartment complexes, one non-illuminated Monument sign containing an area of not more than eight (8) square feet and located not more than five (5) feet above ground level at its highest point, identifying the subdivision, mobile home park, or complex, may be displayed. Such sign shall be set back at least ten (10) feet from the edge of the pavement of any public road and shall not obstruct safe sight lines.

(2) Office Industrial (OI), Quarry (Q), and Special Flood Hazard (SFH) Districts:

(a) Not more than one (1) primary sign shall be permitted. Such sign shall be one of the following sign types:

- (i) Wall sign no larger than one (1) square foot for each linear foot of building frontage along the principal façade, up to a maximum of twenty-four (24) square feet;
- (ii) Window sign no larger than 20% of the total window area of the principal façade or a maximum of twenty (20) square feet, whichever is less;
- (iii) Projecting sign no larger than four (4) square feet on each of two sides with a maximum projection of four (4) feet from the building face, and a minimum ground clearance of eight (8) feet and maximum ground clearance of ten (10) feet.
- (iv) Monument sign no larger than sixteen (16) square feet on each of two sides. The Monument sign shall be no higher than six (6) feet from the ground. This applies to all components of the sign including support posts/columns, decorative millwork, and other similar features.

(b) Where a building lot is divided into several units of occupancy, the total sign area shall be distributed among the units in accordance with their proportions of the total building area.

(c) There shall be no more than one (1) sign per unit of occupancy.

(d) The greatest dimension of any sign shall not exceed 15 linear feet.

(e) One or more Directional signs, for internal direction, shall be permitted, provided that the individual signs are no more than two (2) square feet and are limited to generic text such as “entrance,” “exit,” and “parking.” Permits will be granted only if the applicant can clearly demonstrate necessity to the Planning Board based on motorist safety.

J. Design Principles and Criteria

In reviewing sign applications, the Planning Board shall determine that the sign will uphold and meet the following design principles and criteria:

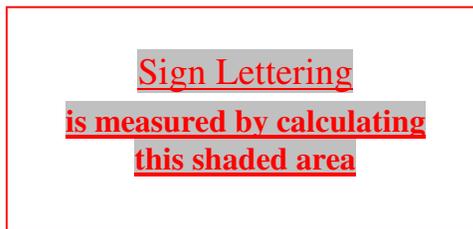
(1) General Design Principles: The following principles shall apply to all signs in all districts:

- (a) Signs should be a subordinate part of the streetscape.
- (b) Signs should convey their messages clearly and simply.

- (c) Signs in a particular area or district should act as a unifying element and exhibit visual continuity.
- (d) Signs should be as close to the ground as practicable, consistent with legibility considerations.
- (e) A sign's design should be compatible with the architectural character of the building to which it relates, and if placed on the building should not cover any distinctive architectural features of the building.
- (f) To the extent possible, adjacent signs on the same or adjoining buildings should be placed within the same horizontal band and be of reasonably harmonious materials and colors.

(2) General Design Criteria: The following criteria shall apply to all signs in all districts:

- (a) All signs, with the exception of window signs, shall be constructed of wood, metal, or other durable man-made materials that closely resemble wood or metal, as approved by the Planning Board.
- (b) Coverage of sign area: The lettering on any sign may not exceed 60% of the sign area of any one side of the sign, with the exception of signs with no background. The area for lettering shall be computed in accordance with the following illustration:



- (c) To ensure legibility, a primary sign shall contain no more than seven (7) words. Any symbol, logo, phone number, website, or street number is counted as a word.
- (d) The color contrast on all signs is recommended to consist of light lettering on a dark background. Each sign should contain no more than three (3) colors; black and white are each considered a color. Fluorescent colors are prohibited. Artwork that is an integral part of a business logo is exempted from this color restriction.
- (e) Illumination of signs.
 - (i) Signs shall not be internally illuminated.
 - (ii) Signs that are externally illuminated should be downlit to reduce glare and light pollution.
 - (iii) Signs that are backlit:
 - [a] Shall use a color of light that reduces glare and light pollution;
 - [b] Shall maintain a low level of light intensity to reduce glare and light pollution;

[c] Shall only use non-reflective materials for the background portion of the sign that the backlighting shines on, to reduce glare and light pollution.

- (iv) All bare light sources and immediately adjacent reflective surfaces, including solar panels, shall be shielded from normal view.
- (v) No illuminated sign or lighting device shall be so placed as to cause glare or reflection that may constitute a traffic hazard or other nuisance.

(3) Specific Design Criteria by Sign Type:

(a) Awning Signs:

Awning graphics may be painted or affixed flat to the surface of the front and/or side panels of the valance, but not on the slope.

(b) Freestanding/Monument Signs:

- (i) Freestanding signs shall not be placed so as to impair visibility for motorists.
- (ii) Monument signs shall include a decorative rock or stone base. The Planning Board shall require that landscaping be used in and/or around the base of a monument sign in addition to the decorative rock or stone base. Required landscaping may include low seasonal or perennial plantings.

(c) Projecting Signs:

Projecting signs shall not extend above the height of the roofline, shall have no more than two faces, and shall be securely anchored and shall not swing or move in any manner.

(d) Wall Signs:

- (i) No part of any wall sign shall extend more than nine (9) inches from the face of the wall to which it is attached, and shall not extend beyond or above the building in any direction.
- (ii) Where possible, the placement of all wall signs should be above the display window and below the cornice in a single-story building, or between the shop window and the second story windowsill in a multistory building.
- (iii) Wall signs shall be securely attached to or mounted on the building wall.

(e) Window Signs

Permanent window signs must be painted on or attached directly and permanently to the window.

(f) A-Frame Signs

- (i) The sign background shall be black (e.g. chalkboard, black dry-erase).
- (ii) Lettering shall be a contrasting white or light color.

K. Removal of signs

(1) Obsolete Signs:

Any sign which advertises a business or product or service no longer available for purchase on the premises shall be deemed obsolete and must be removed within thirty (30) days after cessation of the business or sale of the products and services from the premises. A billboard that is abandoned and discontinued as per §98-46(L) shall be considered an obsolete sign. Any obsolete sign shall be removed in accordance with this §98-46(K).

(2) Existing Signs:

Primary signs in existence prior to the adoption of this Local Law #___ of 2009 may remain, provided that they are not obsolete and that they were legal prior to the adoption of Local Law #___ of 2009, and that they are properly maintained. However, any change to the sign copy, sign structure, or to the business use, such as a new type of business or new business name, requires conformance with this code.

(3) The Zoning Administrator or any duly appointed deputy zoning administrator shall give written notice by uncertified mail and certified mail (return receipt requested) simultaneously, to the last owner of record of the real property on which the sign is located and the permit holder, if any, at the permit holder's last known address of record, specifying that the sign has been erected in violation of this Chapter, and that the sign must be removed within five (5) days of receipt of notice. If the sign is not removed within the allotted five (5) days, or within thirty (30) days of the date of mailing, whichever is shorter, the Zoning Administrator is hereby authorized to remove or cause removal of such sign.

(4) Safety Hazard. If the Zoning Administrator or any duly appointed deputy zoning administrator deems any sign a source of immediate peril to persons or property, said administrator can remove or cause the removal of such sign summarily and without prior notice. The Zoning Administrator shall provide written notice that the sign was removed because it was source of immediate peril to persons or property. Such notice shall be provided by certified mail, return receipt requested, to the last owner of record of the real property on which the signs is located and the permit holder, if any, at the permit holder's last known address of record.

(5) Recovery of Cost of Removal:

At the sole discretion of the Town, the reasonable and necessary costs incurred for removal of any sign by the Town pursuant to this §98-46(K) 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 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 Clerk, to be applied to reimbursing the fund from which the costs of sign removal were paid. Prior to charging such assessments, the owner of the real property shall be provided written notice by certified mail, return receipt requested, to the last known address of record, 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 thirty (30) days after its mailing.

(6) Penalties for Offenses:

Upon written notification of a violation or similar repeated violations, a fine as set by the Town Board shall be incurred. Each week that such violation is not remedied, or is repeated, shall constitute a separate violation.

L. Non-Conforming Billboards

Billboards predating this Chapter shall be permitted to continue as a non-conforming use unless said use ceases for a continuous period of one (1) year for any reason, in which event, said non-conforming Billboard shall be deemed to have been abandoned and discontinued and such use may not thereafter be reinstated. The property owner shall then be responsible for the removal of the abandoned and discontinued billboard as per §98-46(K)(1).

For the purposes of this Chapter, a billboard use is considered to have ceased if it meets the criteria for “blank signs” in 17 NYCRR 150.1 of New York State law. A blank sign is “an outdoor advertising sign void of advertising or informative content. An ‘available for lease’ or similar message that concerns the availability of the sign itself shall not constitute advertising matter. A sign whose message has been partially obliterated by the owner so as not to identify a particular product, service or facility, or a sign which advertises an event which is outdated by more than 30 days, shall be treated as a blank sign. An outdoor advertising sign containing a public service message may be recognized as advertising matter provided the following criteria are met:

- a bona fide public service is referred to;
- the entire sign face is covered with the message; and
- the sign is professionally prepared or established.”

M. Maintenance

All signs and components thereof shall be kept in good repair and in safe, neat, and clean condition. Any sign that has been determined by the Zoning Administrator to be in non-compliance with this §98-46(M) must be repaired within thirty (30) days of receipt of the notice of violation. For any sign determined to remain in non-compliance with §98-46(M) beyond thirty (30) days after receipt of the notice of violation, the Zoning Administrator may cause the removal of the sign as per §98-46(K).

N. Relief

An applicant may seek relief from the requirement that any permanent sign located in a non-residential district must be placed on the establishment’s principal façade. As per §98-46(I)(1)(d), the Planning Board may consider approval of an additional sign of one of the types listed in §98-46(I)(1)(a) and which is visible to a public street. Such relief shall be considered by the Planning Board only where the applicant provides sufficient documentation of the reasons for requesting relief. Where such relief is granted, the primary sign must comply with the standards listed in §98-46(I)(1)(a). In addition, the sign located on the principal façade shall not be larger than 50% of the maximum square footage as allowed for in §98-46(I)(1)(a).

O. Substitution Clause

Any sign authorized pursuant to this Chapter may contain a non-commercial message in lieu of other copy.

P. Severability, conflicts with other provisions

- (1) The provisions of this section are severable. The invalidity of any word, subsection, clause, phrase, paragraph, sentence, part or provision of this article shall not affect the validity of any other part of this section which can be given effect without such invalid part or parts.
- (2) If any portion of this section is found to be in conflict with any other provision of any other local law or ordinance of the Code of the Town of Pleasant Valley, the provision which establishes the more restrictive standard shall prevail.

§98-47. Site Design & Architectural Standards for Non-Residential Development.

Non-residential development in the Hamlet districts (H-PV, H-SP, H-WH), the Mixed Use Commercial district (MC), and areas of the Office Industrial district (OI) that are immediately adjacent to a Hamlet district or the Mixed Use Commercial District, is subject to the following site design and architectural standards, as shall be required by the Planning Board.

A. Purpose. The purpose of these standards is to support and enhance a healthy and vibrant pedestrian-oriented environment that respects the historic fabric of Pleasant Valley, and to provide convenient shops, services, jobs and economic opportunities near population centers.

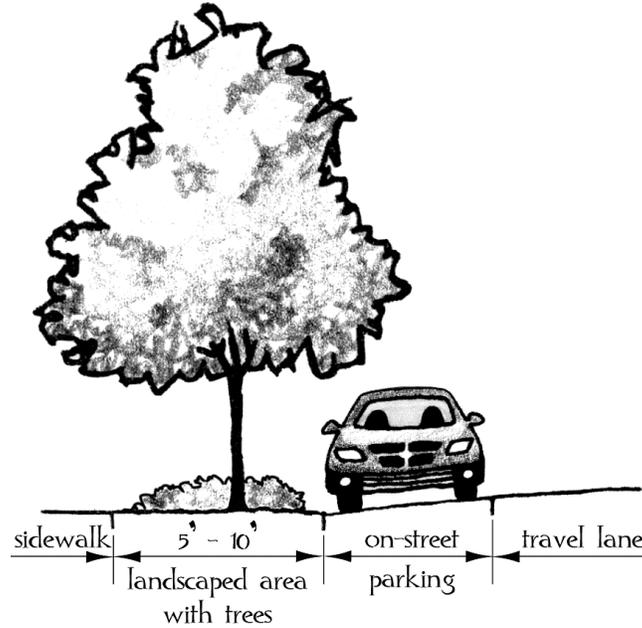
B. Design Principles.

- (1) Promote pedestrian activity by providing a safe and walkable environment.
- (2) Support the prominent positioning of civic buildings, particularly in the Hamlet of Pleasant Valley, in order to strengthen community identity and enhance public interaction.
- (3) Minimize the visual impact of vehicles by managing the placement and screening/landscaping of parking areas.
- (4) Promote access management strategies to reduce traffic congestion while supporting walkability.
- (5) Create an interconnected street system, including rear lot connections and secondary streets.
- (6) Bring new/infill buildings up toward the sidewalk and street edge to strengthen Pleasant Valley's historic patterns of development.
- (7) Promote a mix of commercial and residential uses in multistory buildings.
- (8) Encourage the enhancement of on-street parking and development of shared parking areas.
- (9) Protect and highlight important natural and historic features, in particular the Wappinger Creek and any remaining historic buildings that contribute to the identity of Pleasant Valley.

C. General. A mix of uses including ground-floor retail, upper-floor residential, services, businesses, civic, and offices shall be focused in the Hamlet districts.

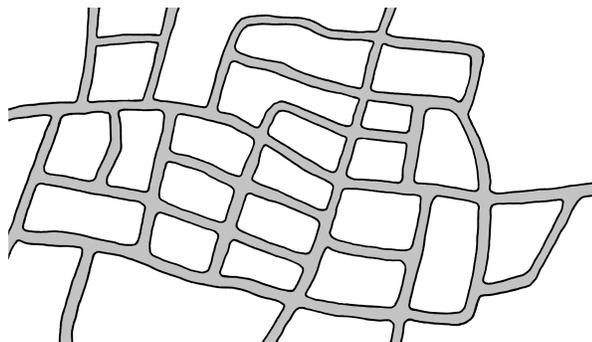
D. Sidewalks. Sidewalks are required throughout the hamlet, and shall be designed as follows:

- (1) Sidewalks shall be a minimum of five (5) feet wide but preferably eight (8) to twelve (12) feet wide when adjacent to commercial uses.
- (2) Sidewalks shall be buffered from vehicular travel lanes by on-street parking and a minimum of five (5) feet of landscaping that includes street trees between the curb and the sidewalk, whenever possible.



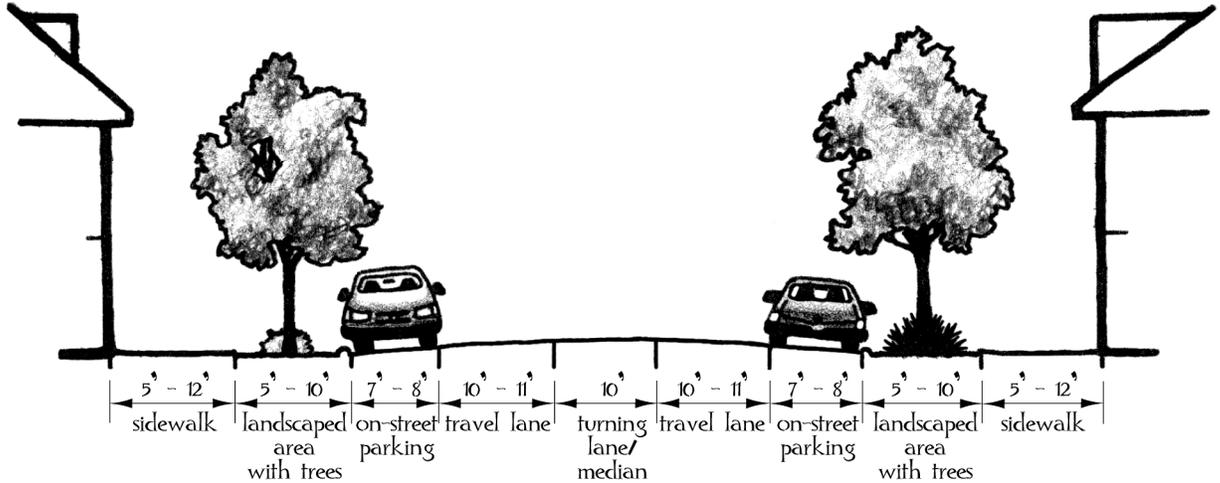
E. Streets and circulation

- (1) Any new streets shall be connected and organized in an interconnected street pattern to the greatest extent possible;



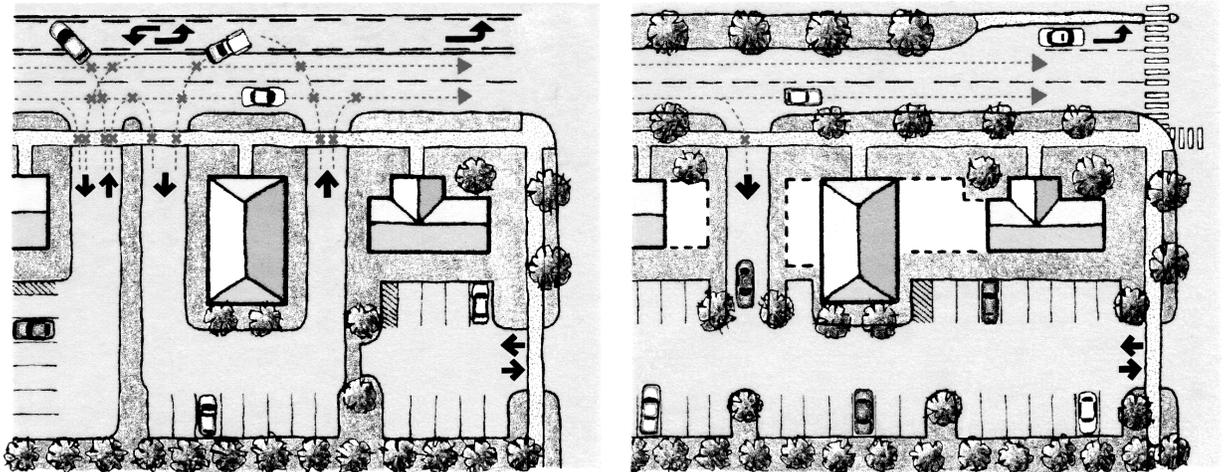
- (2) The street system shall, upon a determination of need by the Planning Board, be augmented with rear-lot connections laid out as narrower, hamlet-scale streets and rear lanes. This allows for a more even disbursement of both vehicular and pedestrian traffic, and creates opportunities for shared interior parking lots;

- (3) Cul-de-sacs are appropriate only in response to challenging topography, and are otherwise prohibited.
- (4) Streets shall be narrow enough to act as a traffic-calming device and promote pedestrian activity, while also allowing for the accommodation of emergency vehicles.



F. Access and curb cuts. The number of curb cuts throughout the districts shall be kept to a minimum.

- (1) To help minimize the number of curb cuts, all opportunities for shared access and rear-lot connections shall be pursued, both with new projects as well as redevelopment of existing sites.

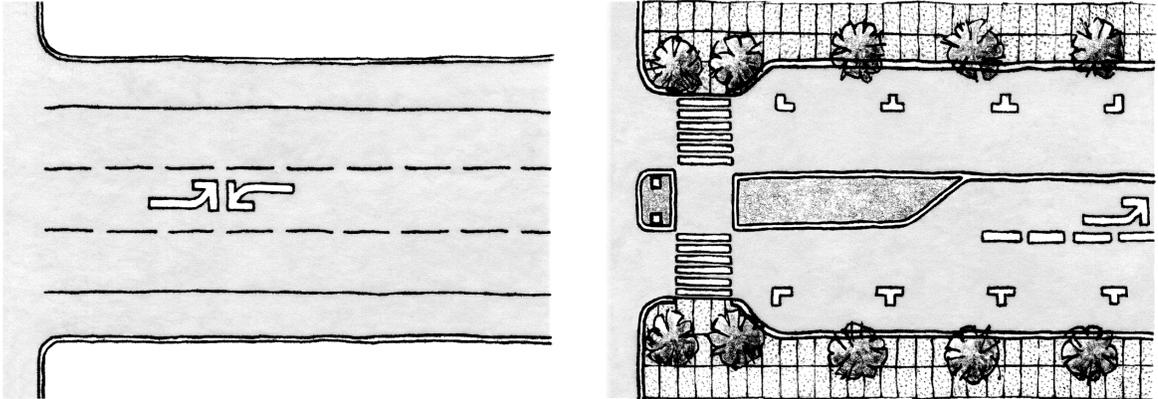


- (2) The removal of excessive or unnecessary existing curb cuts is strongly encouraged in order to reduce the number of vehicular/pedestrian conflict points and to enhance the walkability of the districts.

(3) No curb cut should be placed within fifty (50) feet of an intersection.

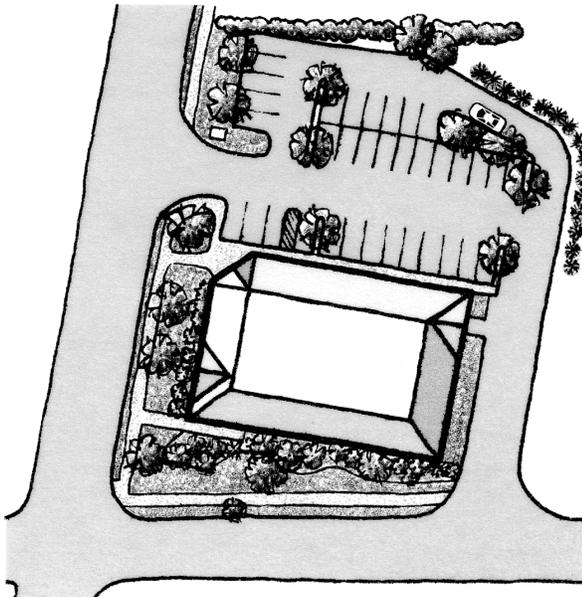
G. Parking and loading

- (1) On-street parallel parking is encouraged;
- (2) On-street parallel parking shall begin no less than twenty-five (25) feet from any intersection.
- (3) On-street parallel parking should be designed to include curb extensions at intersections to shelter the on-street parking and shorten crosswalk distances.



(4) Front yard parking is prohibited in the Hamlet districts. Parking shall be accommodated as follows:

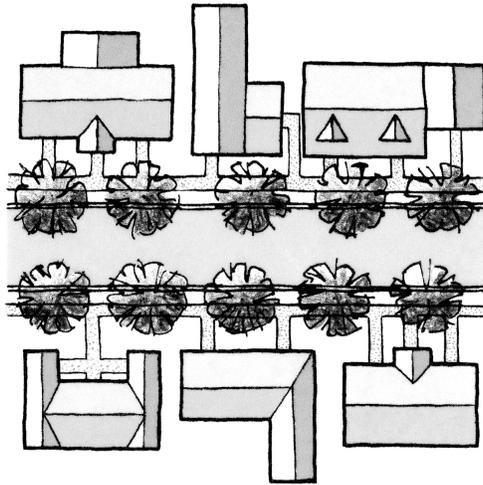
- (a) Parking lots shall be located to the rear of buildings whenever possible, or to the side, but at no point shall they be located in front of the building line.



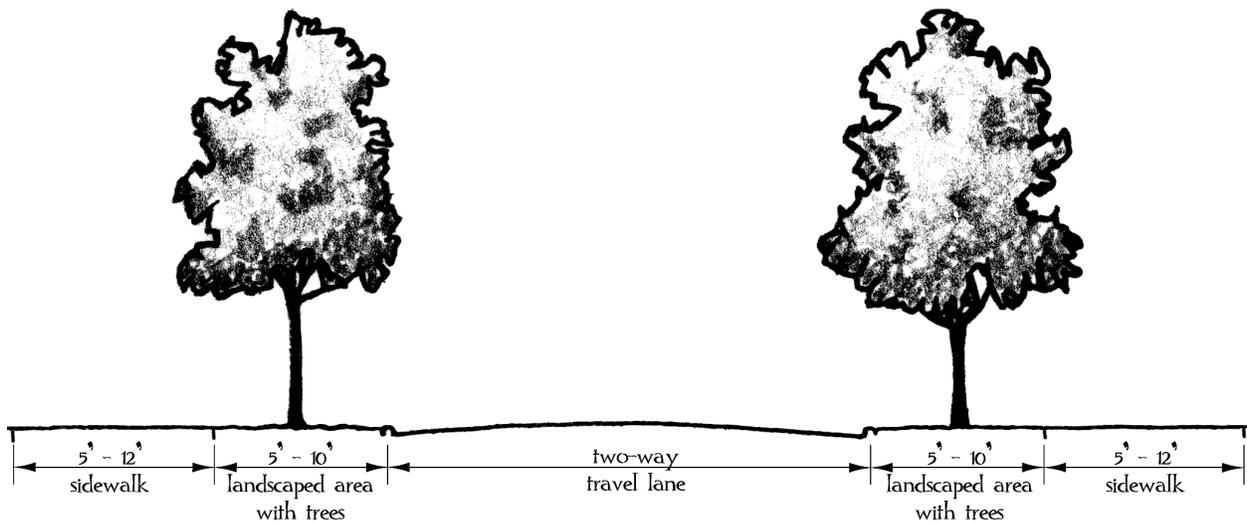
- (b) Shared parking strategies shall be pursued wherever possible by the Planning Board.
- (c) The minimum number of parking spaces for a project is determined by the Planning Board and should take into account reductions possible via available shared parking and on-street parking.
- (d) Parking lots shall be connected by rear lanes whenever possible.
- (e) Corner parking lots are prohibited, but where they already exist, trees, landscaping, stone walls, fences, sidewalks and structures shall be used to define the street corner and screen views of the parking, and where feasible, structures should be inserted between the roadway and parking lot to enhance the historic hamlet fabric.

