

Chapter 24

ZONING\*

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State law reference—Zoning and planning generally, Town Law, § 260 et seq.

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## ARTICLE I. IN GENERAL

### Sec. 24-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abattoir* means an establishment where animals are butchered; a slaughterhouse.

*Accessory building* means a detached subordinate building, the use of which is customarily incidental to that of a principal building and located on the same lot with the principal building.

*Accessory use* means a use customarily incidental and subordinate to the principal use and located on the same lot with the principal use.

*Administrative officer* means the town officer designated by the town board to administer and enforce this chapter, and his deputies and assistants appointed by the town board.

*Adult* means a person who has attained the age of eighteen (18) years.

*Adult bookstore* means an establishment having as a significant portion of its stock in trade books, film, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

*Adult cabaret* means an establishment devoted to adult entertainment, either with or without a liquor license, presenting material whether live, mechanical, electronic, or by other technological means, distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities or anatomical areas, including cabarets that feature topless dancers, nude dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.

*Adult entertainment business* means an adult bookstore, an adult mini motion picture theater, an adult motion picture arcade, an adult motion picture theater, or an adult cabaret.

*Adult mini motion picture theater* means an enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

*Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

*Adult motion picture theater* means an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

*Animal grooming establishment* shall mean a business where the activity is the cosmetic care of dogs or cats, consisting of bathing, hair and nail clipping/cutting and other superficial non-medical care. Animals are allowed to remain onsite for not more than five (5) hours in any 24-hour period.

*Building or structure* means a structure having a roof supported by columns or walls.

*Building, front line of and side line of* means the line of that face of the building nearest the front line of the lot or the side of the lot. This face includes bay windows, roofs, overhangs or projections, covered porches whether enclosed or unenclosed, or any projections thereof, which are over fifty (50) square feet in area.

*Building, principal* means a building in which the principal use of the lot, on which it is located, is conducted.

*Buildings, unit group* means two (2) or more main buildings on any one (1) zoning lot, such as a church, hospital, institution, school or residential group of structures.

*Commercial harboring* means, with reference to dogs, the boarding or raising of dogs with the intent of selling the dogs, charging a fee or ultimately receiving monetary remuneration for the boarding or raising.

*Commercial training and care of dogs* means the training, care and grooming of dogs for commercial purposes.

*Common elements* includes, with reference to a condominium, the following, unless otherwise provided in a declaration filed pursuant to section 339-e of the Real Property Law:

- (1) The land on which the building is located.
- (2) The foundations, columns, girders, beams, supports, main walls, roofs, walls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exits of the building.
- (3) The basements, cellars, yards, gardens, recreational or community facilities, parking areas and storage spaces.
- (4) The premises for the lodging or use of janitors and other persons employed for the operation of the property.
- (5) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating.
- (6) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use.
- (7) Such facilities as may be designated as common elements in the declaration.
- (8) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

*Condominium* means a form of ownership by which a person holds title in fee simple absolute to a unit of residential property and, in addition, an interest in common elements associated with the building in which the unit of residential property is located.

*Container storage* shall consist of tractor trailer type trailers, sea boxes, vehicles or any other premanufactured container, either open or enclosed, which primary use is for the storage of materials, supplies inventory or products.

*Coverage* means the percentage of the plot or lot area covered by the building area.

*dB(A)* means the sound level in decibels determined by the A-weighting of a sound level meter meeting ANSI S 1.4, 1971 "Specifications for Sound Level Meters."

*Decibel* means a unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

*Development permit* means a building permit and/or permit for the grading, filling, excavating and development of a lot or any structure.

*Dog boarding establishment* shall mean a business where the business or portion thereof is boarding dogs.

*Dog kennel* means a structure used for the commercial harboring of more than three (3) dogs that are more than six (6) months old.

*Dwelling, multiple* means a building containing three (3) or more dwelling units.

*Dwelling, one-family* means a building containing one (1) dwelling unit.

*Dwelling, two-family* means a building containing two (2) dwelling units.

*Dwelling unit* means a building or portion thereof providing complete housekeeping facilities for one (1) family.

*Electrical distribution substation* means a place, with or without a building, where equipment is assembled and designated to receive energy from a high-voltage distribution supply system, so as to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

***Family*** means:

- (1) Any number of persons occupying a single dwelling unit, related by blood, marriage or legal adoption, living and cooking together as a single housekeeping unit.
- (2) Any number of persons occupying a single dwelling unit, not exceeding five (5) adults living and cooking together as a single housekeeping unit where all were not related by blood, marriage or legal adoption.



- (3) Notwithstanding the provisions of subsection (2) of this definition, a group of unrelated persons numbering more than five (5) shall be considered a "family: upon a determination by the zoning board of appeals that the group is the functional equivalent of a family pursuant to the standards enumerated in subsection (1) herein. This presumption may be rebutted and the non-related individuals may be considered the functional equivalent of a "family" for the purposes of this article by the zoning board of appeals if such group of individuals exhibits one (1) or more characteristics consistent with the purposes of zoning restrictions in residential districts.
- (4) In determining whether a group of more than five (5) unrelated persons constitutes a "family" for the purpose of occupying a dwelling unit, as provided for in subsection (3) of this definition, the zoning board of appeals shall utilize the standards enumerated in subsection (1) in making said determination. Before making a determination under this subsection, the zoning board of appeals shall hold a public hearing, after public notice. Said application shall be on a form provided by the zoning board of appeals accompanied by the required fee.
- (5) In making a determination under subsection (4), the zoning board of appeals shall find that:
- a. The group is one which in theory, size, appearance and structure resembles a traditional "family" unit.
  - b. The group is one which will live and cook together as a single housekeeping unit.
  - c. The group is of a permanent nature and is neither a framework for transient or seasonal living nor merely an association or relationship which is transient.
  - d. In no case shall a dwelling be occupied by more than two (2) adults to a conventional bedroom.
  - e. All other requirements of this local law regarding the use and occupancy of dwelling units shall be complied with.
  - f. Any determination under this subsection shall be limited to the status of a particular group as a family and shall not be interpreted as authorizing any other use, occupancy or activity.
  - g. In making any such determination, the board of appeals may impose such conditions and safeguards as the board of appeals shall deem necessary or advisable in order to maintain the stability and character of the neighborhood and protect the public health, safety and welfare, including but not limited to ingress, egress, lighting, off-street parking and screening.
- (6) Persons occupying group quarters such as a dormitory, fraternity or sorority house or a seminary shall not be considered a "family".
- (7) Occupancy by two (2) or more illegal aliens shall be prescriptive evidence of a violation of this section.
- Farm* means any parcel of land which is used for the raising of agricultural products or the keeping of poultry, fowl, livestock or other domestic animals, including necessary farm structures and the storage for farm equipment.
- Grade, mean finished* means the average grade level of the ground measured at the front wall of the building.
- Gross floor area* means all habitable space as measured on exterior walls of a building.
- Home occupation* means any use customarily conducted entirely within a dwelling and carried on only by residents thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, if no external evidence of such occupation and limited to one-half the gross floor area of one (1) floor of the principal structure.

**Hospital** does not include a home for the mentally defective or an animal hospital.

**Junkyard** means the storage of junk, rags, scrap paper, salvage automobile parts, used building material and similar uses.

**Lawn and/or landscape area** shall be the lawn and such area consisting of existing or native trees, lawn, properly maintained vegetation, shrubs and/or new plantings in sufficient quantity, type and size as determined by the town planning board, or in the case of a special permit, the town board, consistent with any standards provided herein.

**Living area** means that area comprised of the enclosed, year-round occupied living accommodations within a residence, exclusive of basements, garages, open porches, screened porches, patios and awning overhangs.

**Loading space** means an off-street space, area or berth with an appropriate means of access to the street or way, intended for the temporary parking of a vehicle while loading or unloading merchandise or materials.

**Lot** means a parcel of land occupied or capable of being occupied by a building and accessory buildings and/or uses, including such open spaces as are required by chapter law.

**Lot area** means the total horizontal area included within the lot lines.

**Lot, corner** means a lot situated at the intersection of two (2) or more public streets or public highways.

**Lot depth** means the mean horizontal distance between the front and rear lot lines measured along the median between the two (2) side lot lines.

**Lot line, front** means the lot line which abuts on a public street or a public highway. On a corner lot, the front lot line is the lot line abutting a public street or highway designated by the owner as the front lot line.

**Lot width** means the mean horizontal distance measured at right angles to its depth between side lines.

**Mobile home** means a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and constructed in accordance with Department of Housing Urban Development Manufactured Home Constructions and Safety Standards, 24 CFR.

**Mobile home park** means a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use.

**Modular home** means a dwelling, constructed in one (1) or more parts on a site other than the site of erection and conveyed to the site of erection in one (1) or more parts, which is assembled at the site of erection and placed on a permanent foundation which meets all of the requirements of the New York State Uniform Fire Prevention and Building Code and all other requirements for dwellings in RA-1 and RA-2 one-and two-family residential districts, and which was not designed by the manufacturer with the intent of it being moved from place to place.

**Nonconforming building** means a building or structure, or portion thereof, lawfully existing on the effective date of this chapter or subsequent amendment hereto, which does not completely conform to the provisions applicable in the district in which it is located.

**Nonconforming use** means a use of land or of a building, or portion thereof, lawfully existing on the effective date of this chapter or subsequent amendment hereto, which does not completely conform to the uses permitted in the district in which it is located.

**Noxious matter** means material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the psychological, social or economic well-being of individuals.

*Occupied* includes the status of being designated, intended or arranged for occupancy.

*Parking space, off-street* means an off-street space, area or berth with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

*Particulate matter* means material which is suspended in or discharged into the atmosphere in finely divided form as a liquid or solid at atmospheric pressure and temperature.

*Performance standard* means a criterion established to control noise; odor; smoke; toxic, noxious or particulate matter; vibration; fire and explosive hazards; and glare or heat generated by or inherent in uses of land or buildings.

*Plot* includes the word "lot."

*Public utility structure* means a building, structure or lot used for or in connection with the transmission, distribution or regulation of water, gas, electric, telephone or other public utility service by a municipal corporation or by a corporation subject to regulation by a state and/or federal regulatory agency.

*Quarry, sandpit, gravel pit, topsoil stripping* means a lot, plot or portion thereof used for the purpose of extracting stone, sand, gravel and/or topsoil for sale, exclusive of the process of excavation and grading a lot preparatory to the construction of a building.

*Residential office district* is a district created to encourage the preservation of residential structures currently existing in the town, but with a limited expansion of the types of uses which can be conducted in such structures. Specifically, this district is designed to allow limited uses in existing residential structures in areas where critical buffers with established neighborhoods and residents must be maintained.

*Ringelmann Chart* means the chart that is described in the United State Bureau of Mines Information Circular No. 6888, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

*Ringelmann number* means the number of the area on the Ringelmann Chart that coincides most nearly with the visual density of smoke emission.

*Sea boxes* are a manufactured container, similar in appearance to a tractor type trailer which in design were not constructed with wheels, and were designed as a container vessel to be transported by a truck, tractor, railroad car, ship, boat barge, jet or airplane.

*Setback* means the distance in feet from the lot lines to the principal or accessory buildings required to be maintained free from improvement or use other than to promote the aesthetic qualities of the property or for ingress or egress thereto.

*Sexual conduct* includes the following:

- (1) The fondling or other touching of human genitals, pubic region, buttocks or female breasts.
- (2) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy.
- (3) Masturbation.

*Shopping plaza* means a parcel of not less than ten (10) acres used for commercial purposes and having buildings used for commercial purposes of not less than eighty thousand (80,000) square feet.

*Sound level meter* means an instrument standardized by the American Standards Association for measurement of intensity of sound calibrated in decibels.

*Specified anatomical areas* includes human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.

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

*Story, half* means a story under the gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite interior walls are not more than two (2) feet above the floor of such.

*Subdivision or subdivide* means the division of any parcel of land into four (4) or more lots, plots or sites or other division of land for immediate or future sale or for building development or a lesser number of lots if a new street is created.

*Townhouse* means a building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit, which unit may be separately owned.

*Tractor trailer type trailers* shall be any size of trailer either open or enclosed originally designed as a transport vehicle to be hauled by a truck or tractor.

*Trailer* means a travel or recreational trailer.

*Trailer, recreational* means any of the following:

- (1) **Recreational travel trailer.** A recreational travel trailer is a vehicular, movable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation and licensed by the state.
- (2) **Recreational pickup coach.** A recreational pickup coach is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation or vacation.
- (3) **Recreational motor home.** A recreational mobile home is a movable, temporary dwelling to be used for travel, recreation and vacation constructed as an integral part of the self-propelled vehicle.
- (4) **Recreational camping trailer.** A recreational camping trailer is a canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

*Trailer park, recreational* means any site, lot, field or tract of ground upon which two (2) or more trailers are placed other than for sales or storage purposes; shall include any building, structure, tent, vehicle or enclosure used or intended to be used as a part of the equipment of such park. A trailer park is intended to serve transients utilizing a travel or recreational trailer.

*Transitional buffer strip* shall be the undeveloped lot area, lawn area or landscaped area of a parcel or lot which is not zoned RA-1, RA-2, RC or RR that adjoins a parcel or lot with such a zoning designation or which is actually being used for residential purposes. These buffer strips shall consist of existing or native trees, lawn, properly maintained vegetation, shrubs and/or new plantings in sufficient quantity, type and size as determined by the town planning board, or in the case of a special permit, the town board, consistent with any standards provided herein, to be necessary to effectively preserve a separation from any adjoining residential district or property.

*Transitional neighborhood district* is a district allowed to create additional non-residential uses where preservation and protection of adjacent or surrounding residential areas is a factor but where existing development or topographic features allows for the promotion of additional non-residential uses without adversely impacting the general residential character of the area.

*Undeveloped lot area* shall be the portion of a lot or parcel that is not occupied or covered by buildings, paved area or areas utilized for parking, driveways or driving lanes.

*Unit of residential property or residential unit* means, with reference to a condominium, a part of the property intended for any type of residential use, and with an exit to a public street or highway or to a common element or elements leading to a public street or highway. The term may include an appurtenance such as a garage and other parking space, storage room, balcony, terrace and patio.

*Vehicle* is any auto, car, truck, van, motorcycle, recreational trailer, motor home, boat, snowmobile, all-terrain vehicle, tractor or semi-trailer, etc., whether or not the vehicle is self-propelled.

*Vehicle service* means any activity, whether or not conducted for profit, engaged in repairing, washing, storing, painting or servicing autos, or selling and installing or inserting into autos any auto fuel, lubricant, part or accessory. Such activities shall not constitute a vehicle service if conducted solely on autos belonging to persons owning or having an interest in the parcel of land.

*Vehicle service station* means a lot and/or structure used for vehicle service.

*Yard* means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

*Yard, rear* means a yard extending across the full width of a lot and lying between a rear lot line of the lot and the nearest line of the principal building.

*Yard, side* means a yard between a side lot line of a lot and the nearest line of the principal building and extending from the front yard to the rear yard.

(Code 1966, §§ 44-II-1, 44-II-2, 44-IV-4(K), 44-XI-11(A), 44-XI-13, 44-XI-14; L.L. No. 4 of 1996, § 1; L.L. No. 3 of 1997, §§ 1, 2; L.L. No. 7 of 1997, § 1; L.L. No. 10 of 2000, § 1; L.L. No. 1 of 2003, § 1; L.L. No. 3 of 2011, § 1)

**Cross reference**—Definitions and rules of construction generally, § 1, 2.

#### **Sec. 24-2. Purpose.**

This chapter has been established in order to encourage the most appropriate use of land, conserve the value of property, and promote the health, safety, morals and general welfare of the community; to regulate the location, use and occupancy of buildings and the use of land for trade, industry, residence and other uses; to regulate and limit the height and bulk of buildings and other structures; to regulate and determine the area of yards and other open spaces; to regulate the density of population and for such purpose, to divide the town into districts; to provide for its enforcement and administration; and to prescribe penalties for the violation of its provisions.

(Code 1966, § 44-I-1)

#### **Sec. 24-3. Interpretation.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter, including all amendments thereto, to interfere with or abrogate or annul easements,

covenants or other agreements between parties; provided, however, that where this chapter, including all amendments thereto, imposes a greater restriction upon heights of buildings or requires larger open spaces than are required by other laws, regulations, rules or permits, or by easements, covenants or agreements, the provisions of this chapter shall govern.

(Code 1966, § 44-XIX-1)

#### **Sec. 24-4. Compliance.**

Except as otherwise provided in this chapter:

(1) No building or land shall be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the provisions of this chapter for the district in which it is located.

(2) Any parcel of land with an area or a width of less than that prescribed for a lot in the district in which such lot is situated, which at the time of adoption of this chapter was under one (1) ownership and when the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the district without obtaining a variance from the zoning board of appeals, provided that all other regulations prescribed for the district by this chapter shall be complied with. It is the intent of this chapter that improvements constructed in violation of preexisting zoning ordinances or zoning local laws shall still be in violation of this chapter unless improvements conform in all respects to this chapter.

(Code 1966, § 44-III-4)

#### **Sec. 24-5. Violations and penalties.**

(a) A violation of this chapter is an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars

(\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (1,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(b) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this chapter, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate the violation, to prevent the occupancy of the building, structure, or land or to prevent any illegal act, conduct, business or use in or about the premises. Upon the failure or refusal of the proper local officer, board or body of the town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the town so to proceed, any three (3) taxpayers of the town residing in the district wherein the violation exists, who are jointly or severally aggrieved by the violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the town is authorized to do.

(Code 1966, § 44-XVIII-1)

State law reference—Similar provisions, Town Law, § 268.

**Secs. 24-6—24-20. Reserved.**

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **DIVISION 1. GENERALLY**

#### **Sec. 24-21. Enforcing official.**

(a) This chapter shall be enforced by the administrative officer or deputy administrative officer or other designated official who shall be appointed by the town board. No development or use permit or certification of occupancy shall be issued by him except in compliance with the provisions of this chapter.

(b) The enforcing official, as noted above, shall have the authority to compel compliance of any of the terms, conditions and restrictions of approvals issued to properties, property owners, operators, managers or other controlling administrator of any property, by the town board, planning board or zoning board of appeals, for site plan review, variance appeals, special permits or other approvals.

(Code 1966, § 44-IX-1; L.L. No. 7 of 2004, § I)

#### **Sec. 24-22. Certification of existing use.**

A certificate of existing use may be issued by the administrative officer upon the request of the owner certifying that the existing use of the premises is lawful either as permitted under the provisions of this chapter or as a nonconforming use.

(Code 1966, § 44-IX-5)

#### **Sec. 24-23. Home occupation permits.**

No home occupation shall be hereafter commenced or initiated until a permit has been issued by an administrative officer or other designated officer appointed by the town board. Prior to the issuance of a permit, an application shall be filed with the administrative officer, setting forth in detail the nature and description of the occupation. A fee of ten dollars (\$10.00) shall accompany the application filed with the administrative officer in accordance with the provisions of this section.

(Code 1966, § 44-IX-6)

**Sec. 24-24. Alternate planning board and zoning board of appeals members.**

(a) *Definitions.*

*Alternate member* means an individual appointed by the town board to serve on the town planning board or the town zoning board of appeals when a regular member is unable to participate on an application or matter before the respective board, as provided herein.

*Member* means an individual appointed by the town board to serve on the town planning board or the town zoning board of appeals pursuant to the provisions of the local law or ordinance which first established such planning board or zoning board of appeals.

*Planning board* means the planning board of the town as established by the town board by local law or ordinance, pursuant to the provisions of section 271 of the Town Law.

*Zoning board of appeals* means the zoning board of appeals of the town as established by the town board by local law or ordinance, pursuant to the provisions of section 267 of the Town Law.

(b) *Authorization / effect.*

- (1) The town board hereby enacts this local law to provide a process for appointing "alternate" members to its planning board and zoning board of appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the respective board.
- (2) Alternate members of the planning board or zoning board of appeals shall be appointed by the town board or other duly authorized appointing authority, for a term of five (5) years.
- (3) The chairperson of the planning board or zoning board of appeals may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board.

Such designation shall be entered into the minutes of the initial planning board or zoning board of appeals meeting at which the substitution is made.

- (4) All provisions of state law relating to planning board and zoning board of appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

(L.L. No. 4 of 2006, §§ 3, 4)

*Editor's note*—Local Law No. 4 of 2006, §§ 3, 4, adopted May 10, 2006, did not specify manner of inclusion; hence, inclusion as § 24-24 is at the discretion of the editor.

**Secs. 24-25—24-35. Reserved.**

**DIVISION 2. AMENDMENTS\***

**Sec. 24-36. Generally.**

- (a) The town board may, from time to time, on its own motion or on petition in accordance with the applicable provisions of the Municipal Home

\*State law reference—Zoning amendments, Town Law, § 265.

Rule Law, after public notice and hearing, amend, supplement, change, modify or repeal this chapter. The petitioner shall pay a fee of two hundred dollars (\$200.00).

(b) Notice of public hearing shall be published in the official newspaper of the town at least five (5) days before the date of public hearing. The notice shall contain an abstract of the local law, and when a parcel is being rezoned to a different classification, the tax map number of the parcel and such other additional information as may be appropriate.

(c) After adoption, the local law shall be filed with the secretary of state and published by the secretary of state in accordance with the Municipal Home Rule Law.

(d) At the time of the public hearing on any zoning which is in regard to rezoning of any premises within the town to any classification other than RA-1 one-family residence district, there must be presented to the town board an affidavit stating that, not earlier than twenty (20) days nor later than ten (10) days prior to such hearing, written notice of the proposed rezoning has been mailed to the owners of the property within five hundred (500) feet of the premises to be rezoned, as the names and addresses appear on the last completed assessment roll, and listing all the names of the persons to whom the notice was mailed. The affidavit must be presented by the person seeking the rezoning, and if the rezoning is on the motion of the town board, such an affidavit must be presented by the town clerk. (Code 1966, § 44-XII-1(A)—(D); L.L. No. 4 of 1988, § 1; L.L. No. 8 of 1997, § 1)

#### **Sec. 24-37. Information required on applications.**

(a) In addition to any other information required by this chapter, all applications for a zoning change to RA-1 one-family residence district, RA-2 one and two-family residence district, RC multiple residence district, RR rural residence district, C-1 general shopping district, C-2 community businesses district, CD commercial development district, I industrial district, or ID industrial development district shall supply the town board six (6) paper prints of the rezoning applica-

tion map. These prints shall be submitted with the petition for rezoning. The map shall indicate the following:

- (1) Boundary survey data.
- (2) Topographic contours.
- (3) Existing drainage features (e.g., culverts, marshes, ponds and streams).
- (4) Special site conditions (e.g., easements, power lines and structures).
- (5) Zoning district boundary (new and existing).
- (6) Relationship to the comprehensive plan for the area.
- (7) Proposed street and block layout, parking driveways and building locations with reference to surrounding properties and street patterns.
- (8) Proposed utilities and special district boundaries.
- (9) Proposed grades for site, including streets, utilities and drainage.
- (10) Key map; general location in town.

