

Chapter 249 – Zoning Code – Town of Wallkill

HISTORY: Adopted by the Town Board of Wallkill 9-13-1979 by L.L. No. 7-1979. Amendments noted where applicable.]

GENERAL REFERENCES

Swine and mink farms — See Ch. 70, Art. II.

Building construction — See Ch. 82.

Contractors' deposits for homes — See Ch. 95, Art. I.

Flood damage prevention — See Ch. 127.

Housing standards — See Ch. 140.

Junk dealers — See Ch. 145.

Mental health facilities — See Ch. 160.

Sewers and sewage disposal — See Ch. 194.

Stormwater management — See Ch. 203.

Streets and sidewalks — See Ch. 205.

Subdivision of land — See Ch. 209.

Water — See Ch. 242.

Street specifications — See Ch. A251.

Sewer specifications — See Ch. A252.

ARTICLE I Purpose (§ 249-1 - § 249-1)

§ 249-1 Purposes established.

There is hereby established a Comprehensive Zoning Plan for the Town of Wallkill, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted for the purposes set forth in §§ 261, 263 and 281

Editor's Note: Section 281 of the Town Law was renumbered as § 278 by L. 1992, c. 727.

of Article 16 of the Town Law of the State of New York which, in the interest of the protection and promotion of the public health and safety, convenience, morals, amenities and general welfare, shall be deemed to include specifically the following, among others:

A.

The facilitation of the efficient and adequate provision of public facilities and services.

B.

The provision of privacy for families.

C.

The prevention and reduction of traffic congestion so as to promote efficient and safe circulation of vehicles and pedestrians.

D.

The safeguarding of homes by preserving the attractive environment of residential areas.

E.

The provision of areas for commercial and industrial activities in locations appropriate therefor.

F.

The gradual elimination of nonconforming uses.

G.

The enhancement of the appearance of the Town of Wallkill as a whole.

H.

The conservation of property values.

I.

The limitation and prevention of congestion of population, customers and workers.

J.

The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.

K.

The assurance of adequate sites for agriculture, residence, industry, commerce and recreation.

L.

The protection and preservation of the natural ecological structure, including protection of groundwater supplies, stream banks, water bodies, steep slopes and the natural vegetation cover.

ARTICLE II Definitions and Word Usage (§ 249-2 - § 249-3)

§ 249-2 General interpretations.

All words used in this chapter in the present tense include the future tense, all words in the plural number include the singular, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "building" includes the word "structure." The words "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used." The word "lot" includes the word "plot." The term "erected" shall be deemed to also include "constructed, reconstructed, altered or moved." The word "may" is permissive, and the word "shall" is mandatory and not discretionary. The word "Town" means the Town of Wallkill in the County of Orange, State of New York. The terms "Board of Appeals" and "Planning Board" mean the respective Boards of said Town.

§ 249-3 Definitions.

For the purpose of this chapter, certain words and terms herein are defined as follows:

ACCESSORY BUILDING

A permitted subordinate building which is clearly incidental to, customarily in connection with and located on the same lot as the principal building. Except for farm purposes, no accessory building may be larger than 28 feet by 28 feet.

[Amended 12-11-1997 by L.L. No. 8-1997]

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

[Added 8-24-2006 by L.L. No. 10-2006]

AIRPORT or HELIPORT

Any area of land which is used or intended for use for the landing and taking off of aircraft; also any appurtenant areas which are used or intended for use or other airport buildings and facilities.

ALTERATION

A change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height.

APARTMENT HOUSE

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

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

[Added 8-24-2006 by L.L. No. 10-2006]

AUTOMOBILE

Any car or truck.

AUTOMOBILE JUNKYARD

See "motor vehicle junkyard."

BANNER

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind, excluding flags and insignia of any government entity.

[Added 2-25-1988 by L.L. No. 4-1988]

BASEMENT

The portion of a building that is partially underground which has more than 1/2 of its interior height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building. A basement shall be considered in determining the permissible number of stories in a building.

BILLBOARD

A sign advertising products or uses not made, sold, used or served on the premises displaying such sign.

[Added 4-14-1983 by L.L. No. 5-1983]

BOARDER

Any person who rents a room within a dwelling.

BOARDINGHOUSE

Any dwelling, other than a hotel or motel, in which four or more persons are housed or lodged for compensation, with or without meals. A rooming house or furnished house shall be deemed a boardinghouse.

BUFFER AREA

The ground area of a lot which shall be left in its natural state, or planted, as may be required by the Planning Board. Parking, loading and storage is not allowed in a buffer area.

BUILDING

A structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property.

BUILDING AREA

The total area of a lot covered by all buildings except for patios and similar appurtenances.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

BULK

The size and shape of buildings, structures and nonbuilding uses; and the physical relationship of the exterior walls or construction or their location to plot lines and other buildings or structures or other walls or construction of the same building or structure; and all open spaces required in connection with a building or structure. Bulk regulations include, but are not limited to, regulations dealing with lot area, lot area per dwelling unit, frontage, width, height, depth, required yards, courts, usable open space and the length of buildings in a row.

BULLETIN BOARD

Any sign erected by a charitable, educational or religious institution or quasi-public or public body, which is erected upon the same property as said institution for purposes of announcing events which are held on the premises.

[Added 2-25-1988 by L.L. No. 4-1988]

BURIAL SITE

Refers to and shall include any piece of land where a person is buried, notwithstanding that the site may not be recognized as a traditional cemetery.

[Added 12-12-2002 by L.L. No. 13-2002]

CAMP

Any lot, including its area of land and water, on which are located two or more cabins, tents, shelters or other accommodations of a design or character suitable for seasonal or other temporary living purposes, primarily for children, but not including a day camp, rooming house, tourist home, hotel, motel, summer colony, place of detention, school of general instruction or nursery school.

CELLAR

A story partially underground and having 1/2 or more of its clear height below the finished grade. A cellar shall not be considered in determining the permissible number of stories in a building.

CEMETERY

Any and all public, private, religious, historic and/or family cemeteries where deceased persons are buried.

[Added 12-12-2002 by L.L. No. 13-2002]

CHANGEABLE COPY SIGN

A sign on which the message copy can be changed through use of attachable letters and numerals or by electronic switching of lamps or illuminated tubes.

[Added 2-25-1988 by L.L. No. 4-1988]

CHURCH

Any structure used for worship, including administrative rooms accessory thereto.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

[Added 8-24-2006 by L.L. No. 10-2006]

CLEARING

Any activity that removes the vegetative surface cover.

[Added 8-24-2006 by L.L. No. 10-2006]

CLUB

An organization catering exclusively to members and their guests, including premises and buildings for social, recreational, service or athletic purposes, which are not conducted primarily for gain, provided that there are no vending stands, merchandising or commercial activities except as required generally for the membership and purpose of such club.