H. Landscaping

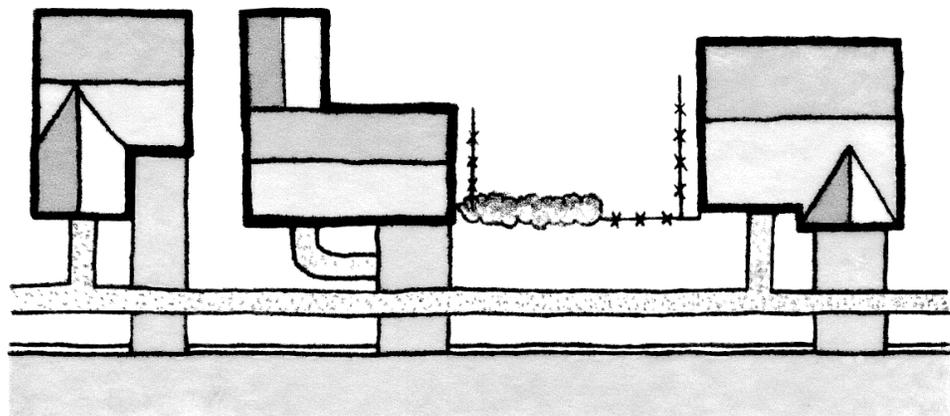
- (1) Street trees shall be planted along all roadways at regularly-spaced twenty (20) foot to thirty (30) foot intervals;



- (2) Street trees shall be placed in the lawn area between the sidewalk and road, or within the first ten (10) feet from the road if there are no sidewalks.



- (3) Existing healthy trees should be preserved.
- (4) New trees shall have a minimum 3½" caliper.
- (5) Street trees should be native species or native hybrids with a broad canopy, and should be tolerant of urban conditions, especially salt deposits, snow removal, and compacted soils.
- (6) Screening or street landscaping is encouraged along front property lines in areas where buildings are separated by vacant lots, parking lots, or pre-existing large front setbacks. Appropriate materials include:
 - (a) Fences or low walls with a maximum height of four (4) feet.
 - (b) Landscaped screens with plant materials set back just far enough from the sidewalk to avoid encroachment when plants are fully grown.



- I. Lighting. The Planning Board should take all measures to reduce light pollution.
 - (1) Streetlights and other lighting shall be ten (10) to fifteen (15) feet in height.
 - (2) Lighting should be metal halide or other full-spectrum fixture.

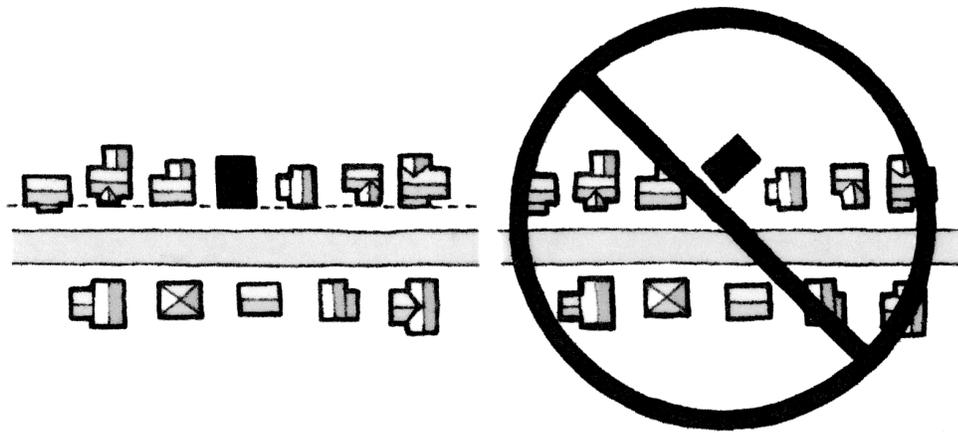
(3) Lighting ranges should be as follows:

- (a) 0.1 to 1 footcandle in public areas other than parking lots
- (b) Approximately 1 footcandle in parking lots
- (c) 2 to 5 footcandles are only allowed in high security areas

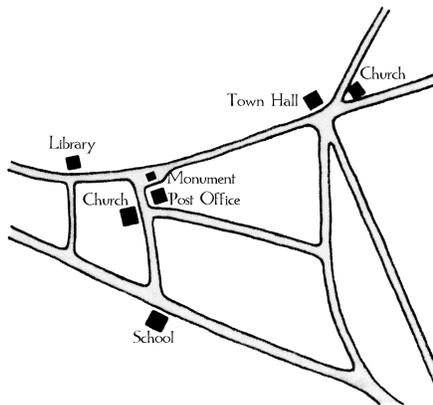
(4) All lighting should be focused downward with no light projecting above the horizontal plane into the night sky, except for architectural and landscape accent lighting that will not cause excess light pollution or a safety hazard.

J. Buildings and structures

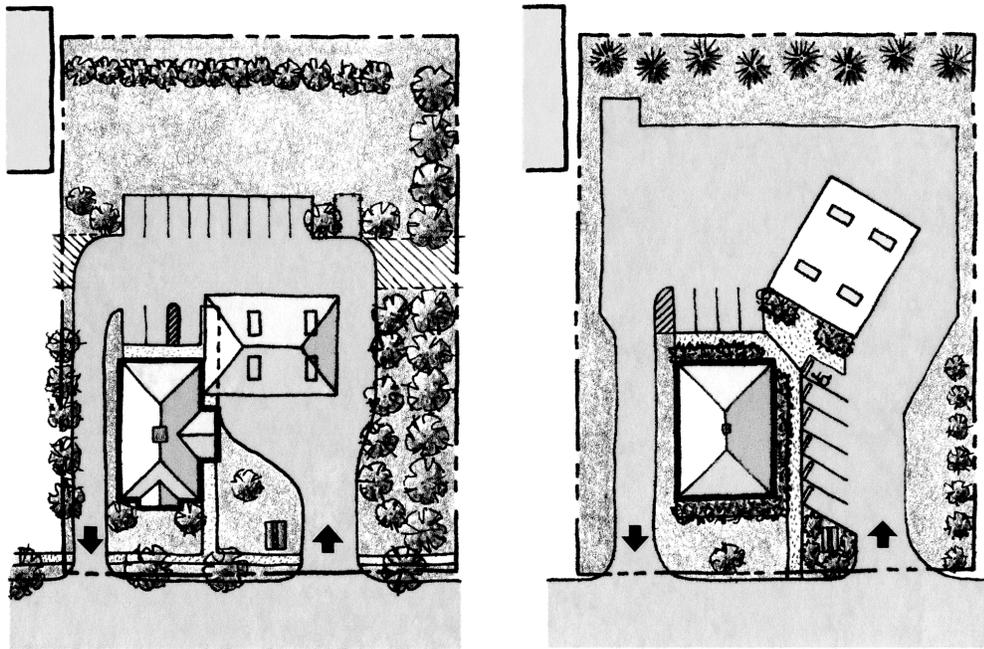
- (1) Buildings in the Hamlet districts shall be located at the front of the lot along the street and within 0-20 feet of the sidewalk;
- (2) Building alignment shall be parallel or perpendicular to the street unless the Planning Board determines an alternate alignment is necessary.



(3) Public buildings, wherever possible, shall be located on prominent sites at street intersections or at the terminus of a street.



(4) Where allowed as per the Schedule of Permitted Uses, §98-11, drive-through windows and gas station pumps/canopies shall be placed to the rear or side of the building, with the queuing lane located to the rear of the building.



K. Architecture for non-residential construction.

These architectural standards are provided to assist in the preservation and enhancement of Pleasant Valley's architectural history of the late-19th and early-20th centuries. Traditional architectural styles found in Pleasant Valley include, but are not limited to, Colonial, Victorian, Craftsman, American Foursquare, Federal and Greek Revival.

These standards shall serve as a resource for the Town's municipal review boards, as well as for developers of projects in Pleasant Valley. Architectural variation is encouraged with consideration of the surrounding historic context, but the Town has set these basic standards to promote an aesthetic continuity that builds off of Pleasant Valley's history.

Useful information on basic form can be found in the "Building Form Guidelines" booklet published by the Dutchess County Department of Planning and Development and available through the Town of Pleasant Valley.

(1) Green building and energy-efficient design

- (a) Whenever possible, design an energy-efficient building using high levels of insulation, high-performance windows, and tight construction.
- (b) Passive solar design is encouraged through the use of window ventilation, shade structures, southern light exposure, and landscape buffers where appropriate
- (c) Where solar panels are used, locate them parallel to the roof slope (if roof slope is between 30 and 43 degrees) and integrated into the roof design. Screen and enclose support equipment

- (d) Use permeable surfaces and drainage design to capture rainfall and prevent stormwater runoff.
- (e) Use water-efficient, low-maintenance landscaping.
- (f) Pleasant Valley encourages LEED certification (Leadership in Energy and Environmental Design) and Energy Star compliance (international standard for energy-efficient consumer products).

(2) Foundations.

- (a) Maximum foundation reveal shall be thirty (30) inches to finished floor.
- (b) All exposed concrete block or poured concrete foundations and site retaining walls should be covered with one of the following approved materials, or a similar material as approved by the Planning Board:
 - (i) Full-sized brick (no faux brick).
 - (ii) Wood clapboard, cedar shingles, or fiber cement siding (e.g. HardiePlank).
 - (iii) Natural stone or brick facing.
 - (iv) Genuine stucco or integrally colored stucco may be used in conjunction with corners and sills of stone, brick, or period wood designs.

(3) Building materials and siding.

- (a) Primary building materials shall be approved brick, stone, stucco, cedar shakes, wood clapboard, or fiber cement siding. Metal siding is permitted only when it represents board and batten construction.
- (b) Neon or alarming colors are prohibited.
- (c) Vinyl and aluminum siding are prohibited.

(4) Roofs.

- (a) Roofs and roof pitches shall be in proportion to the overall size and shape of the building.
- (b) On pitched roofs, only natural and synthetic slate, asphalt shingles and cedar shakes, tiles, standing seamed tin, zinc or copper, and textures that complement the architectural theme and colors are permitted.
- (c) A flat roof shall only be approved on an commercial buildings. This type of traditional construction with parapets and raised cornices was typical of the architecturally-significant buildings built in town centers in the late-19th and early-20th centuries. No other detached buildings shall be permitted with flat roof designs.
- (d) With the exception of copper, all sheet metal and PVC work such as roof caps, flashing, plumbing vents and chimney caps or any other roof protrusion should be painted flat black or painted to match roof colors.

Roof stacks and plumbing vents must be placed on the rear slopes of roofs if at all possible.

- (e) Soffits shall extend twelve inches (12") or more from the face of the building and must be constructed of wood or concrete board or an alternative state-of-the-art, architecturally-appropriate material as approved by the Planning Board.

(5) Windows

- (a) Wood windows are encouraged; however, vinyl or aluminum clad wood windows will be considered, provided the style and profile are similar to wood windows.
- (b) Window grids are recommended for all elevations visible to the public.
- (c) No glass may be mirrored or coated with a reflective coating of any type. Smoked or reflective glass is not permitted.
- (d) Skylights should not be visible from the road.

- (6) Details. Consistency of detailing on all elevations shall be maintained. Windows and doors shall reflect restraint in the variety of types, styles and sizes.

§98-48. Steep Slope Protections.

The town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding 15%.

- A. For any subdivision, special permit, site plan, building permit, zoning permit, or variance that involves the disturbance of slopes greater than 15%, conditions shall be attached to ensure that:
 - (1) Adequate erosion control and drainage measures will be in place so that erosion and sedimentation do not occur during or after construction.
 - (2) Cutting of trees, shrubs, and other natural vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
 - (3) Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.
 - (4) Proper engineering review of plans and construction activities will be conducted by the town to ensure compliance with this section, paid for by escrow deposits paid by the applicant.
 - (5) No certificate of occupancy will be granted until all erosion control and drainage measures required pursuant to this section have been satisfactorily completed.

- B. Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as a reviewing board or official shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, a qualified professional retained by the town, at the applicant's expense, shall determine the location of regulated slopes.
- C. For purposes of determining the location of steep slope areas, only contiguous slopes containing at least 2,000 square feet of steep slopes, as defined above, shall be considered.

§98-49. Telecommunications Facilities.

A. Purpose and Legislative Intent.

The legislative intent of this Telecommunications regulation is to ensure that residents and businesses in Pleasant Valley have reliable access to wireless telecommunications networks while also ensuring that the scenic, historic, and environmental resources, including the intrinsic aesthetic character of the community are preserved. These regulations are written in compliance with the Telecommunications Act of 1966 and therefore may not be used to: prohibit the provision of personal wireless services, to unreasonably discriminate among providers of functionally equivalent services or to regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services comply with the Federal Communication Commission's regulations concerning such emissions. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable Federal laws, and is consistent with the land use policies of the Town of Pleasant Valley, the following purposes shall govern the approval of any Telecommunications Facility in the Town of Pleasant Valley:

- (1) The use of existing Monopoles, Towers, Utility Poles and other structures, referred to herein as Facility or Facilities, for the co-location of Telecommunications Facilities shall be required unless the applicant provides sufficient documentation that such co-location is not feasible. The Planning Board may hire an independent technical expert in the field of telecommunications to verify that the required co-location is not feasible and to evaluate the need for the proposed facility. The cost of the independent technical expert will be at the expense of the applicant;
- (2) If technology allows for a less intrusive method of providing service, other than a Monopole or Tower, the Planning Board may waive the requirement for co-location;
- (3) The preferred location of new Facilities shall be in non-residential areas;
- (4) The number of new Facilities should be minimized by using existing structures whenever possible;
- (5) The location of Facilities shall be, to the extent possible, in areas where the adverse impact on the community will be minimal;

- (6) The potential adverse effects associated with the construction of Facilities shall be minimized through the implementation of reasonable design, landscaping and construction practices;
- (7) The total number and height of Facilities throughout the community shall be kept to a minimum. The applicant shall submit the required documentation of need for the facility for service to the Town of Pleasant Valley as set forth in §98-49(B) below.

B. Justification of Need.

The applicant shall provide written documentation of any Facility sites in the Town or any adjacent town, which are or may be utilized by an applicant, whether pursuant to a legal interest or otherwise. For each such Facility site the applicant shall provide:

- (1) Written documentation that these Facility sites are not already providing, or do not have the potential by adjusting the site, to provide adequate coverage to the Town;
- (2) A map of the Town which illustrates the areas which presently have, and those which do not have, adequate coverage;
- (3) A report of the supporting engineering data suitable for review by an independent consultant which includes the following documentation for each Facility site listed:
 - (a) The exact location, ground elevation and height of the structures;
 - (b) The types of antennas, manufacturer and model, antenna gain, antenna down-tilt, height of the antennas on the structure;
 - (c) The number of channels, maximum effective radiated power per channel, actual radiated power per channel and actual total radiated power;
 - (d) Radial plots from each of these Facility sites.

C. Definitions. The following terms shall be defined as:

ACCESSORY EQUIPMENT – Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

ANTENNA – Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips.

CO-LOCATION – The act of siting Telecommunication Facilities in the same location on the same Support Structure as other Telecommunication Facilities. Co-location also means locating Telecommunication Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.

“CARRIER ON WHEELS” OR “CELL ON WHEELS” (“COW”) – A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

MAINTENANCE, ORDINARY – Ensuring that Telecommunication Facilities and Support Structures are kept in good operating condition. Maintenance, Ordinary includes inspections, testing and modifications that maintain functional capacity and aesthetic and structural integrity, for example, the strengthening of a Support Structure’s foundation or of the Support Structure itself. Maintenance, Ordinary includes replacing Antennas and Accessory Equipment on a like-for-like basis within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunication Facilities at a height equal or lower than the approved height levels of an existing Facility upon which they are currently located. Maintenance, Ordinary does not include Minor and Major Modifications.

MAJOR MODIFICATIONS – Improvements to existing Telecommunications Facilities and Support Structures that result in a substantial change to the Facility or Structure. Co-location of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification. Major Modifications include, but are not limited to, extending the height of the Support Structure by more than twenty (20) feet or ten percent (10%) of its original approved height, whichever is greater, and the Replacement of the structure.

MINOR MODIFICATIONS – Improvements to existing Telecommunications Facilities and Support Structures that result in some material change to the Facility or Support Structure, but of a level quality or intensity that is less than a substantial change. Such Minor Modifications include, but are not limited to, extending the height of the Support Structure by less than twenty (20) feet or ten percent (10%) of its original approved height, whichever is greater, and the expansion of the compound area for additional Accessory Equipment.

MONOPOLE – A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this regulation, a Monopole can also be referred to as a Tower, and either shall be referred to as a Facility, or Facilities in these regulations.

PLANNING BOARD APPROVAL – Approval that the Planning Board is authorized to grant after review as per Section F below.

PLANNING BOARD REVIEW - The procedures established in Section E below.

REPLACEMENT – Constructing a new Support Structure of proportions and of equal or lesser height or lesser height to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Co-location and removing the pre-existing Support Structure.

STEALTH TELECOMMUNICATIONS FACILITY – Any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.

SUPPORT STRUCTURE(S) – A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, Utility Poles and other freestanding self-supporting structures.

TELECOMMUNICATIONS FACILITY(IES) – Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. This definition includes television transmission towers, common carrier towers, cellular telephone and wireless communication towers and alternative tower structures, including repeaters and stealth structures.

TOWER – A lattice-type freestanding structure that supports one or more Antennas. For purposes of this regulation, a Tower can also be referred to as a Monopole and either shall be referred to as a Facility, or Facilities in these regulations.

ZONING ADMINISTRATOR APPROVAL – Zoning approval that the Zoning Administrator, or designee, is authorized to grant after review as per Section D. (1) below.

ZONING ADMINISTRATOR REVIEW – The procedures established in Section E below.

D. Approvals Required.

- (1) Zoning Administrator Approval. The Telecommunications Facilities listed in Section E below may be approved by the Zoning Administrator upon a determination that the Facilities meet the limitations set forth therein and that such facilities will not have a substantial impact or cause a significant change on the premises located. Any visual change in the structure or building utilized shall be deemed a significant change requiring site plan approval by the Planning Board and compliance with SEQRA regulations.
- (2) Planning Board Approval. Telecommunications Facilities and Support Structures not permitted by Zoning Administrator Approval shall be permitted in any district upon the granting of Site Plan from the Planning Board in accordance with the standards set forth in these regulations.
- (3) Exempt. Maintenance, Ordinary of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this regulation:
 - (a) Antennas used by residential households solely for broadcast radio and television reception;
 - (b) Satellite antennas used solely for residential or household purposes;

- (c) COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town after a declaration of an emergency or a disaster by the Governor or by the responsible official of the Town of Pleasant Valley;
- (d) Television and AM/FM radio broadcast towers and associated facilities.

E. Telecommunications Facilities and Support Structures Permitted by Zoning Administrator Approval.

- (1) Telecommunications facilities located on existing structures. Antennas and Accessory Equipment are permitted in all zoning districts when located on any existing structure, including but not limited to, buildings, water tanks, utility poles, broadcast towers or any existing Support Structure in accordance with the requirements below:
 - (a) Antennas and Accessory Equipment may not exceed the maximum building height limitations by more than 20 feet;
 - (b) Omnidirectional or whip Antennas shall not exceed twenty (20) feet in length and not exceed seven (7) inches in diameter and shall be of a color that is identical or similar to the color of the Supporting Structure to make the Antenna and related Accessory Equipment visually unobtrusive;
 - (c) Directional or panel Antennas shall not exceed ten (10) feet in length and two (2) feet in width and shall be of a color that is identical or similar to the color of the Supporting Structure to make the Antenna and related Accessory Equipment visually unobtrusive;
 - (d) Cylinder-type Antennas shall not exceed ten (10) feet in length and not exceed twelve (12) inches in diameter and shall be of a color that is identical or similar to the color of the Supporting Structure to make the Antenna and related Accessory Equipment visually unobtrusive;
 - (e) Satellite and microwave dishes shall not exceed ten (10) feet in diameter. Dish Antennas greater than three (3) feet in diameter shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture of the building to which they are attached. This screening requirement shall not apply to dishes located upon Facilities.
 - (f) Other Antenna types not specifically mentioned above shall be permitted if they are not significantly greater in size and will have a visual impact no greater than the Antennas listed above. This provision is specifically included in the regulation to allow for future technological advancements in the development of Antennas.
 - (g) Accessory Equipment must comply with Section G. (4).
- (2) Facilities that support utility lines or public facilities. Facilities or replacement facilities that will support utility lines, or public facilities such as municipal communication facilities, athletic field lights, traffic lights, and other types of utility poles in the public right-of-way, as well as a Telecommunications Facility,

shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:

- (a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width;
- (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height;
- (c) The height of the Facility or replacement facility may not exceed by more than twenty (20) feet the height of existing utility support structures;
- (d) Facilities and the Accessory Equipment associated there with shall be set back a minimum of thirty (30) feet from all boundaries of the easement or right-of-way;
- (e) Due to the height restriction imposed by Subsection (c) above single carrier Facilities may be used within utility easements and rights-of-way.

(3) Stealth Telecommunications Facilities.

Stealth Telecommunications Facilities shall be permitted in all zoning districts on existing structures in accordance with the requirements below:

- (a) Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer;
- (b) The structure utilized to support the Antennas must be allowed within the underlying zoning district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, parapets, and steeples. Construction of any new structure to be utilized as a Stealth Telecommunications Facility shall be subject to site plan and SEQRA review by the Planning Board pursuant to Section F. below.
- (c) Setbacks for the supporting structure shall be governed by the setback requirements of the underlying zoning district.

(4) General Standards, Design Requirements, and Miscellaneous Provisions.

Unless otherwise specified herein, all Telecommunications Facilities and Support Structures permitted by Zoning Administrator Approval are subject to the applicable general standards and design requirements of Section G and the provisions of Section H.

(5) Zoning Administrator Review Application Process.

All applications must contain the following:

- (a) Application form signed by applicant;
- (b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue zoning application;
- (c) Plans detailing proposed improvements which must depict:
 - (i) Improvements related to the requirements listed in this Section;
 - (ii) Property boundaries;

- (iii) Setbacks;
 - (iv) Topography;
 - (v) Elevation sketch;
 - (vi) Dimensions of improvements.
- (d) Application fee.

(6) Zoning Administrator Review Procedure.

- (a) Within ten (10) business days of the receipt of an application for Zoning Administrator Review, the Zoning Administrator shall either:
 - (i) Inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or
 - (ii) Schedule a meeting with the applicant within thirty (30) days of the receipt of a complete application. This meeting is not a public hearing.
- (b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal without prejudice of the application and may be resubmitted upon filing of a new application fee.
- (c) The Zoning Administrator Review meeting will be conducted to confirm that the proposed application is consistent with this regulation. The Zoning Administrator must issue a written decision granting or denying the request within thirty (30) days of the meeting unless an extension of time is agreed to by the applicant. The applicant may appeal such a denial as provided in the regulation or applicable State or Federal Law.
- (d) Should the Zoning Administrator deny the application, the Zoning Administrator shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this regulation.

F. Telecommunications Facilities and Support Structures Requiring Site Plan and SEQRA Determination by the Planning Board. Any Telecommunications Facility or Support Structures not meeting the requirements of Section G above shall require site plan and be subject to the submission requirements of Section G below, the standards of Section H below, and the following regulations:

(1) Permissible Locations:

- (a) New Support Structures less than forty (40) feet in height shall be permitted in all zoning districts in accordance with the requirements of this regulation. An increase in height shall not be allowed in residential districts.

(b) New Support Structures up to one hundred fifty (150) feet in height shall be permitted in the Office Industrial (OI) district and the Mixed Use Commercial (MC) districts in accordance with the requirements of this regulation. The height of any proposed Support Structure shall not exceed the minimum height necessary to meet the coverage objectives of the Facility. The setback of the structure shall conform to Section G (2). Such setback requirements may be increased by the Planning Board at any time for safety conditions.

(2) Submission Requirements.

- (a) A statement justifying why Co-location is not feasible. Such statement shall include technical information and other justifications as are necessary to document the reasons why Co-location is not a viable option.
- (b) The applicant must submit a justification of need as set forth in §98-49(B) above. Failure to provide an adequate justification of need to the Planning Board shall result in a denial of the site plan application
- (c) Certification from a licensed architect or engineer that:
 - (i) At time of application for building permits, the plans for the tower indicate antenna capacity by type and number, that it will be constructed to withstand winds, in accordance with the latest revision of ANSI/EIA/TIA 222, and other prevailing forces of nature, that the tower and foundation will safely accommodate future use by other telecommunications providers and that shared use will not diminish the structural integrity and safety of the tower, and that the tower will be constructed in accordance with the manufacturer's specifications. In addition, a soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA 222E, as amended, shall be submitted to document and verify the design specifications of the tower's foundation.
 - (ii) Prior to issuance of the certificate of compliance, the tower was actually constructed as certified above.
- (d) A complete visual environmental assessment. This may include graphics, the results of balloon tests, zone-of-visibility maps, pictorial representations of "before" and "after" views from key viewpoints and assessment of alternative tower designs and color schemes.
- (e) Identification of, and consent from, the owner of the property on which the telecommunications tower and facilities will be located.
- (f) A certificate of public convenience and necessity from the Public Service Commission.
- (g) A driveway maintenance agreement to be approved by the Town.
- (h) A written agreement and performance bond to remove the tower and facilities within 180 days of cessation of use. The agreement and bond must be approved by the Town and must include a provision for the amount of the bond to increase every 5 years by the amount of the increase

in the applicable consumer price index. The Town shall be named as an insured party in the bond.