(b) Any of the above required information may be waived by the town board on petition of the applicant or on its own motion. (Code 1966, § 44-XII-1(E))

#### **Sec. 24-38. Sewerage requirements for rezoning.**

(a) No property shall be rezoned from RR rural residence district to any classification unless, either:

- (1) Public sewer has been extended across the frontage of the property along any existing or proposed street or proposed extension of any street; or
- (2) A performance bond is given to the town in amount determined by the town engineer to be sufficient to cover the cost of extending the public sewer across the frontage of the property along any existing or proposed street or proposed extension of any street; and the petition recites that the bond has been presented to the



town pursuant to this section, and that a copy thereof is attached to the petition; or

- (3) The petition contains a covenant which states that pursuant to this section that the property will be subdivided and will be developed only in compliance with the town subdivision regulations and the requirements of the town planning board. No parcel or any part thereof which has been rezoned pursuant to this subsection shall be developed without compliance.

(b) Where the rezoning is pursuant to the requirements of paragraph (a)(2) or (a)(3) of this section, a copy of the petition and of any performance bond shall be filed or recorded in the county clerk's office to place prospective purchasers on notice of such bond or commitment. Upon the conveyance of any property rezoned pursuant to paragraph (a)(2) of this section, the grantee shall give a performance bond to the town in an amount as determined by the town engineer which bond shall be filed or recorded in the county clerk's office. Upon receipt of the bond the prior bond shall be returned to the person who posted it or exchanged for a new bond where a portion of the property is retained by the grantee.

(c) The town may require an increase in the amount of any performance bond given pursuant to this section at any time the town engineer certifies that an increase is required. A copy of the new bond shall be recorded in the county clerk's office.

(d) Any performance bond given under this section shall be written by a company licensed by the state to engage in the business of writing such bonds and shall be in a form satisfactory to the town attorney.

(e) The town board, by a resolution stating the reasons therefor and approved by at least four (4) affirmative votes, may waive all or any part of the requirements of this section as to all or any part of any parcel.  
(Code 1966, § 44-XII-2)

**Secs. 24-39—24-47. Reserved.**

### DIVISION 3. ZONING BOARD OF APPEALS, APPEALS VARIANCES; AND SPECIAL USE PERMITS\*

#### **Sec. 24-48. Creation, appointment and organization.**

(a) Pursuant to the applicable provisions of the Town Law, there is hereby established a zoning board of appeals of five (5) members appointed by the town board.

(b) The zoning board of appeals, consistent with applicable provisions of the Town Law, shall determine its own rules of conduct and procedure.  
(Code 1966, § 44-X-1)

#### **Sec. 24-49. General functions.**

The zoning board of appeals, consistent with applicable provisions of the Town Law shall hear and decide all appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this chapter, including the interpretation of this chapter. It shall also hear and decide all matters referred to it or upon which it is to pass under this chapter or any other local law.  
(Code 1966, § 44-X-2(A))

#### **Sec. 25-50. Fee for public hearing.**

If a public hearing is required before a special permit or variance or interpretation can be granted, or made by the zoning board of appeals, a fee of fifty dollars (\$50.00) shall be paid upon the making of the application for same for the purpose of defraying the expense of processing.  
(Code 1966, § 44-X-2(E); L.L. No. 8 of 1997, § 3)

#### **Sec. 24-51. Variances on appeal.**

(a) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the zoning board of appeals shall have the power in passing upon appeals, to vary or modify the application of any of the provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of

\*Cross reference—Notice of public meetings, § 2-2.  
State law reference—Board of appeals, Town Law, § 267.

this chapter shall be observed, public safety and welfare secured and substantial justice done. A petitioner who wishes to be granted a use or an area variance must show practical difficulties and unnecessary hardships before the zoning board of appeals may grant a use or area variance.

(b) If the zoning board of appeals grants a variance, the variance must be subject to the following provisions:

- (1) If the variance is not utilized within four (4) months of the granting, then the variance shall be revoked and a new petition must be filed.
- (2) If the variance is utilized but the property on which it is located is not used, or is vacant for a period of one (1) year or the property is used but the variance ceases to be used for a period of one (1) year, the variance shall cease.

(Code 1966, § 44-X-2(B))

#### **Sec. 24-52. Special use permits.**

(a) When, in the judgment of the zoning board of appeals, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be injured thereby, the zoning board of appeals may, in appropriate and specific cases, after public notice and hearing and subject to appropriate conditions and safeguards, grant a permit whenever it is provided in this chapter that approval of the zoning board of appeals is required, or refuse to grant the same where such action is justified. Such special use permit shall be used only in accordance with the following:

- (1) The special use shall comply with all applicable provisions of this chapter for the district within which it is to be located, except as waived by the zoning board of appeals.
- (2) The special use shall comply with the standards set forth for the special use in article V, division 2 of this chapter.
- (3) The special use shall comply with any conditions deemed necessary by the zoning board of appeals (e.g., access roads, fences, landscaping) in order to protect

the value of adjacent properties and promote the orderly development of the surrounding area.

- (4) If a special permit is not used within four (4) months of its granting, the permit shall be revoked and a new petition must be filed.
- (5) If the special permit is used but the property on which it is located is not used for a period of one (1) year, or the property is used but the special permit ceases to be used for a period of one (1) year, the special permit shall cease.
- (6) The permit is a personal right of the applicant and shall not be conveyed or transferred to another person.

(b) The zoning board of appeals shall have authority to issue special permits for rural lots in accordance with section 24-183.

(Code 1966, § 44-X-2(C), (D))

**Secs. 24-53—24-60. Reserved.**

### **DIVISION 4. NONCONFORMING USES**

#### **Sec. 24-61. Continuation of buildings, structures and uses.**

The lawful use of any building or the use of land existing at the time of the adoption of this chapter may be continued, although such use or building may not conform with the provisions of this chapter, except as otherwise provided in this chapter.

(Code 1966, § 44-V-1)

#### **Sec. 24-62. Changes.**

A nonconforming use may not be changed to a more intensive nonconforming use, nor shall a conforming use be changed to a nonconforming use. Any nonconforming use when changed to a conforming use shall not thereafter be changed back to a nonconforming use.

(Code 1966, § 44-V-2)

**Sec. 24-63. Abandonment or discontinuance.**

Whenever a nonconforming use has been abandoned or discontinued for a period of one (1) year, any future use shall be in conformity with the provisions of this chapter.

(Code 1966, § 44-X-3)

**Sec. 24-64. Existing lots and subdivisions.**

Any subdivision now recorded in the county clerk's office in which lot width or area is less than the residential district requirements in which it is placed shall remain as it is. However, no two-family house shall be erected on a lot having less than one hundred (100) feet of frontage and twelve thousand five hundred (12,500) square feet of area. All of the nonconforming uses must meet the requirements of the county health department as to adequate area and conditions to provide for proper sanitary disposal. However, for the purposes of section 24-183, paragraph (b)(1), only and despite contrary language in section 24-4, a parcel shall be presumed to be in single and separate ownership without looking to the ownership of adjacent properties, if the instrument creating such separate parcel was recorded in the county clerk's office on or before March 15, 1971. If two (2) or more contiguous parcels are reconveyed, after March 15, 1971, so as to create one (1) parcel, and a copy of the instrument is recorded in the county clerk's office, then the parcels shall, for the purpose of this section, be considered a single and separate ownership from March 15, 1971.

(Code 1966, § 44-V-4)

**Sec. 24-65. Structures under construction.**

Structures under construction for a designated nonconforming use, for which a building permit has been applied, may be completed according to the plans therefor within one (1) year after the effective date of this chapter or an amendment thereto for the designated uses to be made thereof.

(Code 1966, § 44-XVI-1)

**Secs. 24-66—24-72. Reserved.**

**DIVISION 5. BUILDING PERMIT,  
DEVELOPMENT PERMIT OR USE PERMIT;  
CERTIFICATE OF OCCUPANCY**

*Part A. General Provisions*

**Sec. 24-73. Permits generally.**

(a) A building permit or development permit or use permit must be obtained prior to the commencement of any excavation, construction or development whatever upon any site in any district. Such permit is to be issued by the administrative officer of the town. All applications for permits must be on forms furnished by the town which shall require the following information:

- (1) The nature of the permit sought and the intended use of the site.
- (2) A layout or plot plan showing the exact size and location on the lot of any building and/or accessory buildings, with dimensions given together with a layout of all proposed excavation and construction.
- (3) The number and location of off-street parking and/or loading spaces and access thereto as set forth in this chapter for the use intended.
- (4) Such additional information as the administrative officer, zoning board of appeals, planning board or town board shall require.

(b) Application fees for a building permit shall be prescribed from time to time by a Resolution of the town board. The prescribed fee shall accompany the application for the permit.

(c) No permit shall be issued where the construction, alteration or use would be in violation of any provisions of this chapter, except upon a written order of the zoning board of appeals or town board. No permit shall be issued for any building located on a lot which does not adjoin a street or highway accepted and maintained by the town, county or state except as permitted in section 280 or 281 of the Town Law.

(d) No permit shall be issued for construction, alteration or use on any premises which is not served by a public sewage disposal system and

public water distribution system until a preliminary approval has been obtained from the county health department for a private sewer system and private water supply system.

(Code 1966, § 44-IX-2; L.L. No. 9 of 2000, § 1)

**Sec. 24-74. Expiration of permit; extension.**

A permit required by this division shall be void at the expiration of one hundred eighty (180) days after the date of issuance, unless approved work has reasonably progressed within such one-hundred-eighty-day period. A permit may be renewed once for an additional period of one hundred eighty (180) days.

(Code 1966, § 44-IX-3)

**Sec. 24-75. Certificate of occupancy.**

(a) A certificate of occupancy shall be applied for coincident with the application for a permit required by this division. The certificate of occupancy shall be issued by the administrative officer when the completed structure and its intended use comply with all the provisions of this chapter. The certificate of occupancy shall be issued within ten (10) days from the date such erection or alteration is inspected and certified as complying with all the provisions of this chapter by the administrative officer.

(b) A record of all certificates of occupancy shall be maintained by the administrative officer. Copies shall be furnished, upon request, to any person having a propriety or tenancy interest in the property affected.

(c) No building shall be occupied prior to the issuance of a certificate of occupancy by the administrative officer. However, for good cause shown where it is impossible to complete all plans for the building and the lot on which the building is located at a time when, in the opinion of the administrative officer, the building, or some portion thereof, is suitable for occupancy, the administrative officer may issue a conditional certificate of occupancy which shall expire in a reasonable time, to be fixed by the administrative officer but not to exceed eight (8) months. Such a conditional

certificate of occupancy shall be issued only upon the receipt of a sworn affidavit therefor setting forth:

- (1) The extent to which the plans for the building and lot have been completed.
- (2) The portion of the building and lot which the applicant wishes to occupy prior to completion.
- (3) The reason why occupancy is necessary prior to completion.
- (4) The reason why plans cannot be completed prior to occupancy.
- (5) The amount of time required for completion of the plans.
- (6) The total amount of money expended for construction as of the time of the application and the estimated cost of completing the plans.

The sworn affidavit shall be accompanied by a bond in a form satisfactory to the town attorney conditioned upon completion of the plans for the building and lot prior to the expiration of any conditional certificate of occupancy which may be issued. The bond shall be payable to the town and shall be in an amount not less than one and one-half (1½) times the estimated cost of completing the construction as contained in the affidavit. If the administrative officer and the town engineer determine that the cost of completing construction according to the plans has been underestimated in the application, they may estimate the cost of completing construction and prior to the issuance of a conditional certificate of occupancy a bond for one and one-half (1½) times the estimate shall be filed with the town.

(Code 1966, § 44-IX-4)

*Cross reference—Certificates of occupancy, § 5-26.*

**Secs. 24-76—24-83. Reserved.**

*Part B. Site Plan Approval***Sec. 24-84. Required.**

(a) A site plan shall be prepared and reviewed by the planning board in accordance with this part prior to site development on any lot or lots or the issuance of any development permit. This does not apply to a development permit for:

- (1) A single-family detached house in any district where permitted.
- (2) A two-family house in an RA-2 one-and two-family residential district.

(b) No development permit shall be issued for the erection or alteration of any building on any lot or tract of land contained in a residential subdivision containing three (3) or more building lots, or for a multiple residence to accommodate six (6) or more families, or for any construction in the C-1, C-2, CD, ID and I districts, except following the submission of a site plan approval to the planning board and in compliance with the site plan for such lot or plot as duly approved by the town board, in accordance with this part.

(Code 1966, §§ 44-IV-1, 44-XIII-1)

**Sec. 24-85. Contents.**

Prior to the issuance of a building permit, a site plan of such lot or tract at a scale of one (1) inch equals fifty (50) feet, or a scale less to the inch, including therein the following information, shall be submitted to the town planning board:

- (1) The use, location and dimensions of proposed building and open space.
- (2) The proposed layout of street and other vehicular circulation facilities, including the location and width of driveways on the site and access to the existing and prospective roads and highways.
- (3) The amount, location and dimensions of off-street parking and loading areas and access thereto.
- (4) The location and arrangement of any landscaping and transitional areas as set forth in section 24-203.
- (5) A storm drainage plan as required in section 24-705.

(6) A topographical map of the lot or tract on which a building or buildings are proposed to be constructed, prepared and certified by a professional engineer or land surveyor.

(7) The appropriate planning board application fee. Fees shall be prescribed from time to time by resolution of the town board.

(Code 1966, § 44-XIII-2; L.L. No. 8 of 2004, § II)

**Sec. 24-86. Approval standards.**

(a) The planning board shall review a submitted site plan and additional information and shall deny, approve or approve with stated conditions. The review shall take into consideration achieving, within limitations thereto, the following objectives:

- (1) A harmonious relationship between such uses and uses located on adjacent properties and adjacent districts with special regard to residential uses.
- (2) The maximum safety of vehicular ingress and egress from and to the site to existing and prospective streets and highways.
- (3) The maximum adequacy of interior circulation, parking, and loading facilities with particular attention to vehicular and pedestrian safety.
- (4) The adequacy of transitional landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

(b) Before granting site plan approval the planning board shall obtain a written report from the town engineer in regard to the sufficiency of the storm drainage plan. A stormwater pollution prevention plan consistent with the requirements of chapter 6, article VI, divisions 1 and 2 shall be required for site plan approval.

(c) Where the planning board finds that the minimum off-street parking and/or loading space requirements may be insufficient for the particular use contemplated, the planning board may

require additional off-street parking and/or loading spaces to be provided before approving the site plans.

(d) Should changes or additional facilities be requested by the planning board, final approval of the site plan shall be conditional upon the satisfactory compliance by the applicant with the changes or additional facilities.

(e) Where the topographical map submitted by the petitioner shows existing grades on the lot or tract in excess of ten (10) percent (one (1) foot vertical for every ten (10) feet horizontal) the planning board shall not approve the final plans until the petitioner submits or complies with the following:

- (1) A proposed grading plan superimposed over existing topography showing that once construction is completed there will be no slope or slopes on the lot or tract greater than one (1) vertical on a three (3) horizontal. The planning board may approve a slope with a maximum of one (1) vertical on a two (2) horizontal if approved by the town engineer or may require special slope plantings or soil retaining efforts such as cribbing. Existing slopes that will be undisturbed during construction may be left in their natural condition if approved by the planning board.
- (2) When the construction of the building or buildings is completed, the finished grade shall form an appropriate part of the natural drainage area or some positive drainage system.
- (3) When the construction of the building or buildings is completed, all finished graded areas shall be prepared into a loose level seed bed, limed, fertilized and seeded in the following steps or in accordance with good landscaping practice:
  - a. Apply ground limestone at the rate of one (1) ton per acre.
  - b. Apply 5-10-5 fertilizer at the rate of six hundred (600) pounds per acre.
  - c. Disc area to work limestone and fertilizer into the soil to a depth of at least three (3) inches.

- d. Smooth area with a smoothing harrow.
- e. Sow the following seed mixture, at the rate of one hundred (100) pounds per acre, in the following proportions:

<i>Type</i>	<i>Pounds</i>
Timothy	30
Kentucky blue grass	25
Red top	10
Perennial rye grass	30
Alsike clover	4
Wild white clover	<u>1</u>
	100

- f. Brush in seed lightly.
- g. Roll firm with ground roller.
- (4) A performance bond in an amount to be established by the planning board, but not less than two thousand dollars (\$2,000.00), with a surety company covering all of the above conditions is filed. The bond shall remain in full force and effect until certification of completion has been issued by the town engineer certifying that there is compliance with paragraphs (1), (2) and (3) above.

(Code 1966, § 44-XIII-3; L.L. No. 7 of 2004, § II; L.L. No. 3 of 2007)

**Sec. 24-87. Building permit issuance.**

Building permits shall be issued only in accordance with an approved site plan which shall be transmitted by the town planning board to the administrative officer.  
(Code 1966, § 44-XIII-4)

**Sec. 24-88. Changes in approved plan.**

An applicant wishing to make any changes in an approved site plan shall reappear to obtain planning board approval and thereafter make application for a new building permit without additional charge therefore.  
(Code 1966, § 44-XIII-5)

**Secs. 24-89—24-125. Reserved.**

**ARTICLE III. ESTABLISHMENT OF DISTRICTS; ZONING MAP\***

**Sec. 24-126. Districts established.**

The town is divided into the following districts:

- RA-1 One family Residential District
- RA-2 One and two-family Residential District
- RC Multiple Residence District
- RR Rural Residence District
- RO Residential Office District
- TN Transitional Neighborhood District
- TO Transitional Office
- C-1 General Shopping District
- C-2 Community Business District
- CD Commercial Development District
- I Industrial District
- ID Industrial Development District
- PDD Planned Development District

(Code 1966, § 44-III-1(A); L.L. No. 1 of 2003, § 1; L.L. No. 11 of 2004)

**Sec. 24-127. Zoning map—Generally.**

The zoning districts are shown, defined and bounded on a map entitled "Town of Vestal Zoning Map" adopted contemporaneously with the local law from which this chapter is derived and certified by the town clerk, which accompanies and which, with all explanatory matter hereon, is hereby made a part of this chapter. The town clerk, with the assistance of a civil engineer or such other qualified person as may be designated by the town board, shall make changes on the map as directed by the town board. The original of the map shall be filed in the office of the town clerk and shall be available for public inspection. (Code 1966, § 44-III-1(B), (C))

\*State law reference—Districts authorized, Town Law, § 262.

**Sec. 24-128. Same—District boundaries.**

Where uncertainty exists with respect to the boundary of any district as shown on the town zoning map, the following provisions shall apply:

- (1) District boundary lines are either the centerlines of streets, highways or railroads or the boundary lines of tracts or lots or such lines extended, unless otherwise indicated.
- (2) Wherever a district boundary is indicated as approximately paralleling a street or highway centerline, the district boundary shall be interpreted as being parallel thereto and at such dimensions as shown on the zoning map. The depth of the strip shall be measured at right angles from the street or highway. If no distance is given, such dimensions shall be determined by the use of the scale as set forth on the zoning map.
- (3) Where uncertainty exists in determining the precise location of any district boundary line, the zoning board of appeals shall interpret the intent and purpose of the zoning map.

(Code 1966, § 44-III-2)

**Sec. 24-129. Lots in more than one district.**

Where a district boundary line divides a lot, the provisions for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary line of the district, except that this provision shall not apply so as to permit extensions of commercial or industrial boundary lines into any RA-1 or RA-2 district.

(Code 1966, § 44-III-3; L.L. No. 2 of 1992, § 1)

**Secs. 24-130—24-150. Reserved.**

**ARTICLE IV. DISTRICT REGULATIONS**

**DIVISION 1. GENERALLY**

**Sec. 24-151. Permitted uses—Residential districts.**

The uses permitted in the districts listed below are as indicated. Uses not listed below are prohibited unless provided otherwise. In this table symbols have the following meanings:

<i>Symbol</i>	<i>Meaning</i>
-	Prohibited.
A	Allowable upon obtaining a special permit from the administrative officer after a favorable recommendation from the planning board.
I	Allowable as an accessory use.
P	Allowable as a use permitted by right.
T	Allowable upon obtaining a special permit from the town board.
Z	Allowable upon obtaining a special permit from the zoning board of appeals.

	RA-1	RA-2	RC	RR
Abattoir and/or animal reduction works	—	—	—	T
Accessory structures and uses customarily incidental for farm purposes	—	—	—	I
Accessory structures or uses, including detached private garage, garden house, greenhouse, toolhouse and similar uses, for residents only	I	I	—	I
Agricultural activity, livestock and farming	—	—	—	P
Boarding house or rooming house	—	—	P	P
Boarding and/or rooming house providing accommodations, for not more than two (2) transient roomers, provided that off-street parking requirements can be met	P	—	—	—
Boarding and/or rooming house providing accommodations for not more than four (4) nontransient roomers and provided that off-street parking requirements are met	—	P	—	—
Cemetery	—	—	—	Z
Church and other place of worship, including Sunday school building and rectory, provided said lot has a minimum frontage of one hundred fifty (150) feet, a minimum depth of one hundred fifty (150) feet, and contains a minimum of twenty-two thousand five hundred (22,500) square feet	P	P	P	P
Commercial radio and television transmission or receiving towers and facilities	—	—	—	Z
Condominium	—	—	P	—

	RA-1	RA-2	RC	RR
Cultivation of plants and plantings, when conducted by the occupants of the premises and incidental to the principal use	P	P	—	—
Cultural facility (library, art gallery, museum, etc.)	—	—	—	Z
Customary home occupations	—	I	—	I
Detached garages and recreational facilities located to the rear of the principal building	—	—	I	—
Electrical distribution substation and other public utility structures	Z	Z	Z	Z
Eleemosynary institution	—	Z	Z	Z
Golf course (containing 9 holes or more) and/or country club	—	—	—	Z
Heliport	—	—	—	T
Institutional use	—	Z	Z	Z
Mobile home park	—	—	T	—
Multiple family dwelling	—	—	P	—
Normal forest management and wood lots	—	—	—	I
Not-for-profit camp	—	—	—	T
Nursing or convalescent home or sanitarium	—	—	Z	—
One-family detached dwelling	P	P	—	P
One-family detached modular home	P	P	—	P
Park, playground and other open recreational area when operated by the town	P	P	P	—
Philanthropic institution	—	Z	Z	Z
Public building	—	—	P	P
Public elementary or secondary school; parochial school	P	P	P	P
Public library, museum and other public building	—	P	—	—
Recreational or transient trailer park (minimum size 8 acres)	—	—	—	T
Removable roadside stand for the sale of agricultural products on the premises	—	—	—	I
Residential dish antennas exceeding six feet in diameter	Z	Z	Z	Z
Swimming pool operated by a not-for-profit corporation, religious corporation or the owners of a multiple residence as an adjunct of a multiple residence	—	—	T	T
Temporary structure incidental to the development of land or to the erection of a permanent structure	P	P	—	—
Townhouse	—	—	P	—
Two-family attached dwelling	—	P	—	—
Two-family attached modular home	—	P	—	—
Two-family dwelling or modular home	—	—	—	P

(Code 1966, §§ 44-IV-2(A)—(D), 44-IV-3(A)—(C), 44-IV-4(A)—(D), (K), 44-IV-5(A)—(D), 44-IV-2, 44-XI-2(A), 44-XI-3(A), 44-XI-4, 44-XI-7(A), 44-XI-9(A), (B), 44-XI-11, 44-XI-12, 44-XI-15, 44-XI-16(B), (C), 44-XI-19; L.L. No. 8 of 1991, § 1)



**Sec. 24-152. Same—Nonresidential districts.**

The uses permitted in the districts listed below are as indicated. Uses not listed below are prohibited unless provided otherwise. In this table symbols have the following meanings:

<i>Symbol</i>	<i>Meaning</i>
-	Prohibited.
A	Allowable upon obtaining a special permit from the administrative officer after a favorable recommendation from the planning board.
I	Allowable as an accessory use.
P	Allowable as a use permitted by right.
T	Allowable upon obtaining a special permit from the town board.
Z	Allowable upon obtaining a special permit from the zoning board of appeals.