CLUSTER DEVELOPMENT

A residential subdivision in which the permissible number of dwelling units that would result in a given district under conventional application of this chapter is allowed to be constructed on a smaller portion of the land in question. Such flexibility of design and development of land shall be used to enable and encourage the most appropriate use of land to facilitate the adequate and economical provisions of streets and utilities and to preserve the natural and scenic qualities of open lands, under the authority of § 281 of the Town Law.

Editor's Note: Section 281 of the Town Law was renumbered as § 278 by L. 1992, c. 727.

COMMERCIAL RECREATION

Any establishment which receives a fee in return for the provision of some recreational activity, including but not limited to athletic and racquet clubs, amusement parks, auditoriums, bowling alleys, conference centers, museums, performance theaters, pool or billiard halls, and skating rinks. Commercial recreation uses include facilities providing accommodations for individual or organized sports such as sports arenas.

[Added 7-26-2007 by L.L. No. 15-2007]

CONDOMINIUM

A building or buildings, the dwelling units of which are individually owned, each owner receiving a deed enabling him to sell, mortgage or exchange his unit independent of the owners of the other units in the building or buildings. There shall be no fee simple sale of land involved.

COURT

An unobstructed open area bounded on three or more sides by the walls of a building or buildings.

COURT, INNER

A court which is closed on all four sides, thereby not extending to a street, driveway, parking lot or required yard.

COURT, OUTER

A court which is open on one side, thereby extending to a street, driveway, parking lot or required yard.

CUL-DE-SAC

An entranceway, private road, or passage into a development or subdivision with only one outlet; a street closed at one end.

[Added 1-13-2005 by L.L. No. 2-2005]

DAY CAMP

Any lot, including any buildings or structures thereon, if any, used for assembly of persons for what is commonly known as "day camp" purposes, including any area of land or water, or both, on which are located facilities, accommodations, buildings and/or structures of a design or character suitable for seasonal and/or recreational purposes, primarily for children, but not including any nursery school nor any living quarters except one principal single-family dwelling on the lot.

DAY-CARE CENTER

A facility licensed by the New York State Department of Social Services pursuant to § 390 of the Social Services Law. A day-care center program provides for more than three hours and less than 24 hours per day of care away from the child's home by an individual, association, corporation, institution or agency for seven or more children. A day-care center shall not include any of the following; a day camp; an after-school program operated for the primary purpose of religious education; or a facility operated by a public school district.

[Added 12-27-1990 by L.L. No. 18-1990]

DEDICATION

The deliberate appropriation of property by its owner for general public use.

[Added 8-24-2006 by Ord. No. 10-2006]

DEPARTMENT

The New York State Department of Environmental Conservation.

[Added 8-24-2006 by Ord. No. 10-2006]

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

[Added 8-24-2006 by Ord. No. 10-2006]

DEVELOPER

A person who undertakes land development activities.

[Added 8-24-2006 by Ord. No. 10-2006]

DIRECTIONAL SIGN

See now "sign, directional."

DIRECTLY ILLUMINATED SIGN

Any sign constructed to provide light either through exposed lighting on the sign face or through transparent or translucent material from a light source within the sign.

[Added 2-25-1988 by L.L. No. 4-1988]

DIRECTORY SIGN

A sign that lists the names of two or more establishments, persons or agencies which exist on a premises and is located in a place or location common to all; it may consist of several components.

[Added 2-25-1988 by L.L. No. 4-1988]

DOG KENNEL

Any place where more than five dogs, over six months old, are harbored, boarded, bred and/or offered for sale.

DOMESTIC ANIMALS

As herein defined shall be limited to dogs, cats and rabbits.

[Amended 12-11-1997 by L.L. No. 8-1997]

DOUBLE-FACED SIGN

A sign with copy on two normally parallel faces legible from opposite directions.

[Added 2-25-1988 by L.L. No. 4-1988]

DUMP

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

DUPLEX

A building designed for or occupied exclusively by two families living independently from each other.

DWELLING

A building designed or used as the living quarters for one or more families.

DWELLING, ATTACHED

A series of attached one-family dwelling units, each unit located on its own individual lot.

DWELLING, MULTIPLE

A building or portion thereof containing three or more dwelling units.

DWELLING, ONE-FAMILY

A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY

See "duplex."

DWELLING UNIT

A building or an entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches), cooking or sanitary facilities in common with any other dwelling unit. A boardinghouse, dormitory, hotel, inn, nursing home or other similar structure shall not be deemed to constitute a dwelling unit.

EATING AND DRINKING ESTABLISHMENT

Any establishment whose principal business is the sale of foods and/or beverages to the customer in a ready-to-consume state.

ELEEMOSYNARY INSTITUTION

An institution which is solely supported by or dependent on charity.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the "Blue Book."

[Added 8-24-2006 by L.L. No. 10-2006]

FAMILY

One or more persons occupying a dwelling as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption shall not be considered to constitute one family.

FINANCIAL INSTITUTION

An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies such as banks, savings and loans, or credit unions.

[Added 7-26-2007 by L.L. No. 15-2007]

FLASHING SIGN

An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

[Added 2-25-1988 by L.L. No. 4-1988]

FLOOD or FLOODING

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

FLOOD, ONE-HUNDRED-YEAR

The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year).

FLOODPLAIN or FLOOD-PRONE AREA

A land area adjoining a river, stream, watercourse or lake which is likely to be flooded.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude.

FLOOR AREA

A.

The sum of the gross horizontal area of every floor of a building, measured from the exterior faces of the exterior walls, or from the center line of party walls separating the two units, including:

(1)

Basement space.

(2)

Attic space, whether or not a floor has been laid, in which there is a structural headroom of 7 1/2 feet or more.

B.

However, floor area does not include:

(1)

A cellar space (except that cellar space within a commercial or industrial building shall be included for the purpose of calculating the required off-street loading berth).

(2)

Terraces, unroofed open porches and steps.

(3)

Partially or fully enclosed off-street parking and loading berths.

FLOOR AREA, LIVABLE

See "floor area."

FLOOR AREA RATIO

The quotient of the total floor area of a building divided by its lot area.

FOWL

See "poultry."

Editor's Note: The definition of "freestanding sign," which immediately followed this definition, was repealed 2-25-1988 by L.L. No. 4-1988.

FUNERAL HOME (see also MORTUARY)

A licensed establishment where deceased persons are prepared for burial or cremation, where the body may be viewed, or where funeral services are held.

[Added 7-26-2007 by L.L. No. 15-2007]

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein, and provided that no more than one space therein is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage, other than a private garage, available to the public and operated for gain for the storage of motor vehicles.

GARDEN HOUSE

A greenhouse.