- (i) A copy of the valid FCC license for the proposed activity, indicating acceptable exposure limits for the RF energy coming from base stations, as established by the American National Standards Institute (ANSI) and the Institute of Electrical and Electronic Engineers (IEEE).
- (j) Certification from the Federal Aviation Administration (FAA), which together with the FCC regulates the construction, marking and lighting of wireless antennas near airports or close to flight paths and runways, attesting to the fact that there is no interference with the physical and electronic elements of air traffic.
- (k) Electrical inspection certificate before the issuance of a certificate of compliance.
- (l) A document granting access to the tower and facilities by the Pleasant Valley Fire Company.
- (m) A statement that the applicant will furnish to the Town a copy of all inspection reports as they may be required by any agency having jurisdiction over the telecommunications tower and facilities.

(3) Erection and construction.

- (a) New Facilities must be designed to allow for antenna co-location by other wireless communications providers. A written, irrevocable commitment, valid for the duration of the existence of the Facility, to rent or lease available space for co-location on the Facility, to the extent structurally and electromagnetically able, at fair-market prices and terms, without discrimination to other personal wireless and/or other communications service providers, shall be provided to the Town.
- (b) New Facilities, including lattice and single-pole structures, shall be of a self-supporting design which shall not require the installation of guy wires. Unless specifically required by federal or New York State regulations, Facilities must not be illuminated. The Planning Board shall approve the Facility's finish, and such finish shall be compatible with the surrounding environment.
- (c) All Facility bases shall be set back from any property line at a minimum distance of 1 1/2 times the height of the Facility. Accessory structures shall comply with the minimum setback requirements of the zoning district in which the site is located.
- (d) A chain-link security fence having a minimum height of eight feet shall completely surround all Telecommunications Towers and facilities and appropriate native evergreen and deciduous plantings for screening.
- (e) Existing vegetation, trees and shrubs shall be preserved to the maximum extent possible.

- (f) The maximum height of any Facility and facilities shall not exceed the height at which artificial lighting is required, and shall not exceed the height as specified in Section F.
- (g) No portion of any Facility and facilities shall be used for a sign or other advertising purpose.
- (h) Notification by certified mail of all adjacent property owners of the proposed application.
- (i) Application fee.

G. General Standards and Design Requirements.

(1) Design.

- (a) Facilities shall be subject to the following.
 - (i) Facilities shall be designed to accommodate at least three (3) telecommunications providers for a Monopole type Facility and at least four (4) for a Tower type facility.
 - (ii) A compound area surrounding the Facility must be of sufficient size to accommodate Accessory Equipment for at least three (3) telecommunications providers for Monopole type Facilities and at least four (4) telecommunications providers for Tower type Facilities.
 - (iii) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the Town, Facilities shall have a dark gray muted finish unless more appropriate camouflage techniques are feasible.
- (b) Stealth Telecommunications Facilities shall be designed to accommodate the Co-location of other Antennas whenever economically and technically feasible or aesthetically appropriate, as determined by the Planning Board or Zoning Administrator.

(2) Setbacks.

- (a) Property Lines.
 - (i) Unless otherwise stated herein, Facilities shall be setback from all property lines a distance equal to 1.5 times its height measured from the base of the structure to its highest point. Other Support Structures shall be governed by the setbacks required by the underlying zoning district.
 - (ii) Unless otherwise stated herein, all Accessory Equipment shall be setback from all property lines in accordance with the minimum setback requirements in the underlying zoning district. Accessory Equipment associated with an existing or Replacement utility pole shall not be subject to a setback requirement.
- (b) The Planning Board shall have the authority to reduce or waive any required setback if the Telecommunications Facility or Support Structure

will be less visible as a result of the diminished setback. The Planning Board must also find that the reduction or waiver of the setback is consistent with the purposes and intent of this regulation. The structure must still meet the underlying setback requirements of the zone.

(3) Aesthetics.

- (a) Lighting and Marking. Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission or the Federal Aviation Administration (FAA).
- (b) Signage. Signs located at the Telecommunications Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.
- (c) Landscaping. In all districts, the Planning Board shall have the authority to impose reasonable landscaping requirements surrounding the Accessory Equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the Facility owner.

(4) Accessory Equipment, including any buildings, cabinets or shelters.

- (a) Shall be used only to house equipment and other supplies in support of the operation of the Telecommunication Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (b) Any equipment building, shelter or cabinet must not exceed five hundred sixty (560) square feet and twelve (12) feet in height, including the Support Structure for the equipment building. Exceptions to the size restriction for a single equipment building or shelter may exceed five hundred sixty (560) square feet, if it is:
 - (i) Located at ground level; and
 - (ii) Is used by more than one telecommunications provider; and
 - (iii) Does not exceed one thousand five hundred (1,500) square feet.

(5) Multiple Uses on a Single Parcel or Lot. Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site.

H. Pre-existing Telecommunications Facilities and Support Structures

- (1) Facilities and Support Structures that were legally permitted on or before the date of this regulation was enacted shall be considered a permitted and lawful use.
- (2) Non-Conforming Telecommunications Facility.
 - (a) Ordinary Maintenance may be performed on non-conforming Antennas and Accessory Equipment.

- (b) Minor Modifications to non-conforming Telecommunications Facilities may be permitted upon the granting of Zoning Administrator Approval.
 - (c) Major Modifications to non-conforming Telecommunications Facilities may be permitted only upon the granting of site plan amendment by the Planning Board.
- (3) Non-Conforming Support Structures.
- (a) Ordinary Maintenance may be performed on a non-conforming Support Structure.
 - (b) Co-location of Telecommunications Facilities on an existing non-conforming Support Structure is permitted upon the granting of Zoning Administrator Approval.
 - (c) Minor Modifications may be made to non-conforming Support Structures to allow for Co-location of Telecommunications Facilities. Such Minor Modifications shall be permitted by Zoning Administrator Approval.
 - (d) Major Modifications may be made to non-conforming Support Structures only upon the granting of site plan amendment by the Planning Board.

§98-50. Temporary Uses.

- A. Temporary Permit for Non-conforming Uses. A temporary permit may be issued by the Zoning Enforcement Officer, for a period not exceeding one (1) year, for a non-conforming use incidental to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. This section does not apply to structuring used for residential purposes. Such permits may be renewed yearly, upon application to the Zoning Enforcement Officer, for an additional period of one (1) year.
- B. Temporary Permit for Special Events. Such events, which include but are not limited to flea markets, carnivals, and festivals, shall be required to obtain a temporary use permit from the Zoning Enforcement Officer, if the event is intended to be open to the public for two (2) days or more in any six (6) month period.
 - (1) Structures and parking areas on the premises shall be designed in such a way as to comply with Town Building and Fire Codes.
 - (2) All structures and equipment used in such an operation shall be portable and removed from the premises immediately following the close of the event.
 - (3) Immediately following the close of the event, all debris shall be removed from the site, and the site shall be returned to the same condition in which it was found, or better.
 - (4) If the event is conducted within or over existing parking spaces, the applicant shall provide proof that such spaces are not needed for parking and are available for such use without creating undue parking congestion in the surrounding area.

(5) Temporary outdoor lighting of event areas and parking areas shall be provided if the event remains open after dark. All lights shall be shielded and directed away from adjacent residential uses.

(6) All outdoor sound devices shall be shut off by 11:00 p.m.

§98-51. Transfer of Development Rights, Purchase of Development Rights, and Density Management.

To accomplish the goals of the Town's Comprehensive Plan, specifically to aid in the preservation of the rural character of the Town, to protect the natural resources, including water and aquifer recharge areas of the Town, to preserve natural habitats and to protect and maintain the scenic resources of the Town, this section 98-51 provides for the use of Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR) within the Town. In addition, as a Density Management Alternative (DMA), the base zoning in the Hamlet Residential Districts may be increased when the conditions set forth below are met.

A. Definitions.

DEVELOPMENT RIGHT — The right to develop a principle dwelling unit and any other accessory buildings or structures in addition thereto on the number of acres specified by the zoning district. In the case of multiple housing units per acre, one development right is allocated per unit. The Development Rights per parcel shall mean the number equivalent to the base density calculation under the current zoning ordinance of the Town, before any reduction in development rights which might occur pursuant to the SEQRA process or any additional planning board considerations.

PURCHASE OF DEVELOPMENT RIGHTS — The severance of certain rights to develop land pursuant to the purchase of those rights from the landowner, which shall include either;

- (1) The payment directly to a landowner for the development rights to be purchased with respect to a particular parcel, which purchase of development rights shall extinguish future development rights on that parcel pursuant to a Conservation Easement in accordance with Section B below; or
- (2) Upon the establishment of a Town Open Space Fund, a payment into such Town Open Space Fund to purchase development rights from the Town to increase the base zoning in the Hamlet Residential Districts pursuant to the Density Management Alternative.

TRANSFER OF DEVELOPMENT RIGHTS — The process by which development rights are transferred from and extinguished upon one parcel of land, the "Sending Parcel", which rights may then be transferred to another parcel, the "Receiving Parcel", to increase the base density of the receiving parcel pursuant to the provisions set forth below.

B. Conservation Easement Requirements.

No Transfer of Development Rights which involves a restriction of a parcel pursuant to either a PDR or a TDR transaction shall be approved by either the Town Board or the Planning Board until a Conservation Easement, between the landowner(s) of the parcel to be restricted and a duly qualified land trust organization accredited by the Land Trust Accreditation Commission, with terms acceptable to the Town, has been completed and filed with the County Clerk of Dutchess County. The Town may require third party enforcement rights for the Town as part of such conservation easement. Upon approval of the Town Board, such conservation easement may be executed simultaneously with any other required sale or transfer of land which constitute a necessary action to complete the transaction.

C. Valuation and Correlation.

When necessary for the Town to determine the value of any Development Rights, whether for purchase or transfer, such determination shall be made as follows. The Town shall hire an independent certified appraiser who has completed a Valuation of Conservation Easement Certificate Program and who demonstrates at least 5 years of experience in valuing Development Rights and conservation easements in Dutchess County. In the event of any dispute regarding valuation, a second appraiser of the same qualifications shall be hired and the average of the two valuations shall be used. When the valuation is required pursuant to other than a Town purchase of development rights for preservation purposes, the cost of such appraisal(s) shall be borne by the applicant. The correlation of development rights shall be on a one to one basis that is that the extinguishment of a Development Right on a Sending Parcel shall equal the creation of one Development Right, or the Development Right for one unit in the case of multiple housing units, on the Receiving Parcel.

D. Density Management Alternative.

In the Pleasant Valley, Washington Hollow and Salt Point Hamlet Residential Districts, if a proposed development is, or will be at the time of completion, serviced by central water and/or sewer and if the proposed development meets all Town, county, state and federal regulations, an applicant may increase the base density to no greater than 6 units per acre. The applicant may increase the density pursuant to either the payment of a fee equal to the value of the increased number of Development Rights, such fee to be paid as a Purchase of Development Rights to the Town Open Space Fund, or by transfer of the appropriate number of Development Rights from a Sending Parcel upon approval by the Town Board together with a Designation of Conservation Purpose for the Sending Parcel.

E. Designation of Conservation Purpose.

Numerous tracts of land throughout the Town are appropriate for conservation in order to meet the stated objectives of the Comprehensive Plan. In the case of increased density in the hamlet of Salt Point, the tracts of land to serve as the Sending Parcels are identified by the Comprehensive Plan. Similar arrangements may be developed for the hamlets of Pleasant Valley and Washington Hollow through the Open Space Plan. In other instances, the following guidelines shall apply to parcels to be approved as Sending Parcels by the Town Board.

- (1) Location. As the Town encompasses more than one school district and to avoid an inequality thereto in the reduction of Development Rights in the respective school districts represented in the Town, the Town Board shall follow a rule of population proportion in allocating resources for Purchase of Development Rights or for the approval of parcels as Sending Parcels for Transfer of Development Rights in any instance wherein the Sending Parcel and the Receiving Parcel are in separate school districts.

- (2) Criteria. To qualify as a Sending Parcel, the Town Board must find that the parcel meets at least one of the following criteria:
 - (a) The parcel contains important water resources and/or development of the parcel would adversely affect a significant watershed area or aquifer.

 - (b) The parcel is in active agricultural or forestry use.

 - (c) The parcel contains soils of prime or statewide importance or includes or buffers other important agricultural land.

 - (d) The development of the parcel would diminish scenic views to the public and/or affect public views across already protected open space.

 - (e) The parcel contains important wildlife habitats, known wildlife migration routes, feeding areas or other ecologically sensitive areas.

 - (f) The parcel shares a common boundary with, or is in close proximity to:
 - (i) Publically preserved land, or;
 - (ii) Other conservation easement protected property, or;
 - (iii) Other significant open space areas.

 - (g) Protection of the parcel will preserve an historically important area.

 - (h) Public access to the parcel for outdoor recreation or education will be allowed.

§98-52. Veterinary Clinic.

A. Veterinary clinic in all permitted districts.

- (1) Any outdoor animal activity area shall be completely surrounded by fencing and/or caging to ensure that untethered animals cannot roam off the premises.

- (2) Accessory outdoor animal activity areas shall be located no less than one hundred (100) feet from any road or property line.
- B. Veterinary clinic in the Conservation, Rural Agricultural, and/or Rural Residential District.
- (1) A minimum of ten (10) acres is required..
 - (2) The veterinary clinic may be for large or small animals exclusively, or a combination of large and small animals.
 - (3) Parking shall be sufficient to accommodate the use and shall be adequate for the health, safety and welfare of the public.
 - (4) Paving requirements may be waived by the Planning Board unless such requirements are deemed necessary by the Code Enforcement Officer.
 - (5) In order to maintain rural character, parking shall be behind the building and not visible to neighboring properties.
 - (6) Lighting requirements shall be waived by the Planning Board unless such requirements are deemed necessary by the Code Enforcement Officer.
- C. Veterinary clinic in the Mixed Use Commercial, Office Industrial, Hamlet-Pleasant Valley, Hamlet-Salt Point, and/or Hamlet-Washington Hollow District.
- (1) The veterinary clinic may be for small animals exclusively.
 - (2) All animal enclosures shall be maintained within a fully enclosed building.
 - (3) Any outdoor animal activity area shall be completely surrounded by fencing and/or caging to ensure that untethered animals cannot roam off the premises.

§98-53. Water Protection.

A. Purpose

The purpose of this regulation is to protect the health and welfare of residents of the Town of Pleasant Valley by minimizing the potential for aquifer contamination and aquifer depletion in the Town, and by taking steps to limit the severity of stream flooding and low flow drought conditions in streams.

The Town of Pleasant Valley lies over aquifers covering the entire Town. The aquifers include two types: the town wide Regional Aquifer (RA) which offers groundwater protection to bedrock or surficial aquifers throughout the Town and requires a general level of aquifer protection, and the Regional Aquifer Wellhead Protection (RAWP) areas which warrant enhanced aquifer protection due to the greater number of households and businesses dependent on continuing well water quality. Both the RA and RAWP aquifers provide drinking water in some areas and their natural discharge is essential to the maintenance of healthy aquatic and associated terrestrial ecosystems in wetlands, streams and lakes. The Town has determined that a limiting factor on the residential and commercial carrying capacity of Pleasant Valley is its capability to provide groundwater in sufficient quality and quantity. Where subsurface disposal systems (septic systems) are used, another limiting carrying capacity factor is the land's ability to absorb wastewater without adversely affecting the quality of groundwater and surface water.

The purposes of this Section are to protect public health and safety by safeguarding the Town's aquifers and surface water bodies, to provide protective standards to limit aquifer contamination, to manage development so that groundwater supplies are not depleted or degraded, and to promote development techniques that will lessen wet season flooding and dry season drought impacts. The Town of Pleasant Valley has streams which can be affected by land uses in ways that increase the severity of both floods and droughts. When infiltration capacity is lost throughout a watershed, the health and welfare of the public are threatened by worsening flood events, and significant infrastructure costs can be incurred. Flows in streams and water levels in ponds can also be reduced by over-consumption of water or by lost recharge due to impervious surfaces, threatening aquatic and related terrestrial ecosystems and reducing residential quality of life and tourism opportunities. Every effort should be made to infiltrate all possible aquifer recharge both to reduce flooding severity and to provide baseflow reserves for ponds and streams during droughts.

B. Applicability

(1) With the exception of the prohibition on underground fuel tanks in 98-13(H) and the infiltration minimization loss standard in §98-53(D)(6), this §98-53 does not apply to any single-family, two-family, or multi-family residential use of land on a single lot containing three or fewer dwelling units, or to any home occupation unless such residential use or home occupation includes one of the activities listed in subsection E below. This Section does apply to all subdivisions of land.

(2) This §98-53 shall not apply to farm operations covered by the agricultural zoning exemptions in §98-17.

C. Definitions

ACTION: A Project or physical activity as defined in the SEQR Regulations of the NYS Department of Environmental Conservation, 6 NYCRR Part 617, including all actions subject to SEQR that are covered by this Chapter, as well as subdivision applications and other actions requiring local government approval under SEQR.

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

COMMUNITY WATER SYSTEM: A public Water System regulated by the New York State Department of Health that serves at least five service connections used by year-round residents or regularly serves at least 25 year-round residents.

CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites generating or storing less than 100 kilograms per month and 1000 kilograms of listed and /or characteristic wastes, and generating and storing less than 1 kilogram per month and 1 kilogram of acutely hazardous waste.

CONSUMPTION OF WATER: The net loss of water from a site or a watershed through local groundwater export to a surfacewater discharge or through evaporation and

transpiration processes caused by human land use activities, including evaporative losses from septic system leaching lines. The definition of Consumption of Water also includes water which must be allocated to dilute subsurface wastewater discharges such that groundwater quality at the downgradient property line of sites are unlikely to exceed 50% of the New York State Department of Environmental Conservation's Title 10 Part 703 Groundwater (GA) Water Standard for nitrate.

DISCHARGE: Any intentional or unintentional action or omission resulting in substances or materials entering the waters of the State either directly or by passing through other land, or in any other way resulting in damage to the lands, waters, or natural resources of the State.

GENERATOR OF HAZARDOUS WASTE: Any person or site whose act or process produces hazardous waste.

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

HAZARDOUS SUBSTANCE: Any substance, including any petroleum by-product, which may cause harm to humans or the environment when improperly managed. A complete list of all hazardous substances except for petroleum by-products can be found in 6 NYCRR Part 597.2(b) Tables 1 and 2 and amendments thereto.

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

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

LARGE QUANTITY GENERATOR: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites either (1) generating more than 1000 kilograms per month of listed and/or characteristic hazardous wastes, or (2) generating or storing more than 1 kilogram per month of acutely hazardous waste.

MAJOR OIL STORAGE FACILITIES: Facilities with a storage capacity of 400,000 gallons or more of petroleum.

NATURAL RECHARGE: The normal rate at which precipitation replenishes groundwater, without interruption or augmentation by human intervention.

NYCRR: New York Codes, Rules and Regulations. These regulations can be found at the following web address: <http://www.dos.state.ny.us/info/nycrr>.

NON-POINT DISCHARGE: Discharges of pollutants not subject to SPDES (State Pollutant Discharge Elimination System) permit requirements.

PESTICIDE: Any substance or mixture of substances intended to prevent, destroy, repel, or

mitigate any pest, including any substances defined as pesticides pursuant to Environmental Conservation Law §33-0101 et seq. and amendments thereto.

PETROLEUM: Oil or petroleum of any kind and in any form including but not limited to oil, petroleum fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, and kerosene, as defined in 6 NYCRR Part 597.1(7) and amendments thereto.

POINT SOURCE DISCHARGE: Pollutants discharged from a point source as defined in Environmental Conservation Law §17-0105 and amendments thereto.

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

RADIOACTIVE MATERIAL: Any material that emits radiation.

SEQRA: State Environmental Quality Review Act.

SMALL QUANTITY GENERATOR: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites that do not qualify as Conditionally Exempt Small Quantity Generators and that generate and store less than 1000 kilograms per month of listed and /or characteristic wastes, , and that generate or store less than 1 kilogram per month of acutely hazardous waste.

SOLID WASTE: Generally refers to all putrescible and non-putrescible materials or substances, except domestic sewage, sewage treated through a publicly owned treatment works, or irrigation return flows, that is discarded or rejected as being spent or otherwise worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, and discarded automobiles, as defined in 6 NYCRR Part 360-1.2(a) and amendments thereto.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (“SPDES”): The system established pursuant to Article 17 Title 8 of Environmental Conservation Law for issuance of permits authorizing discharges to the waters of the state of New York.

WASTEWATER: Aqueous-carried solid or hazardous waste.

WATERSHED: All land contributing surface runoff and groundwater flow to the flow of a particular stream.

WATER SUPPLY: The groundwater resources of the Town of Pleasant Valley or the groundwater resources used for a particular well or community water system.

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

D. General Provisions for Groundwater and Surface Water

- (1) Non-Degradation Standard: No use shall be allowed which can be calculated or anticipated to degrade the quality of groundwater or surfacewater in a manner that poses a potential danger to public health or safety and no permits or approvals shall be issued for any use which violates this standard. Compliance with applicable standards, requirements, and permit conditions imposed by federal, state, or county agencies shall be deemed to constitute compliance with this standard.
- (2) The manufacture, use, storage, or discharge of any products, materials, or by-products subject to these regulations, such as wastewater, solid waste, hazardous substances, or any pollutant, must conform to the requirements of these regulations.
- (3) In addition to the list of Statewide Type I Actions contained in SEQRA, all proposed actions resulting in discharges calculated to exceed groundwater effluent standards provided in 6 NYCRR Part 703.6(e) and amendments thereto, or calculated to exceed surface water effluent limitations developed in accordance with 6 NYCRR Part 702.16(b) and amendments thereto, shall be designated as Type I Actions under the Implementing Regulations of SEQRA, unless the action is listed as a Type II action under such regulations.
- (4) Usage of any groundwater for proposed actions shall be examined pursuant to SEQRA in accordance with the methodology in Subsections F and G of this §98-53.
- (5) All proposed actions where consumption of water from site aquifers or from any stream other than the Hudson River exceeds natural recharge, as defined in Subsections F and G herein, shall require monitoring of wells on abutting parcels if on-site groundwater sources are being proposed, or stream flow and stream water quality evaluations if an on-site surface water source is proposed, and the proposed action shall be designated as Type I Actions under the Implementing Regulations of SEQRA, unless the action is listed as a Type II action under such regulations.
- (6) Design requirements for stormwater control measures.
 - (a) No net loss of groundwater infiltration capacity shall be allowed relative to undeveloped site condition (eg. native soils with modest vegetation) during storms up to the 10 year storm event in all zoning districts, except the Hamlet and Mixed Use Commercial districts. For sites in the Hamlet and Mixed Use Commercial zoning districts, all opportunities to use infiltration practices must be explored, regardless of soil type or design storm thresholds, before meeting the balance of stormwater management obligations using other practices.
 - (b) To alleviate flooding during storms exceeding the ten-year design storm, stormwater control measures shall function in all zoning districts to attenuate peak runoff flow rates to be equal to or less than flow rates under undeveloped site conditions.

- (7) In addition to testing requirements of the NYS Department of Health and/or NYS Department of Environmental Conservation Testing for new wells, the following specific requirements apply when installing new wells used for potable or irrigation water in the Town of Pleasant Valley:
- (a) for new Community Water System wells the following monitoring and analyses are required: installation and monitoring of monitoring wells in any surface water body and wetland on or abutting the site; documented efforts to monitor and/or monitoring of the water level in all wells on abutting parcels when testing the new wells; test flow rates should be increased proportionally above the normal rate whenever precipitation during the prior 4 months exceeds one third of the Town's long-term average precipitation of 40 inches/year (from Chazen 2006 Aquifer Recharge Rate report available on the Dutchess County Water & Wastewater website); analysis of the site water budget using the methodology outlined in Subsections F and G herein.
 - (b) for subdivisions with 6 or more domestic wells: A site pumping test is required if centralized or offsite wastewater service is proposed and/or if average parcel sizes are below 1.3 acres over Hydrologic Soil Group A and A/D soils, below 1.8 acres over Hydrologic Soil Group B soils, below 3.3 acres over Hydrologic Soil Group C and C/D soils and below 5.9 acres over Hydrologic Soil Group D soils. (from Chazen 2006 Aquifer Recharge Rate report available on the Dutchess County Water & Wastewater website) The pumping test should be conducted using 10% (rounded up) of site wells with each test well discharging a minimum of 5 gallons per minute. Monitoring and reporting required are as in subsection above although without the proportional pumping test increase during wet periods. The simultaneous flow test must last a minimum of 24 hours and be extended as necessary until stabilization is observed in test wells, wetlands and streams, and observation wells.
 - (c) For any other projects requiring withdrawals of more than 1,500 daily gallons of water from wells or surface water sources, and where onsite recharge as defined in Subsection F herein is less than the proposed water withdrawal, the following apply:
 - (i) If the proposed water source is a well, a minimum 24-hour flow test of proposed wells is required including impact analysis including water level monitoring in wells on abutting parcels and nearby streams and wetlands.
 - (ii) If the proposed water source comes from surface water, an evaluation is required of potential impacts on connected or adjacent streams and wetlands.
- (8) The following considerations should be explored when developing a clustered subdivision with individual domestic wells and septic systems to minimize interference between wells and septic systems.