	C-1	C-2	CD	I	ID
Abattoir or animal reduction works	-	-	-	T	-
Accessory use or building customarily incidental to a primary use when located on the same lot; provided that no residential uses are allowed	I	I	I	I	I
Adult entertainment business	-	T	-	-	-
Animal grooming	Z	Z	Z	Z	Z
Automotive and recreational trailer sales and services	-	P	-	-	-
Automobile storage and repair	-	-	-	T	-
Cemetery	-	-	T	-	-
Church or other place of worship, including Sunday school building and rectory	P	P	P	-	-
Clinic, dental or medical	P	P	P	-	-
Commercial radio and television transmission or receiving towers and facilities	Z	Z	Z	Z	Z
Commercial recreation	-	-	-	T	T
Commercial recreation facilities, including but not limited to miniature golf courses, pitch-and-putt courses, driving ranges, rifle ranges, skating rinks, archery ranges, pool halls, bowling alleys and other such commercial activities	Z	Z	-	-	-
Container storage	T	T	T	T	T
Contractor's yard and equipment	-	-	-	P	-
Construction equipment sales, rental and repair	-	-	-	P	P
Cultural facility (library, art gallery, museum)	P	P	P	-	-
Dog boarding	-	Z	-	-	-
Dog kennel and/or commercial training and care of dogs	-	-	-	T	T
Drive-in business	Z	Z	-	-	-
Drive-in movie	-	Z	-	-	-
Drive-in restaurant	P	P	-	-	-

	C-1	C-2	CD	I	ID
Electrical distribution substation and other public utility structures	Z	Z	Z	Z	Z
Funeral home	P	P	P	-	-
General or professional office building	P	P	P	T	T
Heliport	-	-	T	T	T
Hospital	-	-	T	-	-
Hotel or motel	P	P	P	-	-
Junkyard	-	-	-	T	-
Light manufacturing, processing or fabricating or other light industrial use	-	T	-	-	-
Lodge and fraternal organization	P	P	-	-	-
Manufacturing	-	-	-	P	Z
Mobile home and modular home sales and display	-	P	-	-	-
Newspaper office and printing shop	-	P	-	-	P
Outdoor storage of equipment, materials and supplies	A	A	A	A	A
Park or playground	-	-	P	P	P
Philanthropic or eleemosynary institution	Z	-	-	-	-
Planned shopping center	P	P	P	-	-
Public building	P	P	P	P	P
Recreational trailer, trailer, modular and mobile home sales and display	-	-	-	-	Z
Research and combined manufacturing where at least twenty-five (25) percent of the gross floor area is used for research	-	T	P	-	P
Research laboratory	T	T	P	-	P
Restaurant	P	P	P	T	-
Retail business or service not allowed in C-1 or C-2 district	-	-	-	T	T
Retail business or service not otherwise allowed in the district	-	-	-	P	-
Retail business or service not otherwise allowed in the district, excluding drive-in business	P	P	-	-	-
School conducted for profit	P	P	P	-	-
Theatre or concert hall	P	P	Z	-	-
Truck terminal	-	-	-	P	Z
Vehicle service station or other business dispensing gasoline	T	T	-	T	-
Veterinarian's office and/or animal hospital	Z	Z	-	-	-
Warehousing	-	-	-	P	Z
Wholesale business or service not otherwise allowed in the district	-	P	-	P	P
			RO		TN
Retail sales-not to exceed 6,000 square feet in gross floor area			-		T
Clinic, dental or medical		T			P
General or professional office		T			P
Library, Art Gallery or Museum		T			P

	<i>RO</i>	<i>TN</i>
School conducted for profit	—	T
All uses permitted in RA-1 district	P	—
Home occupations and mixed uses	T	—

	<i>TO</i>
Clinic, dental or medical	P
General or professional office	P
All uses permitted in RA-1 district	P
Home occupations and mixed uses	T
Parking for abutting commercial uses within 200 feet	P

P designates allowable by right with planning board and/or site plan approval.

\*T designates allowable only upon obtaining a special permit.

\*Any change in a specific use approved by special permit in the RO, TN or TO districts shall be subject to a new review process by the town board.

(Code 1966, §§ 44-IV-6(A)—(D), 44-IV-7(A)—(D), 44-IV-8(A)—(D), 44-IV-9(A)—(D), 44-IV-10(A)—(C), I, 44-XI-2, 44-XI-3(A), 44-XI-5, 44-XI-6, 44-XI-7(A), 44-XI-8, 44-XI-9(D)—(H), 44-XI-10, 44-XI-11, 44-XI-13—44-XI-15, 44-XI-16(A), (D)—(F), 44-XI-17, 44-XI-19, 44-XI-21; L.L. No. 1 of 1993, § 1; L.L. No. 4 of 1996, § 2; L.L. No. 7 of 1996, § 1; L.L. No. 1 of 2003, § 2; L.L. No. 11 of 2004, § 1; L.L. No. 17 of 2006, § 1; L.L. No. 6 of 2007, § 1; L.L. No. 3 of 2011, § 2)

**Sec. 24-153. Condominiums in RC district.**

(a) *Scope.* This section applies to condominiums in the RC district.

(b) *Accessory uses.* The following accessory uses are permitted in connection with the permitted use of land for a condominium, with planning board approval:

- (1) Recreational facilities.
- (2) A clubhouse.
- (3) Health facilities and service facilities used in connection with and related to a condominium.

(c) *Lot, area and height restrictions.*

- (1) There shall not be more than eight (8) residential units per acre of land.
- (2) Each residential unit shall be set back at least fifty (50) feet from any street right-of-way, side or rear lot line.

- (3) Each accessory building shall be set back at least twenty-five (25) feet from any principal building, fifty (50) feet from any front or side lot line and ten (10) feet from any rear lot line.
  - (4) Each accessory building shall be under two (2) stories in height and shall not be in excess of twenty (20) feet in height.
  - (5) All principal buildings shall be under three (3) stories in height and shall not be in excess of forty (40) feet in height.
  - (6) In each residential unit there shall be a minimum living area per family of seven hundred fifty (750) square feet.
  - (7) Two (2) parking spaces shall be provided for each residential unit.
- (Code 1966, § 44-IV-4(K))

**Sec. 24-154. Customary home occupations.**

The following provisions apply to customary home occupations:

- (1) Customary home occupations permitted are: Office for insurance, engineer, surveyor or real estate; dressmaker or seamstress; music teacher limited to a single pupil at a time; photo studio; furniture restoring; radio and television repair; printing shop; janitorial service; dancing instructor limited to three (3) pupils at a time; notary public; watch repair.
- (2) Home occupations not permitted are: Animal training, treatment, boarding and care; sale or repair of gasoline or electric motors or vehicles of any description; machine shop; tool rental; lawn mower sharpening and repair; sign painter; art dealers or antique shop; teaching of ceramics; dog nursery; boat, motor or trailer sales or repair; convalescent home.
- (3) Home occupations not specifically allowed in paragraph (1) above nor specifically disallowed in paragraph (2) above shall be allowed only by special permit issued by the zoning board of appeals after a public hearing at which all interested citizens shall be afforded an opportunity to be heard. The permit shall be issued by the

zoning board of appeals upon its being satisfied that public convenience and welfare will be substantially served and that the appropriate use of neighboring property will not be injured thereby.

- (4) The occupation shall be conducted and operated only by members of the immediate family residing in the premises.
- (5) Not more than one-half of the floor area of one (1) floor (including basement or cellar area) of the building is to be so used.
- (6) The owner must provide ingress and egress of the area used as a home occupation by an entrance from the front or side of the principal structure and not from the rear thereof.
- (7) No external evidence of such occupation shall be permitted, except signs as permitted by law.

(Code 1966, §§ 44-IV-3(C), 44-IV-4(D))

**Sec. 24-155. Normal forest management and wood lots.**

The following provisions apply to normal forest management and wood lots are permitted when allowed as an accessory use:

- (1) Diseased trees and those trees infested by detrimental insects may be removed.
- (2) No open burning of brush or felled trees shall be permitted without a permit by the county health department.
- (3) Commercial harvesting for commercial and/or industrial use shall be subject to chapter 6, article V of this Code.

(Code 1966, § 44-IV-5(D))

**Sec. 24-156. Removable roadside stands.**

The following provisions apply to removable roadside stands for the sale of agricultural products on the premises, when permitted as an accessory use:

- (1) The stand shall not be located closer than twenty (20) feet to any lot line and shall not comprise a completely enclosed structure.

- (2) Parking for three (3) cars shall be provided on the lot for customers of the stand.

(Code 1966, § 44-IV-5(D))

**Secs. 24-157—24-175. Reserved.**

**DIVISION 2. LOT, AREA AND HEIGHT LIMITATIONS**

**Sec. 24-176. Setback restrictions when a property abuts two or more streets.**

Where property abuts two (2) or more streets, all buildings including principal and accessory buildings must have a setback of not less than thirty (30) feet from each street, except as otherwise provided with respect to principal buildings on corner lots.

(Code 1966, § 44-VI-12)

**Sec. 24-177. Average of existing front yard setback.**

If the alignment of existing buildings within one hundred (100) feet of each side of the lot in question, regardless of the district but within the same block and on the same side of the street, is nearer the street line than the setback line prescribed for the district, any building or structure may extend as near the street line as the average formed by the prescribed setback and such existing alignment.

(Code 1966, § 44-VI-7)

**Sec. 24-178. Side yard setback for lot adjoining residential district.**

When the property in a nonresidential district abuts on any residential district, a side yard setback of not less than thirty (30) feet in width shall be required on that side which adjoins the residence district.

(Code 1966, § 44-VI-8)

**Sec. 24-179. Height exceptions.**

The height limitations in this chapter shall not apply to chimneys, skylights, unoccupied architectural designs of commercial buildings approved by the planning board, flagpoles or ventilators, nor towers or spires of churches or other public buildings; provided that for each foot by which the height permitted in the district is exceeded, the side, front and rear yard required in the district shall be each increased an additional foot. (Code 1966, § 44-VI-9; L.L. No. 7 of 1991, § 1)

**Sec. 24-180. RA-1 district.**

(a) *Scope.* This section applies to the RA-1 district.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area is nine thousand (9,000) square feet. Dwellings with a private sanitary sewer shall have such greater areas as may be required by section 24-704.
- b. The minimum lot frontage is seventy-five (75) feet, or seventy-five (75) feet measured at the thirty-foot front setback line, provided such lot has a minimum of fifty (50) feet of frontage on the street.

(2) *Maximum percentage of lot coverage.* The maximum percentage of lot coverage is as follows:

- a. For a principal building, twenty-five (25) percent.
- b. For an accessory building, ten (10) percent.

(3) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to principal building are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, seven (7) feet. On corner lot the side yard adjacent to the street shall not be less than twenty (20) feet in width. An accessory building shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, thirty-five (35) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on corner lots shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

(4) *Accessory buildings.* The minimum dimension from an accessory building to:

- a. The principal building is ten (10) feet in rear of principal building.
- b. Side lot lines is three (3) feet. On a corner lot the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in such side yard.
- c. The rear lot line is three (3) feet.

(c) *Building limitations.* Principal buildings shall not exceed:

- (1) Two and one-half (2½) stories.
- (2) Forty (40) feet in height.

(d) *Exceptions.*

- (1) On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- (2) Principal nonresidential structures may be erected to a height greater than specified, provided that the front, rear and side yards shall be increased by two (2) feet for each

one (1) foot by which such building exceeds the maximum height limitations set forth, and provided that the maximum height does not exceed the height capabilities of the town's firefighting equipment.

(Code 1966, § 44-IV-2(D)-(G))

**Sec. 24-181. RA-2 district.**

(a) *Scope.* This section applies to the RA-2 district.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area is nine thousand (9,000) square feet for lots used or to be used for one-family dwellings; twelve thousand five hundred (12,500) square feet for lots used or to be used for two-family dwellings. Dwellings with a private sanitary sewer shall have greater area, as may be required by section 24-704.
- b. The minimum lot frontage is seventy-five (75) feet for lots used or to be used for one-family dwellings; or seventy-five (75) feet measured at the thirty-foot setback line, provided such lot has a minimum fifty-foot frontage on a street and otherwise meets all other requirements used or to be used for one-family dwellings; and one hundred (100) feet for lots used or to be used for a two-family dwelling.
- c. Under no circumstances shall a building permit be issued for a two-family dwelling for any lot which fails to comply with the foregoing minimum lot sizes for lots used or to be used for two-family dwellings, regardless of the inclusion of any such lot upon any recorded subdivision and regardless of any improvements which may have been made to any lot prior to the effective date of the local law from which this provision is derived; nevertheless, any building permit for any two-family dwelling which shall have been issued prior to such effective date shall not be affected.

(2) *Maximum percentage of lot coverage.* The maximum percentage of lot coverage is as follows:

- a. For a principal building, twenty-five (25) percent.
- b. For an accessory building, ten (10) percent.

(3) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to principal building are as follows:

- a. For the front yard, thirty (30) feet.
- b. Each side yard, seven (7) feet. On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, thirty-five (35) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on corner lots shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

(4) *Accessory buildings.* The minimum dimension from an accessory building to:

- a. The principal building is ten (10) feet in rear of building.
- b. Side lot lines is three (3) feet. On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in such side yard.
- c. The rear lot line is three (3) feet.

(c) *Building limitations.*

(1) *Principal building.* Principal buildings shall not exceed:

- a. Two and one-half (2½) stories.
- b. Forty (40) feet in height.

- (2) *Minimum living area.* The minimum living area per family is seven hundred fifty (750) square feet. No recreational travel trailer or mobile home shall be considered in the establishment of the minimum living area per family.
- (3) *Accessory building.* Accessory buildings shall not exceed:
- a. Two (2) stories.
  - b. Twenty (20) feet in height.
- (d) *Exception.* On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- (e) *Scope.* For existing lots which are established on or before March 31, 2009 as permitted under section 24-62 or under a legally approved variance, the following requirements shall apply:
- (1) *Lot limitations.* Minimum lot size:
- a. For a vacant lot to be used for a one-family dwelling the minimum lot frontage is fifty (50) feet; or the existing legal unaltered lot frontage.
  - b. The minimum lot frontage is one hundred (100) feet for any lot to be used as a two-family dwelling.
  - c. For a vacant lot to be used for a one-family dwelling a minimum lot area of seven thousand five hundred (7,500) square feet is required.
  - d. For any lot to be used as a two-family dwelling a minimum lot area of twelve thousand five hundred (12,500) square feet as required.
  - e. Existing lots may have additional property incorporated into the lot in order to increase a dimension or area of the lot. No existing lot shall be reduced in any dimension or area.
- (2) *Maximum percentage of lot coverage.* The maximum percentage of lot coverage is as follows:
- a. For a principal building, thirty (30) percent.
  - b. For an accessory building, fifteen (15) percent.
- (3) *Minimum yard dimensions.*
- a. The minimum yard dimensions from lot lines to the principal building are as follows:
    1. For the front yard, twenty (20) feet.
    2. Each side yard, six (6) feet.  
On a corner lot, the side yard adjacent to the street shall be not less than fifteen (15) feet in width.
    3. For the rear yard, thirty (30) feet.
  - b. The minimum yard dimensions from lot lines to an accessory building are as follows:
    1. To the principal building is ten (10) feet from the building, in the rear yard of the lot.
    2. Each side yard, three (3) feet.  
On a corner lot, the side yard adjacent to the street shall be not less than fifteen (15) feet in width.
    3. For the rear yard, three (3) feet.
- (4) *Building limitations.*
- a. Principal buildings shall not exceed:
    1. Two and one-half (2½) stories in height.
    2. Forty (40) feet in height.
  - b. Accessory buildings shall not exceed:
    1. Two (2) stories.
    2. Twenty (20) feet in height.
- (5) *Corner lot property front.* The minimum yard dimensions in feet from lot lines to buildings on corner lots shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the code enforcement officer.

- (6) *Public utilities.* Any existing lot without the services of municipal water and sewer shall have these facilities properly extended to serve the property prior to construction of any principal building and shall connect as required to structures constructed on the property.

(Code 1966, § 44-IV-3(D)—(F); L.L. No. 10 of 2009, § 1)

**Sec. 24-182. RC district.**

(a) *Scope.* This section applies to the RC district.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area for one-story multifamily dwelling structures is three thousand five hundred (3,500) square feet per family. The minimum lot area is three thousand (3,000) square feet per family for two- and three-story multifamily dwelling structures. The minimum lot area for townhouses is five thousand five hundred (5,500) square feet per family.
- b. The minimum frontage for multifamily dwellings is one hundred (100) feet or one hundred (100) feet measured at the thirty-foot front setback line provided that such lot has a minimum eighty (80) feet of frontage on the street. For townhouses the minimum frontage is forty (40) feet for each unit plus an additional fifty (50) feet.

(2) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to principal building, in the case of multifamily dwellings, are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, seven (7) feet. On a corner lot the side yard adjacent to the street should be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in each such side yard.

c. For the rear yard, thirty-five (35) feet.

d. The minimum yard dimensions in feet from lot lines to principal buildings on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

(3) *Accessory buildings.* The minimum dimension from an accessory building to:

a. The principal building is ten (10) feet, in rear of principal building.

b. Side lot lines is as follows:

1. For a multifamily dwelling, three (3) feet.
2. For a townhouse, twenty-five (25) feet.

c. The rear lot line is as follows:

1. For a multifamily dwelling, three (3) feet.
2. For a townhouse, ten (10) feet.

(4) *Additional provisions relating to townhouses.*

a. The maximum number of units in one (1) structure for a townhouse shall not exceed eight (8) units, and the maximum density per acre shall not exceed ten (10) units.

b. No one (1) cluster of attached townhouses shall be located less than twenty-five (25) feet from any other cluster of attached townhouses.

(c) *Building limitations.*

(1) *Principal building.* Principal buildings shall not exceed:

a. In the case of multifamily dwellings:

1. Three (3) stories. The minimum front, rear and side yard widths shall be increased one (1) foot per each one (1) foot by

- which the residential or other buildings exceed the height of thirty-five (35) feet.
2. Forty (40) feet in height.
- b. In the case of townhouses:
1. Two and one-half (2½) stories.
  2. Thirty-five (35) feet in height.
- (2) *Minimum living area.* The minimum living area per family is as follows:
- a. For a multifamily dwelling, seven hundred fifty (750) square feet.
  - b. For a townhouse, seven hundred fifty (750) square feet.
- (3) *Accessory buildings.* Accessory buildings for multifamily dwellings and townhouses shall not exceed:
- a. Two (2) stories.
  - b. Twenty (20) feet.
- (d) *Exceptions.*
- (1) On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
  - (2) Principal nonresidential structures may be erected to a height greater than specified, provided that the front, rear and side yards shall be increased by two (2) feet for each one (1) foot by which such building exceeds the maximum height limitations set forth, and provided that the maximum height does not exceed the height capabilities of town firefighting equipment.
  - (3) The minimum front, rear and side yard widths shall be increased one (1) foot for each one (1) foot by which residential or other buildings exceed the height of thirty-five (35) feet.
  - (4) A minimum lot area of two thousand (2,000) square feet per dwelling unit shall be required for structures which are two (2) stories in height and which are designed and constructed for occupancy by no more than two (2) persons per dwelling

unit. The units shall each contain a minimum of four hundred (400) square feet of living area.

(Code 1966, § 44-IV-4(E)—(G))

**Sec. 24-183. ER district.**

(a) *Scope.* This section applies to the RR district.

(b) *Lot size.*

- (1) *Findings.* Residential development in approved subdivisions with public sewer and water is more desirable than rural residential development. The cost of providing public fire and emergency services is more economical in approved subdivisions, and the lack of permeable soil creates substantial problems in rural residential areas. The impermeable soils in rural residential areas in the town combined with grades of over fifteen (15) percent on twenty-five (25) percent of the property cause serious hazards. Private sewage systems are often inadequate and have a short useful life. Wells for water often have to be redug in areas where development has occurred, and drainage problems have plagued rural development where subdivision regulations do not control development. Dwellings in rural residential areas that are distant from the road can be difficult to service with emergency vehicles in bad weather. The



town finds that it is desirable to limit and regulate the construction in rural residential areas.

(2) *Minimum lot size.*

- a. The minimum frontage is two hundred forty (240) feet, except as provided in paragraph (6) of this subsection.
- b. A rectangle measuring two hundred forty (240) feet by two hundred forty (240) oriented as parallel as possible to the lot frontage shall fit on the lot with at least one (1) point touching the lot frontage.

(3) *Sewer system setback.* The minimum setback is the minimum area required by the county health department for the sewer system, plus room for expansion of the minimum area by fifty (50) percent. The sewer system shall not be closer than twenty (20) feet to the front property line nor closer than fifteen (15) feet to all side and back property lines.

(4) *Location of building.* Subject to considerations of topography, preservation of trees, drainage, roadways, water and sewer systems, and as otherwise practical, the placement of the building on the parcel shall be in a manner that will facilitate future subdivisions into lots having eighty (80) feet of frontage. To obtain this purpose, the permit officer may make reasonable requirements of plot plan layout. Such requirements shall be subject to review by the zoning board of appeals.

(5) *Nonconforming uses.* Nonconforming uses must meet the requirements of the county health department as to the adequate area and conditions to provide for proper sanitary disposal. However for the purpose of this subsection, and despite contrary language elsewhere in this chapter, a parcel which was zoned agricultural RA-1 or RA-1 and RA-2 immediately prior to the adoption of the local law from which this paragraph is derived shall be presumed to be in single and separate ownership without reference to the ownership

of adjacent properties if the instrument creating such separate parcel was recorded in the county clerk's office on or before March 15, 1971. If two (2) or more contiguous parcels are reconveyed after March 15, 1971, so as to create one (1) parcel, and a copy of the instrument is recorded in the county clerk's office, then the parcels shall, for the purpose of this subsection, be considered a single and separate ownership from March 15, 1971.