GASOLINE FILLING STATION

Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles.

GASOLINE SERVICE STATION

Any use of land, including any building or structure thereon, that is used for the supply of gasoline, oil and other fuel for the propulsion of motor vehicles, including polishing, greasing, washing, servicing or repairing of motor vehicles, but excluding bodywork or painting.

GRADING

Excavation or fill of material, including the resulting conditions thereof.

[Added 8-24-2006 by Ord. No. 10-2006]

GROSS LEASABLE AREA (GLA)

[Added 8-23-1990 by L.L. No. 13-1990]

A.

The sum of the horizontal area of every floor of a building designed for tenant occupancy and exclusive use, measured from the exterior faces of the exterior walls and from the center line of party walls separating the two units, including:

(1)

Basement space.

(2)

Mezzanine space.

(3)

Upper floor space.

B.

However, gross leasable area does not include public or common areas, such as public toilets, corridors, stairwells, elevators, machine and equipment rooms, lobbies or mall areas, whether open or closed.

GROUP HOUSING

Housing designed for occupancy by groups of unrelated persons, such as rooming houses, boardinghouses, dormitories, fraternity houses, sorority houses, migrant labor houses, convents and monasteries.

GUEST ROOM

A room in a hotel, motel, tourist home or other similar use offered to the public for compensation, in which room no provision is made for cooking and which room is used only for transient occupancy.

HEIGHT

The vertical distance measured from the average elevation of the finished grade along the side of the building or structure fronting on the nearest street to the highest point of such structure.

HOME OCCUPATION

A.

An occupation or profession which:

(1)

Is customarily carried on in a dwelling unit.

(2)

Is conducted only by a member of the family residing within the dwelling unit.

(3)

Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

(4)

Is conducted wholly within the principal building.

(5)

In no way changes the character of the structure as a residence.

B.

In particular, a home occupation shall include, but not be limited to, the following: arts and crafts studio; dressmaking; office of a clergyman; author; accounting; teaching, including musical instruments if limited to one pupil at a time; dance studio if limited to four pupils at a time; barbershop; beauty parlors limited to one operator; real estate broker; insurance broker; typist; and antique shops.

HOSPITAL

An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities and staff offices.

HOTEL

A building in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office, supervised by a person in charge at all hours.

ILLUMINATED SIGN

A sign lighted by electricity, gas or other artificial light, either from the interior or exterior of the sign.

[Added 2-25-1988 by L.L. No. 4-1988]

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

[Added 8-24-2006 by L.L. No. 10-2006]

IMPERVIOUS COVERAGE, MAXIMUM

The maximum area of a lot, expressed as a percentage of a lot's total area, which may be encumbered by structures and impervious surfaces such as buildings, parking areas, and driveways.

[Added 7-26-2007 by L.L. No. 15-2007]

INCOME

A family's total gross income from all sources, plus 10% of all assets, excluding personal property.

[Added 2-25-1988 by L.L. No. 4-1988]

INDIRECTLY ILLUMINATED SIGN

Any sign which is lighted from a light source that is separate from the sign face or cabinet and is directed so as to shine on the sign.

[Added 2-25-1988 by L.L. No. 4-1988]

INDUSTRIAL ESTABLISHMENT

See "manufacturing establishment."

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

[Added 8-24-2006 by L.L. No. 10-2006]

INFILTRATION

The process of percolating stormwater into the subsoil.

[Added 8-24-2006 by L.L. No. 10-2006]

INSTITUTION

A nonprofit corporation, or a nonprofit establishment, for public use.

JUNKYARD

An area of land, with or without buildings, used for the depositing, collection or storage, outside a completely enclosed building, of used or discarded materials (including, but not limited to, wastepaper, rags, scrap material, used building material, home furnishings, machinery or parts thereof) with or

without the dismantling, processing, salvage, sale or other use or disposition of the same. Any area of land on which is found the materials described above shall be deemed a junkyard, notwithstanding the fact that the professed use of the land is as something other than a junkyard.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

[Added 8-24-2006 by L.L. No. 10-2006]

KENNEL

See "dog kennel."

LABORATORY

A building or part of a building devoted to the testing and analysis of any product or animal, including humans. No manufacturing is conducted on the premises, except for experimental or testing purposes.

LAND DEVELOPMENT ACTIVITY

Any activity meeting the following conditions:

[Added 8-24-2006 by L.L. No. 10-2006]

A.

Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

B.

All redevelopment that includes the creation, addition or replacement of impervious cover and/or land disturbing activities of greater than 5,000 square feet.

C.

An existing drainage system is altered, rerouted, deepened, widened, enlarged, decreased or obstructed.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

[Added 8-24-2006 by L.L. No. 10-2006]

LIVESTOCK

As herein defined shall be limited to sheep, horses, mules, donkeys, cattle and goats.

[Amended 12-11-1997 by L.L. No. 8-1997]

LOADING SPACE

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

[Added 8-23-1990 by L.L. No. 13-1990]

LODGING HOUSE

A building, other than a hotel or motel, where lodging is provided, without meals, for compensation.

LOT

A parcel of land which can be occupied or used by one principal building or use, with its accessory buildings and required open space.

LOT, CORNER

A lot at the junction of and fronting on two or more intersecting streets. Such lots shall have two required front yards and of the remaining two yards one shall be designated as a side yard and the other shall be the rear yard.

LOT COVERAGE

The percentage of the area of the lot covered by all the buildings on the lot.

LOT DEPTH

The average distance from the front property line of the lot to the rear property line of the lot.

LOT FRONTAGE

Distance between the side lot lines, as measured 35 feet from the road centerline and parallel to the street line.

[Added 11-30-2005 by L.L. No. 12-2005; amended 7-26-2007 by L.L. No. 15-2007]

LOT LINE

Any boundary of a lot dividing it from another lot.

LOT LINE, REAR

The lot lines generally opposite the front property line.

LOT WIDTH

The distance between side lot lines, measured along the front building line and parallel to the street line.

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

[Added 8-24-2006 by L.L. No. 10-2006]

MANUFACTURING AND PRODUCTION

The manufacturing of products from raw or unprocessed materials. Normal operations might include the use of heat, noise, or odor generating/producing processes.

[Added 7-26-2007 by L.L. No. 15-2007]

MANUFACTURING AND PRODUCTION, LIGHT

An establishment or activity primarily engaged in manufacturing, production or assembly which does not involve on the premises use of heat, noise, or odor generating/producing processes which are detectable off site. Includes the assembly, testing, repair and packing of components, devices and equipment systems.

[Added 7-26-2007 by L.L. No. 15-2007]

MANUFACTURING ESTABLISHMENT

Any establishment which utilizes a process whereby the nature, size or shape of articles or raw materials is changed, or where articles or raw materials are assembled or packaged in quantity.