- (a) Limit the degree to which parcels are under the sizes in §98-53(D)(7)(b) above to reduce the likelihood of well water interference from septic system discharges.
- (b) Clustered parcels should be arranged along a hillside rather than up and down a hillside so septic discharges do not flow downhill toward adjacent parcels.
- (c) Clustered parcels near ponds, streams or perennial wetlands may consider use of extended well casings extending at least 50 feet deeper than the water table to tap groundwater below shallow groundwater transporting septic discharges to receiving water bodies. Extending well casings can help ensure that wells capture only deeper, cleaner water that receives recharge from distant up gradient (uphill) areas.
- (d) Clusters situated on hillside or upland areas (e.g. not in proximity to ponds, streams or perennial wetlands as in §98-53(D)(7)(b) should consider the following:
 - (i) Use of enhanced treatment units in individual septic systems to release cleaner wastewater to the subsurface, or;
 - (ii) Use of community wells from a groundwater source distant from the cluster and/or use of collective wastewater treatment with either an aboveground discharge or subsurface disposal with collective enhanced pre-treatment prior to discharge.
- (e) On a large cluster subdivision project with difficult soil and/or slope conditions, several sub-clusters of 5 to 8 lots may ensure reliable well water quality better than one large cluster.

E. Restrictions and Permit Requirements for Aquifer Management

In accordance with Article VII of this Chapter, the Zoning Board of Appeals shall review and act upon Special Permit applications within the Town of Pleasant Valley. If the uses listed below are regulated by any state or federal agency, the definitions and regulations of such uses contained in applicable state or federal laws and regulations shall apply.

- (1) Special Permits. The following uses, when permitted in the land use district, shall require the issuance of a Special Permit:
 - (a) Photo labs;
 - (b) Auto repair facilities and truck terminals, including engine repair and machine shops
 - (c) Furniture stripper/painter, metal works, wood preservers
 - (d) Printers and the use of printing presses
 - (e) Conditionally Exempt, Small Quantity and Large Quantity Generators of Hazardous Waste.
 - (f) Municipal, private, and construction and demolition landfills as defined in 6 NYCRR Part 360-2 and 6 NYCRR Part 360-7.
 - (g) Solid waste management facilities not involving burial, including incinerators, composting facilities, liquid storage, regulated medical waste,

transfer stations, recyclables handling & recovery facilities, waste tire storage facilities, used oil, C&D processing facilities, each as defined in 6 NYCRR Part 360.

- (h) Salt storage facilities
- (i) Residential uses using wells and septic systems where average parcel sizes are below those listed in section (D)(7)(b).
- (j) Uses and land subdivisions where Water Consumption exceeds Natural Recharge as described in subsections F and G.
- (k) Cemeteries, including pet cemeteries
- (l) Veterinary hospitals and offices
- (m) Funeral parlors engaging in embalming
- (n) Storage or disposal of manure, fertilizers, pesticides/herbicides. No special permit shall be required for storage of less than 500 pounds or where such storage or disposal is conducted in connection with a farm operation that is covered by the exemptions in Section 98-17.
- (o) Disposal, by burial, of any hazardous waste, as defined in 6 NYCRR Part 371
- (p) Gas stations and major oil storage facilities.
- (q) On-site dry cleaning.
- (r) Junkyards and automobile cemeteries.

(2) Special Conditions for select proposed uses listed in §98-53(E)(1) above:

- (a) Storage of chloride salts for road de-icing is prohibited except in structures designed to minimize contact with precipitation and constructed on low permeability pads designed to control seepage and runoff.
- (b) Upon request by the Town, generators of hazardous waste shall provide the Town with copies of all applicable permits provided by State and/or Federal regulators and copies of all annual, incident, and remediation-related reports
- (c) Any projects where water consumption exceeds natural recharge, as defined in Subsections F and G herein, shall demonstrate through SEQRA how such impact will be mitigated. Mitigation measures may include identifying compensatory recharge to permanently prevent adverse impacts to water supply on adjoining and down gradient land. Such compensatory recharge may be located either up gradient or down gradient of the project. Where the project is located adjacent to a wetland, watercourse, parkland, or other land that is permanently protected from development, the recharge or dilution capacity of such adjacent protected land may be counted toward the required mitigation of the impact of the project, provided that such recharge capacity is not claimed in connection with another project.
- (d) Upon request by the Town, gasoline service station operators shall provide

the Town with copies of all applicable permits provided by State and/or Federal regulators and copies of all annual, incident, and remediation-related reports, as well as any required compliance sampling or monitoring data.

- (e) Junkyard operators shall drain fuels, lubricants, and coolants from all cars stored on site to properly permitted above-ground holding tanks. Upon request of the Town, junkyard operators shall provide to the Town copies of all applicable permits provided by State and/or Federal regulators and copies of all annual and incident reports, and provide the Town with an annual summary of numbers of vehicles on site and total gallons of various classes of fluids drained from vehicles and disposal manifests or other documentation of disposition of such fluids.
- (f) Upon request by the Town, generators of Hazardous Waste shall provide the Town with copies of all applicable permits provided by State and Federal regulators and copies of all annual, incident, and remediation-related reports.
- (g) The Town may require additional monitoring and reporting.

(3) Application Requirements for Special Permits: In addition to the Special Permit application requirements set forth in Article VI, applicants proposing actions listed in subsection 1 above shall identify the following as part of their applications where appropriate:

- (a) The source of water to be used
- (b) The quantity of water required
- (c) Water use minimization measures to be implemented
- (d) Water recycling measures to be implemented
- (e) Wastewater discharge measures
- (f) Grading and/or storm water control measures to enhance on-site recharge of surface water;
- (g) Point Source or Non-Point Discharges;
- (h) A certified statement indicating that only waste characteristic of domestic waste will be released to any septic systems.
- (i) A complete list of any Hazardous Substances to be used on site along with quantity to be used and stored on site; and
- (j) A description of Hazardous Substance storage or handling facilities and procedures.

F. Determination of a Parcel's Natural Rate of Aquifer Recharge

The natural recharge rate for a parcel shall be determined by identifying the soil types on the property, classifying them by hydrologic soil groups (A through D, A/D and C/D), and applying a recharge rate of 18.2 inches/year for A and A/D soils, 13.3 inches/year for B soils, 6.8 inches/year for C and C/D soils, and 3.8 inches/year for D soils, and multiplying

the recharge rate(s) by the number of acres in the parcel for each soil group. (rates taken from Chazen 2006 Aquifer Recharge Rate report available on the Dutchess County Water & Wastewater website)

G. Consumption of Water

The following table establishes the method to calculate projected site or watershed consumption of water, as defined in §175-16C.: Consumption may be considered to be zero where the source of water used on a proposed site is the Hudson River. Where projects meet more than one condition listed on the table below, the calculation resulting in the greatest consumption value must be used.

Use	Gallons per day	Multiplied by dilution factor	Consumption/day
Irrigated Lands (non-agricultural)	Irrigated Acres x 4,000 ⁽¹⁾	x 1	=
Uses with surface discharge of wastewater if source water is from surfacewater	Calculated Demand	x 0.2	=
Uses with surface discharge of wastewater if source water is from on-site groundwater wells	Calculated Demand	x 1	=
Residential uses with conventional subsurface wastewater discharge ⁽²⁾	70 gpd/capita	x 8	=
Nonresidential uses with conventional subsurface wastewater discharge ⁽²⁾	Daily Use	x 8	=

⁽¹⁾ Applicable for vegetation requiring 1 inch/week irrigation. May be adjusted for vegetation with other water requirements.

⁽²⁾ Calculate use per NYSDEC intermediate wastewater disposal guide. Discharge must not exceed NYSDEC Title 10, Part 703 effluent limits.

H. Reporting of Discharges

Any person or organization responsible for any discharge of a hazardous substance, solid waste, hazardous waste, petroleum product, or radioactive material shall notify the Town Clerk of such discharge within 24 hours of the time of discovery of the discharge. This notification does not alter other applicable reporting requirements under existing law and applies to all uses, whether conforming or non-conforming in any respect.

I. Non-conforming Uses, Structures, and Lots

See Article VI of this Chapter. For any non-conformity which requires a special permit to expand or change, all requirements of this §98-53 shall apply to such expansion or change.

§98-54. Wind Generating Facility.

A. Purpose.

The Town of Pleasant Valley recognizes the increased demand for alternative energy generating facilities and the need for more inexpensive and sustainable power sources that a Wind Power Generating Facility may provide. The purpose of these supplemental regulations is to protect the community's interest in properly siting a Private Wind Power Generating Facility in a manner consistent with sound land use planning, while also allowing private and farm-related providers to meet their power generating objectives.

B. Definitions.

COMMERCIAL WIND POWER GENERATING FACILITY (WIND FARM): A Wind Power Generating Facility which generates original power on site to be transferred to a transmission system for distribution to customers. The definition of a Commercial Wind Power Generating Facility shall not include a private Wind Power Generating Facility erected and used primarily for private use, which may sell back excess power to the commercial grid.

PRIVATE WIND POWER GENERATING FACILITY, NON-FARM RELATED: An individual Wind Power Generating Facility used to generate power for on-site use by the property owner or home-owner, except for the required electrical current feed-back to the power company.

PRIVATE WIND POWER GENERATING FACILITY, FARM RELATED: An individual Wind Power Generating Facility used to generate power used to supply a farm's electrical needs, not exceeding 110% of the farm's anticipated demand. The facility shall be considered to be on-farm equipment.

ROOF-MOUNTED WIND POWER GENERATING FACILITY: A relatively small Wind Power Generating Facility which generates original power on-site for onsite use by the property owner or home-owner, mounted on the principal building's roof and with a maximum height no greater than ten (10) feet above the peak of the roof.

WIND POWER GENERATING FACILITY: Wind generating facility which generates original power on-site.

WIND ENERGY CONVERSION SYSTEM (WECS): A machine that converts the kinetic energy in the wind into a usable form (commonly known as a "power generating facility" or "windmill"). The WECS includes all parts of the system except the tower and the transmission equipment; the turbine or windmill may be on a horizontal or vertical axis, rotor or propeller.

C. Permitted and Prohibited Uses.

- (1) Roof mounted Private Wind Power Generating Facility is a permitted use within all zoning districts.
- (2) A Private Wind Power Generating Facility is permitted upon the granting of a special use permit and site plan approval within the Conservation District

(CONS), Rural Agricultural District (RA), Rural Residential District (RR) and Office/Industrial District (OI).

(3) Commercial Wind Power Generating Facility is prohibited in all districts.

D. Additional Standards for Non-farm Related Private Wind Power Generating Facility:

No special use permit shall be granted for a Private Wind Power Generating Facility and/or transmission system unless it is determined by the Zoning Board of Appeals that the proposed use meets all of the following criteria, in addition to the special use permit and site plan review criteria in Article VI in the Town of Pleasant Valley Zoning Law:

- (1) A Non-Farm Related Private Wind Power Generating Facility is considered a Type I action under SEQR.
- (2) The minimum required setback distance between each Private Wind Power Generating Facility and all surrounding property lines, overhead utility lines, any dwellings or other buildings for occupancy, and any other Private Wind Power Generating Facility, shall be no less than 1.5 times the proposed structure height plus the rotor radius, if applicable.
- (3) No Private Wind Power Generating Facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation, if applicable.
- (4) No Private Wind Power Generating Facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception, if applicable.
- (5) Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy facility lighting requirements for the FAA shall be subject to on-site field testing before the Zoning Board of Appeals as a prerequisite to that Board's approval with specific respect to glare to existing residential uses within 200' of each for which such strobe lighting is proposed.
- (6) No Private Wind Power Generating Facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of way, public body of water, or publicly owned land within the Town of Pleasant Valley or that extends beyond the border of the Town of Pleasant Valley.
- (7) A Private Wind Power Generating Facility shall be located with relation to property lines so that the level of noise produced during power generating facility operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the issuance of any special use permit for such facility.
- (8) No Private Wind Power Generating Facility shall be permitted that lack an automatic braking, governing, or featuring system to prevent uncontrolled

rotation, overspeeding, and excessive pressure on the structure, rotor blades, and turbine components.

- (9) The minimum distance between the ground and any part of the rotor blade system shall be 30 feet, unless a fence enclosure is provided to limit unauthorized or accidental access to the spinning rotors.
- (10) 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.
- (11) All power transmission lines from the Private Wind Power Generating Facility to on-site substations shall be underground.
- (12) Procedures acceptable to the Zoning Board of Appeals for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- (13) A digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations throughout the region, to a distance of 5 miles from the center of the project shall be provided. The scale used shall depict a 3-mile radius no smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features and other landmarks.
- (14) Color photographs, at least 3 inches x 5 inches, taken from locations selected by the Zoning Board of Appeals within a three-mile radius of the boundaries of the facility site, shall be provided. Said photographs shall be computer enhanced to simulate the appearance of the as-built aboveground site facility as such would appear from said locations. The number of photographs to be submitted shall be in no less than four.

E. Farm-Related Private Wind Power Generating Facility Submittal Requirements.

A Private Wind Power Generating Facility associated with agricultural farm management practices shall be subject to the following, as recommended by the NYS Department of Agriculture & Markets:

- (1) A Farm-Related Private Wind Power Generating Facility is considered a Type II action under SEQR.
- (2) Provide a sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways.
- (3) Show the existing features of the site including land and water areas, water or sewer systems, utility lines, and the approximate location of all existing structures on or immediately adjacent to the site.
- (4) Show the proposed location and arrangement of the Farm-Related Private Wind Power Generating Facility on the site.
- (5) The minimum required setback distance between each Farm-Related Private Wind Power Generating Facility and all surrounding property lines, overhead utility lines, any dwellings or other buildings for occupancy, and any other Private Wind

Power Generating Facility, shall be no less than 1.5 times the proposed structure height plus the rotor radius, if applicable.

- (6) Include copies of plans or drawings prepared by the manufacturer.
- (7) Provide a description of the project and a narrative of the intended use of the proposed wind energy production facility, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization from the owner.
- (8) List safety measures to prevent unauthorized climbing on the facility.
- (9) Prescribe requirements for automatic braking, governing, or feathering system to prevent uncontrolled rotation of the rotor blades and turbine components.

F. Liability Insurance.

Prior to issuance of a Building Permit for a Private Wind Power Generating Facility and continuing through construction and operation, until such facility is removed from the site, the applicant shall provide documentation satisfactory to the Town and at such reasonable intervals as determined by the Town of the existence of liability insurance coverage with reasonable limits as determined by the Town Board, for property damage, injury or death resulting from the construction, placement, use, maintenance, operation of a Private Wind Power Generation Facility, by the owner of the site.

G. Performance Bond.

- (1) When the permit is obtained for a Private Wind Power Generating Facility, the applicant must provide and maintain a performance bond issued by a surety licensed in New York State in a form acceptable to the Town or such other security acceptable to the Town for removal of the power generating facility(s) and property restoration, in an amount approved by the Town Board.
- (2) When a permit is renewed or modified, the Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Wind Power Generating Facility and property restoration.

H. Removal of Obsolete Private Wind Power Generating Facilities.

Obsolete or unused Wind Power Generating Facilities and accessory structures shall be removed from any site within four months of the discontinuance of the use thereof. Owner of the site shall notify the Town in writing within ten (10) days of the discontinuance of the use of such Wind Power Generating Facility. Failure to notify and/or remove the obsolete or unused facility in accordance with these regulations shall be a violation of this law. The Town Board may remove such facilities after 60 days and treat the cost as a tax lien on the property.

ARTICLE V

Nonconforming Structures and Uses

§98-55. Continuance.

The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter.

§98-56. Unsafe Structures.

Any structure or portion thereof declared unsafe by the Building Inspector must either be restored to a safe condition or removed by the owner, agent or person having beneficial use of the structure upon written notice to effect removal from the Zoning Administrator. Upon failure to thereafter comply with such notice within thirty (30) days, the Zoning Administrator is hereby authorized to cause removal of such structure, and any expense incident thereto shall be paid by the owner and, in the event of nonpayment, shall become a tax lien on the said real property.

§98-57. Expansion.

A nonconforming use, a nonconforming structure, or structure utilized for a nonconforming use shall not be extended, enlarged, or structurally altered except as provided below:

- A. Expansion of a nonconforming use. A legal nonconforming use may be permitted to expand its operations with a no-fee expansion permit issued by the Code Enforcement Officer. Issuance of a Special Permit may be required if the Code Enforcement Officer deems it necessary due to a substantial increase in traffic, parking needs and/or hours of operation.
- B. Expansion of a nonconforming structure. A legal nonconforming structure may be permitted to expand to an amount not exceeding fifty percent (50%) of the square footage of the original structure subject to issuance of a special use permit in accordance with the provisions of Articles VII, and that such expansion does not reduce any nonconforming setbacks by more than 20%.
- C. Expansion of a structure utilized for a nonconforming use. A legal nonconforming use may be permitted to expand the structure utilized for the use to an amount not exceeding fifty percent (50%) of the square footage of the original structure, subject to issuance of a special use permit in accordance with the provisions of Articles VII, except that no structure utilized for a nonconforming use shall be permitted to violate any other provisions of this chapter relative to the district in which it is situated.

§98-58. Construction Approved Prior to Adoption of Provisions.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within six (6) months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed

within twelve (12) months of the date of the permit, and which entire building shall be completed according to such plans as filed within eighteen (18) months from the date of this chapter.

§98-59. Restoration.

- A. A nonconforming building (or use) damaged or destroyed may be repaired or reconstructed with the issuance of a building permit to the original size, provided such repair or reconstruction is completed within eighteen (18) months.
- B. Any building structurally damaged or destroyed which is not repaired or reconstructed within eighteen (18) months must be demolished and removed from the site.
- C. Upon failure to repair or reconstruct as provided in Subsection B of this section, the owner shall, within ten (10) days after written notification by the Zoning Administrator, cause the building or structural remains to be demolished or removed. If the owner fails to comply, the Town is empowered to demolish or remove the building or structure and any cost incident thereto shall be paid by the owner of the building or structure.

§98-60. Discontinuance.

Whenever a nonconforming use has essentially ceased for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter, with the following exception. Such lapse in nonconforming use, shall not constitute a discontinuance if the sale^[124], rental for business purpose, renovation or reconstruction of the property has been actively pursued since the date of cessation. However, under no circumstances shall such lapse in nonconforming use be permitted to continue for any longer than 36 months.

§98-61. Displacement.

No nonconforming use shall be extended to displace a conforming use.

§98-62. Changes in District Boundaries; Reversion.

- A. Should the boundaries of a district be modified so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.
- B. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

§98-63. Cessation of Certain Uses.

- A. Notwithstanding any other provisions of this chapter, any automobile wrecking yard, salvage yard or junkyard operating in conformity with any existing town ordinance at the date of enactment of this chapter shall be allowed to continue as an operating business under a special use permit granted by the Board of Appeals at the date of this chapter adoption. Such use shall not be allowed to expand beyond metes and bounds of the wrecking yard or junkyard in existence at the time of this chapter adoption.

(1) The issuance of such special use permit shall be predicated on:

- (a) Compliance with any existing town ordinance.

- (b) Compliance with any special screening, planting or other individual requirements jointly established by the Town Planning Board and Board of Appeals. Contents within the yard shall not exceed the height of the screening requirements as established.
 - (2) Compliance with Subsection A(1)(a) and (b) above shall occur within three (3) years from the date of this chapter adoption. Failure to comply shall result in immediate revocation of the special use permit, and once revoked such permit shall not be reissued.
 - (3) In the event of future ordinance adoption by the Town Board pertaining to automobile wrecking yards or junkyards, providing additional regulation and establishing a time limit for compliance, failure to comply with such regulations within the specified time limit shall cause immediate revocation of any special use permit under this chapter.
 - (4) Request for permission to operate any automobile wrecking yard or junkyard not in existence at the time of adoption of this chapter shall be denied.
- B. With the loss of any special use permit as described above, a notice of removal shall be issued to the owner that requires removal of that activity from the town within twelve (12) months.
 - C. 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. D. Upon failure to comply with the removal notice, the owner shall, within ten (10) days after written notice from the Zoning Administrator, cause the activity or remaining portion of the activity to be removed.
 - C. E. If the owner fails to comply, the town is empowered to remove the activity and any cost incident thereto shall be paid by the owner of the activity.

§98-64. Change to Another Nonconforming Use.

A nonconforming use may be changed to another non-conforming use by special use permit upon proper application and upon determination by the Zoning Board of Appeals that the proposed new use will be less detrimental to its neighborhood and surroundings than the use it is to replace. In determining relative detriment, the Zoning Board of Appeals shall take into consideration, among other things, community character, traffic generated; nuisance characteristics, such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation. The issuance of such special use permit shall be predicated on:

- A. Forfeiture of all rights to a previous nonconforming use.
- B. Site plan approval by the Planning Board as outlined in Article VII of this chapter.

§98-65. Exemption of Substandard Lots.

Lots existing prior to this enactment having an area less than that required for the district in which it is located shall be considered to be conforming with regard to lot area, provided that the following conditions are satisfied:

- A. The following minimum area and dimensions are maintained, unless smaller dimensions are permitted in the district:
 - (1) Lot area: 8,000 square feet.
 - (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.
 - (2) Front setback: 15% of lot depth but not less than 30 feet from the center line of the road.
 - (3) Side setback: 20% of lot width but not less than eight feet per side.
 - (4) Rear setback: 15% of lot depth but not less than 25 feet.
 - (5) All minimum yard requirements for a lot must be satisfied by measurement on dry land.
 - (6) 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.
- B. All Health Department regulations are satisfied.
- C. Any residential use of such a nonconforming lot shall be limited to one single-family dwelling or two-family dwelling.
- D. Any allowed non-residential use of such a nonconforming lot shall be limited to one structure and one use.
- E. A nonconforming lot may be subdivided only if the subdivision plat shows that every subdivided portion of such lot will be merged with adjoining properties to increase the area of such properties, thereby eliminating the nonconforming lot.

ARTICLE VI

Subdivision, Special Use Permit and Site Plan Approval

§98-66. Approval.

- A. Approval of a proposed subdivision or resubdivision shall be obtained from the Planning Board of the Town of Pleasant Valley in compliance with Chapter 82 of the Pleasant Valley Code, Subdivision of Land.
- B. Approval of a proposed special use permit shall be obtained from the Zoning Board of Appeals of the Town of Pleasant Valley in compliance with Chapter 98 of the Pleasant Valley Code, Zoning.
- C. Site plan shall be obtained from the Planning Board of the Town of Pleasant Valley in compliance with Chapter 98 of the Pleasant Valley Code, Zoning.

§98-67. Special Use Permit.

A special use permit is the authorization of a particular land use that is permitted in the zoning district subject to specific requirements that are imposed to assure that the proposed use is in harmony with the immediate neighborhood and will not adversely affect surrounding properties. The Zoning Board of Appeals shall base special use permit decisions on §98-70, General Standards.

- A. A special use permit application shall be initially submitted to the Zoning Administrator and referred by the Zoning Administrator to the Zoning Board of Appeals for its consideration. No building permit or certificate of occupancy shall be issued by the Zoning Administrator and/or Building Inspector except upon authorization of, and in full conformity with, plans approved, and conditions imposed, by the Zoning Board of Appeals.
- B. As provided by 98-11, all uses requiring the issuance of a special use permit are additionally subject to site plan review and approval, as described in Article VI of this chapter.

§98-68. Special Use Permit Application.

The Zoning Board of Appeals shall review and act on all special permit uses in accordance with the procedure specified herein:

- A. Application and fee. All applications made to the Zoning Board of Appeals shall be in writing, on forms and in accordance with the schedule prescribed by the Board, and, in order to be considered complete, shall, except as may be waived by the Board on a case-by-case basis due to the minor nature of the specific request, include the following:
 - (1) Requirements as listed in §98-71. Submission Requirements.
 - (2) Supplemental requirements as listed in §98-53 for uses listed in §98-53(E)(1).

- (3) Payment of the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.
- (4) State Environmental Quality Review Act (SEQRA) Environmental Assessment Form. No application shall be deemed complete without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and the submission of an acceptable Draft Environmental Impact Statement (DEIS), if needed.
- (5) Agricultural data statement. An agricultural data statement is required if any portion of the project is located on property within an agricultural district containing a farm operation, or other property with boundaries within 500 feet of a farm operation located within an agricultural district.

§98-69. Special Use Permit Review Procedure.

A. Public notice and hearing. The Zoning Board of Appeals shall within sixty-two (62) calendar days of the receipt of the complete application, as determined by the Board, conduct a public hearing on any such special use permit application. The Zoning Board of Appeals shall provide a copy of the notice of said hearing to the applicant, and at such hearing the applicant shall appear in person or by agent. The Board shall additionally provide notice as follows:

- (1) By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the town.
- (2) By requiring the Secretary of the Zoning Board of Appeals to provide notice of the public hearing to the owners of all property abutting that held by the applicant and all other owners within two hundred (200) feet of the land involved in such application. Notice shall be mailed at least ten (10) calendar days prior to the hearing, with compliance with the notification procedure certified to by the Secretary or other designated town employee. The town shall charge the applicant either a flat rate or a stated amount per notice for satisfying this requirement.
 - (a) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the town.
 - (b) Provided that there has been substantial compliance with these provisions, the failure to give notice to the abutting owners in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in connection with granting or denying a special use permit application.
- (3) If the land involved in the application lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Zoning Board of Appeals shall also mail, at least ten (10) calendar days prior to the public hearing, to the municipal clerk of such other municipality or municipalities a copy of the official notice of such public hearing.

B. Referral to Town Planning Board. At least thirty (30) days before the date of the hearing required by law on an application or appeal to the Zoning Board of Appeals, the Secretary of the said Zoning Board of Appeals shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, and shall request that the Planning Board submit to the Zoning Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such

advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.

C. Consultant review. In its review of an application for special use permit, the Zoning Board of Appeals may consult with the Town Zoning Administrator and/or Building Inspector, the Superintendent of Highways, the Conservation Advisory Council, the Dutchess County Health Department, other local and county officials and its designated private planning and engineering consultants, professional consultants, in addition to appropriate representatives of state agencies including but not limited to the Department of Transportation, the Health Department and the Department of Environmental Conservation.