(6) *Special permits.* The zoning board of appeals may grant a special permit to build on lots not having two hundred forty (240) feet of frontage and depth, subject to the following:

a. An application for a special permit pursuant to this subsection shall be accompanied by the following:

1. A plot plan showing existing and proposed elevations.
2. The location of all proposed wells and the location of all existing wells on adjoining properties within five hundred (500) feet.
3. Location of the proposed structure.
4. Location of the driveway and type of construction of the driveway.
5. Such information on drainage as the zoning board of appeals may determine to be necessary.
6. Location and type of sewage system.

b. The lot shall have a minimum frontage on an accepted street, owned in fee by the lot owner, of not less than fifty (50) feet.

c. The area of the lot shall be a minimum of two and one-half (2½) acres.

d. The building permit shall indicate the location of the well, which shall be at least two hundred forty (240) feet from all wells on neighboring properties.

- e. The zoning board of appeals must find that there are both practical difficulties and unnecessary hardships necessitating the special permit and that the appropriate use of neighboring property will not be injured thereby.
- f. The zoning board of appeals shall make such conditions to the special permit as are desirable to protect the neighboring properties.
- g. The decisions of the zoning board of appeals shall be filed by the applicant with the county clerk in miscellaneous records, and no building permit shall be issued until proof of filing is presented to the code enforcement officer.
- h. Thirty (30) days' notice of the application shall be given to the conservation advisory commission, the town engineer, the fire marshal, the town board and planning board and to all property owners within five hundred (500) feet of the property. Notice shall be given by the town clerk and a fee of thirty dollars (\$30.00) shall be charged therefor, in addition to the standard required fee.
- i. A special permit may only be granted for a parcel containing ten (10) acres or less upon a finding by the zoning board of appeals that the lot was not, within the ten (10) years prior to the granting of the special permit, part of a larger tract of land which has been divided into five (5) or more parcels within the ten-year period.

(c) *Other lot limitations.*

- (1) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to principal building are as follows:
  - a. For the front yard, thirty (30) feet.
  - b. For each side yard, seven (7) feet. On a corner lot, the side yard adjacent to the street shall be not less than

twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.

- c. For the rear yard, thirty-five (35) feet.
- d. Minimum yard dimensions in feet from lot lines to principal building on corner lots shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

(2) *Accessory buildings.* The minimum yard dimension from accessory building to:

- a. The principal building is ten (10) feet.
- b. The front lot line is thirty (30) feet.
- c. Side lot lines is seven (7) feet. On a corner lot, the side yard adjacent to the street shall be not less than thirty (30) feet in width.

(3) *Subdivision approval.* In no event shall the planning board approve a subdivision unless the subdivision can meet all the requirements of this section, including but not limited to a frontage of two hundred forty (240) feet, a depth of two hundred forty (240) feet and a sewer system setback, together with all the other requirements of this section.

(d) *Building limitations.* Principal buildings shall not exceed:

- (1) Three (3) stories.
- (2) Fifty (50) feet in height, provided that the maximum height does not exceed the capabilities of town firefighting equipment.

(e) *Exception.* No principal or accessory building used for farming purposes shall be located closer than one hundred (100) feet to any RA-1, RA-2 or RC district.

(Code 1966, § 44-IV-5(E)—(G); L.L. No. 9 of 2007, § 1)

**Sec. 24-184. C-1 district.**

(a) *Scope.* This section applies to the C-1 district.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area is twenty-two thousand five hundred (22,500) square feet.
- b. The minimum lot frontage is one hundred fifty (150) feet.

(2) *Maximum percentage of lot coverage.*

- a. The maximum percentage of lot coverage for a principal building is fifty (50) percent.
- b. The maximum percentage of lot coverage for an accessory building is twenty (20) percent.

(3) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to principal buildings are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, five (5) feet. On a corner lot the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, fifteen (15) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

(4) *Accessory buildings.* The minimum dimension from accessory building to:

- a. The principal building is five (5) feet.
- b. The front lot line is thirty (30) feet.
- c. The side lot line is five (5) feet. On a corner lot the side yard adjacent to the street shall be not less than thirty (30) feet.

d. The rear lot line is ten (10) feet.

(c) *Building limitations.*

(1) Principal buildings shall not exceed:

- a. Three (3) stories.
- b. Forty (40) feet, provided that the maximum height does not exceed the capabilities of town firefighting equipment.

(2) Accessory buildings shall not exceed:

- a. Two (2) stories.
- b. Thirty (30) feet, provided that the maximum height does not exceed the capabilities of town firefighting equipment.

(Code 1966, § 44-IV-6(E); L.L. No. 6 of 2000, § 1, 2)

**Sec. 24-185. C-2 district.**

(a) *Scope.* This section applies to the C-2 district.

**(b) Lot limitations.****(1) Minimum lot size.**

- a. The minimum lot area is twenty-two thousand five hundred (22,500) square feet.
- b. The minimum lot frontage is one hundred fifty (150) feet.

**(2) Maximum percentage of lot coverage.** The maximum percentage of lot coverage for the principal building and accessory buildings is a total of eighty (80) percent.**(3) Minimum yard dimensions.** The minimum yard dimensions from lot lines to principal buildings are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, five (5) feet. On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, fifteen (15) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of the lot is to be considered the front. The written election must be filed with the administrative officer.

**(4) Accessory buildings.** The minimum dimension from accessory building to:

- a. The principal building is five (5) feet.
- b. The front lot line is thirty (30) feet.
- c. The side lot line is five (5) feet. On a corner lot, the side yard adjacent to the street shall be not less than thirty (30) feet in width.
- d. The rear lot line is ten (10) feet.

**(c) Building limitations.****(1) Principal building.** Principal buildings shall not exceed:

- a. Four (4) stories.
- b. Fifty (50) feet, provided the maximum height does not exceed the capabilities of town firefighting equipment.

**(2) Accessory building.** Accessory buildings shall not exceed:

- a. Two (2) stories.
- b. Thirty (30) feet in height.

(Code 1966, § 44-IV-7(E), (F))

**Sec. 24-186. CD district.****(a) Scope.** This section applies to the CD district.**(b) Lot limitations.****(1) Minimum lot size.**

- a. The minimum lot area is twenty-two thousand five hundred (22,500) square feet.
- b. The minimum lot frontage is one hundred fifty (150) feet.

**(2) Maximum percentage of lot coverage.** The maximum percentage of lot coverage for the principal building and accessory buildings is a total of eighty (80) percent.**(3) Minimum yard dimensions.** The minimum yard dimensions from lot lines to principal buildings are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, five (5) feet. On a corner lot, the side yard adjacent to the street shall be not less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, fifteen (15) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative officer.

**(4) Accessory buildings.** The minimum dimension from accessory building to:

- a. The principal building is five (5) feet.
- b. The front lot line is thirty (30) feet.
- c. The side lot line is five (5) feet. On a corner lot, the yard adjacent to the street shall be not less than thirty (30) feet in width.

d. The rear lot line is ten (10) feet.

(c) *Building limitations.*

(1) *Principal building.* Principal buildings shall not exceed:

- a. Four (4) stories.
- b. Fifty (50) feet, provided that the maximum height does not exceed town fire-fighting equipment.

(2) *Accessory building.* Accessory buildings shall not exceed:

- a. Two (2) stories.
- b. Thirty (30) feet in height.

(Code 1966, § 44-IV-8(E), (F))

**Sec. 24-187. I district.**

(a) *Scope.* This section applies to the I district.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area is twenty-two thousand five hundred (22,500) square feet.
- b. The minimum lot frontage is one hundred fifty (150) feet.

(2) *Maximum percentage of lot coverage.* For the principal building and accessory buildings, the entire lot may be occupied, with the exception of any mandatory open spaces required.

(3) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to the principal building are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, fifteen (15) feet. On a corner lot, the side yard adjacent to the street shall not be less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, fifteen (15) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of his

lot is to be considered the front. The written election must be filed with the administrative officer.

(4) *Accessory buildings.* The minimum dimension from accessory building to:

- a. The principal building is zero.
- b. The front lot line is thirty (30) feet.
- c. The side lot line is fifteen (15) feet. On a corner lot, the side yard adjacent to the street shall be not less than thirty (30) feet in width.
- d. The rear lot line is fifteen (15) feet.

(c) *Building limitations.*

(1) *Principal building.* Principal buildings shall not exceed:

- a. Five (5) stories.
- b. Sixty (60) feet in height, provided that the maximum height does not exceed the capabilities of town firefighting equipment.

(2) *Accessory building.* Accessory buildings shall not exceed:

- a. Five (5) stories.
- b. Sixty (60) feet in height, subject to the capabilities of town firefighting equipment.

(d) *Exceptions.*

(1) Radio, television or other antenna tower, or chimney and smoke stacks, may be erected to a height in excess of the authorized building limitations.

(2) Whenever an industrial district adjoins a residential district, a transition zone of not less than fifty (50) feet shall be reserved along the boundary line. The transition area shall be reserved for nonmanufacturing purposes such as off-street parking and landscaping.

(Code 1966, § 44-IV-9(D), (E))

**Sec. 24-188. ID district.**

(a) *Scope.* This section applies to the ID district.

(b) *Lot limitations.*(1) *Minimum lot size.*

- a. The minimum lot area is twenty-two thousand five hundred (22,500) square feet.
- b. The minimum lot frontage is one hundred fifty (150) feet.

(2) *Maximum percentage of lot coverage.* The maximum percentage of lot coverage for the principal building and accessory buildings is a total of eighty (80) percent.(3) *Minimum yard dimensions.* The minimum yard dimensions from lot lines to the principal buildings are as follows:

- a. For the front yard, thirty (30) feet.
- b. For each side yard, twenty (20) feet. On a corner lot, the side yard adjacent to the street shall not be less than twenty (20) feet in width. Accessory buildings shall observe a thirty-foot setback in the side yard.
- c. For the rear yard, fifteen (15) feet.
- d. The minimum yard dimensions in feet from lot lines to principal building on a corner lot shall be administered on the basis of a written election by the owner setting forth which side of his lot is to be considered the front. The written election must be filed with the administrative office.

(4) *Accessory buildings.* The minimum dimension from accessory building to:

- a. The principal building is five (5) feet.
- b. The front line is thirty (30) feet.
- c. The side lot line is twenty (20) feet. On a corner lot the side yard adjacent to the street shall not be less than thirty (30) feet in width.
- d. The rear lot line is thirty (30) feet.

(c) *Building limitations.*(1) *Principal building.* Principal buildings shall not exceed:

- a. Four (4) stories.

- b. Fifty (50) feet in height, subject to the capabilities of town firefighting equipment.

(2) *Accessory building.* Accessory buildings shall not exceed:

- a. Two (2) stories.
- b. Twenty (20) feet in height.

(d) *Exceptions.*

- (1) When the property abuts on any residential district, a side yard not less than fifty (50) feet in width shall be required on that side which adjoins the residential district.
- (2) Rear yards which adjoin a residential district shall maintain a rear yard dimension of not less than fifty (50) feet.

(Code 1966, § 44-IV-10(C)—(F))

**Sec. 24-189. Shopping plaza regulations.**

The regulations regarding lot limitations, including lot area, frontage, side line, front line and rear line restrictions as set forth in sections 24-184—24-186 shall be applicable to a shopping plaza as though it were one (1) single lot regardless of whether portions of the shopping plaza land are owned by separate entities, provided that deed restrictions and cross easements are reviewed and approved by the town planning board.

(L.L. No. 5 of 1991, § 1; L.L. No. 3 of 1995, § 1)

**Sec. 24-190. Residential office.**

(a) *Scope.* This section applies to the RO district. This district is intended for limited non-residential uses in existing residential structures which maintain the inherent residential nature of the immediate surrounding area.

(b) *Design standards.* The design standards set forth in section 24-191 herein and any appendices thereto shall apply to all proposed uses in this district.

(c) *Lot limitations.* Minimum lot size, yard dimensions and building limitations. This zoning district is intended to apply only in instances where existing residential structures are being utilized for the principal use. Therefore the minimum lot area and lot frontage shall be that which

exists on any unaltered, individual tax map parcel at the time of the enactment of the RO zoning amendment for each affected parcel. Similarly, since only existing residential structures are being used in this district, the applicable yard dimensions and building size limitation shall be the same as the existing footprint. No additions may be made without town board approval.

(d) *Parking.* The location and number of parking spaces on the lot shall be established on a case by case basis by the town board during the special permit review, which determination shall be limited to the minimum required parking requirements of the particular proposed use in accordance with section 24-201. The town board has the express authority to require a lesser amount of parking spaces than the number otherwise required under section 24-201 if appropriate and still adequate for the intended use. In addition, the town board shall use as a guide but not be bound by the parking configuration specifications set forth in section 24-201 to 24-210. Shared driveways and parking should be encouraged, to the extent permitted by the town board by adjusting setback requirements.

(e) *Non-residential accessory buildings.* Non-residential accessory buildings shall not be permitted in this district except to the extent such a building is already in existence at the time of the zoning amendment for the particular lot in question. In that instance, the intended use of the accessory building is subject to review by the town board as part of the special permit review process.

(f) *Outside storage.* Non-residential storage of any equipment, materials, debris or other items is prohibited unless specifically authorized by the town board.

(g) *Lawn and/or landscaped area.* At least thirty (30) percent of the lot shall be green space. Additional buffer and landscaped areas may be required by the town board as it deems necessary to protect adjoining residential areas from either the principal use or its ancillary uses such as parking, ingress and egress, and similar uses. (L.L. No. 1 of 2003, § 3)

**Sec. 24-191. Transitional neighborhood district.**

(a) *Scope.* This section applies to the TN district, which is designed to allow limited non-residential uses in areas where preservation and protection of adjacent or nearby residential areas is essential.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area for this district is twenty-two thousand four hundred (22,400) square feet.
- b. The minimum lot frontage is one hundred forty (140) feet.

(2) *Maximum lot coverage.* The maximum percentage of lot coverage for all buildings is forty (40) percent.

(3) *Minimum yard dimensions.*

- a. The minimum yard dimensions from lot lines to the principal building are as follows:
  - 1. For the front yard, thirty (30) feet.
  - 2. For the side yard, twenty (20) feet. On a corner lot the side yard adjacent to the street shall not be less than thirty (30) feet.
  - 3. For the rear yard, thirty (30) feet.
  - 4. The minimum yard dimensions in feet to the principal building on a corner lot shall be applied on the basis that the front yard shall be the yard facing the major thoroughfare.
  - 5. Where a property abuts a residentially developed property, the setback from that property line shall be fifty (50) feet.
- b. The minimum yard dimensions from lot lines to the edge of parking and/or paved areas are as follows:
  - 1. From the front property line, ten (10) feet.

- 2. From the side property line, ten (10) feet.
- 3. From the rear property line, ten (10) feet.
- 4. Where a property abuts a residentially developed property, thirty (30) feet.
- c. Height limitations. No building on any lot shall exceed two (2) stories nor be more than thirty-five (35) feet in height.
- d. Accessory structures shall not be permitted within this district.

(L.L. No. 1 of 2003, § 4)

**Sec. 24-192. Transitional office district.**

(a) *Scope.* This section applies to the TO district, which is designed to allow limited non-residential uses in areas where preservation and protection of adjacent or nearby residential areas is essential.

(b) *Lot limitations.*

(1) *Minimum lot size.*

- a. The minimum lot area for this district is twenty-two thousand four hundred (22,400) square feet.
- b. The minimum lot frontage is one hundred forty (140) feet.

(2) *Maximum lot coverage.* The maximum impervious coverage of a lot shall be sixty (60) percent. If the maximum impervious coverage is reduced to below sixty (60) percent as a result of meeting the minimum requirements for buffer strips and yard dimensions, the review board may reduce the buffer strip separating a residential and non-residential use from a minimum of thirty (30) feet to a minimum of fifteen (15) feet if such a reduction will not have a detrimental impact on the residential use.

(3) *Minimum yard dimensions.*

- a. The minimum yard dimensions from lot lines to the principal building are as follows:
  - 1. For the front yard, thirty (30) feet.

- 2. For the side yard, twenty (20) feet. On a corner lot the side yard adjacent to the street shall not be less than thirty (30) feet.
- 3. For the rear yard, thirty (30) feet.
- 4. The minimum yard dimensions in feet to the principal building on a corner lot shall be applied on the basis that the front yard shall be the yard facing the major thoroughfare.
- 5. Where a property abuts a residentially developed property, the setback from that property line shall be fifty (50) feet.

b. The minimum yard dimensions from lot lines to the edge of parking and/or paved areas are as follows:

- 1. From the front property line, ten (10) feet.
- 2. From the side property line, fifteen (15) feet. On a corner lot the side yard adjacent to the street shall not be less than ten (10) feet.
- 3. From the rear property line, fifteen (15) feet.
- 4. Where a property abuts a residentially developed property, thirty (30) feet.

c. Accessory structures shall not be permitted within this district.

(L.L. No. 11 of 2004, § 2)

*Editor's note*—L.L. No. 11 of 2004, § 2, did not specify manner of inclusion; hence, inclusion as § 24-192 is at the discretion of the editor.

**Secs. 24-193—24-200. Reserved.**

**DIVISION 3. OFF-STREET PARKING AND LOADING**

**Sec. 24-201. Location of and standards for parking spaces.**

(a) Each off-street parking space shall be at least nine and one-half (9½) feet in width and twenty (20) feet in length. Vehicular access, egress and circulation shall be provided.



(b) In residential districts, off-street parking spaces shall be located either on the same lot or lots adjoining the principal use they are intended to serve. In all other districts, required off-street parking spaces may be located either on the same lot or within two hundred (200) feet of the lot line upon which a principal use to be served by such parking spaces is located. In no case shall required parking spaces be located upon a public street or highway right-of-way or include any space so allocated to satisfy off-street loading space requirements as set forth in this chapter.

(c) Each parking area providing more than four (4) parking stalls and located less than thirty (30) feet from the property line shall be screened on all sides abutting or fronting on any parcel located in a residential district in accordance with the provisions of section 24-203. (Code 1966, § 44-VII-2; L.L. No. 2-1995, § 1)

**Sec. 24-202. Location of and standards for loading areas.**

(a) Each off-street loading area shall be not less than twelve (12) feet in width and thirty (30) feet in length, shall observe a vertical clearance of fourteen (14) and shall be provided with appropriate means of vehicular ingress and egress. No off-street loading space shall be located on a public street or highway.

(b) No off-street loading area shall be located closer than fifty (50) feet to any lot of a residential district, unless it is located within a completely enclosed building or screened in accordance with the provisions set forth in section 24-203. (Code 1966, § 44-VII-4)

**Sec. 24-203. Improvements and maintenance.**

(a) Screening areas, as required in sections 24-201 and 24-202, shall consist of an area not less than six (6) feet in width along residential lot lines which shall be planted with deciduous shrubs, evergreens or ornamental trees or, in lieu thereof, a wall or fence. Lighting used to illuminate off-street parking and loading areas shall be nonflashing, indirect or diffused and shall be so arranged as to reflect the direct rays of light away from all adjoining property and roadways.

(b) All required parking shall be constructed so that it is in an impervious, all-weather surface, and all driveways shall be paved to the adjoining road surface.

(Code 1966, § 44-VII-5)

**Sec. 24-204. Continuation of facilities.**

(a) Upon issuance of an occupancy permit, the subsequent use of the property shall be conditioned upon the continuance and availability of the designated number of off-street parking and loading areas for such use. Whenever a structure is increased in size or changed in use so as to require an increase in parking and loading requirements, the use shall be in violation of this chapter until such additional requirements are complied with.

(b) Existing off-street parking or loading facilities provided in connection with the operation of an existing structure or use shall not be reduced to an amount less than required for a similar new structure.

(Code 1966, § 44-VII-7)

**Sec. 24-205. Schedule of off-street parking requirements—Generally.**

At the time of the erection of any principal structure or at the time of any principal structure being enlarged or increased in capacity, the minimum number of required off-street parking spaces as set forth for the use shall be provided. Fractional units of measurements of one-half or more shall be interpreted as requiring one(1) off-street parking space. Any units of measurement of less than one-half shall be disregarded. Where a residential district abuts any other district, site plan approval is required.

(Code 1966, §§ 44-VII-1, 44-VII-6, 44-VII, 8)

**Sec. 24-206. Same—Residential districts.**

(a) *Generally.* Article II, division 5, part B of this chapter is applicable when a residential district abuts any other district.

