

**PROPOSED LOCAL LAW NO. \_\_ OF 2011**

**TOWN OF PLEASANT VALLEY**

**RE: A LOCAL LAW AMENDING CHAPTER 98 OF THE CODE OF THE TOWN OF PLEASANT VALLEY ENTITLED “ZONING”**

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF PLEASANT VALLEY AS FOLLOWS:**

Section 1.

Chapter 98 of the Town of Pleasant Valley Code, entitled “Zoning” is hereby amended as follows:

Section 2.

§98-12. Schedule of Area and Bulk Requirements<sup>3</sup>.

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.

**See Also, §98-14; Accessory Buildings and Structures.**

Section 3.

§98-15. Accessory Dwellings

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.~~ **Therefore, such units may not be constructed for, or utilized at any future time for, rental purposes.** ~~Futhermore, it~~ **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:

(2) The Lot containing the Accessory Dwelling shall ~~meet the minimum acreage~~ **equal or exceed the Recommended Lot Size** requirement of the applicable zoning district;

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<sup>3</sup> Editor’s Note: The Schedule of Area and Bulk Requirements can be found at the end of this chapter.  
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(12) The special use permit for an Accessory Dwelling shall expire ~~two (2)~~ **one (1)** 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;

**(20) The fees required for construction of an Accessory Dwelling are set forth in the Town's Schedule of Fees.**

Section 4.

§98-19. Animal Husbandry.

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

Section 5.

§98-25. Environmental Performance Standards.

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 chapter, 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

(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:

**(f) Noise from generators during power outages.**

Section 6.

§98-28. Fences and walls.

~~A. A no fee building permit shall be required for the construction of a fence or wall.~~

~~B.A.~~ 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 feet in height above the surrounding ground area in the front yard of a lot.

~~C.B.~~ 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 feet in height to a maximum of 10 feet in height, provided that such fence or wall is set back from the nearest property line a distance equal to the 1/2 the height of the fence or wall.

~~D.C.~~ No fence shall be so constructed as to impair the sight distance along any street.

~~E.D.~~ Industrial fencing. For an industrial use in the Office/Industrial District, fences of open wire construction may be erected in any required yard.

#### Section 7.

##### §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 **no-fee** 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 to be 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 § 98-27A and B.

#### Section 8.

##### §98-31. Hamlet Residential Design Principles.

##### C. Sidewalks.

(2) Sidewalks should be a minimum of five feet wide **and constructed with concrete, brick or other acceptable aggregate, excluding any form of asphalt.**

#### Section 9.

##### §98-36. Manufactured home parks.

B. Manufactured home parks are subject to the following regulations:

(2) Size of lots. **Manufactured Home Sites.** No ~~m~~**Manufactured h**Home lot **Site** shall be less than 6,000 square feet, nor shall any lot **Site** have less than 50 feet of frontage on an access road.

(3) Clearances.

(a) **No more than one manufactured home shall be permitted on a Manufactured Home Site.** Each manufactured home shall be located on ~~the~~ lot **a Site** with the following minimum clearances:

[1] sides: 15 feet from side lot **Site** lines.

[2] Ends: 20 feet from rear lot **Site** lines; 25 feet from access roads.

(4) Parking.

(a) There shall be at least two off-street parking spaces for each manufactured home within the Manufactured Home lot **Site**.

(7) 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 **Manufactured Home Sites**.

## Section 10.

§98-40 Multi-family, **Townhouse**, and two-family dwelling.

A. Multifamily 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 Requirements 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 150 feet in length.~~

~~(6) No multifamily dwellings shall be located closer than 50 feet to any other principal building.~~

~~(7) Architectural design and arrangement of buildings shall conform to the architectural guidelines of § 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 150 square feet per bedroom for adaptation of existing structures and at least 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 recreation 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 multifamily dwelling owner or homeowners' association.~~

~~(14) Maximum density. The maximum density for new multifamily dwellings shall be:~~

~~(a) Eight units per acre with both common or municipal water and sewer.~~

~~(b) Four units per acre with either common or municipal water or sewer.~~

~~(c) Two 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.~~

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

**(1) All area and bulk requirements shall conform to the Schedule of Area and Bulk regulations as found in this Chapter.**

**(2) Site plan approval shall be required by the Town Planning Board.**

**(3) 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.**

**(4) A recreation fee will be charged for all new residential 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.**

**(5) 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.**

**(6) 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.**

**(7) 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.**

**(8) Snow removal. Internal drives shall be kept free of snow by the multi-family owner or homeowner's association.**

**(9) Maximum Density.**

**The maximum density for new multi-family dwellings and townhouses 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. Multi-family dwellings shall conform to the following regulations in addition to those listed in §98-40(A):**

**(1) 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.**

**(2) 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.**

**(3) No building shall exceed one-hundred and fifty (150) feet in length.**

**(4) No multi-family dwellings shall be located closer than fifty (50) feet to any other Principal Building.**

**(5) Usable open space, excluding parking, must be provided for the tenants. This open area shall be a minimum of one hundred and 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.**

**(6) Maximum Density.**

**The maximum density for new multi-family dwellings and townhouses 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.**

**C. Two-family dwellings. Lots containing two-family dwellings in districts other than HR, H-PV, H-SP or H-WH shall be at least twice the Recommended Lot Size in the district and shall not be subject to the requirements of 98-40(A) and (B) above.**

Section 11.