D. Required referral to Dutchess County Department of Planning and Development.

(1) A full statement of any special use permit application that meets the referral requirements of Article 12B §§ 239-1 and 239-m of the General Municipal Law shall also be referred at least ten (10) days prior to the public hearing to the Dutchess County Department of Planning and Development for its review.

(2) No action shall be taken by the Zoning Board of Appeals on such application until an advisory recommendation has been received from said County Planning Department or thirty (30) calendar days have elapsed since the Department received such full statement. In the event that the Dutchess County Department of Planning recommends disapproval of the proposal, or recommends modification thereof, the Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within seven (7) calendar days after such final action, the Board shall file a report of the final action it has taken with the Dutchess County Department of Planning and Development, including a copy of the resolution setting forth the reasons for its decision.

E. Decisions. Every decision of the Zoning Board of Appeals with respect to a special use permit application shall be made by resolution within sixty-two (62) calendar days of the close of the public hearing, which resolution shall clearly state the decision, including findings, and any conditions attached thereto. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Each such decision shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered. Copies shall also be sent to the applicant and to the town's Zoning Administrator and Building Inspector.

§98-70. General Standards.^[Interim25]

A. Whenever the Board of Appeals grants a special use permit, appropriate conditions and safeguards and/or time limitations must be attached thereto so as to guarantee that the use of premises shall not be incompatible with other permitted uses in the vicinity and district in which such property is situated. No such special use permit shall be granted by the Board of Appeals unless it finds that the use for which such permit is sought will not, in the circumstances of the particular case and under any conditions that the Board of Appeals considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare. For each special use permit for each special use, the Board of Appeals shall determine in its judgment that:

(1) It is reasonably necessary for the public health or general interest or welfare.

- (2) It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities.
 - (3) Neighborhood character and surrounding property values are reasonably safeguarded.
 - (4) The use of the premises therefor will not cause undue traffic congestion or create a traffic hazard.
 - (5) Any other conditions or standards specified in this chapter are fulfilled.
- B. The Zoning Board of Appeals shall also take into strict account the standards established in Article III for certain uses, applicable supplementary regulations stated in Article IV of this chapter, and the following general objectives for any use requiring authorization by the Zoning Board of Appeals.
- (1) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to existing and future streets and roads providing access, shall be in harmony with the orderly development of the district in which the proposed use would be located.
 - (2) The location, nature and height of the buildings, structures, equipment, walls and fences, and the nature and intensity of intended operations will not discourage the appropriate development of adjacent land and buildings or impair the value thereof.
 - (3) All proposed traffic access ways shall be adequate but not excessive in number; adequate in width, grade, alignment and visibility; sufficiently separated from street intersections and places of public assembly; and meet similar safety considerations.
 - (4) Adequate provision for safe and accessible off-street parking and loading spaces shall be provided for the vehicles of persons associated with or visiting the use.
 - (5) All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the extent practicable.
 - (6) All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.
 - (7) The character and appearance of the proposed use, buildings, structures and/or outdoor signs shall be in general harmony with the desired historical character and appearance of the Town, shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would the operations of any permitted principal use and shall not adversely affect the general welfare of the inhabitants of the Town of Pleasant Valley.
 - (8) The use shall meet the prescribed area and bulk requirements for the district in which it is located, or as further specified in the supplementary regulations, including such matters as setbacks, maximum height, required off-street parking, and sign regulations.

- (9) The level of services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities, whether private or publicly provided, to accommodate the intended use.
- (10) The use shall be carried out in a manner compatible with its environmental setting and with due consideration of the protection of natural resources.
- (11) The Zoning Board of Appeals may impose additional conditions and restrictions upon the special use permit as may be reasonably necessary to assure continual conformance with all applicable standards and requirements, including reasonable assurance that these conditions and restrictions can be responsibly monitored and enforced.
- (12) The Zoning Board of Appeals may, when reasonable, waive any preestablished requirement for special use permit approval contained in this Article, if the Board finds that any such requirement is found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.
- (13) Site Inspection. Inspections may be made by the Zoning Administrator in accordance with this law and by Zoning Board of Appeals members and/or the Town Engineer, as part of the application review. No approval shall be granted if such reasonable inspections are not permitted by the applicant.

§98-71. Submission Requirements.

- A. Statement of use. A written statement, signed by the applicant and by the owner if different from the applicant, describing the following in sufficient detail to determine compliance with the provisions of this Zoning Law, including the use provisions applicable in the district, and to establish the plan and development program basis for review of the special use permit submission; Copies, the number as specified by the Zoning Board of Appeals shall be submitted:
 - (1) A declaration as to the nature and extent of the proposed use or occupancy.
 - (2) The numbers of persons to be employed at, occupy, and/or visit the premises on a daily basis, including the parking and loading requirements for the use.
 - (3) An estimate of the type of vehicular traffic and number of vehicle trips to be generated on a daily basis and at peak hour.
 - (4) Disclosure of any toxic or other hazardous materials to be used, stored or processed in connection with the proposed use or occupancy as identified in the United States Environmental Protection Agency list of priority pollutants. Section 3001 of the Resource Conservation and Recovery Act (40 CFR 261) or New York State Environmental Conservation Law, Article 27 (6 NYCRR 366).
 - (5) The name, address and telephone number of the owner of the property and the applicant if not the owner.
 - (6) The tax parcel number(s) of the property for which application is made and a copy of the Tax Map showing those parcels.

B. Plan requirements .

- (1) A plan or set of plans showing the intended use of the property shall be prepared by a licensed design professional, such as an architect, engineer, or surveyor at a scale of not less than one (1) inch equals fifty (50) feet.
- (2) For the purpose of maintaining accurate and current data for its records and for professional review by its consultants, and to evaluate such data in the context of a geographic information system, the Zoning Board of Appeals may in its discretion require that plans, maps and other data required for special permit under this Chapter, and all updates and revisions to such plans, maps and data, be submitted in an electronic format in addition to the otherwise required paper submissions.
- (3) All submissions shall include the following information:
 - (a) Vicinity map. A vicinity map or aerial photograph drawn at the scale of 2,000 feet to the inch or larger showing the relationship of the proposal to existing community facilities that may affect or serve it such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets and easements within 500 feet of the property on which the use for which application is made is proposed to be situated. Such a sketch may be superimposed on a USGS map or aerial photograph of the area.
 - (b) Boundaries of the property and existing lot lines as shown on the current tax map. If the current tax map is in error, this condition shall be resolved before final approval is granted.
 - (c) The North arrow, scale, name and seal of the preparer of the plan, date of preparation and all revision dates, including identification of the item revised.
 - (d) The names of all owners of record adjacent to the applicant's property.
 - (e) The location of structures and uses on adjacent properties within one hundred (500) feet of the subject lot line.
 - (f) Existing public streets, easements, or other reservations of land within five hundred (500) feet of the applicant's property.
 - (g) Existing zoning and special district boundaries within five hundred (500) feet of the applicant's property.
 - (h) The location, dimensions, and proposed use of all existing and proposed buildings and structures.
 - (i) Ground area of buildings and total area by floor.
 - (j) Measurement of setbacks of buildings.
 - (k) Any proposed division of buildings into units of separate occupancy.
 - (l) The location and width of all driveways, exits, and entrances.
 - (m) The location and design of existing and proposed streets, roads, highways, alleys, cul-de-sacs, parking areas, and truck/commercial vehicles loading & unloading areas.

- (n) The location and boundaries of pertinent natural features that may influence the design of the proposed use such as watercourses, wetlands, one hundred (100) year floodplains, soil types, rock outcrops, existing vegetative cover, and single trees (which are not part of a wooded area) eight (8) or more inches in diameter.
- (o) Existing topography and proposed grading, at contour intervals of not more than two (2) feet, referenced to the nearest U.S. Government or local approved benchmark, and extending fifty (50) feet beyond the subject property.
- (p) The natural vegetation and habitats to be preserved.
- (q) Any other information deemed helpful by the applicant or necessary by the Zoning Board of Appeals to explain the nature of the proposed use and its consistency with the standards established by this Article for special use permit uses.

§98-72. Reimbursable Costs.

Reimbursable costs incurred by the Zoning Board of Appeals for private consultation fees or other extraordinary expense in connection with the review of a special use permit application shall be charged to the applicant. Such reimbursable costs shall be in addition to the required application fee. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and reviewed annually by the Town Board. Said fee schedule shall include the requirement that an escrow account be established upon the Zoning Board of Appeals receipt of the application to cover the anticipated costs of such consultant review and other expenses.

§98-73. Effect of Special Use Permit Approval.

- A. In addition to compliance with all other applicable provisions of this chapter, and all other local, county and state laws, rules and regulations, no building permit shall be issued for any structure regulated by this Article until such special use permit has received Zoning Board of Appeals approval and a copy of a resolution to that effect has been presented to the Building Inspector.
- B. No certificate of occupancy shall be issued for any structure or use of land covered by this Article until the structure is completed or the land developed in strict accordance with the Zoning Board of Appeals resolution of special use permit approval and other applicable requirements of this chapter.
- C. Any use for which a special use permit has been granted shall be deemed a conforming use in the zoning district in which it is located, provided that such special use permit shall be deemed to affect only the lot or portion thereof for which such special use permit has been granted.
- D. The Zoning Board of Appeals may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon specific determination by the Zoning Board of Appeals that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of sixty (60) calendar

days shall be granted for full compliance by the applicant prior to consideration of the revocation of the special use permit.

§98-74. Expiration.

A special use permit shall be deemed to authorize only the particular use or uses expressly specified in the permit. The permit shall expire if site plan is not applied for and actively pursued, per §98-83, Expiration of Site Plan Application, within one (1) calendar year of the date of issuance of the special use permit. Upon written request to the Planning Board, including a statement of justification for the requested time extension, the time period to apply and actively pursue the required site plan that would initiate the special use permit use may be extended once for a maximum period of one (1) calendar year from its otherwise specified termination date.

§98-75. Revocation.

In all instances, including those cited above, a special use permit may be revoked by the Zoning Board of Appeals after public hearing, if it is found and determined that there has been a substantial failure to comply with any of the terms, conditions, limitations and/or requirements imposed by said special use permit.

§98-76. Relief from Decisions.

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals on a special use permit application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceedings shall be instituted within thirty (30) days after the filing of the decision in the office of the Town Clerk.

§98-77. Uses for which Site Plan Approval is Required.

Site plan approval by the Planning Board is required for all uses specified in Article III, Schedule of Permitted Uses, (including change of use), for all special use permit uses in all districts, for expansions of nonconforming uses, and for changes to similar or less nonconforming uses. Before issuance of a building permit or certificate of occupancy for a use requiring site plan approval, the detailed site plan for such use shall be reviewed by the Planning Board, and no development shall be carried out except in conformity with such site plan as accepted and approved by the Planning Board.

§98-78. Site Plan Procedure.^[Interim26]

A. Application to Zoning Administrator.

- (1) As provided by §98-87, application for site plan approval shall be made to the Zoning Administrator prior to:
 - (a) The commencement of the excavation and/or extensive tree clearing for, or construction of, any building or structure;
 - (b) The moving or alteration of any building or structure; or
 - (c) The use or occupancy or alteration in use or occupancy of any building or structure or land.

- (2) If, upon receipt of such application, the Zoning Administrator determines that the permit shall not be issued without the approval of a site plan by the Planning Board, the Zoning Administrator shall advise the applicant to prepare an application for site plan approval. The application shall be filed with the Zoning Administrator along with the required fee. Within five (5) days of its receipt, the Zoning Administrator shall forward the application to the Planning Board.
- (3) Determination of Completeness. The Zoning Administrator, upon receipt of the application, shall determine whether or not the application for site plan approval is complete. The Zoning Administrator may request the applicant to submit such additional information or details and specifications for elements of the site plan that in his or her opinion is necessary for the Planning Board to render a decision on the application. All such decisions of the Zoning Administrator shall be made within fifteen (15) days of submission of a site plan application, and shall be made in writing, a copy of which shall be mailed to the applicant.

B. Action of the Planning Board.

(1) New construction.

(a) Resource Analysis and Concept Plan.

- (i) Prior to the submission of a formal site plan application for any new building, an applicant must submit a Resource Analysis application and participate in an **informal** discussion with the Planning Board to discuss a concept plan for the proposed application. This will provide an opportunity for the owner and the Planning Board to discuss the appropriate range and intensity of development; the general locations intended for development; areas planned to remain undeveloped; and general access alignment. Prior to submission the applicant should become familiar with the Town's Comprehensive Plan, Zoning Law, Town Code, Subdivision Regulations, *Dutchess County: Greenway Connections*, and SEQR requirements in order to have a general understanding of the process and preferences of the Town.
- (ii) When sufficient information has been provided to the Planning Board, the Chair of the Planning Board shall set a date for informal review at the next meeting for which sufficient time can be set aside for such informal review. The Planning Board, at its discretion, may request the applicant to make a brief informal presentation of the salient information provided in the informal or concept site plan, at which point the members of the Planning Board may comment on the plan. At the request of the Chair of the Planning Board, members of other advisory review boards may also provide commentary. The public shall be permitted to attend such informal reviews, but shall only be permitted to comment at the discretion of the Planning Board.
- (iii) Applications for informal site plan review shall be submitted to the Planning Board, the number of copies as determined by the Planning Board. A filing fee as specified by Town site plan fee

schedule shall accompany the application. There shall be no statutory time limit for the review of informal applications, nor the need to make a determination of whether the application is complete.

- (iv) The applicant should be prepared to discuss possible development concepts. The discussion is required to assure that Town development goals are recognized as they may apply to the site in question. This should help expedite the process by getting the review off to a cooperative start, before the applicant has made a substantial investment in the application process.

(b) Submission Requirements for Resource Analysis and Concept Plan Review.

- (i) The proposed development name or identifying title, and the words “Town of Pleasant Valley, Dutchess County, New York.
- (ii) The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
- (iii) Aerial map at a scale of one inch equals four hundred feet (1” = 400’), showing the location of the parcel with respect to all streets and property within one thousand (1,000) feet of the applicant’s parcel and superimposed with 10’ contours, Pleasant Valley Wetlands and Buffers, DEC wetlands, NWI wetlands, floodplains, streams, water bodies, and public trails.*
- (iv) List of natural features known to exist on the parcel, including but not limited to, historic buildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife habitats, and viewsheds. This list is a preliminary step in identifying natural features and is subject to modification and interpretation of the reviewing bodies.
- (v) Provide an 8½ x 11 soils map indicating if Prime and/or Statewide Important Soils, as defined by the Soil Survey of Dutchess County New York, exist on the property.
- (vi) A written statement and rough sketch describing what is proposed, including an indication of all existing structures and uses, if any, on the site.
- (vii) A copy of any deed restrictions which will be kept on file with the Planning Board.
- (viii) General subdivision information necessary to explain and/or supplement the Aerial Map.

*This information is available at the Town Hall. However, the applicant may also acquire this information through various sources, including the Dutchess County Department of Planning and Development, at a nominal cost.

- (c) Resource Analysis and Concept Plan Review Procedures. The Planning Board shall discuss the plan concept with the applicant. Together they will determine how the plan can meet the objectives of Town regulations. The Planning Board shall consider the proposed location of the building(s) on the site and their relation to: one another, the natural features of the land, the provision of buffer areas and other greenspaces on the site, and the effects on the area views.

The Planning Board may make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board and indicate to the applicant the priority resources to be preserved. In its review, the Planning Board members may schedule a field visit to the site. When Concept Plan approval is given, it will allow the applicant to proceed with formal review.

- (d) SEQR Classification. SEQR classification should be determined by the Planning Board and discussed with the applicant at completion of the Concept Plan Review.
- (e) Formal review. Upon a determination of the Planning Board that the applicant has satisfied the requirements of the informal, concept plan review the application, the applicant will be notified that the site plan can be submitted for formal review.

(2) Alterations. A Resource Analysis will not be required and the Planning Board shall take action as outlined below.

§98-79. Formal Application to the Planning Board.

- A. Meeting with the applicant. Upon receipt of the formal application, the Planning Board shall notify the applicant of the place, date, and time of the meeting of the Planning Board at which the application is to be considered.
- B. Referral to Dutchess County Department of Planning and Development. The Planning Board shall comply with the provisions of Article 12B., Section 239-l and 239-m of the General Municipal Law, as amended, and refer to the Dutchess County Department of Planning and Development such site plan applications as are within its jurisdiction. When a referral is sent to any agency, it shall indicate the date when a response is due.
- C. Agricultural data statement. An agricultural data statement is required if any portion of the project is located on property within an agricultural district containing a farm operation, or other property with boundaries within 500 feet of a farm operation located within an agricultural district.
- D. Site Inspection. Inspections may be made by the Zoning Administrator in accordance with this law and by Planning Board members and/or the Town Engineer, as part of the application review. No approval shall be granted if such reasonable inspections are not permitted by the applicant.
- E. Public Hearing Notice.

- (1) Within sixty-two (62) days of the receipt of a complete application, the Planning Board shall conduct a public hearing. Public notice shall be given by publication in the official town newspaper at least five (5) days prior to the public hearing. Reports from the Dutchess County Department of Planning and Development and any other reviewing agency shall be read into the record at the hearing.
 - (2) At the discretion of the Planning Board, the requirement for a public hearing may be waived. If the public hearing is waived, all responses from referrals to reviewing agencies will be read into the record at the final review meeting, before a decision is made.
- F. Conditions. In acting to approve, with or without modifications, a site plan application, the Planning Board shall attach such conditions and safeguards as it deems necessary to ensure that the purpose and intent of this law shall be complied with.
- G. Necessary Permits. A record of application for an approval status of all necessary permits from federal, state, county, and town agencies shall be required before final site plan approval is granted.
- H. Decision. Within sixty-two (62) days of the close of the public hearing, or of the receipt of the complete application as specified by the Planning Board if no hearing has been held, and after the applicant has had the opportunity of meeting with the Planning Board, the Planning Board shall approve, approve with modification, or disapprove the site plan. The decision of the Planning Board shall be expressed in the report to the Zoning Administrator, which report shall be binding. A copy of said report shall be mailed by certified mail to the applicant at the address indicated on the application. The decision of the Planning Board shall be filed in the office of the Town Clerk. If applicable, a report on the action taken shall also be filed within seven (7) days thereof with the Dutchess County Department of Planning and Development.
- I. Verification. Within sixty (60) days of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modification required by the Planning Board as a condition of its approval. Upon verification by the Planning Board that the plan complies with the requirements of the Board, the plan shall be endorsed by the Planning Board Chairperson and properly filed with the Zoning Administrator, the Planning Board and the Town Clerk. No building permit shall be issued until compliance with this section is complete.
- J. Appeals. Any disagreement with the Planning Board's interpretation of any provision of this law may be appealed to the Zoning Board of Appeals.

§98-80. Submission Requirements for Formal Site Plan Application[127].

At the discretion of the Planning Board, any of the application requirements listed in this section may be waived or combined as appropriate to the proposed project. The following materials shall otherwise be submitted by the applicant:

- A. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.

No application shall be deemed complete without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and the submission of an acceptable Draft Environmental Impact Statement (DEIS), if needed.

B. Statement of use.

A written statement, signed by the applicant and by the owner if different from the applicant, describing the following in sufficient detail to determine compliance with the provisions of this Zoning Law, including the use provisions applicable in the district, and to establish the plan and development program basis for review of the site plan submission; Copies, the number as specified by the Planning Board shall be submitted:

- (1) A declaration as to the nature and extent of the proposed use or occupancy.
- (2) Provision to be made for water supply, sewage disposal, solid and liquid waste disposal, drainage and other utilities.
- (3) The numbers of persons to be employed at, occupy, and/or visit the premises on a daily basis, including the parking and loading requirements for the use.
- (4) An estimate of the type of vehicular traffic and number of vehicle trips to be generated on a daily basis and at peak hour.
- (5) Disclosure of any toxic or other hazardous materials to be used, stored or processed in connection with the proposed use or occupancy as identified in the United States Environmental Protection Agency list of priority pollutants. Section 3001 of the Resource Conservation and Recovery Act (40 CFR 261) or New York State Environmental Conservation Law, Article 27 (6 NYCRR 366).
- (6) The name, address and telephone number of the owner of the property and the applicant if not the owner.
- (7) The tax parcel number(s) of the property for which application is made and a copy of the Tax Map showing those parcels.

C. Site Plan [lc28].

- (1) A site plan or set of plans showing the intended use of the property shall be prepared by a licensed design professional, such as an architect, engineer, or surveyor at a scale of not less than one (1) inch equals fifty (50) feet.
- (2) For the purpose of maintaining accurate and current data for its records and for professional review by its consultants, and to evaluate such data in the context of a geographic information system, the Planning Board may in its discretion require that plans, maps and other data required for special permit and site plan under this Chapter, and all updates and revisions to such plans, maps and data, be submitted in an electronic format in addition to the otherwise required paper submissions.
- (3) All submissions shall include the following information:
 - (a) Vicinity map[l29]. A vicinity map or aerial photograph drawn at the scale of 2,000 feet to the inch or larger showing the relationship of the proposal to existing community facilities that may affect or serve it such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets and easements within 500 feet of the property on which the use for which application is made is proposed to be situated. Such a sketch may be superimposed on a USGS map or aerial photograph of the area.

- (b) Boundaries of the property and existing lot lines as shown on the current tax map. If the current tax map is in error, this condition shall be resolved before final approval is granted.
- (c) The names of all owners of record adjacent to the applicant's property.
- (d) [130]The location of structures and uses on adjacent properties within one hundred (500) feet of the subject lot line.
- (e) [131]Existing public streets, easements, or other reservations of land within five hundred (500) feet of the applicant's property.
- (f) [132]Existing zoning and special district boundaries within five hundred (500) feet of the applicant's property.
- (g) [133]The location and boundaries of pertinent natural features that may influence the design of the proposed use such as watercourses, wetlands, one hundred (100) year floodplains, soil types, rock outcrops, existing vegetative cover, and single trees (which are not part of a wooded area) eight (8) or more inches in diameter.
- (h) [134]Existing topography and proposed grading, at contour intervals of not more than two (2) feet, referenced to the nearest U.S. Government or local approved benchmark, and extending fifty (50) feet beyond the subject property.
- (i) The extent and amount of cut and fill for all disturbed areas, and a soil erosion and sediment control plan, if applicable.
- (j) [135]The location, dimensions, proposed use, and design of all existing and proposed buildings and structures.
- (k) The location of wells on adjacent properties within two hundred (200) feet of the subject property line.
- (l) [136]The location and width of all driveways, exits, and entrances.
- (m)[137]The location, size, design, materials, and associated lighting of all existing and proposed signs.
- (n) [138]The location, description and design of all existing and proposed site improvements, including pavement, walks, buffers, curbing, fences, walls, screening and recreational facilities.
- (o) [139]The location and design of existing and proposed streets, roads, highways, alleys, cul-de-sacs, parking areas, and truck/commercial vehicles loading & unloading areas.
- (p) [140]Landscaping plan, showing the natural vegetation and habitats to be preserved, the number, size, types, and locations of all trees and shrubs to be planted, and proposed grass and ground cover areas, and a landscape maintenance plan.
- (q) [141]The location and description of existing or proposed sewage disposal system and water supply system, including wells, water lines, valves, hydrants, and storage tanks.

- (r) [142] Proposed stormwater drainage system, including existing and proposed drains and culverts.
- (s) [143] The location, design and foot candle limits of existing and proposed lighting, power, and communications facilities, including any towers and satellite dish antennas.
- (t) The location, type, and design of all solid waste handling facilities.
- (u) The location of outdoor storage, if any, and the location and description of all hazardous materials to be used and/or stored on the site.
- (v) Lot area in acres or square feet, and measurements of lot boundaries with bearings.
- (w) Ground area of buildings and total area by floor.
- (x) Measurement of setbacks of buildings.
- (y) The amount of building area proposed for retail sale uses, if any.
- (z) Any proposed division of buildings into units of separate occupancy.
- (aa) A bulk regulations table showing the required and proposed bulk regulations as found in Article III. Schedule of Area and Bulk Requirements, and includes the required and proposed parking as found in §§98-41 and 42. Off-street parking and Off-street loading.
- (bb) A signature block for Planning Board endorsement of approval.
- (cc) The North arrow, scale, name and seal of the preparer of the plan, date of preparation and all revision dates, including identification of the item revised.

D. Architectural plans[144].

Architectural plans of all proposed buildings and structures, and signs and outdoor illumination facilities shall be submitted unless otherwise provided in connection with the site plan, as applicable to the particular application. These plans may be preliminary in form but shall include exterior elevation drawings, floor plans and perspective drawings in sufficient detail to indicate the exterior building materials, color, height, bulk, stories, roofline, ornamentation and general character, and the interior uses of the floor area, all prepared, except for drawings for signs, by an architect or professional engineer licensed to practice in the State of New York; the number of copies as specified by the Board shall be submitted. All revisions shall be numbered, dated and notated.

E. Traffic impact report.

For proposed site development involving fifty (50) or more new parking spaces or proposed uses projected to generate either more than two hundred (200) vehicle trips per day or more than one hundred (100) vehicle trips per day per one thousand (1,000) square feet of floor area, a traffic impact report, shall be prepared by a licensed engineer recognized as a traffic engineer. This report should indicate the expected average daily vehicular trips and peak hour volumes to be generated by all of the uses on the lot and the access conditions at the lot, distribution of such traffic to be generated, types of vehicles expected, effect upon the level of service on the street giving access to the lot and at nearby intersections and recommended access and street improvements to avoid

congestion and provide safe and convenient access, taking into account the site-generated trips and the traffic on the street and at nearby intersections projected to the date of occupancy of the site.