(b) *RA-1 district.* The following table applies to off-street parking in the RA-1 district:

<i>Use</i>	<i>Off-Street Parking Spaces Re- quired</i>
One-family dwelling	2
Church or place of worship	1 for each 4 seats
School	1 for each employee
Public building	1 for each 250 square feet of gross area
Boarding or rooming house	2, plus one space per roomer

(c) *RA-2 district.* The following table applies to off-street parking in the RA-2 district:

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
One-family dwelling or one-family modular home	2
Two-family dwelling or two-family attached modular home	4
Church or place of worship	1 for every 4 seats
School	1 for each employee
Public building or building used for institutional or philanthropic use	1 for each 250 square feet of gross floor area
Boarding or rooming house	2, plus 1 per roomer

(d) *RC district.* The following table applies to off-street parking in the RC district:

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
Church	1 for each 4 seats
Institutional or philanthropic use or public building	1 for each 250 square feet of gross floor area
Mobile home park	2 for each mobile home
Multiple dwelling	2 for each dwelling unit
Nursing or convalescent home or sanitarium	1 for each 2 beds, plus 1 for each employee
Rooming or boarding house	2, plus 1 for each roomer
School	1 for each employee
Swimming pool operated by a not-for-profit corporation, religious corporation or owners of multiple residence	1 for each 100 square feet of gross area of pool and area used for sunbathing
Townhouse	3 for each dwelling unit

(e) *RR district.* The following table applies to off-street parking in the RR district:

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
Abattoir and/or animal reduction works	1 for each employee

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
Cemetery	At discretion of zoning board of appeals
Church or other place of worship including Sunday school building or rectory	1 for each 4 seats
Cultural facility (library, museum, art gallery, etc.)	1 for each 250 square feet of gross floor area
Detached one-family dwelling or modular home	2
Dog kennel	1 for each 4 dog kennels
Electrical distribution substation, public utility and commercial transmission towers	None required
Golf course and country club	4 per hole, plus additional parking for other uses
Institutional or philanthropic use of public building	1 for each 250 square feet of gross floor area
Not-for-profit camp	1 for each 5 campers
Rooming or boarding house	2, plus 1 for each roomer
School	1 for each employee
Swimming pool operated by a not-for-profit corporation or a religious corporation	1 for each 250 square feet of gross floor area
Two-family dwelling or modular home	4

(Code 1966, §§ 44-IV-2(H), 44-IV-3(G), 44-IV-4(H), 44-IV-5(H))

**Sec. 24-207. Same--Nonresidential districts.**

Off-street parking requirements for the C-1, C-2, CD, I and ID districts are as follows:

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
Abattoir and/or animal reduction works	1 for each 250 square feet of gross floor area
Automotive sales and service	1 for each 125 square feet of gross floor area in addition to display area
Automotive storage or repair	1 for each 125 square feet of gross floor area

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
Church or other place of worship, including Sunday school building and rectory	1 for each 4 seats
Clinic, dental or medical	1 for each 250 square feet of gross floor area
Commercial radio and television transmission or receiving towers and facilities	1, plus 1 for each employee
Commercial recreation (skating rink, miniature golf, driving range, bowling alley, etc.)	1 for each 100 square feet of gross floor area
Construction equipment repair and sales	1 for each 125 square feet of gross floor area
Contractor's yard and equipment	1 for each 250 square feet of gross floor area
Cultural facility (library, museum, art gallery, etc.)	1 for each 250 square feet of gross floor area
Drive-in business	As required by the planning board
Drive-in restaurant	1 for each employee, plus 1 for each 50 square feet of building area
Funeral home	50 for each viewing room
General and professional office building	1 for each 250 square feet of gross floor area
Hospital	3 for each bed
Hotel, motel	1 for each rental unit
Junkyard	1 per employee, plus 2 per acre
Lodge and fraternal organization	1 for each 100 square feet of gross floor area
Manufacturing	1 for each 250 square feet of gross floor area
Mobile home and/or modular home sales and display	The greater of 1 for every 125 square feet of gross office area, or 1 for each employee; plus 1 additional parking place for every 4 mobile or modular units
Newspaper office and/or printing shop	1 for each 250 square feet of gross floor area
Planned shopping center	Not less than 1 for each 200 square feet of gross floor area,

<i>Use</i>	<i>Off-Street Parking Spaces Required</i>
	plus such additional parking spaces as may be required by the planning board
Public building	1 for each 125 square feet of gross floor area
Recreational trailer sales and display	The greater of 1 for every 125 square feet of gross office area, or 1 for each employee; plus 1 additional for every 4 recreational trailer units
Research and combined manufacturing where more than 25% of the gross floor area is devoted to research	1 for each 250 square feet of gross floor area
Restaurant	1 for each 100 square feet of gross floor area
Retail business or service not otherwise specified, excluding drive-in business	1 for each 125 square feet of gross floor area
School conducted for profit	1 for every 4 seats
Shopping centers consisting of 35 acres or more, whether or not under single ownership	1 parking space for every 200 sq. ft. of gross leasable area plus traditional parking spaces as may be required by the planning board
Theater or concert hall	1 for every 5 seats or each 100 square feet of gross floor area if no seats are provided
Truck terminal	1 for each 500 square feet of gross floor area
Vehicle service station	1 for each employee, plus 1 for each 125 square feet of gross floor area
Veterinarian's office or animal hospital	1 for each 500 square feet of gross floor area
Warehousing	1 for each 500 square feet of gross floor area
Wholesale business or service not otherwise mentioned	1 for each 500 square feet of gross floor area

(Code 1966, §§ 44-IV-6(F), 44-IV-7(G), 44-IV-8(G), 44-IV-9(H), 44-IV-10(G); L.L. No. 5 of 1990, § 1)

**Sec. 24-208. Schedule of off-street loading requirements—Generally.**

At the time of the erection of any principal structure or at the time any principal structure is enlarged or increased in capacity, the minimum required off-street loading areas shall be provided. Fractional units of measurements of one-half or more shall be interpreted as requiring one (1) off-street loading space. Any units of measurement of less than one-half shall be disregarded. (Code 1966, §§ 44-VII-3, 44-VII-6)

**Sec. 24-209. Same—Residential districts.**

(a) *RC district.* The following table applies to off-street loading in the RC district:

<i>Use</i>	<i>Off-Street Loading Areas Required</i>
Sanitarium or nursing or convalescent home; institutional or philanthropic use	1 for the first 10,000 square feet of gross floor area or fraction thereof and 1 for each 10,000 square feet thereafter
All other uses	No space required

(b) *RR district.* The following table applies to off-street loading in the RR district:

<i>Use</i>	<i>Off-Street Loading Areas Required</i>
Cultural facility (art gallery, museum) institutional or philanthropic use, public building, not-for-profit camp, abattoir and/or animal reduction works	1 for the first 10,000 square feet of gross floor area or fraction thereof, and 1 for each 10,000 square feet thereafter

(Code 1966, §§ 44-IV-4(I), 44-IV-5(I))

**Sec. 24-210. Same—Nonresidential districts.**

The following table applies to off-street loading in the C-1, C-2, CD, I and ID districts:

<i>Use</i>	<i>Off-Street Loading Areas Required</i>
Church or other place of worship including Sunday school building and rectory	1
Clinic, dental or medical	1 for each 10,000 square feet of gross floor area
Commercial recreation (skating rink, miniature golf, driving range, bowling alley, etc.)	1

<i>Use</i>	<i>Off-Street Loading Areas Required</i>
Drive-in business	1 for each 5,000 square feet of gross floor area or fraction thereof
Drive-in restaurant	1
Electrical distribution substation or public utility facility	None required
Funeral home	1
General and professional office building	1 for each 5,000 square feet of gross floor area or fraction thereof
Hospital	1 for the first 10,000 square feet of gross floor area or fraction thereof, and 1 for each 10,000 square feet thereafter
Hotel or motel	1 for each 5,000 square feet of gross floor area or fraction thereof
Lodge and fraternal organization	1 for each 5,000 square feet of gross floor area or fraction thereof
Other permitted uses	1 for the first 5,000 square feet of gross floor area or fraction thereof, and 1 additional for each 5,000 square feet thereafter
Planned shopping district	1 for each 50,000 square feet of gross floor area or fraction thereof
Public building	1 for each 10,000 square feet of gross floor area
Research and combined manufacturing where at least 25% of gross floor area is devoted to research	1 for each 5,000 square feet of gross floor area
Research laboratory	1 for each 5,000 square feet of gross floor area
Restaurant	1 for each 2,500 square feet of gross floor area or fraction thereof
Retail business not otherwise mentioned specifically excluding drive-in business	1 for each 2,500 square feet of gross floor area or fraction thereof
School conducted for profit	1
Theater or concert hall	1 for each such use
Vehicle service station	None required
Veterinarian's office and animal hospital	None required

(Code 1966, §§ 44-IV-6(G), 44-IV-7(H), 44-IV-8(H), 44-IV-9(I), 44-IV-10(H))

**Secs. 24-211—24-225. Reserved.**

**DIVISION 4. DESIGN STANDARDS WITHIN RO AND TN DISTRICTS**

**Sec. 24-226. Design standards.**

(a) In certain districts within the town, there is a need to aesthetically blend and yet functionally separate the allowed non-residential uses with the traditional surrounding residential areas. The following design standards are intended to provide both the reviewing board and developers with the expectations of the town in this important process.

- (1) *Lighting.* Lighting shall be designed both in scale and intensity so as not to impact neighboring residential areas. No illuminated sign or light fixture shall direct light in a way which would create a traffic hazard or be detrimental to adjoining or neighboring residences. Residential style ground security lighting and light poles which are decorative in nature shall be used. Light fixtures shall be no more than eighteen (18) feet high from the finished grade or the building height, whichever is less. Illumination levels from lighting on any site subject to those standards shall not exceed one (1) foot candle at any property boundary or ten (10) foot candles anywhere on the site.
- (2) *Building facade materials.* Building facades shall be comprised of brick, wood or man-made masonry materials upon a determination by the reviewing board that such materials will properly simulate brick, wood, or a natural stone. Building colors should be muted so as to blend in appropriately with the surrounding area.
- (3) *Roof types.* All roofs shall be gabled with a minimum pitch of 5" of vertical rise for each twelve (12) inches of horizontal run.
- (4) *Accessory equipment.*
  - a. All roof, wall or ground mounted mechanical equipment, such as heating and air conditioning units, exhaust fans, satellite dishes, etc. shall be confined within the principal structure or within an area enclosed by a

wall, fence, berm or hedge of sufficient height and density to provide year round screening from view from surrounding streets, properties and parking lots.

- b. All dumpsters, recycling containers and similar units shall be fully enclosed by a structure made of materials consistent with the principal building on that site and screened by appropriate landscaping. Dumpsters shall be located in such an area as to be the least intrusive to any adjacent residential property. The outside storage of any equipment, products, raw materials, waste, junk, debris or similar items is prohibited. All enclosures shall be maintained in new or nearly new condition. There shall be no garbage pickup prior to 7:00 a.m.
- (5) *Buffering between uses.*
- a. It is the intent of this section to provide natural buffer areas so as to separate non-residential uses from adjacent residential uses or adjacent residential district boundaries. Such a buffer is intended to:
    - 1. Provide an aesthetic transition between residential and non-residential uses,
    - 2. To protect the cohesiveness and the character of residential areas and uses,
    - 3. To shield residential uses from the more intrusive uses typically found in non-residential uses.
  - b. Where a non-residential use abuts an existing residential use, a lawn and/or landscape area or a year round transitional buffer strip of thirty (30) feet shall be provided and maintained, consisting of existing or native trees, lawn, brush, shrubs and/or new plantings in sufficient quantity, type, size and density as determined necessary by the reviewing board to appropriately screen and protect ad-

joining properties. No structure shall be permitted in any such area. All such areas shall be clearly shown on any proposed site plan being reviewed and the reviewing board may request that the property owner or developer utilize the services of a professional landscape designer or planner in this process.

(6) *Parking lot design.*

- a. Parking lots shall be located in so as to abut public streets so as to minimize the impact on adjacent residential areas to the side or rear, provided however, that parking lots shall be separated from the street by a buffer strip at least ten (10) feet in width which includes trees, low decorative walls, hedges, shrubs or a combination thereof.
- b. The interior and edges of parking lots shall include landscaping of sufficient quantity and design so as to break up any large parking area. To that end, no row of perpendicular parking spaces shall exceed ten (10) spaces unless a landscaped island of at least nine (9) feet in width is provided. Parking spaces shall be landscaped with appropriate deciduous trees or conifers.

(7) *Signs.* Signs in TN and RO districts shall be approved by the town board after recommendation of the sign review board.

(L.L. No. 1 of 2003, § 5)

**Sec. 24-227. Noise.**

For purposes of applying section 24-726, uses within RO and TN districts shall be deemed residential in nature.

(L.L. No. 1 of 2003, § 6)

**Sec. 24-228. Revocation of special permit or site plan approval.**

In the event a condition, limitation or other requirement of either the town board or the planning board is not complied with, or in the

event of the demolition of the residential structure being used for the principal use, or upon failure of the owner to correct any violation after ten (10) days written notice from the town code enforcement department, the special permit and/or site plan approval previously granted by the town shall be automatically revoked.

(L.L. No. 1 of 2003, § 7)

**Sec. 24-229. Review authority.**

Each use contemplated under this section shall be subject to the review of the town planning board, unless such use is subject to a special permit, in which case the town board shall have review authority. The town board shall evaluate a special permit request in the RO district pursuant to the provisions of section 24-376 of the town code. The town board may in its discretion request a recommendation regarding the special permit application from the town planning board. In any case, no special permit or site plan Approval for any use in this district shall be granted without first having conducted a public hearing. Notice of the public hearing shall be mailed to all property owners within five hundred (500) feet of the affected parcel. The cost of such mailing shall be borne by the applicant.

(L.L. No. 1 of 2003, § 8)

**Secs. 24-230—24-240. Reserved.**

**DIVISION 5. DESIGN STANDARDS WITHIN TO DISTRICTS**

**Sec. 24-241. Design standards.**

(a) In certain districts within the town, there is a need to aesthetically blend and yet functionally separate the allowed non-residential uses with the traditional surrounding residential areas. The following design standards are intended to provide both the reviewing board and developers with the expectations of the town in this important process.

- (1) *Lighting.* Lighting shall be designed both in scale and intensity so as not to impact neighboring residential areas. No illuminated sign or light fixture shall direct light in a way which would create a traffic

hazard to be detrimental to adjoining or neighboring residences. Residential style ground security lighting and light poles which are decorative in nature shall be used. Light fixtures shall be no more than twelve (12) feet high from the finished grade or the building height, whichever is less. Illumination levels from lighting on any site subject to those standards shall not exceed one (1) foot candle at any property boundary or ten (10) foot candles anywhere on the site. Lights are to be turned off when business is closed except for minimal low intensity residential style security lighting.

- (2) Building facade materials. Building facades shall be comprised of brick, wood, man-made masonry or "high quality" synthetic materials that properly simulate brick, wood or man-made masonry, as determined by the reviewing board.
- (3) The total height of a building shall not exceed twenty one (21) feet from the main floor elevation. All roofs shall be gabled with a minimum pitch of four (4) inches of vertical rise for every twelve (12) inches of horizontal run.
- (4) Accessory equipment.
  - a. All wall or ground mounted mechanical equipment, such as heating and air conditioning units, exhaust fans, satellite dishes, etc. shall be confined within the principal structure or within an area enclosed by a wall, fence barn or hedge of sufficient height and density to provide year round screening from view from surrounding streets, properties and parking lots. No roof mounted mechanical equipment is permitted.
  - b. All garbage cans, recycling containers and similar units shall be fully enclosed by a structure made of materials consistent with the principal building on that site and screened by appropriate landscaping. No dumpsters are permitted. The outside storage of any equipment, prod-

ucts, raw materials, waste, junk, debris or similar items is prohibited. All enclosures shall be maintained in new or nearly new condition. There shall be no garbage pickup prior to 7:00 a.m.

(5) Buffering between uses.

- a. It is the intent of this section to provide natural buffer areas so as to separate non-residential uses from adjacent residential uses or adjacent residential district boundaries. Such a buffer is intended to:
  1. Provide an aesthetic transition between residential and non-residential uses;
  2. To protect the cohesiveness and the character of residential areas and uses;
  3. To shield residential uses from the more intrusive uses typically found in non-residential uses.
- b. Where a non-residential use abuts an existing residential use, a lawn and/or landscape area or a year round transitional buffer strip of thirty (30) feet shall be provided and maintained, consisting of existing or native trees, lawn, brush, shrubs and/or new plantings in sufficient quantity, type, size and density as determined necessary by the reviewing board to appropriately screen and protect adjoining properties. The slope contour of a buffer strip abutting a residential zone cannot be increased from its original state in the first fifteen (15) feet from the property line. No structure shall be permitted in any such area. All such areas shall be clearly shown on any proposed site plan being reviewed and the reviewing board may request that the property owner or developer utilize the services of a professional landscape designer or planner in this process.



**(6) Parking lot design.**

- a. Parking lots shall be located in so as to abut public streets so as to minimize the impact on adjacent residential areas to the side or rear, provided however, that parking lots shall be separated from the street right-of-way by a buffer strip at least ten (10) feet in width which includes trees, low decorative walls, hedges, shrubs or a combination thereof.
- b. The interior and edges of parking lots shall include landscaping of sufficient quantity and design so as to break up any large parking area. To that end, no row of perpendicular parking spaces shall exceed ten (10) spaces unless a landscaped island of at least nine (9) feet in width is provided. Parking islands shall be landscaped with appropriate deciduous trees or conifers.

**(7) Signs.**

- a. Only one (1) ground sign or monument sign is permitted. Ground and monument signs shall not exceed a total of thirty two (32) square feet with no dimension greater than eight (8) feet.
- b. Only one (1) wall sign per tenant is permitted. Wall signs shall be of uniform size and color and shall not exceed fourteen (14) inches in height or a total of sixteen (16) square feet.
- c. Window wall signs are prohibited.
- d. Illuminated signs must be turned off when business is closed.

(L.L. No. 11 of 2004, § 2)

**Sec. 24-242. Noise.**

For purposes of applying section 24-726, uses within RO and TN districts shall be deemed residential in nature.

(L.L. No. 11 of 2004, § 3)

**Sec. 24-243. Revocation of special permit or site plan approval.**

In the event a condition, limitation or other requirement of either the town board or the planning board is not complied with, or in the event of the demolition of the residential structure being used for the principal use, or upon failure of the owner to correct any violation after ten (10) days written notice from the town code enforcement department, the special permit and/or site plan approval previously granted by the town shall be automatically revoked.

(L.L. No. 11 of 2004, § 4)

**Sec. 24-244. Review board.**

Each use contemplated under this section shall be subject to the review of the town planning board, unless such use is subject to a special permit, in which case the town board shall have review authority. The town board shall evaluate a special permit request in the RO and TO districts pursuant to the provisions of section 24-376 of this Code. The town board may in its discretion request a recommendation regarding the special permit application from the town planning board. In any case, no special permit for any use in these districts shall be granted without first having conducted a public hearing held by the town board. Notice of the public hearing shall be mailed to all property owners within five hundred (500) feet of the affected parcel. The cost of such mailing shall be borne by the applicant.

(L.L. No. 11 of 2004, § 5)

**Secs. 24-245—24-300. Reserved.****ARTICLE V. USES ALLOWED BY SPECIAL USE PERMIT****DIVISION 1. GENERALLY****Secs. 24-301—24-325. Reserved.**

**DIVISION 2. USES ALLOWED BY SPECIAL USE PERMIT FROM ZONING BOARD OF APPEALS**

**Sec. 24-326. Generally.**

Uses permitted in districts subject to the issuance of a special use permit by the zoning board of appeals shall be permitted only when in conformity with:

- (1) The provisions prescribed in this division for the use.
- (2) All other applicable provisions for the district in which the use is permitted, unless waived by the zoning board of appeals.

(Code 1966, § 44-XI-1)

**Sec. 24-327. Commercial radio and television transmission or receiving towers and facilities.**

The following provisions apply to commercial radio and television transmission or receiving towers and facilities:

- (1) It must be demonstrated to the zoning board of appeals that such installation is reasonable and necessary at the proposed location, and that when the proposed location is in an RR rural residential district the use cannot reasonably serve the community from a location in another permitted district.
- (2) No portion of the installation is within one hundred (100) feet of any property boundary line.
- (3) The facility shall be surrounded by an enclosure fence suitable to discourage access to the facility by unauthorized persons or children.
- (4) The height limitations otherwise provided in this chapter shall not apply, provided that every portion of the structure is at least as many feet distant from bordering or opposite properties as that portion of the structure is in height.
- (5) In determining whether the installation is the appropriate distance from the prop-

erty line, guy wires shall not be considered part of the installation or structure; however, no guy wires shall be within fifteen (15) feet of any bordering property line.

- (6) In the event that the height of any installation exceeds thirty (30) feet, or the diameter of the installation or earth receiving dish exceeds fifteen (15) feet, the following additional requirements are conditions precedent to the granting of a permit:

a. The applicant shall submit to the zoning board of appeals the following:

- 1. A map showing the location of the premises for which the permit is sought, and the existing or proposed location of structures upon the premises.
- 2. The name of the person, who will operate or own the permit for the radio and television tower and facility if granted.
- 3. Such other information as the zoning board of appeals shall request in order to have all facts before it prior to making a decision.

b. At the time of the public hearing, the applicant must present to the zoning board of appeals a statement from thirty (30) percent of the owners of real property, as shown on the latest completed assessment roll, within one thousand (1,000) feet of such premises that such owners are in favor of the granting of the permit to the applicant. The statement must be subscribed and sworn to by a notary public.

c. At the time of the public hearing, the applicant must present to the zoning board of appeals an affidavit certifying that written notice of the public hearing was given by the applicant

to all owners of real property, as shown on the latest completed assessment roll within one thousand (1,000) feet of the premises for which a permit is sought. The notice must be given no earlier than twenty (20) days and no less than ten (10) days before the date of the public hearing.

(7) If an applicant requests a rooftop installation, the following additional requirements are conditions precedent to the granting of a permit:

- a. The diameter of the dish shall not exceed six (6) feet.
- b. The diameter of the dish shall be no larger than is technically required by the then standard of the art to receive the required signal.
- c. The dish shall be so placed so as to minimize its visibility to surrounding properties.
- d. The proposed use cannot reasonably serve the applicant from another location.

(Code 1966, § 44-XI-7(A))

**Sec. 24-328. Drive-in establishments.**

The following provisions apply to drive-in movies and drive-in businesses:

- (1) The use shall have no direct entrance or exit on a state, county or town highway or road, except as approved by the highway department.
- (2) The use shall provide automobile storage facilities between the ticket gates and highway for not less than twenty (20) automobiles.
- (3) The use shall have no structure, other than an enclosure fence, within fifty (50) feet of any site boundary line.
- (4) The motion picture screen (if applicable) shall be located not less than one hundred (100) feet from any street or highway or property in residential districts and shall

not face such highway or property unless the face of the screen is not visible because of natural or artificial barriers.

- (5) The use shall provide parking spaces in adequate numbers as determined by the zoning board of appeals to serve persons employed as well as the visiting public.  
(Code 1966, § 44-XI-6)

**Sec. 24-329. Electrical distribution substations and other public utility uses.**

The following provisions apply to electrical distribution substations and other public utility uses:

- (1) The facility, when not housed in a complete enclosed structure, shall be enclosed with a fence and set back from the property lines in accordance with the yard requirements as set forth for principal structures for the district in which the facility is located.
- (2) Appropriate landscaping shall be provided in conformity with the district in which the facility is located.
- (3) The facility shall not involve business offices, storage areas or structures requiring trucking or traffic movements.
- (4) At no point at the boundary of the public utility site shall the sound pressure levels exceed those set forth in section 24-726.

(Code 1966, § 44-XI-2(B))

**Sec. 24-330. Golf courses or country clubs.**

The following provisions apply to golf courses (containing nine (9) holes or more) and/or county clubs:

- (1) The board of zoning appeals must have determined that the use will not be detrimental to the neighborhood, taking into consideration the physical relationship of the proposed use to the surrounding structures, the probable hours of operation and social activities to be conducted on the premises.

- (2) No clubhouse or principal building shall be located closer than two hundred (200) feet to any lot line which is not a street line.
- (3) Parking spaces shall be provided in adequate number as determined by the zoning board of appeals to serve persons employed on the premises, as well as the visiting public.
- (4) The use may not include commercial recreational uses. In this paragraph "commercial recreational uses" includes, but is not limited to, miniature golf courses, pitch-and-putt golf courses, driving ranges, skating rinks, rifle ranges, archery ranges, pool halls, bowling alleys and other commercial activities.

(Code 1966, § 44-XI-4(B))

**Sec. 24-331. Philanthropic or eleemosynary institutions.**

An applicant for a special permit for a philanthropic or eleemosynary institution shall conform to the provisions prescribed for a sanitarium and convalescent or rest home.

(Code 1966, § 44-XI-3(B))

**Sec. 24-332. Residential dish antennas.**

The following provisions apply to residential dish antennas exceeding six (6) feet in diameter:

- (1) The diameter of the dish shall be no larger than is technically required to receive the signal.
- (2) The dish antenna shall not be located on any trailer or portable device.
- (3) The dish antenna shall be in rear yards only and shall meet all the requirements for accessory structures.
- (4) The dish antenna shall not be placed on any roof, but may be placed inside a residence.
- (5) The dish antenna must meet all requirements of this chapter for height limitations and setback restrictions, and the applicant must obtain a building permit.

- (6) The zoning board of appeals, in considering an application, shall find before granting the permit that the proposed dish antenna will have a harmonious relationship with surrounding property uses and shall be so located so as not to diminish the value or use of surrounding properties.
- (7) In lieu of obtaining a special permit, the applicant may obtain the consent of all property owners within one hundred (100) feet of the installation, and the building inspector shall issue a permit provided that there is compliance with all other provisions of this section.