MOBILE HOME

A transportable one-family dwelling equipped for year-round occupancy and containing the same type of water supply, waste disposal, heating and electrical conveniences as immobile housing. The term "mobile home" shall include vehicles mounted on temporary or permanent foundations, with or without wheels, collars or skids in place.

MOBILE HOME COURT

An area of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient dwelling purposes.

MOBILE HOMES SALES LOT

Any premises upon which mobile homes are placed for the purpose of display or sale.

MODERATE-INCOME FAMILY

A family whose aggregate gross income from all sources, including income of all family members at the time of application, but excluding the earnings of working minors (under 21 years of age) who attend school full-time, does not exceed the currently applicable maximum income for their family size.

[Added 2-25-1988 by L.L. No. 4-1988]

MODULAR BUILDING

A building composed of two or more sections, prebuilt off site, transported to the site and assembled on permanent foundation and bearing the insignia of approval issued by the New York State Building Code Council.

MORTUARY (see also FUNERAL HOME)

A licensed establishment where deceased persons are prepared for burial or cremation, where the body may be viewed, or where funeral services are held.

[Added 7-26-2007 by L.L. No. 15-2007]

MOTEL

A building which contains living or sleeping accommodations used primarily for transient occupancy and which has individual entrances, from outside the building, to serve each sleeping unit.

MOTOR VEHICLE, JUNKED

Any motor vehicle no longer in condition for legal use on the public highways.

MOTOR VEHICLE JUNKYARD

An area of land, with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded motor vehicles, or parts thereof; with or without the dismantling, wrecking, salvage, sale or other use or the disposition of the same. A deposit or storage on a lot, vacant or improved, of more than one motor vehicle, which is unlicensed and not in condition for legal use on public highways, for a period of more than two weeks in any district shall constitute a motor vehicle junkyard.

MOTOR VEHICLE RENTAL/LEASING ESTABLISHMENT

Establishments engaged in the short-term rental or long-term leasing of passenger cars, vans or trucks without drivers.

[Added 12-27-1990 by L.L. No. 18-1990]

MOTOR VEHICLE REPAIR GARAGE

A building used for the servicing and repair of motor vehicles, including bodywork; such repair work shall be wholly within a completely enclosed building.

MOTOR VEHICLE SALES ESTABLISHMENT

A premises, including open area and showrooms enclosed within a building, used for the display or sale of new or used motor vehicles, provided that such establishment is a franchised dealer or a factory-owned dealership.

MULTIPLE-TENANT OCCUPANCIES

A building or structure in which separate, independently owned or rented and operated occupancies are contained.

[Added 2-25-1988 by L.L. No. 4-1988]

NET FLOOR AREA

All occupiable area within the perimeter walls of each space, excluding common areas, floor openings, stairs, elevator shafts, flues, pipe shafts, vertical ducts, columns, balconies, mechanical spaces, outdoor sales areas, cooking spaces, incinerating area, janitorial closets, electrical closets, washrooms, exiting and service corridors, storage, offices and such areas not available for the sale of merchandise or service. Net floor area shall include outdoor sales areas and permanent kiosk areas.

[Added 2-12-1998 by L.L. No. 2-1998; amended 5-29-1998 by L.L. No. 4-1998]

NONCONFORMING BUILDING

A building or structure, lawfully existing at the time of the enactment of this chapter, which does not conform to the regulations of the district or districts in which it is located.

NONCONFORMING BULK

The part of a building, structure or nonbuilding use which does not conform to one or more of the applicable bulk regulations of this chapter.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

[Added 8-24-2006 by L.L. No. 10-2006]

NURSERY SCHOOL

An instructional facility for preschool children, usually between ages three and five, providing care for less than three hours a day. Schools may hold two sessions daily.

[Added 12-27-1990 by L.L. No. 18-1990]

NURSING HOME

A home for the aged, where chronically ill or incurable persons are received, kept or provided with food, shelter and care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

OFFICE

Professional or government offices including accounting, auditing, advertising agencies, architectural, engineering, planning, and surveying services, attorneys, data processing and computer services, doctors, dentists, veterinarians, and similar uses.

[Added 7-26-2007 by L.L. No. 15-2007]

OFFICE BUILDING

A structure containing several rooms in which a person or persons transact their business or carry on their stated occupations.

OFF-SITE SIGN

A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, provided that an off-site sign may also display a noncommercial message.

[Added 2-25-1988 by L.L. No. 4-1988]

ON-SITE SIGN

A sign which directs attention to a business, commodity, service or entertainment or attraction sold, offered or existing on the same lot where such sign is displayed, provided that an on-site sign may also display a noncommercial message.

[Added 2-25-1988 by L.L. No. 4-1988]

PAINTED WALL DECORATIONS

Displays painted directly on a wall and designed and intended as a decorative or ornamental feature and providing no advertising of any kind.

[Added 2-25-1988 by L.L. No. 4-1988]

PAINTED WALL HIGHLIGHTS

Painted areas which highlight a building's architectural or structural features.

[Added 2-25-1988 by L.L. No. 4-1988]

PARKING SPACE

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

[Added 8-23-1990 by L.L. No. 13-1990]

PERSON

Any individual, firm, company, association, society, corporation or group.

PERSONAL SERVICE SHOP

An establishment which provides work done or duties performed for humans, such as a barbershop, beauty parlor, tailor shop, dressmaker shop, shoe repair shop, etc.

PET

Any domestic animal that is kept or treated with affection and may properly and safely be permitted within a dwelling unit.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

[Added 8-24-2006 by L.L. No. 10-2006]

PHILANTHROPIC INSTITUTION

An institution which is charitable, benevolent, generous and humane; one that is interested in the general human welfare, especially through gifts to charities and endowments for human advancement.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

[Added 8-24-2006 by L.L. No. 10-2006]

PORTABLE SIGN

A sign not permanently affixed to the ground, a building or other structure, which may be moved from place to place.

[Added 2-25-1988 by L.L. No. 4-1988]

POULTRY

Includes, but is not limited to, domesticated fowls, such as chickens, ducks, geese, turkeys, pigeons, guinea hens and pheasants, raised in confinement. Poultry shall not include rarities.

[Amended 12-11-1997 by L.L. No. 8-1997]

PROJECT

Land development activity.

[Added 8-24-2006 by L.L. No. 10-2006]

PUBLIC BUILDING

Any building held, used or controlled exclusively for public purposes by any department or branch of government, state, county or municipal.

PUBLIC SEWER

Sewage disposal systems accepted by the Town Board as meeting the standards required for municipal operations and operated by the Town of Wallkill. A district must be formed and accepted by the Town Board.

PUBLIC USE

Includes public utilities or public buildings.