F. Applicant notice to property owners.

- (1) Evidence that the applicant has given notice of the filing of the application for permit to the owners of all lots adjoining and across the street from the lot to which the application pertains. The owners and their addresses shall be as listed on the latest property tax assessment roll of the town, and the notice shall be in form prescribed by the Planning Board. The evidence shall consist of no less than a copy of the notice, a list of the owners, and their addresses, to whom notice was sent and signed receipts of hand delivery or of United States Postal Service certified mail delivery.
- (2) The Planning Board may provide that the application be further advertised in such manner as it deems most appropriate for full public consideration of such plan, including requiring a sign on the site notifying the public of the application and the date of the public hearing, if applicable.

G. Consistency with Concept Plan.

The formal application for new construction should be consistent with the results of the Concept Plan and/or should specify how and why a change from the Concept Plan was necessary. Changes include any change in the location or size of conservation areas; any change in the location, configuration, size, or design of lots and streets (if any), driveways, parking lots, buildings, or any other structures or paved areas; any change in use; and any change in the total building coverage or lot coverage.

H. Phasing[145]. For projects involving more than one phase, a site plan indicating ultimate development of the entire property.

I. Restrictions[146]. A copy of any covenants or deed restrictions for any part of the property.

J. Permits. Identification of all necessary permits from federal, state, and county agencies and proof of special use permit approval if applicable.

K. Other[147]. Other information as required by the Planning Board to assist in the review of the site plan.

L. Fees.

- (1) Appropriate fees as set and specified in the town fee schedule.
- (2) Where the Planning Board uses the services of a consultant to review the application, the applicant shall pay the cost of such services. The amount of the payment shall be the actual cost to the Town. The Planning Board shall require the applicant to make periodic monetary deposits on account to the Town. The Planning Board Secretary shall maintain records concerning such deposits on account by the applicant. All charges for such consulting services shall be paid before the final plan is endorsed by the Planning Board Chair.

§98-81. Standards for Site Plan Approval.

- A. General. In acting on any proposed site plan submission, the Planning Board shall take into consideration the requirements of the Comprehensive Plan and any supplements adopted by the Board, as well as the Official Map as it may be adopted by the Town Board. Site plans shall conform to all other provisions of this chapter and to the standards specified.
- B. Non-residential development located in the Hamlet districts (H-PV, H-SP, H-WH), the Mixed Use Commercial district (MC), and in areas of the Office Industrial district (OI) that are immediately adjacent to a Hamlet or Mixed Use Commercial district, is also subject to the site design and architectural standards outlined in §98-47.
- C. Neighborhood. The site plan and architectural plan shall harmonize with the historic character of the Town, provide a transition in character between areas of unlike character, protect property values, and to enhance the appearance and beauty of the community.
- D. Access and circulation. Provision shall be made for vehicular, bicycle and pedestrian access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation upon the lot. Access and circulation shall also conform to the following:
 - (1) The street giving access to the lot shall have traffic-carrying capacity and roadway improvements and traffic management facilities that are sufficient to accommodate the amount and types of traffic generated by the proposed use, taking into account access to existing uses along the street and existing traffic projected to the date of occupancy of the site. Roadway, traffic management and other deficiencies in the street giving access, which result in congestion or impairment of safety and convenience, may be remedied by the applicant if authorized by the owner of the street.
 - (2) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision may be made for turning lanes, traffic directional signals, frontage road driveways and traffic controls within the street.
 - (3) Access driveways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles within any street.
 - (4) Driveways into the lot shall not exceed a grade of eight percent (8%) and shall meet the street line and travelway of the street with proper transition grades and sight lines for safe, convenient and efficient access and in such a manner as to conform to the established cross section for the street.
 - (5) Where topographic and other conditions are reasonably usable, provision shall be made for circulation driveway connections to adjoining lots of similar existing or potential use when such driveway connection will facilitate fire protection services and/or when such driveway will enable the public to travel between two (2) existing or potential uses, open to the public generally, without need to travel upon a street.
 - (6) No more than one (1) driveway connection from any lot to any one street is encouraged. Separate entrance and exit driveways shall be discouraged and may only be provided where necessary to safeguard against hazards and to avoid congestion. Additional driveway connections may be provided, particularly for but

not limited to, large tracts and uses of extensive scope, if traffic flow in the street will be facilitated by the additional connection.

- (7) Bike racks should be provided where applicable.
- E. Existing Streets. Where the lot has frontage on an existing street, proper provision shall be made for grading and improvement of shoulders and sidewalk areas within the right-of-way of the street and for provision for curbs and sidewalks in accordance with the pattern of development along the street. Where necessary to provide for suitable access or for a system of neighborhood circulation streets, provision shall also be made for appropriate continuation and improvement of streets terminating at the lot where the use is to be located.
- F. Parking and loading. Off-street parking and truck loading spaces shall be provided in accordance with Article IV. Whenever possible, area on the lot shall be provided for any truck maneuvering necessary to use off-street truck loading spaces. Truck loading spaces and maneuvering areas shall have dimensions sufficient to accommodate the type and size of trucks expected at the premises.
- G. Drainage.
- (1) Provision shall be made on the lot for the management of stormwater, including collection, detention and disposal thereof, in the following manner:
- (a) To assure the usability of off-street parking and loading spaces.
 - (b) To avoid hazards to pedestrians and vehicular traffic on the lot and in any street.
 - (c) To avoid stormwater flow across sidewalks and other pedestrian ways.
 - (d) To protect watercourses and wetlands from pollution, erosion and sedimentation.
 - (e) To avoid an amount of discharge and time of concentration of flow beyond the capacity of downstream drainage channels.
 - (f) To avoid downstream flooding.
- H. Soil erosion and sediment control. Provision shall be made for soil erosion and sediment control, prior to commencement of construction and during and upon completion of construction, in accordance with the current edition of Soil Erosion and Sediment Control Guidebook, published by the Dutchess County Soil and Water Conservation District and Town of Pleasant Valley Chapter 74, Stormwater Management and Erosion and Sediment Control.
- I. Wetlands and watercourses. Where wetlands and/or watercourses are located on or adjacent to the lot, provision shall be made for their protection in a natural state unless modification is approved by the Planning Board. Wetlands, water bodies and watercourse are subject to regulatory jurisdiction of the Town of Pleasant Valley Chapter 53, Wetland, Water Body and Watercourse Protection, and any applicable county, federal, or state agency, prior to site plan approval.
- J. Special flood hazard areas. When any part of the lot is located within an area of special flood hazard, the site plan shall conform to the requirements of Chapter 50, Flood Damage Prevention.

- K. Habitat protection goals. All plans shall take into consideration the Town's goals to protect large, contiguous tracts of land and natural habitat connections, as outlined in the Policy Area: Environment, Greenspaces, and Farmland Protection in the Town of Pleasant Valley Comprehensive Plan.
- L. Water protection. All plans shall be in conformance with §98-53. Water Protection when applicable.
- M. Fire protection. Proper provision shall be made for fire protection facilities and access, taking into account any recommendations from the Chief of the Fire Department serving the Town of Pleasant Valley, and including the following:
- (1) Suitable location for and access to fire hydrants and/or fire ponds and other water storage.
 - (2) Suitable access to buildings and open storage areas for operation of fire protection vehicles and equipment.
 - (3) Sufficient controls on traffic and parking to permit access by fire protection vehicles in emergencies.
 - (4) Adequate circulation driveways within the lot, coordinated with access to other lots, to permit access by fire protection vehicles.
 - (5) In order to minimize expansive turning radii, overly wide roads, and large areas of pavement for the sole purpose of providing access for emergency vehicles, techniques such as mountable curbs and interconnected streets systems should be utilized wherever possible.
- N. Sanitation. Provision shall be made for water supply, sewage disposal, control of wastes and protection of water quality in accordance with the following criteria:
- (1) Proper provision shall be made for the water supply and sewage disposal requirements of the proposed use. When on-site systems are to be used, such systems shall be designed and constructed in accordance with applicable county and/or state law, and the design concept and layout for such systems shall be approved by the Dutchess County Department of Health prior to approval of the site plan. Approval of the site plan may be conditioned upon such Department's approval of the final design of the system.
 - (2) Proper provision shall be made for the collection, storage and disposal of solid and liquid wastes accumulated in connection with the proposed use and for control of litter by means of receptacles, fences, programs for site maintenance and cleaning and other means approved by the Planning Board.
 - (3) The site plan shall demonstrate how any toxic or hazardous substances are to be managed in accordance with applicable law and so as to avoid danger to the public health and degradation of surface and ground waters and wetlands.
 - (4) Proper provision shall be made for any above-ground or in-ground storage of fuels and deicing salts and chemicals in a manner that protects groundwater aquifers having potential for significant water supply.
- O. Trail easements.
The Board may require a trail easement, where appropriate, to facilitate plans for a Wappinger Creek public trail as outlined in the Town Comprehensive Plan.

- P. Landscaping. Landscaping shall be provided and permanently maintained on the lot and shall conform to the following standards:
- (1) All areas of the lot not covered by buildings and other structures, open storage and approved paving shall be suitably landscaped with trees and/or shrubs, lawns or other suitable landscaping or shall be left as natural terrain if not disturbed by filling, grading or excavation.
 - (2) Landscaping, including grading, provided in the front yard area of the lot shall be of a type, size and height as to avoid obstruction of minimum sight lines along the street as well as from access driveways onto the street whether the driveway is located on the lot or any other lot.
 - (3) All parking area landscaping shall conform to §98-42(N), Landscaping.
- Q. Lighting. The location, height, design, direction and brightness of outdoor illumination (area lighting, floodlighting and illumination of signs) shall conform to the following:
- (1) To provide sufficient illumination for safety, convenience and security, without overcompensating and providing overly lit surroundings.
 - (2) To avoid sky glow by focusing all light downward below the horizontal plane.
 - (3) To safeguard against discomfort and glare in any street and upon pedestrian ways and vehicular parking, loading and circulation areas on the lot where located or any other lot.
 - (4) To harmonize with the neighborhood and avoid trespass illumination on any other lot.
 - (5) Illumination of signs shall conform to §98-46 and §98-47.
 - (6) Take into consideration Greenway Guide E4, Lighting (part of “Greenway Connections” – see §98-5 for more information).
- R. Signs. Any signs to be established on the lot shall be part of the site plan submission and shall conform to the standards of §98-46.
- S. Buildings and structures. Buildings and other structures shall have an exterior design, including finish and color, that conforms to §98-47. The exterior walls of any building that are visible from any street or any other lot shall present a finished appearance by means of materials consistent with the design of the building as a whole. No mechanical equipment located on the roof of a building shall be visible from any street unless such equipment is housed or screened from view in a manner consistent with the architectural design of the building.
- T. Nonconformity. After a public hearing as provided in §98-79(D), the Planning Board may approve a site plan authorizing the erection, moving or alteration of buildings and structures on a lot having existing site development which fails to conform to the standards for this Article and/or authorizing continuation, enlargement, extension, moving or reconstruction of existing site development which fails to conform if the Planning Board finds that the following standards are met:
- (1) The proposed construction will result in a general improvement of the lot with regard to safe access, sight lines along streets, suitable drainage and adequate landscaping.

- (2) Nonconforming signs and lighting will be brought into a conforming or more nearly conforming condition.
- (3) Adequate provision is made for landscaping abutting non-business districts.
- (4) There shall be no increase in the nonconformity of buildings and other structures and site improvements.

§98-82. Surety.

The applicant may be required to provide a Letter of Credit or other form of surety approved by the Town Board in sufficient amounts and duration to cover the full costs of required infrastructure and improvements to assure that all infrastructure 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, retaining walls, 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 and in the case of lots proposed to be created by subdivision where the Planning Board reasonably believes that there is a risk of erosion or runoff if the proposed infrastructure and improvements are not timely completed. 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).

§98-83. Expiration of Site Plan Application.

Failure of an applicant to pursue an application either through an appearance before the Planning Board or submission of written materials in response to requests or questions from the Planning Board for a period of one year from the last date of any such action on an application shall be deemed a withdrawal of application. Any future action thereon shall be deemed a new application, subject to all rules and regulations in effect at such later date. The Planning Board, may in its discretion, waive a subsequent filing fee upon such application, but may not waive the application of any new rules and regulations promulgated during the period subsequent to the initial filing.

§98-84. Expiration of Site Plan Approval.

Unless otherwise specifically set forth by the Planning Board in connection with its approval of a site plan, such approval shall expire if substantial construction is not completed within one (1) year of when the Planning Board Chair signs the site plan , or if all required improvements are not completed within three (3) years of signing the plan , or if the construction or use shall cease for a period of twelve (12) or more consecutive months. Prior to the expiration of the site plan approval, an applicant may apply for the extension of site plan approval to the Planning Board. The Planning Board may grant one such extension for a period of up to one (1) year, provided the circumstances or conditions upon which such original approval was based has not substantially changed. Any site plan application for which one (1) extension has already been granted shall be considered a new application.

§98-85. Planning Board Initiative.

The Planning Board may, on its own initiative, propose a general or specific site plan for a particular area where a site plan approval may be required in the future, using the requirements of the schedules of regulations and this chapter as a guide.

§98-86. Recreation Fees for Site Plans[148].

A. Purposes.

- (1) New York State Town Law § 274-a(6) grants to towns the authority to impose recreation fees on site plans containing residential units. Therefore, the Town resolves to impose recreation fees on such residential development.
- (2) Applicable state law requires the Planning Board, or such other administrative body, to make a number of findings before recreation fees may be imposed upon any new site plan containing residential units. First, the Planning Board, or such other administrative body, must find that a proper case exists for requiring that a park or parks be suitably located within the Town. This finding must include an evaluation of present and future needs for recreational facilities based on projected population growth and the effect on such growth of the specific application being considered by the Planning Board, or such other administrative body. Second, if the Planning Board, or such other administrative body, finds that the application being considered presents a proper case for requiring a park, but that a suitable park cannot be located on the site plan, then the Planning Board, or such other administrative body, may require the payment of a sum of money instead of land for a park.
- (3) In order to assist the Planning Board, or such other administrative body, in making its findings, the Planning Board, or such other administrative body, should consider the following factors:
 - (a) The Town Board is responsible for adopting a comprehensive plan for the Town and a zoning ordinance; and
 - (b) The Town Board maintains the parks and recreational facilities already existing in the Town, maintains a Recreation Department and funds that Department and the programs it operates, and
 - (c) The Town Board notes that dedications of land for park purposes in each residential site plan could lead to a disjointed system of parks, difficult to maintain and of little recreational value for the Town as a whole; and
 - (d) The Town Board has undertaken to develop parks and recreational facilities in a more centralized manner to better plan for access, parking, maintenance and other factors associated with such parks.

B. Dedications.

In the event that the parcel(s) contain land that facilitates a Wappinger Creek trail, the Planning Board may require a trail easement to satisfy the recreation requirement.

C. Imposition and amounts of fees.

- (1) In the event that the Planning Board, or such other administrative body, issues findings that recreation fees are to be imposed in lieu of park land, then the Planning Board, or such other administrative body, shall recommend to the Town Board the number of units upon which the recreation fees are to be imposed.
- (2) The recreation fees shall be imposed pursuant to the most current Schedule of Fees maintained by the Town. The Town Board shall have the sole responsibility and authority to impose such fees.
- (3) These fees shall be imposed by the Town Board and shall be a condition to the signing of a site plan or plat by the Chair of the Planning Board, or the Chair of such other administrative body. These fees shall be paid in full to the Town before the signing of a site plan or plat by the Chair of the Planning Board, or the Chair of such other administrative body.
- (4) In the event that a site plan application is made for a parcel which already has residential units on it, the recreation fee imposed shall be based upon the total number of units approved on the site plan, less the number of existing units.

D. The Town shall maintain a dedicated Recreation Trust Fund, as required by New York State Town Law, into which such recreation fees shall be deposited and maintained, to be used exclusively for park, playground or other recreational purposes, including the acquisition of property, and as may be provided by law. Withdrawal and expenditure of any amount from such trust fund shall be authorized as required by law.

E. Following the imposition of recreation fees by the Town Board, the Town Clerk shall send a notice to the party who owes such fees informing the party of the amount due and directing that payment be delivered to the Town Clerk's office, by a check separate from any other fees due, receipt and collection of which shall be a condition precedent to the signing of the site plan or plat by the Chair of the Planning Board, or the Chair of such other administrative body.

ARTICLE VII

Administration and Enforcement

§98-87. Zoning Administrator[149].

- A. This chapter shall be enforced by the Zoning Administrator, who shall be appointed by the Town Board.
- B. Duties of the Zoning Administrator shall include, but not be limited to:
- (1) Review of all applications for permits required by this chapter to determine that the requirements of this chapter have been met, and to determine that all necessary approvals have been obtained from federal, state and local agencies.
 - (2) Perform duties as described in Chapters 39, 50, 53, 57, 62 and 95.
 - (3) Enforce the provisions of Chapters 39, 50, 53, 57, 62, 95 and 98.
 - (4) Interpret the location of zoning district boundaries and FIRM boundaries showing the areas of the 100-year flood zone (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
- C. The Zoning Administrator and his duly authorized assistant(s) shall have the authority to enforce the provisions of this chapter. Either upon his own initiative or receipt of a complaint in any form, the Zoning Administrator and his duly authorized assistant(s) may investigate any alleged violation of the provisions of this chapter. If, however, the Zoning Administrator receives a written and signed complaint about an alleged violation, the Zoning Administrator or his duly authorized assistant(s) shall investigate the complaint. The Zoning Administrator and his duly authorized assistant(s) require the permission of a property owner or person in charge thereof or a search warrant issued by a court in order to enter onto property and to view premises suspected to be in violation of the provisions of this chapter. However, for the Town to pursue injunctive relief against an alleged violator, such permission or warrant is not required.
- (1) The Zoning Administrator shall notify the owner and tenant before conducting any inspection.
 - (2) The Zoning Administrator or his duly appointed assistant(s) shall display identification, signed by the Town Clerk, upon commencing an inspection.
- D. Enforcement procedure.
- (1) An investigation of infraction may be initiated by the Zoning Administrator without receipt of a complaint, however, following a complaint such an investigation shall be mandatory.

- (2) Prior to any official notification of a violation, the Zoning Administrator and his duly authorized assistant(s) may attempt to resolve the violation directly with the alleged violator by written or verbal communication.
 - (3) If the Zoning Administrator or his duly authorized assistant(s) have not secured compliance through direct communication with the alleged violator, then he shall serve a notice of violation and an order to remedy on the person responsible for the violation. Such notice shall be served by certified mail. The notice shall specify the section of this chapter under which the violation exists and describe the activity or structure which constitutes the violation. The order shall direct the violator to remedy the violation within five days of receipt of the order. The Zoning Administrator may extend the time to remedy for good cause shown.
 - (4) Upon failure by the violator to comply with the notice of violation and order to remedy, the Zoning Administrator or his duly authorized assistant(s) may serve a cease-and-desist order on the person responsible for the violation, which shall direct that the person shall immediately cease the activity which constitutes the violation. The cease-and-desist order shall be served on the person responsible for the violation.
 - (5) A cease-and-desist order may be appealed to the Zoning Board of Appeals. Said appeal must be filed within 30 days of receipt of the notification. The order shall stand in effect during appeal.
- E. Appeal of interpretation. Any interpretation of the laws and regulations of the Town by the Zoning Administrator or action by the Zoning Administrator founded on his or her interpretation may be appealed to the Zoning Board of Appeals within 30 days of the decision or action.
- (1) In the case of interpretations inhibiting development or use, the interpretation of the Zoning Administrator shall stand during the appeal.
 - (2) In the case of interpretations allowing development or use, a cease and desist order on the development or use shall be in effect during the appeal.

§98-88. Building Permits.

A. Scope.

- (1) No building or structure in any district shall be erected, reconstructed, restored or expanded without a building permit duly issued upon application to the Zoning Administrator.
- (2) No building permit shall be issued prior to, but may be issued along with, any required permit, provided that the requirements for both permits are met.

B. Applications.

- (1) Any building permit obtained fraudulently in violation of the provisions of this chapter and Chapter 39, Building Construction, shall be null and void and of no

affect without the necessity for any proceedings for revocation or nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.

- (2) Every application for a building permit shall comply with the requirements set forth in Chapter 39, Building Construction, § 39-7, and be accompanied by the required fee(s).
- C. Zoning Board of Appeals authorization. Before the issuance of any building permit for a use for which this chapter requires a special use permit, the special use shall be approved by the Zoning Board of Appeals, and no development shall be carried out except in conformity with all conditions established for the special use.
- D. Planning Board site plan approval. Before the issuance of any building permit for a use requiring site plan approval as specified by the Schedule of Permitted Uses, the detailed site plan for such use shall be approved by the Planning Board and no building development shall be carried out except in conformity with such approved site plan.
- E. Expiration. [Amended 4-17-80 by Ord. No. 2 1980]
- (1) Each building permit shall expire twelve (12) months after the date of issuance.
 - (2) A building permit may be renewed once, for one (1) additional year, subject to compliance review by the Zoning Administrator and on condition that work has commenced during the original permit period. Application must be made for renewal, but no fees shall apply.
 - (3) A building permit may be renewed for third-year continuance, subject to compliance review by the Zoning Administrator and on condition that work has commenced during the original permit period. Application must be made for renewal and is subject to payment of applicable current building permit fees.
- F. Temporary buildings.
- (1) Temporary nonresidential use shall be allowed via a temporary permit to be issued by the Zoning Administrator for one (1) or more trailers where a building permit has been issued for the construction or alteration of a building. The number of trailers shall be limited to that which the Zoning Administrator shall deem to be necessary in each case. The temporary permit shall be for a period not to exceed the expiration of the building permit for the related construction or the issuance of the related certificate of occupancy/compliance, whichever occurs first. The temporary use shall comply with the standards and regulations established for comparable buildings located in the same district
 - (2) Temporary residential buildings including mobile homes. Emergency temporary residential use shall be allowed via a temporary permit to be issued by the Zoning Administrator. A use shall be termed emergency temporary residential use only if it is a use arising from the catastrophic loss of a previously established residential use and is limited to the property of the lost use during construction of a replacement residence. The temporary permit shall be for a period not to exceed the expiration of the building permit for the related construction or the issuance of the related certificate of occupancy,

whichever occurs first. The temporary use shall comply with the standards and regulations established for comparable buildings located in the same district.

§98-89. Certificates of Occupancy.

A. Scope.

- (1) No land use shall be altered and no building shall be occupied, used or changed in use until a certificate of occupancy has been issued by the Zoning Administrator, stating that the building or proposed use thereof complies with the provisions of this chapter and all other applicable Town codes or ordinances.
- (2) No certificate of occupancy shall be issued until the road or roads have been completed sufficiently to provide proper and reasonable ingress and egress for emergency vehicles.
- (3) No certificate of occupancy shall be issued without prior approval of water supply and sewage facilities by the Dutchess County Department of Health.

B. Application. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificates shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter and all other applicable codes or ordinances.

C. Temporary certificates. Under such rules and regulations as may be established by the Board of Appeals, a temporary certificate of occupancy for not more than thirty (30) days for a part of the building may be issued by the Zoning Administrator.

§98-90. Remedies and Penalties for Violation[150].

For violation of any provision of this chapter, the Town, as authorized by § 268 of the New York State Town Law, may pursue either the remedy of injunctive relief set forth in Subsection A below, or the enforcement of the penalties set forth in Subsection B below. Such remedies are not mutually exclusive and may be pursued by the Town simultaneously.

A. The Town may initiate an action in Supreme Court for injunctive relief whenever such injunctive relief may be necessary to prevent any further violation of this chapter or any threatened and imminent violation of this chapter.

B. The Town may initiate an action in Justice Court for violation of this chapter. Conviction of such violation shall be deemed a misdemeanor and shall be punishable as follows:

(1) (a) For conviction of a first offense, the conviction shall be punishable by a fine not to exceed three hundred and fifty dollars or imprisonment for a period not to exceed six months, or both.

(b) For a conviction of a second offense committed within a period of five years of the first offense (whether for the same violation as the first conviction or not), the second offense shall be punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both. (c) For conviction of any subsequent offense, where all offenses are committed

- in the same five-year period, the subsequent conviction shall be punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. 2. Each week's continued violation shall constitute a separate additional violation.
- C. All costs of the remedy granted, whether injunctive or punitive, shall be the liability of the violator and may be recovered accordingly if incurred by the Town.
- D. No application to the Town Board, Planning Board or Zoning Board of Appeals shall be accepted for any property on which, at the time the application is made, filed and/or taken under advisement, there is any unremedied cease-and-desist order or a cited violation [see §98-87(D)(4)] of this chapter and/or any other ordinance or regulation of the Town existing as related to said property, except for the following:
- (2) If the application is for relief which will eliminate the violation, then the Board may accept the application, or;
 - (3) If the Board finds a practical difficulty on the part of the applicant, the Board may accept the application.
- E. Upon failure or refusal of the Town to initiate any action or enforcement proceeding following a period of 10 days after receipt of a written request from a taxpayer of the Town to remedy any alleged violation of this chapter, any three taxpayers of the Town adversely affected by such violation, who are jointly and severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as the Zoning Administrator or any other body of the Town is authorized to pursue.
- F. No action may be taken on a property where a violation has been issued, with the exception of §98-90(D)(1) and (2) above, until the violation has been remedied; either by restoration, removal or restitution.

§98-91.Consultant Fees.

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.

I. 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 VIII

Planning Board and Zoning Board of Appeals

§98-92. Planning Board Organization.