(Code 1966, § 44-XI-7(B))

**Sec. 24-333. Veterinarian's office and/or animal hospital.**

The following provisions apply to veterinarians' offices and/or animal hospitals:

- (1) Off-street parking areas shall be provided in adequate number to serve persons employed on the premises and the visiting public.
- (2) Unenclosed kennels or fenced exercise yards for small animals (dogs, cats, etc.) shall be located at least twenty (20) feet from any property line.

(Code 1966, § 44-XI-8)

**Sec. 24-334. Dog boarding and/or animal grooming business.**

The following provisions apply to dog boarding and/or animal grooming businesses, whether as a sole occupant in a building or portion thereof or as an accessory or mixed use with other businesses. The zoning board of appeals may grant approval, modify a request or deny any application for dog boarding and animal grooming businesses.

- (1) The zoning board may include any reasonable conditions that will, among other items:
  - a. Protect the town, the general public, the surrounding neighboring properties, the environment and the animals;

- b. Reduce or eliminate noise, odors, traffic congestion;
  - c. Reduce or eliminate visual stimulation and exposure to the elements;
  - d. Enhance privacy for the neighbors and for the animals.
- (2) The zoning board of appeals shall require the following for:
- a. *Dog boarding business.*
    - 1. Breeding is not permitted at dog boarding businesses.
    - 2. No dogs shall have their primary permanent home at the dog boarding business.
    - 3. Dog runs and holding areas located on the exterior of a building, shall be not less than twenty (20) feet from any property boundary, shall be completely enclosed to not less than eight (8) feet in height, with a permanent barrier or fence, which shall be constructed to resist frost action and damage by the dogs. In addition:
      - A. It shall be waterproof, tear proof and shall provide privacy.
      - B. It shall not be constructed of wood, vinyl or plastic materials.
      - C. Mesh type fencing shall be not less than 9 gauge galvanized or aluminized material.
      - D. Stabilizer bars shall be installed at the top and bottom of any mesh type or other pliable fencing.
      - E. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches, measured from the side of the barrier which faces away from the run or holding area.
  - F. It shall be maintained in near new condition.
  - G. Color may be designated by the zoning board.
  - H. Opaque barriers may be required as determined by the zoning board.
- 4. All non-liquid fecal material from the dogs, (whether deposited indoors or outdoors) shall be cleaned up on a routine basis, not less than twice per day, and shall be stored for removal in containers which are designed for this use and are air tight and water tight with lids that screw tight to secure the contents.
  - 5. Areas shall be designated for waste storage until removed to an off site location and if located outside the building, shall be securely constructed of masonry or fencing to adequately contain the storage units noted in paragraph 4. This area shall be maintained in a near new condition.
  - 6. Commercially designed, interior pet car, air purifier systems, shall be installed in the building areas used for dogs, to reduce odors, contaminants and bacteria and shall be maintained in near new condition.
  - 7. Indoor and outdoor ground and floor surfaces shall be the type consistent with surfaces appropriate for use by dogs.
  - 8. Surfaces shall be able to be easily and completely cleaned and disinfected, with proper means for liquid waste disposal.
  - 9. Holding tanks for solid or liquid waste may be required by the board.

10. Noise reduction construction and/or systems may be required to meet the items noted in subsection (1).

b. *Grooming business.*

- 1. Animal holding areas shall not be located on the exterior of a building.
- 2. Animals are not allowed to be boarded.
- 3. Breeding animals is not permitted at the grooming businesses.
- 4. No animals shall have their primary permanent home at the grooming business.
- 5. Animals are not permitted to remain on site for more than five (5) hours.
- 6. Grooming waste, (hair, nails, etc.) shall not be disposed of in the sanitary sewer system or any on-site septic system.
- 7. All non-liquid fecal material from the animals shall be cleaned up on an immediate basis and shall be stored for removal in containers which are designed for this use and are air tight and water tight with lids that screw tight to secure the contents.
- 8. All liquid waste shall be cleaned up on an immediate basis.
- 9. Areas shall be designated for waste storage until removed to an off site location and if located outside the building, shall be securely constructed of masonry or fencing to adequately contain the storage units noted in paragraph 7. This area shall be maintained in near new condition.
- 10. Indoor floor surfaces shall be of the type consistent with surfaces appropriate for this use.

11. Surfaces shall be able to be easily and completely cleaned and disinfected, with proper means for disposal.

12. Noise reduction construction and/or systems may be required to meet the items noted in subsection (1).

(L.L. No. 3 of 2011, § 3)

**Secs. 24-335—24-375. Reserved.**

**DIVISION 3. USES ALLOWED UPON SPECIAL PERMIT FROM TOWN BOARD**

**Sec. 24-376. Generally.**

(a) Uses permitted in districts subject to issuance of special permits by the town board shall be subject to the standards and provisions set forth and prescribed for the use in this division.

(b) The town board upon finding that the spirit of this chapter will be observed and subject to appropriate conditions may, in its sole discretion and judgment, waive any provisions, requirements or mixes in uses when granting a special permit.

(c) The special permit shall be granted for the specific use requested, and the permit shall be limited to the use, intensity of use and other factors set forth in the application for the special permit.

(d) The town board may grant approval for a special permit on stated conditions which regulate the hours of operation, the type and intensity of operation, the ingress, egress and traffic control, appropriate buffer zones and such other conditions to ensure that the public health, safety

and welfare will be observed, and the permit shall be valid only so long as there is compliance with the stated conditions.

(e) The town board shall exercise continuing jurisdiction over all special permits issued by the town board. Upon notice to the applicant, the town board may hold a hearing to revoke, modify or change a special permit.  
(Code 1966, § 44-XI-20)

**Sec. 24-377. Fee.**

If a public hearing is required before a special permit can be granted by the town board, a fee of thirty dollars (\$30.00) shall be paid upon the making of an application for a special permit. The fee shall be paid for the purpose of defraying the expense of processing the application and publication of the public notice.  
(Code 1966, § 44-XI-18)

**Sec. 24-378. Abattoir or animal reduction works.**

The following provisions apply to abattoirs and animal reduction works:

- (1) The person operating the establishment shall:
  - a. Maintain the premises upon which the business is carried on in a sanitary condition at all times. Floors and inside walls must be hosed and washed at reasonable intervals. Pits and stalls must be kept clean and free from objectionable smells at all times. Containers for offal and entrails must be emptied and properly cleaned daily and all matter, such as offal or entrails, must be burned or disposed of by burial daily.
  - b. Equip and provide each establishment with a septic tank of sufficient dimensions to serve its requirements as approved by the state. Under no circumstances will raw sewage be allowed to drain into any creek or watercourse.
- (2) The premises shall pass periodic inspections conducted by the town health officer. If the premises do not pass inspection they shall be closed until the requirements of the health officer have been complied with.

- (3) No establishment shall be located within three hundred (300) feet of any street, avenue or road or within three hundred (300) feet of any adjacent property.

(Code 1966, § 44-XI-15)

**Sec. 24-379. Adult entertainment businesses.**

The following provisions apply to adult entertainment businesses:

- (1) Applicants for a permit to operate an adult entertainment business shall submit the following:
  - a. Name, address and telephone number of the applicant.
  - b. A map showing the location of the premises for which such permit is sought, and the existing or proposed location of structures upon such premises.
  - c. Name of the person who will operate the adult entertainment business if the permit is granted.
  - d. Such other information as the town board requests in order to have all facts before it prior to making a decision.
- (2) Upon the receipt of the application and any necessary supplementary information, the town board shall set a date for a public hearing in regard to the granting of such permit, and a notice of such public hearing shall be published in the town newspaper no earlier than twenty (20) days and no later than ten (10) days before the date of the public hearing.
- (3) At the time of the public hearing, the applicant must present to the town board an affidavit certifying that written notice of the public hearing was given by the applicant to all owners of real property, as shown on the latest completed assessment roll, within five hundred (500) feet of the premises for which a permit is sought. The notice must be given no earlier than twenty (20) days and no later than ten (10) days before the date of the public hearing.
- (4) At the time of the public hearing, the applicant must present to the town board a statement from fifty (50) percent of the own-

ers of real property, as shown on the latest completed assessment roll, within five hundred (500) feet of the subject premises, that such owners are in favor of granting of such permit to the applicant. The statement must be subscribed and sworn to by a notary public.

- (5) No permit shall be granted for the operation of an adult entertainment business unless the following basic requirements are complied with: No adult entertainment business shall be located within two hundred fifty (250) feet of any lot or parcel occupied by a school, hospital, library, church or nursing home. The measurement shall be from the closest lot line of the school, hospital, library, church or nursing home to the closest lot line upon the lot on which the adult entertainment business is located.
- (6) Before a permit may be issued, the town board must find that the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be injured thereby, and that the granting of the permit is in the best interest of the community and its inhabitants.
- (7) No building permit shall be issued pursuant to any special permit heretofore issued by the zoning board of appeals.
- (8) Section 24-65 applies to this section.  
(Code 1966, § 44-XI-21)

**Sec. 24-380. Dog kennels and/or commercial training and care of dogs.**

(a) The following provisions apply to dog kennels and/or commercial training and care of dogs:

- (1) A special permit for a dog kennel includes commercial training and care of dogs. A special permit for commercial training and care of dogs does not include the right to maintain a dog kennel unless specifically stated in the special permit.

(2) Applicants for permits to operate a dog kennel or commercial training and care of dogs shall submit the following:

- a. The name, address and telephone number of the applicant.
- b. A map showing the location of the premises for which such permit is sought and existing or proposed location of structure upon such premises.
- c. The name of the person who will operate the facility if the permit is granted.
- d. Whether the application is for a dog kennel or commercial training and care of dogs.
- e. Such other information as the town board requests in order to have all the facts before it prior to making a decision.

(3) Upon the receipt of such application and any necessary supplemental information, the town board shall set a date for a public hearing in regard to the granting of the permit, and a notice of the public hearing shall be published in the official town newspaper no earlier than twenty (20) days and no later than ten (10) days before the date of the public hearing.

(4) At the time of the public hearing, the applicant must present to the town board an affidavit certifying that the written notice of the public hearing was given by the applicant to all owners of real property as shown on the latest completed assessment roll, within five hundred (500) feet of the premises for which a permit is sought. The notice shall be given no earlier than twenty (20) days and not later than ten (10) days before the public hearing.

(5) At the time of the public hearing, the applicant must present to the town board a statement from fifty (50) percent of the owners of real property, as shown on the latest completed assessment roll, within five hundred (500) feet of the subject premises, that such owners are in favor of granting said permit to the applicant. The statement must be subscribed and sworn to before a notary public.



- (6) No dog kennel or commercial training and care of dogs shall be located within five hundred (500) feet of any residential district. The measurement distance shall be from the closest lot line to the closest lot line.
- (7) Before a permit may be issued, the town board must find that the public welfare and convenience will be substantially served and the appropriate use of neighboring property will not be injured thereby, and that granting such permit is in the best interest of the community and its inhabitants.

(b) This section does not affect or alter the establishment of an animal hospital so long as the animal hospital is run and supervised by a veterinarian licensed to practice in the state.  
(Code 1966, § 44-XI-11)

#### **Sec. 24-381. Heliports.**

The following provisions apply to heliports:

- (1) Applicants for a permit shall submit the following:
  - a. The name, address and telephone number of the applicant.
  - b. The name of the person who will operate the heliport if the permit is granted.
  - c. A site plan showing the location of the premises for which the permit is sought, the existing or proposed location of structures on the premises and all structures within three hundred (300) feet of the landing pad, and primary and secondary landing and take-off patterns.
  - d. A copy of the application filed with the Federal Aviation Administration.
  - e. Such other information as the town board shall request in order to have all the facts before it prior to making a decision.
- (2) Upon the receipt of the application and any necessary supplemental information, the town board shall set a date for a public hearing.
- (3) No heliport pad shall be located within three hundred (300) feet of any private residence, hospital or nursing home without the own-

er's consent at the time of the application. The measurement distance shall be the pad line to the closest structure.

- (4) The heliport shall comply with all applicable federal and state regulations and must have approval of proposed flight pattern by the Federal Aviation Administration.
- (5) The operation of a heliport shall be in compliance with chapter 6, article II of this Code.
- (6) In issuing the permit, the town board may impose any condition which it deems necessary to promote the orderly development of the surrounding area and to uphold the spirit and intent of all town laws. To accomplish this purpose the town board may refer the special use permit requested to the planning board for review and comment.

(7) The permit is not transferable.  
(Code 1966, § 44-XI-19)

#### **Sec. 24-382. Hospitals.**

The following provisions apply to hospitals:

- (1) No principal building shall be located closer than fifty (50) feet to the lot line which is not a street line.
- (2) The location shall be such as to offer reasonable protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to the surrounding properties and access to the site over any nearby street.

(Code 1966, § 44-XI-13)

#### **Sec. 24-383. Junkyards.**

The following provisions apply to junkyards:

- (1) Applicants for a permit shall submit the following:
  - a. The name, address and telephone number of the applicant.
  - b. A map showing the location of the premises for which such permit is sought and the existing or proposed location of structures on the premises.

- c. The name of the person, firm, corporation or association which will operate the business if such permit is granted.
  - d. Such other information as the town board requests in order to have all the facts before it prior to making a decision.
- (2) Upon the receipt of such application and any necessary supplemental information, the town board shall set a date for a public hearing in regard to granting of such permit, and a notice of the public hearing shall be published in the official town newspaper no earlier than twenty (20) days and no later than ten (10) days before the date for the public hearing.
  - (3) At the time of the public hearing the applicant must present to the town board an affidavit certifying that the written notice of the public hearing was given by the applicant to all owners of real property as shown on the latest completed assessment roll, within two hundred fifty (250) feet of the premises for which a permit is sought. The notice shall be given no earlier than twenty (20) days before the date of the public hearing and no later than ten (10) days before.
  - (4) At the time of the public hearing, the applicant must present to the town board a statement from fifty (50) percent of the owners of real property as shown on the latest completed assessment roll, within two hundred fifty (250) feet of the subject premises, that such owners are in favor of granting of the permit to the applicant. The statement must be subscribed and sworn to before a notary public.
  - (5) No junkyard, auto wrecking business or business for the storage of salvage materials shall be located within five hundred (500) feet of any residential district. The measurement distance shall be from closest lot line to closest lot line.
  - (6) Before a permit can be issued, the town board must find that the public convenience and welfare will be substantially served and the appropriate use of neighboring prop-

erty will not be injured thereby and that granting of such permit is in the best interest of the community and its inhabitants.

- (7) The town board, if it sees fit in granting a permit, shall have the power to require additional conditions and other reasonable requirements as a condition precedent to the granting of the permit.
  - (8) Anything in this section notwithstanding, the town board may, on its own motion, permit a junkyard without complying to the foregoing provisions and procedure, if the junkyard is to be used in connection with a town-operated or town-sponsored program to dispose of junk, etc., from other public or private properties within the town.
- (Code 1966, § 44-XI-14)

**Sec. 24-384. Mobile home parks.**

The following provisions apply to mobile home parks:

- (1) The park site shall have a minimum area of eight (8) acres and shall contain no more than one (1) mobile home for each seven thousand (7,000) square feet of gross site area.
- (2) The site shall be served by municipal water and sanitary sewers. The owner of the proposed mobile home park shall have prepared a site grading plan showing mobile home lots, a drainage plan and a utility plan showing connections to all lots.
- (3) No mobile home lot shall have less than five thousand (5,000) square feet in area and less than fifty (50) feet of frontage on a paved access road. Lots for expandable or double-width mobile homes shall be increased in size to comply with paragraph (4) of this section.
- (4) No mobile home shall be closer than twenty-five (25) feet to the paved access road or within twenty-five (25) feet of any other mobile home or structure in the park.
- (5) Two (2) paved off-street parking spaces shall be provided per mobile home lot.

- (6) Provisions shall be made to securely anchor each mobile home to the ground. No mobile home shall be occupied until this provision is met.
- (7) A usable area set aside exclusively for recreation shall be provided within the park and shall be equal in area to at least two hundred fifty (250) square feet for each lot in the park. The minimum required area shall not have a grade in excess of four (4) percent nor a horizontal dimension of less than forty (40) feet.
- (8) Each park shall have no more than one (1) entrance road on any one (1) street frontage for every forty-eight (48) lots.
- (9) A landscaped yard at least thirty (30) feet wide shall be provided around the entire perimeter of the park. This yard area shall be densely planted with approved plant materials and maintained to provide visual screening from adjacent properties. This yard shall not count in fulfilling the recreation space requirement.
- (10) As a condition of site plan approval, the planning board may require interior landscaping at the rate of one (1) tree per mobile home lot.
- (11) No mobile home shall be occupied within the park until a minimum of forty-eight (48) lots has been prepared in accordance with the above requirements.
- (12) Mobile home parks that are legally existing as of January 1, 2005 and have a current certification of existing use from the code enforcement officer, may continue that use. For these existing mobile home parks, exchanging, replacing or upgrading existing mobile homes or manufactured homes on existing approved lots or pads shall be consistent with the performance standards noted in this section.
  - a. New homes and their installation shall comply with applicable provisions of the state Uniform Fire Prevention and Building Code and any other applicable laws, codes or rules.
  - b. Lot (pad) shape and size may not be altered except as permitted in the local law.
  - c. Distances separating homes shall be twenty five (25) feet or the distance existing prior to removal of the mobile home or the minimum required by other applicable laws, codes or rules, whichever is greater. Reasonable allowance may be made by the code enforcement officer to accommodate reductions in distance separations due to newer home size and configuration, up to the separation required by laws, codes or rules, but never less than ten (10) feet.
  - d. Setback distance from mobile homes replacing existing mobile homes, to the property boundaries of the mobile home park, shall be the minimum required by the codes, or the distance existing prior to removal of the mobile home, whichever is greater. Reasonable allowance may be made by the code enforcement officer to accommodate a reduction in distance setback due to newer home size and configuration so as to allow not less than a fifteen (15) feet setback to property boundaries.
  - e. Any reduction in separation or setback distance from mobile homes may be granted only after considering the following factors:
    - 1. The separation be the minimum necessary to accommodate the new mobile home size.
    - 2. No utilities are effected or encroached upon.
    - 3. The reduction shall not alter the essential character of the adjoining lots in the mobile home park.
  - f. Buffering to provide a year round visual screen to minimize impacts for an adjacent property or from adjacent areas, shall be provided when a mobile home encroaches to less

than twenty (20) feet from the mobile home park property boundary. Buffering approved by the code enforcement officer may consist of evergreens, berms, rocks, boulders, mounds, or combinations to achieve the stated objectives. Fencing may also be required if deemed necessary by the code enforcement officer.

- g. Installation of single story "double wide" homes is permitted. They shall be required to use at least two (2) contiguous, adjacent lots (pads) and shall conform to the above noted requirements. Future requests for removing "double wide" homes and separating these lots for single width home placement, shall only be approved through the planning board.
- h. Other than stated in subsection g., no alterations are permitted that result in increasing the number of existing home lots (pads).

(Code 1966, § 44-XI-12; L.L. No. 2 of 2005, § 1)

**Sec. 24-385. Vehicle service stations.**

The following provisions apply to vehicle service stations:

- (1) Any person, as of December 18, 1961, operating a wrecker-commercial garage, a wrecker garage or a commercial garage may continue to do so without obtaining a special permit. Any such person or any person claiming a nonconforming use to operate such business may, by providing sufficient proof of such prior operation or of such nonconforming use, obtain a certificate of prior use from the administrative officer. Any such person denied a certificate of prior use from the administrative officer may appeal such denial before the zoning board of appeals which may issue such certificate if such right to such certificate is established. Any such business which is discontinued for one (1) year shall not be resumed by any person without the issuance of a permit.

- (2) Applicants for a permit to operate a vehicle service station shall submit the following:

- a. Name, address and telephone number of the applicant.
- b. A map showing the location of the premises for which such permit is sought, and the existing or proposed location of structures upon such premises.
- c. The name of the person who will operate the vehicle service station if the permit is granted.
- d. Such other information as the town board shall request in order to have all facts before it prior to making a decision.

- (3) Upon the receipt of the application and any necessary supplementary information, the town board shall set a date for a public hearing in regard to the granting of the permit, and a notice of such public hearing shall be published in the town newspaper no earlier than twenty (20) days and no later than ten (10) days before the date of the public hearing.

- (4) At the time of the public hearing, the applicant must present to the town board an affidavit certifying that written notice of the public hearing was given by the applicant to all owners of real property, as shown on the latest completed assessment roll, within five hundred (500) feet of the premises for which a permit is sought. The notice must be given no earlier than twenty (20) days and no less than ten (10) days before the date of the public hearing.

- (5) At the time of the public hearing, the applicant must present to the town board a statement from fifty (50) percent of the owners of real property, as shown on the latest completed assessment roll, within five hundred (500) feet of the subject premises, that such owners are in favor of

the granting of such permit to the applicant. The statement must be subscribed and sworn to by a notary public.

- (6) No permit shall be granted for the operation of a vehicle service station unless the following basic requirements are complied with:
- a. No vehicle service station building shall be located within two hundred fifty (250) feet of any lot or parcel occupied by a school, hospital, library, church or nursing home. The measurement shall be from the closest lot line of the school, hospital, library, church or nursing home to the closest point of the vehicle service station building. In addition, there shall be at least one hundred fifty (150) feet measured from the closest lot line to the closest lot line.
  - b. Pumps, lubricating or other devices shall be located at least twenty (20) feet from any street or highway right-of-way.
  - c. All fuel oil or similar substance shall be stored at least thirty-five (35) feet distant from any street or lot line. Underground gasoline tanks shall be located at least twenty (20) feet from any street or highway right-of-way.
  - d. No vehicle service station shall be located within one hundred (100) feet of a residence district, except that this provision shall not apply when all the properties residentially zoned within one hundred (100) feet shall approve said special permit, and at least two-thirds ( $\frac{2}{3}$ ) of the property owners are in favor of granting said special permit.
  - e. No vehicle service station shall be located on any lot of an area less than twenty-two thousand five hundred (22,500) square feet and a contiguous street frontage of not less than one hundred fifty (150) feet.
  - f. The parking of trucks as an accessory use shall not be permitted except those used exclusively for the conduct of the vehicle service station business.
  - g. No rental devices or equipment shall be placed on the premises with the exception of merchandising equipment for the sale of soft drinks, candy and tobacco products, which shall be placed on the interior of the building only.
  - h. No junk vehicle shall be stored outside. Disabled vehicles may be stored outside for a period of up to ten (10) days, and in no event more than four (4) at a time, except that the town board may grant a license to store junk vehicles and additional disabled vehicles for longer periods of time on the property pursuant to section 15-27 and pursuant to such other requirements as the town board may deem appropriate to protect neighboring private and public property, including public rights-of-way.
  - i. There shall be no outside storage of supplies, tires, drums, parts, etc.
  - j. There shall be no sales of or rentals of fertilizer, U-hauls, trailers or trucks on the premises.
- (7) In addition to meeting the aforementioned requirements, before a permit can be issued, the town board must find that the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be injured thereby, and that the granting of such permit is in the best interest of the community and its inhabitants.
- (8) No building permit shall be issued pursuant to any special permit heretofore issued by the zoning board of appeals.
- (9) Section 24-65 does not apply to this section.
- (Code 1966, § 44-XI-10; L.L. No. 2 of 2001, § 1, 11-14-01)

**Sec. 24-386. Research laboratory.**

The following provisions apply to research laboratories:

- (1) No hazardous research shall be conducted on the premises.
- (2) No research that will affect the peace, welfare and comfort on adjoining parcels shall be conducted on the premises.
- (3) The applicant must provide copies of any application filed with any state agency and

copies of any permits that have been issued.