[Added 7-26-2007 by L.L. No. 15-2007]

PUBLIC UTILITY

A business or service which is of public consequence and need, such as electricity, gas, water or telephone service.

PUBLIC WATER

Water supply systems accepted by the Town Board as meeting the standards required for municipal operations by the Town of Wallkill. A district must be formed and accepted by the Town Board.

QUARRY

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale.

REAL ESTATE SIGN

A sign pertaining to the sale, lease or rent of the premises or a portion of the premises on which the sign is located.

[Added 2-25-1988 by L.L. No. 4-1988]

RECHARGE

The replenishment of underground water reserves.

[Added 8-24-2006 by L.L. No. 10-2006]

RECREATIONAL VEHICLE

A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle. No such vehicle shall be wider than eight feet.

RELIGIOUS INSTITUTION

See "church."

REPAIR SHOP

Establishments primarily engaged in the provision of repair services to individuals and households, but excluding automotive repair use types. Typical uses include appliance repair shops, shoe repair, or watch and jewelry repair shops.

[Added 7-26-2007 by L.L. No. 15-2007]

RESEARCH FACILITY

A facility which conducts studies and investigations in a particular field of knowledge, which is undertaken to establish facts or principals.

RESIDENCE

A building or part thereof which contains one or more dwelling units for permanent occupancy, but not including a boardinghouse, motel, hotel or summer colony.

RETAIL STORE

A use devoted exclusively to the retail sale of commodities directly to consumers.

ROOF SIGN

A sign erected or maintained in whole or in part upon, against or directly above the roof or parapet line of a building.

[Added 2-25-1988 by L.L. No. 4-1988]

ROOM, HABITABLE

A.

A living room (as specified in § 4 of the New York State Multiple Dwelling Law) within a dwelling unit, except that, for the purpose of determining lot area, requirements for a habitable room shall not include any of the following:

(1)

Kitchen.

(2)

Foyers, bathrooms, toilets, public or private halls, corridors or passageways.

(3)

Dining alcoves, dinettes or other dining spaces (without limit as to size) when not separated by walls or doors from other habitable rooms, or cooking spaces.

B.

As a guide, an efficiency apartment contains one habitable room, a one-bedroom apartment contains two habitable rooms, a two-bedroom apartment contains three habitable rooms, and a three-bedroom apartment contains four habitable rooms.

SANITARIUM

An institution for the recuperation and treatment of persons suffering from physical or mental disorders.

SCHOOL

A place for systematic instruction in any branch or branches of knowledge.

SCHOOL, VOCATIONAL

A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, computer repair, hairdressing, or other similar activities.

[Added 7-26-2007 by L.L. No. 15-2007]

SCREENING

The blocking, shielding or concealment of views, vistas and noise through a proper and well-designed scheme of planting trees, shrubs, hedges or vines, or the installation of a fence approved by the Planning Board.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

[Added 8-24-2006 by L.L. No. 10-2006]

SELF STORAGE

An enclosed structure used exclusively for the temporary indoor storage of personal materials and goods. The structure shall contain multiple individual mini-warehouse units that are rented or leased to the general public.

[Added 7-26-2007 by L.L. No. 15-2007]

SENSITIVE AREAS

Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

[Added 8-24-2006 by L.L. No. 10-2006]

SERVICE SHOP

An establishment which provides work done or duties performed for others, such as maintenance, installation, repairs, etc., that are provided by a dealer. (See also "personal service shop.")

SHED

A one-story structure, not to exceed 120 square feet used for the storing of outdoor home maintenance and/or recreational equipment, set upon no other permanent foundation than a concrete slab.

[Added 8-29-2002 by L.L. No. 7-2002]

SHOPPING CENTER

A group of commercial establishments planned, constructed and managed as a total entity, consisting of four or more separate commercial establishments or 25,000 square feet or more of floor area, with customer and employee parking provided on site, regardless of whether said establishments occupy separate structures.

[Amended 2-25-1988 by L.L. No. 4-1988; 8-23-1990 by L.L. No. 13-1990]

SIGN

Any identification, description, illustration or device, illuminated or nonilluminated, which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including, but not limited to, any emblem, painting, flag, banner, pennant or placard designed to advertise, identify or convey information.

[Amended 2-25-1988 by L.L. No. 4-1988]

Editor's Note: The definition of "sign area," which immediately followed this definition, was repealed 2-25-1988 by L.L. No. 4-1988.

]

SIGN, DIRECTIONAL

Any sign which is designed solely for the purpose of traffic or pedestrian direction and is placed on the property to which or on which the public is directed and which contains no advertising copy.

[Added 2-25-1988 by L.L. No. 4-1988; amended 12-27-1990 by L.L. No. 18-1990]

Editor's Note: The definitions of "sign, ground," "sign, pole," "sign, projecting" and "sign, roof," which immediately followed this definition, were repealed 2-25-1988 by L.L. No. 4-1988.

]

SIGN STRUCTURE

Any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and may or may not be an integral part of the building.

Editor's Note: The definition of "sign wall," which immediately followed this definition, was repealed 2-25-1988 by L.L. No. 4-1988.

SITE COVERAGE RATIO

The quotient of the first floor area of a building divided by its lot area.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

[Added 8-24-2006 by L.L. No. 10-2006]

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

[Added 8-24-2006 by L.L. No. 10-2006]

STABILIZATION

The use of practices that prevent exposed soil from eroding.

[Added 8-24-2006 by L.L. No. 10-2006]

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

[Added 8-24-2006 by L.L. No. 10-2006]

STORAGE

The holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxic substances than are found in typical stormwater runoff, based on monitoring studies.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized, and operating for the purpose of controlling stormwater runoff.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board, and inspect stormwater management practices.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

[Added 8-24-2006 by L.L. No. 10-2006]

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

[Added 8-24-2006 by L.L. No. 10-2006]

STORY

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of the next higher finished floor, or if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET

A dedicated public way which affords the principal means of access to abutting properties.

STREET LINE

The dividing line between a lot and a street.

STRUCTURE

Anything constructed or erected in a safe and stable manner, the use of which requires location on, in or under the ground or attachment to something having location on the ground. For the purpose of this chapter, a fence shall not be considered a structure.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

[Added 8-24-2006 by L.L. No. 10-2006]

SWIMMING POOL

An artificially created body of water having a depth, at any given point, greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground.

TEMPORARY SIGN

A sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material and designed or intended to be displayed for a fixed, usually short, period of time.

[Added 2-25-1988 by L.L. No. 4-1988]

TOWNHOUSE

A building consisting of a series of noncommunicating one-family sections, each owned in fee simple, having a common wall between each two adjacent sections.

TRAILER

Any type of portable structure, whether on wheels, skids, rollers, blocks or foundation supports, which is capable of being used for living or sleeping purposes.