- A. The Planning Board of the Town of Pleasant Valley as heretofore established by the Town Board pursuant to §271 of the Town Law of the State of New York is hereby maintained with seven (7) members. The present chairperson and members shall continue to hold office to the end of the period for which they were appointed and their successors shall be appointed by the Town Board for terms equal in years to the number of members of the Planning Board. The Town Board shall appoint two alternate members to the Planning Board for a term of two years. A person who is a member of the Town Board shall not be eligible for appointment to the Planning Board. However, no person shall be disqualified from serving as a member of the Planning Board by reason of serving as a member of a village or county planning board.
- B. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.
- C. The Town Board shall have the power to remove, after a public hearing, any member of the Planning Board for cause.
- D. Meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.
- E. The Planning Board shall have the power and authority to employ experts, clerks and a secretary, and to pay for their services, and to provide for such other expenses as may be necessary for the Planning Board to carry out its duties, not exceeding the appropriation made for such purposes.
- F. The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction pursuant to §271 of the Town Law, or any other statute or under any local law or ordinance of the Town. Adoption of any such recommendations by the Town Board shall be by local law or ordinance.
- G. The Planning Board shall submit a report to the Town Board on any matter or class of matters other than those in §271.13, referred to the Planning Board by the Town Board for review and recommendation, before final action is taken by the Town Board or other office or officer of the Town having final authority over said matter. The Town Board may stipulate that final action shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time to submit the report. Such a time period shall be fixed by the Town Board in the resolution, to submit the report.

§98-93. Powers of the Planning Board.

The Planning Board is hereby authorized and empowered to:

- A. Review and make recommendations on a proposed comprehensive plan for the Town of Pleasant Valley and to make recommendations on amendments thereto, in accordance with §271 of the Town Law and other applicable sections.
- B. Review and make a recommendation on a proposed amendment to the zoning ordinance of the Town of Pleasant Valley pursuant to Article XVII of this ordinance.
- C. To grant preliminary and final site plan approval pursuant to Article VII of this Ordinance.
- D. To grant preliminary and final plat approval pursuant to Chapter 84, Subdivision Regulations.
- E. To grant approval of sign applications as per §98-46.

§98-94. Zoning Board of Appeals General Duties.

The Zoning Board of Appeals is an administrative body, of limited jurisdiction and powers, designed to function as a “safety valve” to relieve the pressure of rigid and inflexible provisions of zoning regulations. However limited the jurisdiction of Zoning Boards of Appeals, they are still vitally important. The Zoning Board of Appeals serves an essential role examining those restrictions in the individual matters that are brought before it, with the power to vary these restrictions if the circumstances show the need and essential legal criteria are met.

§98-95. Establishment and Powers of the Zoning Board of Appeals.

- A. Creation, appointment and organization. A Zoning Board of Appeals shall be maintained in accordance with §267, Article 16, of the Town Law. This chapter shall be administered by a Zoning Board of Appeals consisting of seven (7) members appointed by the Town Board. The Town Board shall designate the Chair and fix the terms of office of the members. The Town Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs. The Town Board shall appoint two alternate members to the Zoning Board of Appeals for a term of two years.
- B. Powers. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:
 - (1) Interpretation. Upon appeal from a decision by the Zoning Administrator, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 - (2) Special use permits. To issue special use permits when appropriate for any of the uses for which this chapter requires the obtaining of such permits from the Board of Appeals.
 - (3) [151]Variances. A variance is permission granted by the Zoning Board of Appeals so that property may be used in a manner not allowed by zoning. It is only the Zoning Board of Appeals that has the power to provide for such exceptions from

the zoning. Since zoning is meant to implement the municipality's development objectives and protect the health, safety and general welfare of the people, there are strict rules governing when exceptions may be provided. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

- (a) No variance from the strict application of any provision of this chapter shall be granted by the Zoning Board of Appeals unless it finds:
 - (i) That there are special circumstances or conditions, fully described in the findings of the Zoning Board of Appeals, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings.
 - (ii) That, for reasons fully set forth in the findings of the Zoning Board of Appeals, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish this purpose.
 - (iii) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (b) Any variance which is not exercised within one (1) year from the date of issuance or which has now been or hereafter remains unexercised for a continuous period of one (1) year is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.
- (c) The regulations for the two types of variances are as follows:
 - (i) Use variances.
 - [a] The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of this chapter.
 - [b] No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by this chapter have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals compliance with each of the following criteria:
 - [i] That under the applicable regulations and restrictions imposed by this chapter, the applicant is deprived of all economic use and benefit from the property in question, which deprivation must be established by competent financial evidence.

- [ii] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - [iii] That the requested use variance, if granted, will not alter the essential character of the district or neighborhood.
 - [iv] That the alleged hardship has not been self-created.
- [c] The Zoning Board of Appeals, in the granting of a use variance, shall grant the minimum variance that is deemed necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (ii) Area variances.
- [a] The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant area variances from the area or dimensional requirements of this chapter as found in the Schedule of Bulk Regulations.
 - [b] In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such granting of variance. In making such determination, the Zoning Board of Appeals shall also consider each of the following factors:
 - [i] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - [ii] Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.
 - [iii] Whether the requested area variance is substantial.
 - [iv] Whether granting of the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
 - [v] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
 - [c] The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve

and protect the character of the neighborhood and the health, safety and welfare of the community.

§98-96. Procedure.

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this chapter.

- A. Applications. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Zoning Board of Appeals, and accompanied by a fee as established by the Town Board. Every appeal or application shall refer to the specific provision of this chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
- B. Referral to Town Planning Board. At least thirty (30) days before the date of the hearing required by law on an application or appeal to the Zoning Board of Appeals, the Secretary of the said Zoning Board of Appeals shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, and shall request that the Planning Board submit to the Zoning Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.
- C. Referrals to the Dutchess County Department of Planning and Development . The Zoning Board of Appeals shall comply with the provisions of General Municipal Law, Article 12-B, §§ 238-l and 239-m, as amended, by referring to the Dutchess County Department of Planning and Development certain applications for variances and special use permit before final action is taken.
- D. Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of any appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing at least five (5) days prior to the date thereof, and shall, at least five (5) days before such hearing, mail notices thereof to the parties owning adjoining lots and to the regional State Park Commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal. Compliance with this notification procedure shall be certified to by the Secretary or other designated Town employee. The Town shall charge the applicant either a flat rate or a stated amount per notice for satisfying this requirement. The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town. Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in either granting or denying an appeal for a variance from a specific provision of this chapter.
- E. Action. Every decision of the Zoning Board of Appeals on an appeal or other application shall be made within sixty-two (62) calendar days of the close of the public hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and contain a full record of the findings on which the decision is based, including record of compliance with the applicable

provisions of SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR 617. Every decision shall be by resolution of the Board, with such decision being filed in the office of the Town Clerk within five (5) business days thereof, with a copy mailed to the applicant. The Board shall also notify the Zoning Administrator, the Building Inspector, the Secretary of the Planning Board and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven (7) calendar days thereof with the Dutchess County Department of Planning and Development.

Attachment of conditions. The Zoning Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

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

§98-97. Effect of Appeal.

Unless the Zoning Administrator or the Building Inspector, the latter as applicable in case of compliance with the provisions of the New York State Uniform Fire Prevention and Building Code, finds there to be an imminent threat to either life or property, an appeal stays all proceedings by either the town or appellant in furtherance of the action which is the subject of the appeal.

- A. Administrator appeal. In the case of an appeal for an interpretation, if the action by the Zoning Board of Appeals is to reverse the Zoning Administrator, the application fee shall be refunded to the appellant.
- B. Planning Board appeal. In reviewing an appeal dealing with the Planning Board, the Zoning Board of Appeals shall determine the preferred interpretation and whether or not the action shall be initiated in light of the preferred interpretation.

§98-98. Relief from Decisions.

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

§98-99. Reimbursable Costs.

Reimbursable costs incurred by the Zoning Board of Appeals for private consultation fees or other extraordinary expense in connection with the review of an application shall be charged to the applicant. Such reimbursable costs shall be in addition to the required application fee. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and reviewed annually by the Town Board. Said fee schedule shall include the requirement that an escrow account be established upon the Zoning Board of Appeals receipt of the application to cover the anticipated costs of such consultant review and other expenses.

ARTICLE IX

Amendments

§98-100. Jurisdiction.

The Town Board may from time to time on its own motion or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing.

§98-101. Notice and Referrals.

Each proposed amendment or change initiated by the Town Board, other than those in substance originating as recommendations of the Planning Board, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Planning Board shall within forty-five (45) calendar days after receiving such request from the Town Board. Failure of the Planning Board to report within the required time period shall be deemed a recommendation of approval of the proposed amendment. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notices and referrals to be given as follows:

- A. Notice of hearing. A notice of the time and place of such hearing shall be given in the official paper at least ten (10) days prior to the date thereof.
- B. Notice to state commissions. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any state park or parkway shall be given to the regional agency having jurisdiction over such state park or parkway at least ten (10) days prior to the date of such public hearing.
- C. Notice to adjacent towns. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any other town shall be given to the Clerk of such municipality at least ten (10) days prior to the date of such hearing.
- D. Referral to Dutchess County Department of Planning and Development . The Town Board shall comply with General Municipal Law, Article 12-B, §§ 239-l and 239-m, as amended, by referring to the Dutchess County Department of Planning and Development certain proposed amendments before final action is taken.

§98-102. Protests.

In case of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change, or of that immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto extending one hundred (100) feet from the road frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.

ARTICLE X

Definitions

[152]§98-103. Terms Defined.

Topic-specific definitions for the following supplementary regulations can be found in their corresponding sections of this Code, as follows:

- Signs, §98-46;
- Telecommunications Facilities, §98-49;
- Transfer of Development Rights, Purchase of Development Rights, and Density Management, §98-51;
- Water Protection, §98-53;
- Wind Generating Facility, §98-54.

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

ACCESSORY STRUCTURE – See “Structure, Accessory.”

ACCESSORY USE – See “Use, Accessory.”

ADULT USE – A bookstore, video store, nightclub, movie theater, retail store, or other establishment which prominently features entertainment or materials with sexually explicit content. An establishment which sells such materials as an incidental part of its business or which presents such material or entertainment primarily as a form of legitimate artistic expression shall not be considered an adult use.

AGRICULTURAL PRODUCTS – Including but not limited to field crops, fruits, vegetables, livestock, livestock products, maple sap products, honey, Christmas trees, and horticultural items such as trees, shrubs, and flowers.

AGRICULTURE –The utilization of land and structures for the production, preservation, nonindustrial processing, storage, and sale of Agricultural Products, not including agricultural industry or farms primarily for the disposal of offal or garbage. Commercial Horse Operations, as defined herein, and the raising and breeding of horses are agricultural uses, distinguished from the business use of teaching or training people to ride a horse (see “Riding Academy”). Preservation, processing and storage are limited to those products produced on the farm where located. See definition for “Farm Stand” regarding retail sales of Agricultural Products.

AGRITOURISM – Any activity that is intended to inform visitors about farm operations, products, and/or history and is conducted as an accessory use to the farm use of the site. The activity may allow visitors to participate in Farm Operations. The term “Agritourism” does not include “Farm Stand.”

AIRPORT/HELIPORT – Any privately owned area of land or water which is used or intended for the landing and takeoff of aircraft. Commercial airports/heliports are not permitted in any zoning district General Business Law §249 requires the approval of the NYS Commissioner of Transportation.[DC53]

ALTERATION -- As applied to a Building or Structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANIMAL HUSBANDRY – The keeping, grazing, feeding, and care of animals other than household pets, not in conjunction with a Farm Operation or Kennel. Incidental sale of animals is permitted as an activity under animal husbandry.

APARTMENT BUILDING – A building arranged, intended, or designed to be occupied by three or more families living independently of each other in rental units.

BANK/FINANCIAL INSTITUTION – An establishment in which financial transactions are conducted. May include professionals administering advice related to financial matters. Does not include pawn shops or check cashing stores.

BAR or TAVERN or NIGHTCLUB – An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises. May include the regular provision of music, entertainment, and space for dancing.

BASE FLOOD -- The flood having a one-percent chance of being equalled or exceeded in any given year.

BASEMENT -- A story partly underground but having at least one-half (1/2) of its height above the average level of the adjoining ground. A "Basement" shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

BED-AND-BREAKFAST – A Single-Family Dwelling in which overnight accommodations, not exceeding five bedrooms, and breakfast are provided for transient guests for compensation. A Bed-and-Breakfast must be the primary residence of the owner/proprietor.

BUFFER AREA -- Open ground area of the plat, in addition to any required yards or road widenings around the perimeter of any plot, where required. Parking is not allowed in a "BufferArea."

BUFFER, WETLAND[HL54] – Per Chapter 53 of the Town Code, the lands lying within: (1) Twenty-five feet of wetlands and water bodies of ½ acre to one acre in size; (2) Fifty feet of wetlands and water bodies of one acre to two acres in size; (3) Seventy-five feet of wetlands and water bodies of two acres to three acres in size; and (4) One-hundred feet of wetlands and water bodies of three acres or more in size, shall be areas of regulation. Also, all lands lying within 100 feet of the normal stream bank of the Wappinger Creek, Little Wappinger Creek, Great Spring Creek, and any other perennial watercourse or tributary to these named streams. A twenty-five-

foot-wide natural buffer shall be maintained from the normal stream bank for all activities except for those dependent upon the passive recreational use of the stream or as a source of water for emergency purposes or agriculture in accordance with Agricultural Best Management Practices.

BUILDING -- Any Structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals, or property.

BUILDING, ACCESSORY -- A Structure detached from and subordinate to a Principal Building on the same Lot and used for purposes customarily incidental to those of the Principal Building or use, including Accessory Dwellings (which require site plan review and approval by the Planning Board).

BUILDING AREA -- The total of areas taken on a horizontal plane at the mean grade level of the principal building and all accessory buildings, exclusive of porches, carports, terraces and steps.

BUILDING, FRONT LINE OF -- The line of the face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING HEIGHT -- The vertical distance measured from the average Elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the decline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. When a lot fronts on two (2) 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, NONCONFORMING – A Structure which does not satisfy the dimensional requirements of this chapter for the district in which it is located, but which was not in violation of applicable requirements when constructed.

BUILDING, PRINCIPAL -- A Building in which is conducted the main or Principal Use of the Lot on which said Building is situated.

BUILDING LOT, APPROVED – A lot which has been approved by the Planning Board as a result of subdivision, resubdivision or site plan approval in compliance with the Pleasant Valley Code; also, a lot limited in use to a Single-Family Dwelling and its Accessory Structures in full compliance with this chapter.

BULK REGULATIONS – Standards that control the height, density, and location of a Structure on a lot.

BUSINESS, DRIVE-THROUGH – An establishment or portion thereof which encourages and permits customers to receive services and obtain goods and/or foods while remaining in their motor vehicles.

BUSINESS, GENERAL – An establishment primarily engaged in selling goods and/or services to the general public. This includes establishments such as movie theaters, banks, financial institutions, and health and fitness clubs.

BUSINESS, RECREATIONAL – A business which, for compensation, offers recreational services including but not limited to country clubs, batting cages, marinas, boatyards, public stables, miniature golf, golf courses, driving ranges, and non-membership shooting ranges.

CALIPER – The diameter of a tree as measured at a point six inches above the ground level, up to and including four-inch caliper size, and 12 inches above the ground level for larger sizes.

CAMP – Any area of land containing recreation facilities as well as more than four cabins, tent sites, recreational travel vehicles, shelters, or accommodations used for what is commonly referred to as “overnight camp” or “day camp” purposes, or otherwise designed for seasonal or other temporary recreational and living purposes occupied by adults, children, or any combination of individuals, families, or groups. This definition shall not apply to the recreational use of private property for personal use by owners, lessees, or their guests, which shall be considered to be an Accessory Use to a residence or a Recreational Business.

CANOPY – A freestanding or projecting structure above an outdoor service area such as at a Motor Vehicle Fueling Facility; or, a rooflike cover made of a rigid material (metal, plastic, etc.) that projects from the wall of a Building over a door, entrance, or window.

CELLAR -- A story partly underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground. A "cellar" shall not be considered in determining the permissible number of stories.

CEMETERY – Land and buildings, whether privately used or publicly owned or operated, intended to be used for the disposal or burial or deceased of dead human beings or pets, by cremation or in a grave, mausoleum, vault or other receptacle and dedicated for burial purposes.

CENTER LINE, STREET or ROAD – A line midway between and parallel to the two street lines at the edge of the street’s right-of-way, or as otherwise defined by the Planning Board.

CHARITABLE ORGANIZATION – A not-for-profit corporation or association organized for charitable purposes including but not limited to education, social welfare, environmental conservation, scientific research, cultural enrichment, and the arts.

CLEARCUTTING – Any cutting of all or substantially all trees over six inches in diameter at breast height (dbh) over more than 2,000 square feet of land area, except for clearing for one Single-Family Dwelling.

CLUB, NOT-FOR-PROFIT MEMBERSHIP -- An organization catering exclusively to members and their guests, including premises and buildings for recreational, social, patriotic, political, benevolent, fraternal, athletic, or similar purposes, which are not conducted primarily for gain. This includes shooting preserves licensed pursuant to ECL §11-1903 that are organized as membership clubs.

CLUSTER SUBDIVISION – A residential subdivision where the Dwelling Units, the number that would result on a given parcel under a conventional subdivision plan, are allowed to be

concentrated on a smaller and more compact portion of land and where a majority of the remaining land is left in its natural condition (open or forested) in perpetuity.

COMMON DRIVEWAY – A driveway serving no more than four lots, owned in common or created by reciprocal easements.

CONDOMINIUM – A system of ownership of Dwelling Units, established pursuant to the Condominium Act of the State of New York, in which the Dwelling Units are individually owned but where all such owners have an indivisible interest in the common areas.

CONSERVATION DEVELOPMENT – A type of development that gives landowners a variety of development options and results in the permanent preservation of greenspaces. Conservation Development includes the following options as described in §98-24, Conservation Subdivisions, and §98-51, Transfer of Development Rights, Purchase of Development Rights, and Density Management.

COVERAGE –See “Lot Coverage.”

DAY CARE CENTER – Any facility operated for the purpose of providing daytime care or instruction to seven (7) or more individuals during only part of a 24-hour day, by staff who are properly licensed or certified under the laws of the State of New York. This term includes nursery schools, preschools, and other similar uses but excludes public and Private Educational Facilities or any facility offering care to individuals for a full 24-hour period.

DAY CARE HOME -- Care for up to six (6) individuals in a private home for less than twenty-four (24) hours per day, said individuals in addition to those in the Family unit, by someone who is properly licensed or certified under the laws of the State of New York.

DECK or PORCH – An outdoor platform or Structure attached to the principal structure of a building, having at least a floor, and built at or above the natural grade. A Deck or Porch may or may not have a roof and may or may not be partially enclosed.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to Buildings or other Structures, mining, dredging, filling, paving, excavation or drilling operations.

DIAMETER AT BREAST HEIGHT (dbh) – The tree trunk diameter (in inches) measured at a height of four-and-one-half feet above the ground on the uphill side of the tree.

DRIVEWAY – A private way providing vehicular access from a public or private road to not more than one (1) residence, or to a commercial or noncommercial establishment.

DUMP -- A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, compaction and transfer or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DUSTLESS SURFACE -- A surface which is adequately covered with screenings, stone, gravel, concrete or bituminous products and adequately treated with oil or a similar dust-inhibiting substance and maintained in good condition at all times, or any other surface specified by the Planning Board upon site plan approval.

DWELLING -- A Building designed or used exclusively as living quarters for one or more families. The term shall not be deemed to include motel, hotel, boardinghouse, or tourist accommodations.

DWELLING, ACCESSORY – A Dwelling Unit occupying the lesser of 1,000 square feet or 30% of the floor space of an owner-occupied residential structure, but not less than 400 square feet; or a Dwelling Unit between 400–1,000 square feet located in an Accessory Structure on an owner-occupied property.

DWELLING, ESTATE – A Dwelling that houses persons employed in the care of the buildings and/or grounds of an Estate, but not the owner(s) of the estate, and is located on the property where the principal estate dwelling is located.

DWELLING, FARM WORKER – A Dwelling that houses persons employed in Agriculture, but not the owner(s) of the land being farmed, and is located on the Farm where the principal dwelling is located.

DWELLING, MANUFACTURED HOME -- A transportable Dwelling Unit for one Family, used or designed to be used year round as a permanent residence and containing the same types of water supply, waste disposal, and electrical systems as immobile housing. Recreational vehicles designed to be driven or towed by an automobile or pickup truck, units designed for use principally as a temporary residence, or prefabricated, modular, or sectionalized houses transported to and completed on a site are not considered to be manufactured homes.

DWELLING, MULTIFAMILY -- A Building or portion thereof containing three or more Dwelling Units, on one plot, but which may have joint services or joint facilities, or both. Includes Apartment Buildings, Condominiums, and Townhouses, regardless of the form of ownership (fee simple, rental).

DWELLING, SINGLE-FAMILY -- A Building containing one (1) Dwelling Unit only.

DWELLING, TWO-FAMILY -- A Building containing two (2) Dwelling Units.

DWELLING UNIT -- A Building or portion thereof providing complete housekeeping facilities for one (1) Family.

EDUCATIONAL INSTITUTION, PRIVATE -- Any nonpublic school or other organization or institution conducting a regularly scheduled curriculum of study similar to that of the public schools and operated by nonstock corporations under the Education Law of New York State.

ELEVATION – The elevation, in feet, above mean sea level.

ESTATE – A residential property of not less than 10 acres with a luxurious residence and auxiliary buildings.

FAMILY -- One or more persons occupying the premises and living together as a single housekeeping unit, using rooms and housekeeping facilities in common. A roomer, boarder, lodger, or occupant of supervised group quarters shall not be considered a member of a Family.

FARM -- A parcel or parcels of land used principally in the production of Agricultural Products with the necessary or usual dwellings, farm structures, storage, and equipment.

FARM OPERATION – As defined in the New York State Agriculture and Markets Law, Article 25AA §301(11), land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a Commercial Horse Boarding Operation. Such Farm Operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FARM STAND -- A Building, portion of a building, shelter or product display area for the retail sale of Agricultural Products. At least 50% of the agricultural products sold from the stand shall be limited to those produced on the Farm where the stand is located. This may or may be a permanent Structure. A Farm Stand not exceeding 800 square feet in footprint area for the retail sale of products of the Farm is allowable. A larger roadside sales facility is allowable by special use permit only.

FARM WORKER – A hired laborer, whether temporary or permanent, working on a Farm and performing agriculturally-related tasks.

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water, or from abnormally high tidal water or rising lake waters resulting from severe storms, hurricanes or tidal waves.

FLOOD INSURANCE RATE MAP (FIRM) -- The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to Pleasant Valley.

FLOOD PROTECTION ELEVATION -- The one-hundred-year flood elevation.

FLOODPLAIN AREA HAVING SPECIAL FLOOD HAZARDS -- That maximum area of the floodplain which, on the average, is likely to be flooded once every one hundred (100) years (i.e., which has a one-percent chance of being flooded each year).

FLOODPLAIN--As defined by the Federal Emergency Management Agency (FEMA), any land area susceptible to being inundated by flood waters from any source.

FLOODPLAIN MANAGEMENT -- As defined by the Federal Emergency Management Agency (FEMA), The operation of an overall program of corrective and preventive measures for reducing

flood damage, including but not limited to emergency preparedness plans, flood control works and land use and control measures.

FLOODPROOFING -- As defined by the Federal Emergency Management Agency (FEMA), Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures with their contents.

FLOODWAY -- The channel of a river or other water- course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOOR AREA, GROSS – The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

FLOOR AREA, LIVABLE – All spaces within the exterior walls of a Dwelling Unit, exclusive of garages, cellars, heater rooms, basement rooms having a window area of less than 20% of the square foot area of the room, unheated porches and breezeways. Included are all spaces not otherwise excluded such as principal rooms, utility rooms, bathrooms, and all closets and hallways opening directly into or appurtenant to any rooms within the Dwelling Unit, and all attic spaces having a clear height of six feet from the finished floor level to the pitch of the roof rafter with a clear height of seven feet six inches (7' 6") from the finished floor level to the ceiling over 50% of the area of such attic space.

FLOOR AREA RATIO -- The quotient derived from the grossfloor area of a building divided by its lot area.

FORESTRY – Use, management, or logging of a forest, woodland, or tree plantation, when conducted for the purpose of selling cut wood. Logging conducted solely for the private use of the property owner or tenant is not considered "Forestry." Any harvesting of timber must conform to best management practices as outlined by New York State.

GARAGE, PRIVATE – A structure which is accessory to a residential building and which is used for the parking and storage of non-commercial vehicles owned and operated by the residents thereof, provided however that space therein may be used for not more than one (1) commercial vehicle.

GARAGE SALE^[DC55] (also "barn, lawn, yard, or tag sale") -- The temporary use of otherwise noncommercial premises for the purpose of offering for sale items originally accumulated for personal use rather than for the purpose of sale. In this instance, "temporary use" means the daylight hours and no more than three (3) sales per year for a maximum of three (3) days per sale. A Garage Sale permit is required for each sale.

GAS STATION – See "Motor Vehicle Fueling Facility."

GRADE, FINISHED – The final Elevation of the ground level after the completion of development, excavation, or filling.

GRADE, NATURAL – The Elevation of the ground level in its natural state, prior to development, excavation, or filling.

GREENSPACES – Lands in agricultural use and/or undeveloped lands such as forests, wetlands, open fields, or meadows, which together can form continuous blocks or corridors of land available for biodiversity, groundwater recharge, carbon absorption, and other important ecological functions. Recreation parks are also considered Greenspaces.

GROUP HOME – A residential facility for persons with special needs, as defined by state and federal laws. In addition to food and shelter, the home is intended to provide such individuals some combination of health care, personal care, counseling services, transportation, and protective supervision in a home setting.

HOME OCCUPATION – A business/occupation, operated out of a Dwelling or Accessory Structure, that clearly functions as an Accessory Use to the residential use, and that is used as a workplace by at least one owner-occupier of the residence and not more than one additional employee.