(L.L. No. 1 of 1993, § 2)

**Sec. 24-387. Container storage.**

The following provisions shall apply to the use of containers for the purpose of storing materials, supplies, inventory or products:

- (1) Applications for special permit for container storage shall contain the following information:
  - a. Name, address and phone number of property owner.
  - b. Name, address and phone number of applicant.
  - c. A detailed list of all material and amounts of materials to be stored in the containers, and material data sheets applicable to any materials to be stored.
  - d. A site plan drawn to scale of the entire parcel showing all existing structures and the location of the proposed container storage giving the distances to all property lines and existing structures.
  - e. A listing number, type and size of the containers being requested for storage.
  - f. A statement as to the amount of time containers would be utilized and the expected date as to when they would be removed.

(L.L. No. 4 of 1996, § 3)

**Secs. 24-388—24-425. Reserved.**

**DIVISION 4. USES ALLOWED UPON  
SPECIAL PERMIT FROM ADMINISTRATIVE  
OFFICER**

**Sec. 24-426. Outdoor storage of materials,  
equipment and supplies.**

(a) The following provisions apply to outdoor storage of materials, equipment and supplies:

- (1) There must be compliance with all of the conditions and limitations set forth in the

permit, which conditions and limitations shall be designed to achieve the objectives of section 24-86 and shall be consistent with and in furtherance of the provisions of the site plan approval for the particular property. In a suitable case such permit may be denied as appropriate.

- (2) Prior to issuance of the special permit, the planning board shall review the proposed outdoor storage and shall make such recommendations for conditions and limitations as it finds are appropriate pursuant to section 24-86 or, if it finds outdoor storage inappropriate, it shall so state with its reasons and shall promptly submit its recommendations to the administrative officer.
- (3) The administrative officer may vary the special permit from the recommendations of the planning board, but he must set forth in writing, as a part of the permit, the differences between the special permit and the recommendations.

(b) Nothing contained in this section shall limit outdoor storage on any parcel which exists on the effective date of this section or which existed within one (1) year prior thereto, but such preexisting outdoor storage shall not be materially increased in intensity or materially changed in character. A certificate of existing use for such preexisting outdoor storage may be issued pursuant to section 24-22 by the administrative officer without planning board review.

(Code 1966, § 44-XI-17)

**Secs. 24-427—24-500. Reserved.**

**ARTICLE VI. OVERLAY DISTRICTS**

**DIVISION 1. GENERALLY**

**Secs. 24-501—24-515. Reserved.**

**DIVISION 2. AQUIFER DISTRICT**

**Sec. 24-516. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aquifer district map* means the official map adopted by the town and delineated to indicate that area of the town where the aquifer and water supply is or may reasonably be in the future in the town.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, reconstruction of buildings, dredging, filling, grading, construction of tanks or other storage facilities, pumps, pumping stations, waste treatment facilities, commercial excavation, dumping or land-fill operation.

*Discharge* means release by any means to the surface of the ground, surface waters, groundwaters, or belowground.

*Toxic or hazardous material* means any substance, solution or mixture thereof, whether in solid, liquid or gaseous state, which because of its quality, concentration, physical, chemical or infectious characteristics may present a potential hazard to human health or drinking water supply quality if discharged to the surface of the land or to the aquifer in the town. This includes, but is not limited to the list of hazardous substances found in part II, title 40 of the Code of Federal Regulations as now enacted or hereinafter amended; acids and alkalines beyond the pH range of 6.5—8.5; heavy metal wastes and solutions; petroleum products, including fuels and waste oil; organic solvents and any solid materials which, if exposed to water, will partially dissolve, forming a toxic or hazardous material. (Code 1966, § 44-XI-22(B))

Cross reference—Definitions and rules of construction generally, § 1-2.

**Sec. 24-517. Purpose and intent.**

The purpose and intent of the aquifer district is to minimize the potential for contamination of the

aquifer which currently supplies or in the future may supply water to the residents of the town. These areas are set forth in the aquifer district map established by the town. In promoting the general intent of this division the special intent is:

- (1) To minimize surface and ground water pollution which may affect human, animal or plant life of the aquifer in the town.
- (2) To minimize impacts from truck traffic in this area carrying hazardous chemicals.
- (3) To protect human life and health, control uses in this district for the storage of materials, structures, discharges and uses of premises.
- (4) To promote the general health, welfare and safety.

(Code 1966, § 44-XI-22(A))

**Sec. 24-518. Special permits.**

(a) *Required.* Any use of property within the aquifer district shall be permitted only upon obtaining a special permit from the town board when the use meets or exceeds any of the following criteria:

- (1) Any development, other than residential, of real property exceeding fifty thousand dollars (\$50,000.00) in development cost.
- (2) Any use of property or change of use of property or any business, industrial or municipal operation which uses, distributes, or stores toxic or hazardous chemicals when the storage or use exceeds fifty-five (55) gallons per month or five hundred (500) pounds, whichever is less.
- (3) Any activity requiring a permit from the state department of environmental conservation.
- (4) The drilling of any new well.

(b) *Application.* Applicants for a permit to develop in an aquifer district shall submit the following:

- (1) The name, address and telephone number of the applicant.



- (2) If the applicant is a corporation, the names, addresses and telephone numbers of all the corporate officers and directors.
- (3) A map and report showing the location of the premises for which the permit is sought and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of sanitary wastes, stormwater wastes, process wastes, toxic or hazardous wastes, and incidental wastes within the property boundaries of the business or commercial establishment.
- (4) When storage or use exceeds five hundred (500) gallons per month or five thousand (5,000) pounds, whichever is less, the applicant shall also provide provisions for any impermeable membrane to contain any potential spills, or such other protection as the town board deems appropriate.
- (5) Such other information as the town board requests in order to have all facts before it prior to making the decision.
- (6) Copies of any permits and applications to any other governmental agency.
- (7) A list of all toxic chemicals or hazardous materials known to be used or stored on the premises, together with sufficient detail to appraise the town board of the method of storage and the amount of toxic or hazardous materials on the premises.
- (8) The method of disposal of toxic or hazardous materials.
- (9) A full report regarding the use and storage of all toxic and all hazardous materials.
- (10) Applicants shall pay a fee of one hundred dollars (\$100.00) with the application.

(c) *Public hearing.* A public hearing shall be held in regard to granting of the permit and notice of the public hearing in regard to the granting of the permit shall be published in the official town newspaper no earlier than twenty (20) days and no later than ten (10) days before the date of such public hearing. All uses subject to a special per-

mit, unless such uses are by governmental entities, shall nevertheless be subject to the public hearing requirements of this subsection, and shall file an environmental assessment form which shall be reviewed by the town board in accordance with the provisions of Chapter 6, article II of this Code.

(d) *Issuance of permit.* The town board may grant the permit, deny the permit or grant the permit with stated conditions. In the event that a permit is granted, or granted with stated conditions, it shall be a requirement that the applicant shall use the best available means to prevent contamination of the aquifer district. This requirement shall be a continuing requirement, and the town board shall maintain continuing jurisdiction and shall have the power to make such provisions as are necessary to update the development or facilities in order that it may be used in accordance with the then prevailing state of technology.

(e) *Change in use or ownership.* A change in use or ownership shall necessitate a new permit. (Code 1966, § 44-XI-22(C)—(G); L.L. No. 7 of 1989, § 1; L.L. No. 8 of 1997, § 2)

**Secs. 24-519—24-530. Reserved.**

### DIVISION 3. PLANNED DEVELOPMENT DISTRICT

#### **Sec. 24-531. Generally.**

A residential, commercial or industrial planned development district or combination thereof may be established in any district of the town for the purpose of promoting integrated site planning of tracts of land ten (10) acres or more in area. Establishment of a planned development district shall be by amendment to this chapter in accordance with the procedure in this division. This division is applicable to planned development districts.

(Code 1966, § 44-XIV-1)

**Sec. 24-532. Procedure for establishment of district.**

(a) *Application; form and content.* Written application for the establishment of a planned development district shall be filed with the administrative officer. The application shall be accompanied with the following information:

- (1) The location, size and boundaries of the proposed district.
- (2) The proposed use or uses of the district.
- (3) The present zoning classification of the designated area and all adjoining property within two hundred (200) feet.
- (4) The location of private or public rights-of-way, encumbrances, and easements bounding and intersecting the designated areas.
- (5) A site plan to the scale of one (1) inch equals fifty (50) feet, or larger, showing use, location and dimensions of buildings; the location and dimensions of open spaces; streets and other vehicular circulation of storage areas; and an indication of which rights-of-way, encumbrances and easements, if any, are to be continued, relocated or abandoned.
- (6) A storm drainage plan, including connections to an existing storm drainage facility or, in lieu thereof, an alternate plan sufficient to provide adequate, suitable, proper and safe storm drainage, subject to the approval by the town engineer.
- (7) Such additional information as may be required by the town planning board or the town board.

(b) *Action of the town planning board.* The town planning board may approve, approve with stated conditions or disapprove an application for a zoning amendment and shall file a written report of its decisions with the town board. In reaching its decision the town planning board may recommend any conditions or restrictions upon the location, construction or use or operation of the district as it shall deem necessary in order to secure the general objectives of this chapter.

(c) *Action by the town board.* When amended, the planned development district site plan and other specifications and conditions shall become a part of the amendment.

(Code 1966, § 44-XIV-2)

**Sec. 24-533. Fee.**

A fee of thirty dollars (\$30.00) shall be paid upon the filing of each application for a planned development district.

(Code 1966, § 44-XIV-6)

**Sec. 24-534. Permitted uses.**

Uses shall be limited to those approved by the town board. The town board may approve any use permitted in this chapter and may also permit separate ownership of each unit of a two-family dwelling.

(Code 1966, § 44-XIV-3(A))

**Sec. 24-535. Lot limitations.**

The following lot limitations apply to a two-family dwelling with separate ownership of each unit:

- (1) *Area.* The minimum area is six thousand two hundred fifty (6,250) square feet for each dwelling unit. Dwellings with a private sanitary sewer shall have such greater area as may be required by section 24-704.
- (2) *Frontage.* The minimum frontage is fifty (50) feet for each dwelling unit or fifty (50) feet measured at the thirty-foot setback line, provided that such a lot has a minimum of thirty-five (35) feet of frontage on a street.
- (3) *Other requirements.* All other requirements for the RA-2 district apply except as provided in this section to the contrary.

(Code 1966, § 44-XIV-3(B))

**Sec. 24-536. Changes or modifications.**

Incidental changes (i.e., required yards, height, coverage, etc.) may be permitted at the discretion of the zoning board of appeals.

(Code 1966, § 44-XIV-4)

**Sec. 24-537. Occupancy permits.**

Any restrictions placed upon any part of the area within a planned development district shall run with the land and shall not lapse or be waived as a result of any change of ownership of all or part of the area. The restrictions shall be part of any certificate of occupancy issued for any structure or use in the district.

(Code 1966, § 44-XIV-5)

**Secs. 24-538—24-600. Reserved.****DIVISION 4. HISTORIC PRESERVATION\*****Sec. 24-601. Purpose.**

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as the town has many significant historic, architectural and cultural resources, which constitute its heritage, this act is intended to:

- (1) Protect and enhance the landmarks and historic districts, which represent distinctive elements of the town's historic, architectural, and cultural heritage;
  - (2) Foster civic pride in the accomplishments of the past;
  - (3) Protect and enhance the town's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
  - (4) Insure the harmonious, orderly, and efficient growth and development of the town.
- (L.L. No. 3 of 2010, § 1)

\*Editor's note—L.L. No. 3 of 2010, §§ 1—13, adopted June 9, 2010, repealed and reenacted §§ 24-601—24-611, as set out herein. Former Div. 4 pertained to similar subject matter and derived from L.L. No. 8 of 2002, § 1.

**Sec. 24-602. Historic preservation commission.**

There is hereby created a commission to be known as the town historic preservation commission.

- (1) The commission shall consist of five (5) members to be appointed, to the extent available in the community, by the supervisor as follows:
  - a. At least one (1) shall be an architect experienced in working with historic buildings;
  - b. At least one (1) shall be a historian;
  - c. At least one (1) shall be a resident of a historic district;
  - d. At least one (1) shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and
  - e. All members shall have a known interest in historic preservation and architectural development within the town.
- (2) Commission members shall serve for a term of four (4) years, with the exception of the initial term of one (1) of the five (5) members, which shall be one (1) year, one (1) which shall be two (2) years, and one (1) which shall be three (3) years.
- (3) The chairman and vice chairman of the commission shall be elected by and from among the members of the commission.
- (4) The powers of the commission shall include:
  - a. Employment of staff and professional consultants as necessary to carry out the duties of the commission;

- b. Promulgation of rules and regulations as necessary to carry out the duties of the commission;
- c. Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts;
- d. Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the town;
- e. Designation of identified structures or resources as landmarks and historic districts;
- f. Acceptance on behalf of the town government of the donation of facade easements and development rights and the making of recommendations to the town government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;
- g. Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
- h. Making recommendations to town government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the town;
- i. Recommending acquisition of a landmark structure by the town government where its preservation is essential to the purposes of this act and where private preservation is not feasible; and
- j. Approval or disapproval of applications for certificates of appropriateness pursuant to this act.

time on the written request of any two (2) of the commission members or on the call of the chairman or the supervisor.

- (6) A quorum for the transaction of business shall consist of three (3) of the commission's members, but not less than a majority of the full-authorized membership may grant or deny a certificate of appropriateness.

(L.L. No. 3 of 2010, § 2)

**Sec. 24-603. Designation of landmarks or historic districts.**

(a) The commission may designate an individual property as a landmark if it:

- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
- (2) Is identified with historic personages;
- (3) Embodies the distinguishing characteristics of an architectural style;
- (4) Is the work of a designer whose work has significantly influenced an age; or
- (5) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

(b) The commission may designate a group of properties as a historic district if it:

- (1) Contains properties which meet one (1) or more of the criteria for designation of a landmark; and
- (2) By reason of possessing such qualities, it constitutes a distinct section of the town.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the town clerk's office for public inspection.

(c) Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the commission to consider the designation. Where the proposed designation involves so many own-

- (5) The commission shall meet at least monthly, but meetings may be held at any

ers that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least sixty (60) days prior to the date of the public hearing. Once the commission has issued notice of a proposed designation, no building permits shall be issued by the building inspector until the commission has made its decision.

(d) The commission shall hold a public hearing prior to designation of any landmark or historic district. The commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

(e) The commission shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the office of the Broome County Clerk for recordation.

(L.L. No. 3 of 2010, § 3)

**Sec. 24-604. Certificate of appropriateness for alteration, demolition or new construction affecting landmarks or historic districts.**

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within a historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements which affect the appearance and cohesiveness of the landmark or historic district, without first obtaining a certificate of appropriateness from the historic preservation commission.

(L.L. No. 3 of 2010, § 4)

**Sec. 24-605. Criteria for approval of a certificate of appropriateness.**

(a) In passing upon an application for a certificate of appropriateness, the historic preservation commission shall not consider changes to interior spaces, unless they are open to the public.

The commission's decision shall be based on the following principles:

- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- (2) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
- (3) New construction shall be compatible with the district in which it is located.

(b) In applying the principle of compatibility, the commission shall consider the following factors:

- (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;
- (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
- (3) Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
- (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
- (5) The importance of historic, architectural or other features to the significance of the property.

(L.L. No. 3 of 2010, § 5)

**Sec. 24-606. Certificate of appropriateness application procedure.**

(a) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the historic preservation commission. The application shall contain:

- (1) Name, address and telephone number of applicant;

- (2) Location and photographs of property;
- (3) Elevation drawings of proposed changes, if available;
- (4) Perspective drawings, including relationship to adjacent properties, if available;
- (5) Samples of color or materials to be used;
- (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
- (7) Any other information which the commission may deem necessary in order to visualize the proposed work.

(b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the historic preservation commission. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the town.

(c) The commission shall approve, deny or approve the permit with modifications within forty-five (45) days from receipt of the completed application. The commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

(d) All decisions of the commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the town clerk's office for public inspection. The commission's decision shall state the reasons for denying or modifying any application.

(e) Certificates of appropriateness shall be valid for twelve (12) months, after which the owner must reapply if he still wishes to undertake work on the property.  
(L.L. No. 3 of 2010, § 6)

**Sec. 24-607. Hardship criteria for demolition.**

An applicant whose certificate of appropriateness for a proposed demolition has been denied

may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(L.L. No. 3 of 2010, § 7)

**Sec. 24-608. Hardship criteria for alteration.**

An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

(L.L. No. 3 of 2010, § 8)

**Sec. 24-609. Hardship application procedure.**

(a) After receiving written notification from the commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the commission makes a finding that a hardship exists.

(b) The commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.

(c) The applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

(d) All decisions of the commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the town clerk's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the commission shall approve only such work as is necessary to alleviate the hardship.

(L.L. No. 3 of 2010, § 9)

**Sec. 24-610. Enforcement.**

All work performed pursuant to a certificate of appropriateness issued under this article shall conform to any requirements included therein. It shall be the duty of the building code enforcement officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the historic preservation commission, the building code enforcement officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(L.L. No. 3 of 2010, § 10)

**Sec. 24-611. Maintenance and repair required.**

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the historic preservation commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for the public safety.

(L.L. No. 3 of 2010, § 11)

**Sec. 24-612. Violations.**

(a) Failure to comply with any of the provisions of this article shall be deemed a violation and the violator shall be liable to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each day the violation continues.

(b) Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the town attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

(L.L. No. 3 of 2010, § 12)

**Sec. 24-613. Appeals.**

Any person aggrieved by a decision of the historic preservation commission relating to hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written application with the town board for review of the decision. Reviews shall be conducted based on the same record that was before the commission and using the same criteria.

(L.L. No. 3 of 2010, § 13)

**Secs. 24-614—24-700. Reserved.**

supply are not available shall be located on lots having sufficient area for a proven installation of

## **ARTICLE VII. SUPPLEMENTAL REGULATIONS**

### **DIVISION 1. GENERALLY**

**Sec. 24-701. Scope.**

Unless stated otherwise the provisions of this article apply in all zoning districts.

**Sec. 24-702. Visibility at intersections.**

On corner lots, clear vision shall be maintained within the triangular area formed by the intersecting street lines and a straight line joining the street lines at points which are twenty (20) feet distant from the point of intersection, measured along such street lines. In such areas no shrubbery, fence or other obstruction shall be permitted higher than three (3) feet from the accepted street grade, nor shall branches or foliage of trees be permitted less than ten (10) feet from the ground.

(Code 1966, § 44-VI-1)

**Sec. 24-703. Dumping of clean fill, refuse, etc.**

The dumping of clean fill (rock, gravel, cinders, etc.) shall be permitted in all districts for the purpose of filling in to establish grades. The clean fill shall not be construed to mean refuse, waste material or other similar materials that will adversely affect or injure the use of adjacent property. The dumping of refuse, waste material and similar substances shall not be permitted in any district within the town except that a property owner in a rural residential district may dispose of his own household garbage, waste and refuse (except human sanitary waste) on his own property; provided, however, that it is covered with at least four (4) inches of clean fill.

(Code 1966, § 44-VI-3)

**Cross references**—Excavation and soil removal, Ch. 7; solid waste, Ch. 19.

**Sec. 24-704. Private sanitary sewers and water supply.**

All buildings in all districts located on lots where public sanitary sewers and/or public water



individual sewage treatment systems and private wells in accordance with applicable state and county sanitary codes and subject to complying with an applicable provision of this chapter. (Code 1966, § 44-VI-4)

**Sec. 24-705. Public sewers.**

(a) No building permit shall be issued for any principal building unless the application shows that the building will be connected to the public sewer and, either:

- (1) The public sewer has already been extended across the frontage of the lot; or
- (2) A bond, in an amount determined by the town engineer to be sufficient to cover the cost of so extending the sewer is given to the town to ensure that such extension will be made before occupancy. The provisions of section 24-38, subsections (b), (c) and (d) apply to the bonds.

(b) No certificate of occupancy shall be issued and such building shall not be occupied unless the public sewer extends across the frontage of the lot and the building has been connected to the public sewer.

(c) This section shall not apply to lots for which a public sewer is not available, unless the lot has been rezoned. For purposes of this subsection:

- (1) In the case of a one- or two-family dwelling, a public sewer is deemed available when the sewer is within one hundred (100) feet of the premises on which the dwelling is located, measured along a street, and a connection may be made lawfully thereto.
- (2) In the case of buildings of any other occupancies, a public combined sewer is deemed available when the sewer is within five hundred (500) feet of the premises on which the building is located, measured along a street and a connection may be made lawfully thereto.

(Code 1966, § 44-VI-11)

**Sec. 24-706. Compliance with storm drainage plan.**

Any vacant parcel in any district shall be filled, graded or developed only in accordance with a storm drainage plan which shall be certified by the town engineer or other duly authorized town representative so as to provide adequate, suitable, proper and safe storm drainage. A stormwater pollution prevention plan consistent with the requirements of chapter 6, article VI, divisions 1 and 2 shall be required for site plan approval. (Code 1966, § 44-VI-5; L.L. No. 3 of 2007)

**Sec. 24-707. ATV's, dirt bikes, etc.**

(a) In this section "all-terrain vehicle" has the meaning assigned to it by section 2281 of the Vehicle and Traffic Law.

(b) No person shall operate an all-terrain vehicle in an RA-1 or RA-2 district. No person shall operate an unmuffled motorbike, minibike or dirt bike in the town.

Cross reference—Snowmobiles, § 16-52 et seq.

**Secs. 24-708—24-725. Reserved.**

**DIVISION 2. PERFORMANCE STANDARDS**

**Sec. 24-726. Noise.**

(a) It shall be unlawful for the owner, occupant and any person causing or permitting, continuing or causing to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, health, peace or safety of others, within the limits of the town.

(b) It shall be unlawful for the owner, occupant and/or any person causing or permitting sound or noise to project within the boundary of a use district which exceeds the limiting noise level set forth in subsection (f). Sound or noise projecting from one (1) use district into another use district with a different noise level limit shall not exceed the noise limits at any point of the district into which the noise is projected. The issuance of a building permit shall carry an automatic increase in the noise limit to seventy-five (75) dBA for all activities directly involved with the permitted

construction for the hours between 7:00 a.m. and 10:00 p.m. The noise limits for the hours between 12:00 midnight and 7:00 a.m. and between 10:00 p.m. and 12:00 midnight, shall remain as specified in subsection (f).