TRAILER, CONSTRUCTION

Any type of portable structure standing on wheels, skids or rollers, towed or hauled by another vehicle and used on a construction site to store materials and equipment, but not being used for living or sleeping purposes.

[Added 2-25-1988 by L.L. No. 4-1988]

TRAILER, TRUCK

Any type of portable structure standing on wheels, skids or rollers, towed or hauled by another vehicle and used for carrying materials, goods or objects, but not being used for living or sleeping purposes.

[Added 2-25-1988 by L.L. No. 4-1988]

UNDER CANOPY

Projecting sign placed at a ninety-degree angle to the building facade of a business establishment and attached to the ceiling of a canopy or covered walkway or attached to the storefront or building facade to facilitate identification of the particular business establishment.

[Added 12-27-1990 by L.L. No. 18-1990]

USE

The term employed to refer to any purpose for which buildings or land may be occupied.

USE, ACCESSORY

A use incidental to and located on the same lot occupied by a principal permitted use.

USED AUTOMOBILE LOT

A parcel of land, which may include structures, used for the display and sale of used automobiles and where no repair work is conducted.

USE, NONCONFORMING

A use of a building and/or land which was lawfully established but which does not conform to the use regulations for the district in which it is located. It may or may not involve any principal building.

USE, PERMITTED

The specific purpose provided by this chapter for which land, buildings or structures may be used, occupied or maintained.

USE, PRINCIPAL

The primary purpose or function that a lot serves or is intended to serve.

USE, SPECIAL

A specific use as provided by this chapter which may be authorized by the Planning Board pursuant to §§ 249-38, 249-39 and 249-40.

VEHICLE

Any device on wheels or runners, self-propelled or towed, including, but not limited to, automobiles, trucks, motorcycles, trailers of all types and snowmobiles.

VETERINARY HOSPITAL

A facility for the medical and/or surgical care of sick or injured animals.

[Added 12-27-1990 by L.L. No. 18-1990]

WADING POOL

An artificially created body of water having a depth, at any given point, not exceeding two feet, used or intended to be used for wading.

WAREHOUSE

A building or part of a building for storing of goods, wares and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

[Added 8-24-2006 by L.L. No. 10-2006]

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

[Added 8-24-2006 by L.L. No. 10-2006]

WHOLESALE ESTABLISHMENT

An establishment which generally sells goods in large quantities and at reduced prices, especially the sale of goods to retailers who in turn sell to consumers.

YARD, REQUIRED

Open and unobstructed ground area of a lot, extending inward from the lot line the distance specified in the regulations for the district in which the lot is located.

YARD, REQUIRED FRONT

The ground area between the street line and the front of a building nearest the street line.

YARD, REQUIRED REAR

The ground area between the rear lot line and the rear of the nearest building.

YARD, REQUIRED SIDE

The ground area between any property line other than the street line or the rear lot line and the nearest building wall, and between the required front and rear yard.

ARTICLE III Establishment of Districts and Map (§ 249-4 - § 249-7)

§ 249-4 Districts established.

[Amended 7-26-2007 by L.L. No. 15-2007]

The Town of Wallkill is hereby divided into the following classes of districts, the respective symbol for each type of district being set forth opposite its title:

RA	Rural-Agricultural District
RA-1	Low-Density Agricultural District
R-2	Suburban Residential District
R-1	Medium-Density Residential District
R-M(B)	Multiple-Family (Bonus) Residential District Editor's Note: Local Law No. 2-1987, adopted 4-23-1987, added provisions on this district. It has been added to this list at the request of the Town. See § 249-23.
NC	Neighborhood Commercial District

HC	Highway Commercial District	§ 249-5 Zoning Map established. [Amended 7-26-2007 by L.L. No. 15-2007; 5-22-2008 by L.L. No. 7-2008] The boundaries of said districts are hereby established as shown on the map entitled
TC	Town Center District	
O/R	Office and Research District	
ENT	Enterprise District	
ENT-L	Light Enterprise District	
FP	Floodplain and Ponding Area Environmental Subdistrict	
POD	Performance Overlay District	

"Town of Wallkill, Orange County, New York, Zoning Map," adopted April 2008 by the Town Board of the Town of Wallkill, New York, which map accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter. Said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Town Clerk and Building Inspector for the use and benefit of the public.

§ 249-6 Interpretation of boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

A.

Unless otherwise shown, the district boundaries shall be construed to be parallel to and a specified distance from the center lines of streets, alleys, parkways, waterways, railroad rights-of-way or such lines extended, as noted on plans.

B.

Where such boundaries are indicated as approximately following the property lines of publicly owned lands, such lines shall be construed to be such boundaries.

C.

Measurements stated on the Zoning Map are perpendicular or radial distances from street lines measured to the zone boundary lines, which, in all cases where distances are given, are parallel to the street line.

D.

In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed in this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot which lies within 30 feet of such district boundary. For purposes of the section, the more restricted district shall be deemed that district which is subject to regulations which prohibit the use intended to be made of said lot or which

regulations require higher standards with respect to setback, coverage, yard, screening, landscaping and similar requirements.

E.

In all cases where a district boundary line is located not further than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.

F.

In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

§ 249-7 Effect of establishment of districts.

Following the effective date of this chapter:

A.

No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or buildings be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which said building or land is located.

B.

No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same lot or any other lot.

C.

No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.

D.

Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with existing law, a permit for which shall have been duly issued and the construction of which shall have started 90 days before the date of first publication of notice of the public hearing on this chapter, and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building shall have been completed in accordance with such plans as have been filed within one year from the day of the passage of this chapter.

ARTICLE IV General Regulations Applicable to All Districts (§ 249-8 - § 249-18)

§ 249-8 Accessory buildings and structures; exceptions to height restrictions; roadside stands; property abutting sewage treatment plant; crematories.

A.

Accessory buildings and structures. Those permitted may be located in the required side or rear yard.

(1)

Such building shall be located a minimum of five feet from any side or rear lot line.

(2)

Such building shall be located a minimum of 10 feet from the principal building.

(3)

Such building, except for farm purposes, shall not exceed the maximum height permitted in the district in which it is located.

(4)

Such building, together with all other buildings on the lot, shall not occupy more than the permitted lot coverage in the district in which it is located.

(5)

No such building shall be placed nearer to the front line than the principal building.

(6)

The following accessory buildings and structures shall be allowed in all districts, accessory to a residential use, provided that they are not operated for profit:

(a)

Garden house, except in RA and RA-1 Districts, where they may be operated for profit as accessory to farming operations.

[Amended 11-30-2005 by L.L. No. 11-2005; 7-26-2007 by L.L. No. 15-2007]

(b)

Toolhouse.