HORSE OPERATION – Any establishment where four (4) or more horses are leased and/or stabled for riding, driving, horseback riding lessons, or stabled for compensation, or incidental to the operation of any club, association, ranch, resort, or similar establishment. A Horse Operation operated in conjunction with a Farm Operation shall be deemed to be an agricultural Accessory Use. Minimum acreage and other requirements for the keeping of a horse, as listed in §98-19 “Animal Husbandry,” shall also apply to Horse Operations. See also **STABLE, PRIVATE**.

HOSPITAL—An institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facilities. Rest homes, Nursing Homes, convalescent home, clinics, and other similar facilities are not included.

JUNKYARD –A Lot, site, Structure, or part thereof having an area of 100 square feet or more that is used for the collection, storage, and/or sale of junk such as wastepaper, rags, scrap metal, or other discarded material. Also, a Lot, site, Structure, or part thereof having an area of 100 square feet or more that is used for the collection, dismantling, storage, and salvaging of machinery or vehicles for the sale of parts thereof. Junk does not include any article or material which unaltered or unchanged and without further reconditioning can be used for its original purposes as readily as when new, or any article stored for restoration or display as part of a bona fide hobby (such as antique automobiles, antique farm machinery, antique engines, special interest automobiles, etc.).

KENNEL^[HL56] – A use of land and structures where the purchase, sale, care, breeding, or boarding of dogs, cats, or other household ^[HL57]pets is conducted on a commercial basis.

LAUNDROMAT -- A business premises equipped with individual clothes-washing and drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an Apartment Building or Lodging Facility

LIBRARY – A Building in which literary and artistic materials, such as books, periodicals, newspapers, pamphlets, prints, records, tapes, and other electronic media, are kept for reading, reference, and lending.

LIGHT INDUSTRY – An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing, and which results in little or no impact on the natural environment.

LIVESTOCK – Animals raised and/or housed on a Farm, including but not limited to cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, fur-bearing animals, and wool-bearing animals.

LODGING FACILITY – Any hotel, motel, inn, or other establishment, other than a Bed-and-Breakfast, providing sleeping accommodations for transient guests, with or without a dining room or restaurant.

LOT –An area of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established either by the filing of an approved subdivision Plat or by the recording of a deed prior to the adoption of Chapter 98 “Zoning” of the Town of Pleasant Valley Town Code.

LOT AREA -- The total area within the property lines, excluding external streets. The property line adjacent to the street for the purpose of this chapter shall be deemed to be not less than twenty-five (25) feet from the center line of a minor road, nor less than thirty (30) feet from the center line of a collector road, nor less than forty (40) feet from the center line of a major road, nor less than sixty (60) feet from the center line of an arterial highway.

LOT, CORNER -- A Lot at the junction of and abutting on two (2) or more intersecting streets or roads, when the interior angle of the intersection does not exceed one hundred thirty-five degrees (135°).

LOT COVERAGE – That percentage of the Lot lot covered by building footprints, paved areas, and any other impervious surfaces.

LOT, DEPTH OF -- The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR – A Lot other than a corner lot.

LOT, THROUGH – A Lot which faces on two streets at opposite ends of the Lot, which is not a Corner Lot.

LOT, WIDTH OF -- The distance measure at the required minimum front yard setback along a line at right angles to the Depth of Lot line and parallel to the street right-of-way (ROW) line.

LOT LINES – The property lines that bound a Lot as defined herein.

MANUFACTURED HOME PARK -- Any court, park, place, Lot, or parcel upon which two (2) or more Manufactured Home Dwellings, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MANUFACTURED HOME PARK PLAT -- The final drawing on which the Manufacture Home Park plan is presented to the Zoning Board of Appeals for approval.

MANUFACTURED HOME SITE -- A plot of ground within a Manufacture Home Park designed for the accommodation of one (1) Manufactured Home Dwelling.

MAP, FILED -- Any map or Plat filed in the County Clerk's office of Dutchess County.

MAP, OFFICIAL -- A map adopted by the Town Board pursuant to the provisions of §270 of Town Law and which may be or may have been revised according to the provisions of §273 of Town Law, which shows streets, highways, parks, and other features including drainage systems.

MINING^[HL58] -- (including "soil mining") -- The extraction of overburden and minerals, other than stone, from the earth; the preparation and processing of such minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, stockpiling or other processing of such minerals at the mine location so as to make them suitable for commercial, industrial or construction use, exclusive of manufacturing processes at the mine location, the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects or excavations in aid of agricultural activities. In addition, the removal of less than 750 cubic yards or 1,000 tons, whichever is less, of minerals from the earth within any 12 consecutive months shall not be considered "mining."

MIXED USE – Any combination of residential and non-residential uses, typically residential and commercial/office, on the same Lot or in the same Building.

MODULAR HOUSING – Two or more prefinished units, built at a plant or factory and transported to a building site and there assembled, united, and installed on a permanent foundation, comprising one or more Dwelling Units.

MOTOR VEHICLE FUELING FACILITY – Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories.

MOTOR VEHICLE REPAIR SHOP – A Building or portion of a Building used for making repairs to motor vehicles, their mechanical systems, and their body structure, including painting. Includes the incidental, temporary storage of motor vehicles undergoing repair.

MOTOR VEHICLE SALES – A Building and/or area used for the rental, lease, sale, and/or resale of motor vehicles, new or used.

MOTOR VEHICLE WASH FACILITY – A Building and/or area used for the washing, spraying, waxing, polishing and/or drying of motor vehicles and/or the vacuuming or dry cleaning of same.

MOVIE THEATER – A Building or part thereof devoted to the showing of motion pictures on a paid admission basis.

NONCONFORMING BUILDING – See “Building, Nonconforming.”

NONCONFORMING USE – See “Use, Nonconforming.”

NURSING HOME – An establishment where persons are housed and provided with meals, household services, and professional nursing care in a group setting. The term “nursing home” includes assisted living facilities, hospices, convalescent homes, rest homes, and other similar facilities where people are both housed and cared for.

OFFICE -- A business, professional, or non-profit workplace including but not limited to professional offices for attorneys, accountants, health care practitioners, architects, engineers, surveyors, consultants, sales representatives, real estate brokers, and financial planners. Light industrial processes, retail sales, construction, and warehousing do not occur on the premises. Also includes research laboratories and other facilities in which research activities are conducted.

OPEN SPACE – See “Greenspaces”.

OVERLAY DISTRICT – A district, with supplementary regulations, which is superimposed upon existing use districts. Such districts are mapped and on file with the Town Clerk.

PARKING SPACE -- The area required for parking one (1) automobile, which in this chapter is held to be an area as prescribed in §98-42.

PLAT – A map or plan submitted to the Planning Board as part of an application for subdivision approval (see Subdivision Law).

PORCH – See “Deck or Porch.”

PORCH, ENCLOSED – A structure attached to a building with a floor, roof, and structural supports, and enclosed on at least two sides (or any portion of two sides) with either walls, glass, or other solid materials. A porch does not need to be heated or insulated to be considered “enclosed.” Screens shall not be considered a solid material.

PRIVATE ROAD – A privately owned road held in common ownership by a homeowners association governing four (4) or more residences.

PUBLIC UTILITY FACILITY – An installation used-- by a public agency or a specially franchised public utility to supply or transmit electric, gas, water, sewage disposal, cable

television, telephone service, or other utility service, excluding electric power plants and gas wells. Included are such facilities as substations, high-voltage transmission lines, pump stations, water supply wells, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not public utility facilities.

QUARRY, SANDPIT, GRAVEL PIT, TOPSOIL STRIPPING -- The extraction of any type of stone from the earth and the preparation, washing, cleaning, crushing, stockpiling and other processing of stone at the location so as to make it suitable for commercial, industrial or construction use.[HL59]

RECREATIONAL VEHICLE – A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation, and vacation, having a body length not exceeding 40 feet, and including motor homes and camping trailers.

RELIGIOUS INSTITUTION – A church, synagogue, mosque, temple, or other place of religious worship, as well as a monastery or other place of religious retreat.

RESTAURANT – An establishment where food and drink are prepared, served, and consumed by customers on the premises.

RESTAURANT, FAST FOOD -- An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off the premises.

ROOF – The cover of any buildings, including the eaves and similar projections.

ROOF LINE – The highest point of a roof or building parapet, excluding any cupola, chimney, or other minor projection.

SETBACK – Required minimum distance from a property line. Refer to the Schedule of Area and Bulk Requirements for specific setback requirements.

SHED – A temporary or permanent structure for accessory storage. The term “shed” does not include a shipping container, truck body, or any type of vehicle.

STABLE, PRIVATE – An Accessory Structure in which horses are kept for private use and not for hire or remuneration.

STORAGE, BULK – The accumulation of wholesale quantities of raw or finished materials (solids, liquids, or gases) preparatory to use in a manufacturing process or to retail sales, a permanent reserve being maintained. Junk and scrap materials do not qualify as “bulk storage.”

STORAGE, OUTDOOR – Land used for the keeping of materials or equipment outside any building or structure. The term “outdoor storage” does not include “junkyards.” Land used for temporary storage of construction materials or equipment, as an accessory use to a construction project, is not to be considered outdoor storage.

STORAGE, SELF-SERVICE – A Building consisting of individual, private, self-contained storage units that are leased to individual parties.

STORY -- That portion of a Building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between any floor and the ceiling next above it.

STORY, HALF -- A Story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such Story.

STORY, HEIGHT OF – The vertical distance from the top surface of the floor to the top surface of the floor next above. The height of the topmost Story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET – A strip of land, including the entire right-of-way, publicly or privately owned, serving primarily as a means of vehicular, pedestrian, and bicycle travel, and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees, sidewalks, and streetscape amenities.

STREET LINE – The dividing line between the Street and the Lot, as indicated by dedication, deed, or record.

STRUCTURE -- Anything constructed or erected, the use of which requires location on, in, or under the ground or attachment to something having location on the ground. Any impervious surfaces are considered a Structure and require a no-fee building permit.

STRUCTURE, ACCESSORY -- A Structure either attached or detached from and subordinate to a Principal Building on the same Lot and used for purposes customarily incidental to those of the Principal Building or use, including Accessory Dwellings (which require site plan review and approval by the Planning Board).

STRUCTURE, NONCONFORMING – A Structure which does not satisfy the dimensional requirements of this chapter for the district in which it is located, but which was not in violation of applicable requirements when constructed.

STRUCTURE, PRINCIPAL – A Structure in which is conducted the main or Principal Use of the Lot on which said Structure is situated.

SUBSTANTIAL IMPROVEMENT -- Any repair, reconstruction or improvement of a Structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the Structure or exceeds 50% of the original floor area, either before the improvement or repair is started; or if the Structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the Structure commences, whether or not that alteration affects the external dimensions of the Structure. The term does not, however, include either:

- A. Any project for improvement of a Structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a Structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

THEATER, PERFORMING ARTS – A Building or part thereof devoted to the showing of live theatrical, musical, dance, or other performance.

TOWNHOUSE – A Building on its own separate Lot containing one Dwelling Unit that occupies space from the ground to the roof, and is attached to one or more other townhouse dwelling units by at least one common wall.

TRAILER, OFFICE – A vehicular, portable structure built on a chassis designed for temporary facility for such uses as banking, on-site construction supervision, and other office or clerical uses. For on-site construction supervision, the office trailer shall be removed from the premises when such construction is completed.

USE -- The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any Nonconforming Use.

USE, ACCESSORY -- A Use customarily incidental and subordinate to the Principal Use or Building and located on the same lot as such Principal Use or Building.

USE, NONCONFORMING – Any Use lawfully existing prior to and at the time of the adoption or amendment of this chapter or any preceding zoning law or ordinance, which Use is not permitted by or does not conform to the permitted use provisions of this chapter for the district in which it is located. A pre-existing lawful Use which is allowed only by special permit under this chapter shall be considered a Nonconforming Use until such time as a special permit is granted for it.

USE, PRINCIPAL – The main or primary purpose for which a Structure or Lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this zoning law.

USE, SPECIAL – A Use that meets the intent and purpose of the zoning district but which requires the review and approval of the Planning Board in order to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated by the Use can be, and are, mitigated.

VARIANCE -- A grant of relief from the requirements of this chapter which permits construction and/or use of land in a manner that would otherwise be prohibited by this chapter.

VERNAL POOL – Seasonal bodies of water that attain maximum depths in spring or fall, and lack permanent surface water connections with other wetlands or water bodies. Vernal pools do not support fish populations, but allow for a community of a diverse group of invertebrates and

amphibians that depend upon temporary pools as breeding ponds. A vernal pool in a woodland setting is referred to as an Intermittent Woodland Pool.

VETERINARY CLINIC – An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, and excluding the treatment or other care of humans.

- a. **SMALL ANIMAL** – Includes household pets such as a dog, cat, rabbit, or hamster.
- b. **LARGE ANIMAL** – Includes animals such as a horse, cow, llama, mule, pony or hog.

WAREHOUSE – A Building or part thereof used for the storage of commercial goods, wares, or merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

WATER BODY – A water body is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the water body are considered part of the water body.

WATERCOURSE – Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

WAY – A Street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

WETLAND – Wetlands (swamps, marshes, bogs, and similar areas) are areas saturated by surface or ground water sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soil. Protections of wetlands are defined by the rules, regulations, and policies of the New York State Department of Environmental Conservation and/or the United States Army Corps of Engineers, and/or the Town of Pleasant Valley.

WILDLIFE PROFESSIONAL – A person who meets the education and experience requirements of a certified wildlife biologist as defined by a professional organization that certifies wildlife professionals.

YARD, FRONT -- An unoccupied space on the same Lot with a Building, between the front line of the Building and the front line of the Lot and extending the full width of the Lot. For the purpose of determining the minimum front yard depth required by this chapter, the front line of the Lot shall be taken as the street right-of-way line adjacent to the Lot, provided that the front line of the Lot shall be deemed to be not less than twenty-five (25) feet from the center line of a minor road, nor less than thirty (30) feet from the center line of a collector road, nor less than forty (40) feet from the center line of an arterial highway.

YARD, REAR -- An open, unoccupied space on the same Lot with a Building or Structure, between the rear line of the Building or Structure and the rear line of the Lot and extending the full width of the Lot.

YARD, REQUIRED -- The minimum setback measured from a front, side, or rear property line.

YARD, SIDE -- An open, unoccupied space on the same Lot with a Building or Structure, situated between the Building or Structure and the side line of the Lot and extending from the Front Yard to the Rear Yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE XI

MISCELLANEOUS

§98-104 CONFLICT WITH OTHER LAWS

(A) Where this Chapter imposes greater restriction than required by any other law, ordinance, or regulation, the provisions of this Chapter shall govern. Where the provisions of any other law, ordinance, or regulation imposes greater restrictions than are required by this Chapter, the provisions of such law, ordinance or regulation shall govern.

(B) To the extent that this Chapter is inconsistent with Town Law §§ 265-a, 267-a, 274-a, 274-b, 276, 277 or any other provision of Article 16 of the Town Law, the provisions of this Chapter are expressly intended to and do hereby supersede any such inconsistent provisions.

§98-105 VALIDITY AND SEVERANCE

If any part of this Chapter is declared to be invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of said Chapter as a whole, or any other part of said Chapter. The Town Board hereby declares that it would have adopted this Chapter and each part thereof irrespective of the fact that any one or more of the parts may be declared invalid.

§ 98-106 REPEALER

This Chapter is intended to supersede, repeal and annul the Zoning Ordinance of the Town of Pleasant Valley Chapter 98 of the Town Code as enacted in 1974 and amended thereafter.

§ 98-107 EXEMPTIONS

Site Plan. A site plan approval application shall be exempt from the requirements of this Chapter and subject to the 1974 Zoning Ordinance, as amended, formerly Chapter 98, if, as of the effective date of this Chapter, the Planning Board has adopted a resolution granting conditional site plan approval and said conditional approval has not expired.

Subdivision. An application for subdivision approval shall be exempt from the requirements of this Chapter and Chapter 82 and subject to the 1974 Zoning Ordinance, as amended, and former Chapter 82, if, as of the effective date of this Chapter, the planning board has approved a resolution granting preliminary subdivision approval and said approval has not expired.

§98-108 EFFECTIVE DATE

This Local Law, together with the Zoning Map, shall take effect upon filing, in the Office of New York Secretary of State

SCHEDULE OF PERMITTED USES

Key:

P = Permitted Use

P* = Permitted Use Subject to Site Plan Approval

SP = Special Use Permit and Site Plan Approval Required

“-“ = Prohibited Use

	Subject to Supplementary Regulations	CONS	RA	RR	LDR	MDR	HDR	MHP	MC	HR	H-PV	H-SP	H-WH	OI	Q	SFH
RESIDENTIAL																
Dwelling, Accessory	see §98-15	SP	SP	SP	SP	SP	SP	-	-	SP	SP	SP	SP	-	-	-
Dwelling, Manufactured Home Park	see §98-36	-	-	-	-	-	-	P*	-	-	-	-	-	-	-	-
Dwelling, Multi-Family	see §98-40	-	-	-	-	-	P*	-	-	P*	P*	P*	P*	-	-	-
Dwelling, Single-Family		P	P	P	P	P	P	P	-	P	P	P	P	-	-	-
Dwelling, Two-Family	see §98-40	P*	P*	P*	P*	P*	P*	P*	-	P*	P*	P*	P*	-	-	-
Caretaker / Guest Cottage	see §98-22	SP	SP	SP	SP	SP	-	-	-	-	-	-	-	-	-	-
AGRICULTURAL																
Agriculture, excluding animals		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Agriculture, including animals	see §98-17	P	P	P	SP	SP	-	-	-	-	-	-	-	P	P	P
Agritourism		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Animal Husbandry	see §98-19	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-
Dwelling, Farm Worker		P	P	P	P	P	P	-	-	P	P	P	P	P	P	-
Farm Stand		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Forestry	see §98-30	P	P	P	P	P	SP	-	-	-	-	-	-	P	P	P
Horse Operation	see §98-17 / 19	P*	P*	P*	P*	P*	-	-	-	-	-	-	-	P*	P*	-

	Subject to Supplementary Regulations	CONS	RA	RR	LDR	MDR	HDR	MHP	MC	HR	H-PV	H-SP	H-WH	OI	Q	SFH
NON-RESIDENTIAL																
Adult Use	see §98-16	-	-	-	-	-	-	-	-	-	-	-	-	-	SP	-
Airport/Heliport	see §98-18	SP	SP	-	-	-	-	-	-	-	-	-	-	-	-	SP
Bar or Tavern or Nightclub		-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	-	-
Bed-and-Breakfast	see §98-20	SP	SP	SP	SP	SP	SP	-	-	SP	SP	SP	SP	-	-	-
Business, Drive-Through		-	-	-	-	-	-	-	SP	-	SP	-	SP	-	-	-
Business, General (<i>not listed elsewhere</i>)		-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	-	-
Business, Recreational (<i>not listed elsewhere</i>)		-	-	-	-	-	-	-	SP	-	-	-	-	SP	-	SP
Camp	see §98-21	P*	P*	P*	-	-	-	-	-	-	-	-	-	-	-	-
Cemetery		SP	SP	SP	SP	-	-	-	-	-	-	-	-	-	-	-
Club, Non-Profit Membership	see §98-23	P*	SP	SP	SP	SP	SP	-	SP	-	SP	-	SP	SP	-	-
Day Care Center		-	-	-	-	-	-	-	SP	-	SP	SP	SP	SP	-	-
Day Care Home		SP	SP	SP	SP	SP	SP	-	-	SP	SP	SP	SP	-	-	-
Educational Institution, Private		-	-	-	-	-	-	-	SP	-	SP	SP	SP	SP	-	-
Group Home		P*	P*	P*	P*	P*	P*	-	P*	P*	P*	P*	P*	-	-	-
Home Occupation	see §98-32	SP	SP	SP	SP	SP	SP	SP	-	SP	SP	SP	SP	-	-	-
Hospital		-	-	-	-	-	-	-	-	-	-	-	-	P*	-	-
Junkyard	see §98-34	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Kennel	see §98-35	SP	SP	SP	SP	-	-	-	-	-	-	-	-	SP	SP	-
Library		-	-	-	-	-	-	-	-	-	P*	P*	P*	-	-	-
Light Industry	see §98-25	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	-
Lodging Facility (<i>except Bed-and-Breakfast</i>)		-	-	-	-	-	-	-	P*	-	P*	P*	P*	P*	-	-
Mining (<i>also see "Quarrying"</i>)	see §98-37	SP	SP	SP	SP	-	-	-	-	-	-	-	-	SP	SP	-
Motor Vehicle Fueling Facility/Repair Shop/Wash Facility	see §98-38	-	-	-	-	-	-	-	SP	-	SP	-	SP	SP	-	-
Motor Vehicle Sales	see §98-39	-	-	-	-	-	-	-	SP	-	-	-	-	SP	-	-
Nursing Home		-	-	-	-	-	-	-	SP	-	SP	-	SP	SP	-	-
Office		-	-	-	-	-	-	-	P*	-	P*	P*	P*	P*	-	-

	Subject to Supplementary Regulations	CONS	RA	RR	LDR	MDR	HDR	MHP	MC	HR	H-PV	H-SP	H-WH	OI	Q	SFH
Public Utility Facility (<i>except Telecommunications Facility</i>)	see §98-44	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Quarrying (<i>also see "Mining"</i>)	see §98-45	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	-
Religious Institution		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	-
Restaurant		-	-	-	-	-	-	-	P*	-	P*	P*	P*	P*	-	-
Telecommunications Facility	see §98-49	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Theater, Performing Arts		-	-	-	-	-	-	-	P*	-	SP	SP	SP	P*	-	-
Veterinary Clinic	see §98-48	SP	SP	SP	-	-	-	-	SP	-	SP	SP	SP	SP	-	-
Warehouse, Self-Service Storage		-	-	-	-	-	-	-	-	-	-	-	-	SP	-	-
Wind Generating Facility, Private	see §98-54	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*

Districts Key:

CONS = Conservation

RA = Rural Agricultural

RR = Rural Residential

LDR = Lower Density Residential

MDR = Medium Density Residential

HDR = Higher Density Residential

MHP = Manufactured Home Park

HR = Hamlet Residential

MC = Mixed Use Commercial

H-PV = Hamlet Pleasant Valley

H-SP = Hamlet Salt Point

H-WH = Hamlet Washington Hollow

OI = Office Industrial

Q = Quarry

SFH = Special Flood Hazard

SCHEDULE OF AREA AND BULK REQUIREMENTS

	CONS	RA	RR	LDR	MDR	HDR	MHP ^[1]	MC	HR ^[3]	H-PV	H-SP	H-WH	OI	Q	SFH ^[2]
Minimum Lot Size (acres)	N/A	N/A	N/A	N/A	N/A	N/A	^[1]	.5	N/A	N/A	N/A	N/A	1	20	^[2]
Average Density ^[8] (acres – for calculation of number of lots only)	10	5	3.5	2	1	.5	N/A	N/A	.15 ^[4]	.15 ^[4]	.15 ^[4]	.15 ^[4]	N/A	N/A	N/A
Minimum road frontage (feet)	50'	50'	50'	50'	50'	50'	^[1]	50'	50'	50'	50'	50'	50'	50'	50'
Minimum/Maximum front yard setback ^[5]	80'	70'	70'	60'	50'	40'	^[1]	Min: 15' Max: 30'	15'	Min: 0' Max: 20'	Min: 0' Max: 20'	Min: 0' Max: 20'	Min: 20' Max: 40'	100'	^[2]
Minimum side yard setback	40'	30'	30'	20'	20'	15'	^[1]	0' ^[6]	15'	0' ^[6]	0' ^[6]	0' ^[6]	20'	250'	^[2]
Minimum back yard setback	60'	50'	50'	30'	30'	20'	^[1]	10'	15'	10'	10'	10'	20'	250'	^[2]
Minimum lot width at primary building line	400'	250'	200'	150'	100'	50'	^[1]	75'	50'	50'	50'	50'	100'	750'	^[2]
Maximum impervious coverage (%)	10	15	20	20	25	30	30	85	40	85	85	85	70	20	^[2]
Maximum building footprint (square feet) per nonresidential establishment ^[7]	4,000	4,000	4,000	4,000	4,000	4,000	-	10,000	4,000	15,000	6,000	10,000	40,000	10,000	^[2]
Maximum Height (feet)	35'	35'	35'	35'	35'	35'	35'	35'	35'	40'	35'	40'	35'	30'	^[2]

^[1] See §98-36 for requirements in the MHP District. Conversion of a Manufactured Home Park to single-family or two-family residential will convert to the predominant adjoining zoning district designation.

- ^[2] In the SFH District: allowed uses, accessory buildings and additions to structures shall conform to the most restrictive adjoining zoning area and bulk requirements and to the floodplain regulations in §98-29. New residential structures are prohibited in the Special Flood Hazard District (SFH).
- ^[3] See §98-51, Transfer of Development Rights, Purchase of Development Rights, and Density Management, and §98.24, Conservation Subdivision.
- ^[4] The minimum is 1 acre without common or municipal water and/or sewer provision and meeting regulation §98-51.
- ^[5] The front yard setback is from the property line. If the property line is the road centerline, the setback is from the assumed property edge.
- ^[6] Where a lot line abuts land in a residential district, the most restrictive setback requirements of either district shall govern.
- ^[7] Agricultural and agricultural related nonresidential structures are exempt from this maximum.
- ^[8] Average Density is a more flexible method of residential development that allows for a range of lot sizes, versus the minimum lot size approach typically used. Instead of resulting in cookie-cutter subdivisions with lots that are all the same size, with “average density” the zoning for the district is used to calculate the allowed number of lots for a project, but the lot sizes can vary. This flexibility in lot size allows for a subdivision that can have a range of acreages and a range of home prices, while protecting natural and scenic resources and meeting Department of Health standards.