(c) Upon written petition, the town board may grant a variance to the limits specified in subsection (f). Such variance shall be issued for specific properties and shall specify both the limits and the hours during which those limits are applicable.

(d) Whenever an applicable federal, state or county statute sets a different limit than specified in this section, the lower limitation shall apply.

(e) For the purpose of subsection (f), noise shall be measured as follows:

- (1) The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by the American National Standards Institute.
- (2) The slow meter response of the sound-level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise level.
- (3) Measurement of noise levels shall be made at or beyond the property line of the property on which such noise is generated or perceived, as appropriate, and shall be taken at least four (4) feet from ground level.
- (4) Compliance with the noise limits is to be maintained at all elevations at the boundary of the property.
- (5) Daytime hours shall be between 7:00 a.m. and 11:00 p.m. Nighttime hours shall be between 11:00 p.m. and 7:00 a.m.

(f) The limits above referred to shall be in accordance with the following:

- (1) In industrial use districts:
  - a. During daytime hours, seventy (70) dBA.
  - b. During nighttime hours, seventy (70) dBA.

- (2) In commercial use districts:
  - a. During daytime hours, sixty-five (65) dBA.
  - b. During nighttime hours, fifty-seven (57) dBA.
- (3) In residential districts:
  - a. During daytime hours, sixty (60) dBA.
  - b. During nighttime hours, fifty (50) dBA.

(g) Except for subsection (a), this section does not apply to:

- (1) Educational institutions, including the state university, Vestal Central Schools and private schools.
- (2) The state and all municipal corporations and subdivisions of the state.
- (3) Emergency vehicles, including ambulances, fire and police vehicles, and emergency warning devices.
- (4) Vehicular traffic on a public thoroughfare.
- (5) Lawn mowers, power saws and power equipment when used for property maintenance purposes during daytime hours as above defined.

(Code 1966, § 44-VII-1)

**Sec. 24-727. Discharge of toxic or noxious matter.**

No use shall, for any period of time, discharge across the boundary of the lot wherein it is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health or safety or cause injury to property or business. (Code 1966, § 44-VIII-3)

**Sec. 24-728. Producing of heat or glare.**

No use shall carry on any operation that will produce heat or glare beyond the property line of the lot on which the operation is located. (Code 1966, § 44-VIII-4)

**Sec. 24-729. Vibration.**

No use or portion thereof creating intense earthshaking vibrations shall be located closer

five hundred (500) feet to any lot line. In no case shall any such vibration be perceptible without the aid of instruments along the boundary line of any residential district.  
(Code 1966, § 44-VIII-5)

### DIVISION 3. PLANNED DEVELOPMENT CLUSTER DISTRICT

#### Sec. 24-730. Planned development cluster district.

- (a) The purpose of this district is:
- (1) To facilitate increased flexibility to achieve a desirable land development and design through the use of distinct, atypical planning objectives, taking into account any various characteristics of individual properties.
  - (2) To continue to create desirable property divisions for residential uses.
  - (3) To combine residential subdivision opportunities with conservation of existing open space.
  - (4) For creation of quality, attractive, neighborhood oriented cluster housing.
  - (5) To imaginatively meet the needs of residential expansion in the town.
  - (6) Preserve, on a permanent basis, open space or other natural features while allowing acceptable use and development of properties.
  - (7) Promote reduced size of, and distance to infrastructures, ultimately decreasing maintenance by using such techniques as lessening the distance over which utilities, such as water and sewer lines, need to be extended and by reducing the width and/or length of streets.
  - (8) Provide opportunities for neighborhood social interaction and walking and hiking in open space areas.
  - (9) Create neighborhood atmospheres which may include daily support amenities such

as shops and services, integrated within and aesthetically designed for cohesiveness of the community.

- (10) To specifically provide areas of residential growth which do not incorporate additional density by the use of multiple family dwelling construction.

(b) For this division, the following terms and words shall have the following meanings:

*Building* means any structure used or intended for supporting or sheltering any use or occupancy.

*Buffer* means land maintained in either a natural or landscaped state and used to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

*Cluster* or *clustering* means a site-planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings may include, but shall not be limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open space being devoted by deed restrictions for one (1) or more uses.

*Cluster development, residential* means a land development project in which the site planning technique of clustering dwelling units is employed.

*Common community property* means land, buildings and any portion of a PDC noted for use by the residents of the PDC, that is held in joint or singular ownership by a person, corporation or limited liability company.

*Common open space* means the portion of the site set aside in perpetuity as undivided open space. This area may include freshwater wetlands, floodplains or flood-hazard areas, stream corridors, prime agricultural lands, habitats of endangered wildlife, as identified on applicable federal or state lists, scenic views, historical or cultural features, archaeological sites, or other elements to be protected from development, as well as easements for public utilities.

*Community exterior recreation area* means open spaces specifically designed or designated for group activities including; various sports fields, golf course areas, lawn game space and the like.

*Community recreation building* means a building with facilities contained within, for express use by the PDC residents and their guests.

*Development* means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any excavation, landfill or land disturbance; and/or any change in use, or alteration or extension of the use of land.

*Gross area (GA)* means the total area of the site, including the net gross area and public rights-of-way.

*Infrastructure* means the facilities and services needed to sustain residential, and other activities.

*Land development project* means a project in which one (1) or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to, planned development and/or cluster development for residential, recreational, open space, and/or mixed uses as are provided for in this local law.

*Lot* means either:

- (a) The basic development unit for determination of area, depth, and other dimensional variations, or
- (b) A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or recorded map, and recognized as a separate legal entity for purposes of transfer of title.

*Net gross area (NGA)* means the portion of the cluster development that may be developed or used for common open space, whether publicly dedicated or private, but excluding main street, private streets, public streets, and other publicly dedicated improvements.

*Parking reserves* means land other than drive-ways, dedicated to common use vehicular parking.

*Patio home* means a single family dwelling unit constructed in a group of not more than two (2) attached units, sharing a common property line.

*Site plan* means the development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.

*Street, main* means the primary or principal vehicular thoroughfare designated on the plan.

*Street, private* means a local vehicular roadway serving only abutting lots, not publicly dedicated or maintained by the town, but meeting specific municipal improvement standards, and providing access for service and emergency vehicles.

*Street, common* means all common owned property reserved or dedicated for vehicular traffic.

*Structure* means anything constructed or erected that requires location on the ground or attached to something having location on the ground, including but not limited to buildings, dwellings, sheds, accessory buildings, towers, facades, swimming pools or other built edifices.

*Vehicular roadway* means any paved or prepared land for use by motorized vehicles. (L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-731. General provisions.**

(a) PDC requests shall be submitted by property owners or property developers proving specific legal interest in the property or properties.

(b) Applicability. A residential planned development cluster development shall be permitted in existing rural residence zoning districts on properties of five (5) acres or greater of contiguous land where:

- (1) Approval of all aspects of the project shall be given by a local law enacted by the town board after proper approval by the town planning board, Broome County Health Department and any other regulatory board or entity as designated by the town board.
- (2) Public water and sewer service infrastructure shall be extended to, and fully utilized by, the proposed constructed build-

ings on the site and extended for purposes of accommodating future development of vicinity properties.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-732. Permitted uses, planned development cluster (PDC).**

(a) The existing official zoning designation meets and bounds regulations, for a proposed PDC property shall not be effective once the town board authorizes the local law governing a PDC.

(b) The following uses shall be permitted as approved by the planning board:

One-family detached dwelling.

One-family detached modular dwelling.

Patio homes.

Townhouse units not to exceed four (4) in any attached group.

Community recreation building(s) the total cumulative size(s) of which shall not exceed two (2) stories in height and an area of thirty (30) square feet per approved PDC dwelling unit. (i.e. 260 units × 30 sq. ft. = 7,800 sq. ft. bldg(s))

Buildings serving accessory activities of the PDC and approved by the planning board.

Non-residential uses as expressly approved by the town board.

Swimming pool operated by the common community.

Two (2) accessory structures not to exceed one thousand (1,000) square feet each, for storage of equipment to maintain common community property.

One (1) individual residence accessory building per dwelling unit, not to exceed two hundred (200) square feet in area.

One (1) PDC announcement sign at each main street entrance not to exceed two (2) signs not greater than thirty-two (32) square feet each in area or ten (10) feet in any dimension.

Other signs as allowed in this Code for RA-1, one-family residence zoning districts.

Temporary structure integral to the advertisement, sale and development of the PDC.

(c) Any use not specifically permitted above shall be prohibited, except as further allowed by the town board and specifically described in the PDC enabling legislation. In addition;

(1) Fencing or other firefighting obstructions shall not be allowed to be installed in areas between any buildings where the distance separation between the buildings is less than fifty (50) feet in width.

(2) Due to increased density of residences and the purpose of this development, on or above grade drilling operations, wind turbines or other towers are prohibited.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-733. Lot and building regulations.**

(a) Maximum lot coverage, floor area ratios, building height, and parking requirements for the PDC shall be as approved by the local law governing the PDC. Minimum advising guidelines are as follows:

(1) The minimum area of the cluster development shall be five (5) acres.

(2) The minimum setback of any building to the PDC property boundary is fifty (50) feet.

(3) The minimum setback of any building to any barnyard or building housing agriculture uses such as animals or livestock, whether within or neighboring property, shall be two hundred (200) feet.

(4) Each building shall be located on a separate parcel of land except as specifically approved by the local law.

(5) The minimum width and depth of a lot shall provide adequate clearance from buildings, structures and property boundaries so as to create a safe and healthful environment.

(6) A minimum separation of ten (10) feet shall be provided between buildings and/or structures.

(7) Except as required for setbacks from PDC property boundaries, exterior walls of build-

ings or structures shall not be closer than four (4) feet from any property boundary or lot line.

- (8) The shared common interior property boundary or lot line of townhouses and patio homes shall not be subject to setback requirements.
- (9) A minimum separation of fifty (50) feet shall be maintained from a building housing a dwelling unit and any community exterior recreation area.
- (10) A minimum front yard or common open space of a least twenty (20) feet in depth shall be provided, as measured from the main street property line to the front of any building.
- (11) A minimum front yard or common open space of at least fifteen (15) feet in depth shall be provided, as measured from a common or private street pavement to the front of any building.
- (12) The maximum height in stories of any building is three (3).
- (13) The maximum measured height of any building is forty (40) feet as measured from the average adjacent grade to the top most portion of the building.
- (14) Not less than thirty-five (35) percent of the original site gross area (GA) shall be conveyed as common open space as provided for in section 24-735.
- (15) Natural and man-made buffers shall be preserved, maintained and created as necessary and directed.
- (16) Parking reserve areas shall be created to accommodate firefighting apparatus, visitor, delivery and additional vehicle parking.
- (17) Vehicle access to buildings constructed within the PDC boundaries, shall be made only from within the property boundaries of the PDC.
- (18) As required by the approving board, topography and buffers shall be created and

used to minimize viewing PDC buildings from town roads abutting a PDC and from adjacent non-PDC properties.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-734. Contents of site plan.**

(a) The preliminary site plans shall contain information as requested by the town engineer and code enforcement officer.

(b) The final site plan drawing package for a PDC shall include, but shall not be limited to, the following information:

- (1) An open space inventory plan delineating percentages of all common community property, common open space, parking reserves, paved areas and perceived usable and unusable property.
- (2) Designation of the main street and any private street and public street.
- (3) Layout of vehicle roadways, delivery loading and unloading areas, parking areas and parking reserves, snow storage and other prepared special features such as; hiking, biking or pedestrian use ways, trails or paths.
- (4) The maximum number and type of buildings proposed.
- (5) The conceptual footprint layouts of the buildings and their size.
- (6) The calculations for the allowed number of dwelling units, with any requested bonus, derived pursuant to section 24-735.
- (7) The areas of the site designated for common open space.
- (8) The size and location of land proposed to be conveyed as common open space.
- (9) All other plans and information as required for typical subdivision submittal, review and approvals.
- (10) Any other site or use specific information as required by the town.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-735. Calculation of permitted number of dwelling units.**

(a) Except as provided in section 24-736, the maximum number of dwelling units proposed for a PDC shall not exceed the number of dwelling units otherwise permitted for typical subdivisions zoned RA-1, one-family dwelling.

(b) Reconfiguration and redistribution of density locations may be required by the reviewing boards as PDC review progresses.

(c) If approved by the town board, non-residential uses may be permitted without decreasing the net gross area (NGA) of the development.

(d) Except as provided in section 24-736, the number of permitted dwelling units on a site shall be calculated in the following manner:

- (1) Measure the gross area (GA) of the proposed cluster development site in acres and tenths of an acre. The gross area number used will ultimately be determined by the town engineering and code enforcement departments. This area may be less than the total actual land area due to the ability to "reasonably" use or construct homes on the land. Unusable land shall not be included in the gross area.
- (2) Subtract from the determined GA the area of the main street, common and private streets and other rights-of-way, measured in acres and tenths of an acre.
- (3) The remainder shall be the net gross area (NGA) to be used for calculating density of dwelling units.
- (4) Convert the NGA from acres to square feet (SF), using the equivalency of 43,560 square feet = one acre.
- (5) Divide the NGA by nine thousand (9,000) square feet to obtain the initial dwelling unit number (IDN). The maximum number of dwelling units to be permitted in the cluster development shall be this dividend, rounded to the next lower whole number.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-736. Density bonus.**

The planning board may, but is not obligated to approve an increase in the IDN of up to twenty (20) percent if:

- (1) The percent of common open space is equal to or greater than fifty (50) percent of the GA.
- (2) The PDC final plan includes maintenance of the majority of existing mature trees, hedgerows, stone walls, water features and other similar natural amenities.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-737. Procedures for review.**

(a) The town engineering and code enforcement departments shall determine preliminary submittal requirements, collect fees, collate plans, maps and specifications so that the reviewing boards have pertinent, accurate and complete information so as not to impede review schedules.

(b) The planning board shall perform preliminary and any additional plan reviews of a proposed PDC as for a typical subdivision, as noted in the town subdivision regulations.

(c) At a point in time as determined by the planning board, preliminary information shall be presented to the town board to establish conceptual approval for entertaining the necessary legislation to create the PDC.

(d) Once all plans are altered, adjusted and modified to meet the approval of the planning board, these plans and recommendations shall be submitted to the town board for consideration of a local law implementing the establishment of the PDC.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-738. Review criteria.**

In reviewing a PDC, the planning board shall determine whether:

- (1) The development concept and plan satisfies the objectives and advances the purposes of the PDC.
- (2) Buildings, density or uses, structures, streets, public access, common open space

and common community property are adequately grouped, so to the greatest degree practicable, all parts of the development are logically connected.

- (3) Disturbance of property acreage is kept to a minimum.
- (4) Existing scenic views or vistas are permitted to remain unobstructed, especially from public streets.
- (5) The development accommodates and preserves any features of historic, cultural, or archaeological value.
- (6) Floodplains, wetlands, and areas with critical slopes are protected.
- (7) The planning board and town board may apply such special conditions or stipulations to its approval of a PDC as may be required to maintain harmony with neighboring uses and to promote the objectives and purposes of a comprehensive plan and zoning and subdivision regulations.
- (8) Upon the completion of review of all final plans the planning board shall either recommend approval to the town board or deny the application. In the event the planning board denies the application, the town board is under no obligation to consider the application.

(L.L. No. 8 of 2009, §§ 1, 2)

#### **Sec. 24-739. Physical design requirements.**

(a) In approving a PDC, the planning board may reduce the pavement width of main street or common streets that would otherwise be required by subdivision regulations, to a width of pavement not less than twenty (20) feet.

(b) An applicant who wants the reduction of pavement width of streets, shall submit a statement of justification for the reduction along with the final site plan.

(c) To improve continuity of visual aesthetics and decrease on-going maintenance and costs, the requirement for curbs and typical storm drainage appurtenances, including street gutters and storm

drainage grates shall not be mandatory for private streets and may be waived by the planning board, on main street and common streets.

(d) Compliance with all storm drainage codes, rules and regulations shall be met.

(e) Streets incorporating amenities which create a natural reduction in vehicle speed and/or reduce outside uninvited traffic shall be encouraged. These amenities include: decorative islands, longitudinal speed bumps, narrowing corridors and curves.

(L.L. No. 8 of 2009, §§ 1, 2)

#### **Sec. 24-740. Conveyance and ownership of open space.**

Common open space provided by a PDC shall be conveyed as follows: To a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the residential cluster development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be approved by the planning board and shall be in a form approved by the attorney for the town.

(L.L. No. 8 of 2009, §§ 1, 2)

#### **Sec. 24-741. Bonding and surety.**

(a) *Purpose.* A performance bond/letter of credit is posted by the PDC developer, to guarantee to the town that the developer will faithfully construct, or cause to be constructed, the required public improvements and utilities which are an integral part of the approved final plan. Further, that the construction shall be completed within a reasonable period of time and without adverse impact on the community.

(b) *Procedure.*

- (1) A performance bond/letter of credit estimate will be prepared by the town engineer.
- (2) The planning board will pass a resolution either approving or adjusting that performance bond/letter of credit estimate and



- provide four (4) copies signed by the chairman for the use of the developer in obtaining and posting a bond.
- (3) The developer shall present three (3) copies of the performance bond/letter of credit executed on the standard performance bond/letter of credit form with signed copies of the performance bond/letter of credit estimate to the town attorney at least one (1) week prior to any town board meeting for approval as to form and sufficiency by the town board at such meeting.
  - (3) The town attorney shall notify the town clerk prior to the town board meeting that the performance bond/letter of credit can be added to the agenda.
  - (4) The town board shall approve or disapprove the performance bond/letter of credit as presented by the town attorney. If the performance bond/letter of credit is approved, one (1) copy will be forwarded to the town clerk and one (1) copy will be forwarded with a copy of the town board resolution to the planning board.
  - (5) The chairman of the planning board shall receive the performance bond/letter of credit prior to signing any final plan(s).
  - (6) After completing the construction of the public improvements covered by the performance bond/letter of credit, and prior to the termination of the bond period, the developer shall prepare a set of the approved public improvement and utility plan and profiles (reproducible Mylar) amended to indicate "as built" (e.g. lateral, valve, manhole) information and apply to the superintendent of highways, water and waste water superintendent and town engineer for a final inspection of the work. The town engineer shall report to the town board on the condition of the work and recommend that the performance bond/letter of credit be released, extended or declared in default. The town engineer shall also report on the desirability of the town accepting offers of cession for streets and other lands to be dedicated for public use.
  - (7) The town board shall act on the release of, or declaration of default on, the performance bond/letter of credit.
- (c) *Terms of performance bonds / letters of credit.*
- (1) Performance bonds/letters of credit shall have a maximum term of three (3) years for construction and guarantee construction for one (1) year after acceptance.
  - (2) The term of a performance bond/letter of credit may be extended by petition to the town board.
  - (3) Additional considerations.
    - a. To minimize any adverse effects of construction and development activities on the community at large or on the streets, roads, and drainage systems of the town, the developer shall implement appropriate preventative measures and maintenance procedures.
    - b. These measures and procedures shall remain in effect throughout the development stages from the time of final plan approval to the time of final acceptance upon completion of construction.
    - c. Effects to be controlled or mitigated shall include but not be limited to: drainage and stormwater run-off, soil erosion, airborne dust and fumes, and impediments to traffic circulation.
    - d. If these preventative measures and maintenance procedures prove inadequate or if unforeseen deficiencies in design become apparent corrective methods shall be implemented as approved by the town engineer.
    - e. If such inadequacies or deficiencies persist without effective remedy the town engineer may, after due notification to the developer, take necessary action to remedy any such inadequacies or deficiencies at the expense of the developer.

- f. Expenses incurred shall be chargeable to the performance bond/letter of credit. Certificates of occupancy shall not be issued prior to acceptance of a street.

(d) *General liability insurance.*

(1) *Procedure.*

- a. The developer shall file with the town attorney an owners protective insurance policy, at the same time the performance bond/letter of credit is filed. The town board shall approve the policy for form.
- b. The policy shall be of the same term as the performance bond/letter of credit and shall be extended in conformance with any extension of the performance bond/letter of credit.

(2) *Coverage.*

- a. The policy will insure the town and shall cover all operations in the development involving existence and maintenance of property and buildings, the contracting operations of every nature including all public improvements.
- b. Said policy shall have limits of liability of one million dollars (\$1,000,000.00) for bodily injury to each person and one million dollars (\$1,000,000.00) liability on the aggregate for each accident and property damage liability of five hundred thousand dollars (\$500,000.00) for each accident and five hundred thousand dollars (\$500,000.00) aggregate property damage liability.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-742. Permanent protection of open space.**

(a) In any case, where the common open space in a PDC is conveyed pursuant to section 24-740, deed restrictions enforceable by the town code enforcement department, shall be recorded which provide that the common open space shall:

- (1) Be constructed, repaired, replaced and maintained in the authorized conditions; and

- (2) Not to be developed for principal uses, accessory uses (e.g., parking), or roadways, unless specific changes are made to the law.

(b) In addition, the following regulations shall apply:

- (1) Provisions shall be made to maintain and/or clear woodland as necessary for wildlife, trails, active recreation facilities and to properly manage forest land.
- (2) Motorized summer or winter use off-road vehicles, and other uses similar in character and potential impact are not permitted in any PDC open space.
- (3) Concentrated animal feeding operations (CAFO's) as defined by the US Environmental Protection Agency, or commercial livestock operations involving swine, poultry, mink, ratites, and other animals likely to produce highly offensive odors are not permitted.
- (4) Facilities designed for public use shall be accessible to residents of the town.

(L.L. No. 8 of 2009, §§ 1, 2)

**Sec. 24-743. Maintenance.**

(a) Unless otherwise agreed to by the town board, the cost and responsibility of maintaining community recreation areas and buildings, common community property, common open spaces, common and private streets, non-municipal owned infrastructure and other commonly held facilities shall be borne by the owners as determined by section 24-740.

(L.L. No. 8 of 2009, §§ 1, 2)

**Secs. 24-744—24-800. Reserved.**

**ARTICLE VIII. ECONOMIC DEVELOPMENT ZONE\***

**Sec. 24-801. Zoning map amended.**

The Town of Vestal zoning map is hereby amended by designating premises situate on Ves-

\*Editor's note—L.L. No. 1 of 1999, §§ 1, 2, did not specify a manner of inclusion within the Code; its inclusion within Ch. 24 was at the direction of the town. Said provisions have been included as a new Art. VIII of Ch. 24, at the editor's discretion, for classification and indexing purposes.

Cross reference—Taxation, Ch. 21.

tal Parkway East in the Town of Vestal and being described as a portion of Tax Map No. 159.15-2-21 (No. 19-1-2-S26X) as an economic development zone and the boundary lines for the Broome County Economic Development Zone will be amended and are described in Schedule "A" attached hereto.

(L.L. No. 1 of 1999, § 1)

**Editor's note**—"Schedule (Exhibit) A," referred to in § 24-801 above, has not been included within the Code, but may be found attached to L.L. No. 1 of 1999, on file in the office of the town clerk.

**Sec. 24-802. Additional tax abatement.**

No other tax abatement shall be granted by sole reason of being within this economic development zone.

(L.L. No. 1 of 1999, § 2)