(c)

Playhouse.

(d)

Swimming or wading pool.

[1]

No pool shall be located nearer than 20 feet to any property line.

[a]

Where the twenty-foot setback requirement is impractical due to the minimum size of the lot, the Building Inspector may grant a special pool permit for aboveground pools exceeding two feet in height upon proof that the adjoining landowners have been notified of said proposed pool and have approved same. Said pool permit shall not be denied unless good cause is shown for its denial. Where the unanimous approval of adjoining landowners is not shown, the matter shall be referred to the Zoning Board of Appeals for its decision regarding the granting of the permit.

[b]

In the case of row or attached housing, owned in fee simple or condominium ownership, the setback requirements shall not apply.

[2]

Pools shall be provided with an adequate permanent fence. Said fence shall be a minimum of four feet in height and equipped with a self-closing, self-locking gate to prevent unauthorized use of the pool and to prevent accidents. However, if said pool is located more than four feet above the ground, a fence is not required, provided that all points of access to said pool are protected by steps which can be raised and locked in position when not in use.

(e)

Private garage.

B.

Exemptions to height regulations. The maximum height limitations of the regulations applying to buildings shall not apply for the following, provided that the same add up to no more than 10% of the total roof area and that they do not exceed the maximum height limitation by more than 15 feet, unless a special permit is granted by the Planning Board pursuant to § 249-38 of this chapter.

(1)

Flagpole.

(2)

Spire or belfry.

(3)

Radio or television tower.

(4)

Chimney or smokestack.

(5)

Radio or television aerial.

(6)

Skylight.

(7)

Water tower.

(8)

Elevator penthouse.

(9)

Cooling tower.

C.

The sale of agricultural products on premises may be conducted within a seasonal roadside stand located on such premises.

[Added 8-13-1981 by L.L. No. 5-1981]

(1)

Such stand shall not exceed one story in height.

(2)

Such stand shall not exceed 400 square feet in total floor area and may have a roof, but shall not be fully enclosed.

(3)

One temporary sign shall be permitted during the period of operation not to exceed 18 square feet in total area.

(4)

No stand shall be erected in such a manner as to disrupt the normal flow of traffic or to interfere with vehicular visibility.

(5)

No building permits shall be required for stands 12 feet by 12 feet or smaller.

(6)

The seasonal period shall be April 1 through November 31.

D.

For all properties abutting a Town of Wallkill owned property on which a Town-owned and -operated sewage treatment plant is located, no structure may be constructed closer than 200 feet to the plant.

[Added 4-23-1987 by L.L. No. 2-1987]

E.

Sheds; as herein defined, in quantity of no more than one per residential lot and erected with a minimum five-foot setback from the property line(s), except for sheds in R-1 and R-2 zoned districts, where the minimum setback shall be two feet, are exempt from the requirement of a building permit and subsequent necessity for a certificate of occupancy.

[Added 8-29-2002 by L.L. No. 7-2002; amended 10-9-2003 by L.L. No. 10-2003]

F.

Crematories for the disposal of carbon-based life forms and where said crematory would be the primary use of the developed property shall be an illegal use.

[Added 9-9-2004 by L.L. No. 10-2004]

§ 249-8.1 Cemetery protection.

[Added 12-12-2002 by L.L. No. 13-2002]

Editor's Note: This local law also provided penalties for offenses as follows: "Any violation of the provisions herein shall be prosecuted to the fullest extent of the law by the Town of Wallkill pursuant to the laws of the State of New York, including but not limited to §§ 145.22 and/or 145.23 of the New York State Penal Law and/or §§ 4216, 4217 and/or 4218 of the New York State Public Health Law and shall be subject to the fines and penalties associated therewith and/or consistent with any other applicable provision of law."

]

A.

Identification and locations of cemeteries in the Town of Wallkill. More exact locations of each cemetery identified herein can be found on a map prepared by Town Historian, Dorothy Hunt-Ingrassia, and filed in the Town Clerk's office of the Town of Wallkill:

Cemetery	Location
Old Scotchtown, Scotchtown Slave Burial Place	Intersection of Scotchtown Road and Goshen Turnpike
Phillipsburg	Off East Main Street, Midway Road at Wallkill River alongside NYS Route 17, future Interstate 86
Pine Hill Cemetery, Clark Burial Place, Clark Cemetery	VanBurenville Road, old Horton Farm (Rockville)
Hulse Cemetery	Mt. Hope Road near VanDuzer Road in field on south side of road
Circleville Cemetery	Presbyterian Church at junction of Rt. 302 and Goshen Turnpike
Bloomingburg Rural Cemetery	Bloomingburg Road (Rt. 17M)
Old Family Cemetery	1.125 miles from city limits; east side of Mt. Hope Road
McLaughrey Cemetery (settlement of freed slaves)	Midland Lake Road (formerly called Guinea Road)
Mapes Cemetery	Junction of Route 211 and Boorman Road
Weller Burial Ground	Left side of road from Bullville to Bloomingburg just beyond the Crawford Town line

	Cemetery on Hollyrood Farm	Hufcut Road, 2 miles from Circleville	B.
	Middletown Hebrew Cemetery/Temple Sinai	Rte. 302, north of Rt. 17	Nonexclusivity of list.
	Cemetery at Middletown Psychiatric Hospital		C.
	Cobb Cemetery at Lake Pocatello	Off Mt. Hope Road	Encroachment requirements.
	Sayres Farm Cemetery	2 miles west of VanBurenville field	(1)
	Crane Cemetery	Near Howells and Dosen Roads	For all properties abutting a cemetery or burial site located entirely or partially within the Town of Wallkill, no structure may be constructed or excavation made closer than 100 feet to the property line of said cemetery or
	John Williams Cemetery	Vanburenville Road	
	Greek Orthodox Cemetery, no markers	Near the Greek Orthodox Church	
	Catholic and Protestant Cemetery [Added 11-29-2007 by L.L. No. 18-2007]	Along County Route 78 and the access road to Tuckerman Hall	

burial site.

(2)

No permits or approvals shall be issued by any Town entity for any structure or excavation that is located within 200 feet of any cemetery and/or burial site without first referring the matter to the Planning Board for review consistent with the above noted provisions.

D.

Mitigation. The Planning Board, in its sole discretion, as part of any subdivision site plan or conditional use permit application, may require a residential or commercial developer to erect fencing, install plantings or otherwise erect a visual and/or physical barrier between developable areas of land, which are adjacent or contiguous to a cemetery and/or burial site.

E.

Other cemeteries or burial sites. The Planning Board, in its sole discretion, may apply the provisions of this section to protect other cemeteries and/or burial plots, which are included and/or referred to in the Town of Wallkill's Master Plan or which the Board otherwise deems to be of historical significance.