ARTICLE V. Nonconforming Structures and Uses

§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.~~

**A. The lawful nonconforming use of land may only be enlarged or expanded as provided in this paragraph. Proposed increases of up to 15% of the current operations existing at the time of adoption of this Chapter may be permitted by a no fee permit issued by the Zoning Administrator, provided that the proposed use complies with all bulk and area requirements for the district in which the use is situated and complies with the applicable parking**

**requirements for the use. Any proposed expansion (i) which would result in any new, or expansion of any existing, buildings or structures on the property, or (ii) exceeding 15% of the current operations existing at the time of adoption of this Chapter, or (iii) resulting in any nonconformity as to bulk, area and parking requirements, or (iv) subsequent to any prior no-fee expansion pursuant to this section, shall require a special use permit issued by the Zoning Board of Appeals and site plan approval from the Planning Board pursuant to Article VI.**

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 Article ~~VI, VII,~~ **VI**, and that such expansion does not reduce any nonconforming setbacks by more than 20%. **No such expansion shall result in more than twenty percent (20%) nonconformity of any required setbacks.**

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 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, VI,~~ **VI**, 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.

**D. An existing nonconforming use housed in one or more structures may be permitted to expand up to fifty (50%) of the operations existing at the time of adoption of this Chapter, subject to issuance of a special use permit and site plan approval in accordance with the provisions of Article VI. Any such expansion of a nonconforming use shall be subject to all supplementary and parking regulations pertaining to such use in effect at the time of such expansion, provided however, that under no circumstances shall any use be expanded more than fifty (50%) of the operations existing at the time of adoption of this Chapter be permitted.**

**E. In the event of any inconsistency between any provisions of this Section 98-57, the more restrictive provision shall apply.**

## Section 12.

§98-65. Exemption of substandard lots.

Lots existing prior to this enactment having an area less than ~~that required~~ **the Recommended Lot Size** for the district in which they are 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:

~~(6) When the nonconforming lot is below the minimum average density lot size or 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. When a nonconforming lot is below the Recommended Lot Size for the zoning district in which it is situated, such nonconforming lot must be merged with contiguous lots in common ownership to reduce the nonconformity of said nonconforming lot(s), unless all such contiguous lots independently conform to the 1974 zoning code and have the minimum road frontage on an existing local, county or state road required as of the date of adoption of this Chapter.**

Section 13.

§98-78. Site Plan Procedure.

B. Action of the Planning Board.

(2) Alterations: **and Minor Modifications.**

~~(a) A resource analysis will~~ **is not be required for Alterations, as defined in this Chapter, provided however, that** ~~and the Planning Board shall take action as outlined~~ **in Section 98-79** below.

**(b) An applicant may seek a determination from the Planning Board that the proposed changes to an existing site plan constitute only a Minor Modification, and that compliance with the requirements of 98-79 is not required. A resource analysis shall not be required for Minor Modifications.**

**Upon review of an application for amended site plan approval, the Planning Board may determine that such application qualifies as a Minor Modification if the application includes no, or only minor, (1) structural changes to the buildings or (2) changes to the grounds which changes will have no effect on the use, intensity of use, parking, lighting, storm water drainage, septic requirements, well use or placement, wetland or water body protection, site access, boundary lines or general character of the site. A change in tenant in a commercial establishment without other changes to the site plan shall not qualify as an Alteration or change in site plan unless such change will result in a change in any of the considerations listed in the above recital of considerations. Notwithstanding the foregoing, commercial establishments must notify the Zoning Administrator of any change in tenants for a determination as to whether such change will result in a site plan alteration.**

**(c) Upon approval of an application for a Minor Modification by the Planning Board, the applicant shall submit the amended site plan showing the approved changes to the chair of the Planning Board for signature. The amended site plan shall be effective and such changes in the site plan may be completed upon signature by the Planning Board chair.**

**(d) Any amended site plan for which an Alteration or Minor Modification is granted shall expire if (1) all improvements are not completed and (2) a certificate of occupancy, if required, is not issued within one year of the date of the approval resolution for the amended site plan. Prior to the expiration of an amended site plan approval for a Minor Modification or Alteration, an applicant may apply to the Planning Board for the extension of site plan approval. The Planning Board may grant one such extension for a period of up to one year, provided the circumstances or conditions upon which such original approval was based have not substantially changed. Any amended site plan application for which one extension has already been granted shall be considered a new application.**

Section 14.

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

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:

C. Site Plan.

(3) All submissions shall include the following information:

(m) The location, size, design, materials, and associated lighting of all existing and proposed signs- **for informational purposes only. A separate sign permit application is required for all signs proposed for any site.**

Section 15.

§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 year of **the date of the site plan approval resolution** ~~when the Planning Board Chair signs the site plan,~~ or if all required improvements are not completed within three years of ~~signing the plan~~**the date of the approval resolution**, or if the construction or use shall cease for a period of 12 or more consecutive months. Prior to the expiration of the site plan approval, an applicant may apply to the Planning Board for the extension of site plan approval. The Planning Board may grant one such extension for a period of up to one year, provided the circumstances or conditions upon which such original approval was based have not substantially changed. Any site plan application for which one extension has already been granted shall be considered a new application.

Section 16.

§98-88. Building Permits

E. Expiration.

(2) A building permit may be renewed once, for one 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.~~

#### Section 17.

§98-89. Certificates of Occupancy.

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 30 days for a part of the building may be issued by the Zoning Administrator.~~ **Temporary Certificate – The Zoning Administrator shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Zoning Administrator issue a temporary certificate unless the Zoning Administrator determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire and smoke detecting or fire protection equipment has been installed and is operational, and that all required means of egress from the building or structure or portion thereof subject to the permit have been provided. The Zoning Administrator may include in a temporary certificate such terms and conditions as he/she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed 30 days, which shall be determined by the Zoning Administrator and specified in the temporary certificate. Such temporary certificate may be renewed for successive thirty-day periods, not to exceed a total of 180 days. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code and the Town of Pleasant Valley Code. The issuance of a temporary certificate shall not relieve the obligation of the permit holder to renew the building permit that would otherwise expire by its terms of the terms of this Chapter.**

#### Section 18.

§98-103. Terms Defined.

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

**AVERAGE DENSITY -- A more flexible method of residential development that allows for a range of lot sizes. The Recommended Lot Size for the zoning applicable to the district is used to calculate the allowed number of lots for a project, but the lot sizes can vary.**

**CONFORMING LOT -- A conforming lot is a lot that is either (i) equal to or greater in area than the Recommended Lot Size for the Zoning District in which the lot is located or, (ii) may be smaller in area than the Recommended Lot Size for the zoning district in which the lot is located, but was created pursuant to the Net Average Density requirements of this Zoning Code such that the smaller acreage of such lot has been offset by a lot of greater acreage which is restricted against further subdivision in order to meet the Net Average Density requirements for the Zoning District in which the lots are located.**

DWELLING, ACCESSORY -- A dwelling unit occupying the lesser of ~~1,000~~ **650** 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 square feet and 1,000 square feet located in an accessory structure on an owner-occupied property.

DWELLING, MUTIFAMILY --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, **and** condominiums, ~~and townhouses,~~ regardless of the form of ownership (fee simple, rental).

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 **intended to house more than fourteen (14) residents** shall not be considered a member of a family.

**NET DENSITY – The base number of allowable residential units on a site after the unconstrained land [see §82-22A(1)] has been determined and then divided by the allowable number of units per acre as determined by the Recommended Lot Size for the Zoning District.**

**RECOMMENDED LOT SIZE – The minimum lot acreage that is used to calculate the Average Density for a Zoning District. A lot within a subdivision may be smaller than the Recommended Lot Size for the Zoning District only if the reduced acreage of the smaller lot is offset by increased acreage of another lot or lots within the subdivision such that the combined acreage divided by the number of lots equals or exceeds the Recommended Lot Size. Such larger lots shall be permanently restricted by deed and subdivision plat from further subdivision.**

#### Section 19.

See attachment I - Town of Pleasant Valley Schedule of Permitted Uses.

“Dwelling, Multi-Family” is amended as follows: “Dwelling, Multi-Family **and Townhouses**”  
“Group Home” is hereby deleted in its entirety from the Schedule of Permitted Uses.

#### Section 20.

See attachment II - Town of Pleasant Valley Schedule of Area and Bulk Requirements

Section 21.

Separability.

**A. Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed invalid, all other provisions hereof shall remain valid and enforceable.**

**B. Whenever the requirements of the amendments contained within this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.**

Section 22. Effective Date.

**This Local Law shall take effect upon its being duly filed in the office of the Secretary of State of the State of New York.**

**Underline** denotes addition

~~Strikeout~~ denotes deletion