§ 249-9 Lot and yard requirements.

A.

Corner lots.

(1)

On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate on the plot plan, which of the remaining two required yards shall be the required side yard and the required rear yard.

(2)

At all street intersections, no obstructions to vision shall be maintained, erected or planted on any lot within the triangle formed by the intersecting street lines and a line drawn between points along such street lines 30 feet distant from their point of intersection.

B.

Existing lots.

(1)

Nothing shall prohibit the use of a lot of less than the prescribed area, width or depth when it can be substantiated that such lot is owned by the same owner and owned separately from any adjoining tracts of land prior to December 12, 1961, provided that all other provisions of this chapter are fully complied with.

(2)

No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located and is an approved subdivision. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all provisions of this chapter.

C.

Exceptions to yard requirements:

(1)

Chimneys, arbors, open trellis or unroofed steps.

(2)

Terraces which do not exceed one foot in height from the ground level.

(3)

Overhanging roofs, not to exceed 10% of the required yard depth.

(4)

Windowsills or belt courses not to exceed six inches.

(5)

Awnings or movable canopies not to exceed 10 feet.

(6)

Fences or walls for the RA, RA-1, R-2 and R-1 Districts with a maximum height of six feet in the rear and side yards and a maximum of four feet in the front yard, except on corner properties where the maximum height shall be three feet.

[Amended 8-25-1993 by L.L. No. 10-1983; 10-13-1994 by L.L. No. 5-1994; 7-26-2007 by L.L. No. 15-2007]

(a)

For corner lots, no fence, in a required front yard, shall have more than 50% of its area opaque.

(b)

No fence or wall shall infringe on the corner lot visibility area mentioned in Subsection A(2).

(7)

If two or more existing dwellings are located within 200 feet on each side of a proposed dwelling, on the same side of the street and within the same block, and are within the same district, said proposed dwelling need not have a required front yard greater than the average setback of the existing dwellings.

§ 249-10 Animals.

[Amended 7-26-2007 by L.L. No. 15-2007]

Within the RA and RA-1 Districts, no more than five dogs or cats, over six months old, may be harbored per dwelling unit. Within the R-1, R-2, NC, HC, ENT, ENT-L, TC and O/R Districts, no more than three dogs or cats over six months old may be harbored per dwelling unit, although the particular district involved should be checked for more specific regulations.

§ 249-11 Signs.

[Amended 4-14-1983 by L.L. No. 5-1983; 2-25-1988 by L.L. No. 4-1988]

A.

Intent.

(1)

This section regulates signs which are visible from the right-of-way and from beyond the property where erected. These regulations balance the need to protect the public safety and welfare, the need for a well-maintained and attractive community and the need for adequate identification, communication and advertising for all land uses. At no time should these provisions be interpreted to regulate any aspect of the content of any sign. The regulations for signs have the following specific objectives:

[Amended 8-29-2002 by L.L. No. 6-2002]

(a)

To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.

(b)

To allow and promote positive conditions for meeting a sign user's needs, while at the same time avoiding nuisances to nearby properties and promoting an attractive environment.

(c)

To reflect and support the desired character and development patterns of the various districts.

(d)

To allow for adequate and effective signs in commercial and industrial districts while preventing signs from dominating the visual appearance of the area.

(2)

These regulations allow for adequate and multiple types of signs for a site. The provisions do not necessarily assure or provide for a property owner's desired level of visibility for the signs.

B.

Applicability and scope. This section regulates the number, size, placement and physical characteristics of signs. The regulations are not intended to and do not restrict, limit or control the content or message of signs. The regulations of this section apply to all districts in the Town.

C.

Conformance. No sign may be erected unless it conforms to the regulations of this section. Sign permits must be approved prior to erection of the sign.

D.

Exempt signs. The following signs are exempt from the provisions of this section but may be subject to other portions of the Town Code:

(1)

Signs inside a building, not governed by § 249-11J(7), except for strobe lights visible from a right-of-way, private or public road or other private property.

(2)

Building numbers.

(3)

Signs carved into or part of materials which are on an integral and permanent part of the building, noting the name of the building and its date of erection.

(4)

Painted wall decorations and painted wall highlights that present no message or indication of a use and are meant strictly for artistic, decorative or design use or enhancement.

(5)

Public and/or governmental signs, including traffic or similar regulatory devices.

(6)

Flags and insignia of any government, except when displayed in connection with a commercial promotion.

(7)

Nonilluminated warning, "private drive," "posted" or "no trespassing" signs, not exceeding two square feet per face.

(8)

Temporary nonilluminated "for sale" or "for rent" real estate signs concerning the premises upon which the sign is located:

(a)

One such sign will be permitted for each property, not exceeding six square feet per side; the top of the sign shall be no higher than six feet above the ground, and it shall be no closer than 10 feet to any property line.

(b)

All such signs shall be removed within three days after the sale, lease or rental of the premises.

(9)

Christmas holiday decorations, displayed for a period from three days before Thanksgiving until the first week in the following year.

(10)

Temporary, nonilluminated window signs and posters not exceeding 10% of the window surface.

(11)

One temporary sign for a seasonal roadside stand selling agricultural produce grown on the premises, provided that such sign shall not exceed six feet and shall be set back a minimum of 10 feet from any property line. Any such sign shall only remain on the site for that portion of the year that the stand is active.

(12)

On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, nonilluminated, not exceeding four square feet per face and six feet above the ground.

(13)

Election signs. All signs advertising a candidate for public office or any other public ballot initiative are exempt from these regulations. Such signs must be displayed only on private property. The Town encourages, but does not require, that such signs be displayed no sooner than 30 days prior to the relevant election and no later than 10 days after said election.

[Added 8-29-2002 by L.L. No. 6-2002]

E.

Prohibited signs. The following signs are prohibited and shall be removed.

(1)

Strobe lights and signs containing strobe lights which are visible from the exterior of the building.

(2)

Signs placed or painted on a vehicle, trailer or truck trailer and parked with the primary purpose of providing a sign for a business, use, event, etc.

(3)

"Animated signs," defined as having moving parts or lighting or motion-picture projection, which create the illusion of moving parts, animated viewing screens, flashing, chasing or twinkling lights.

(4)

A sign which copies or imitates or in any way approximates an official highway sign or carries the words "STOP," "DANGER," "GO SLOW," "CAUTION," "WARNING," etc.

(5)

Any sign in or projecting into a public right-of-way.

(6)

A sign or illumination that causes any direct glare into or upon any building or street, other than the building to which the sign may be accessory.

(7)

"Abandoned signs," defined as those on-premises signs that advertise an activity, business, product or service no longer conducted or available on the premises.

(8)

Any sign which impairs or causes confusion to vehicular or pedestrian traffic in its design, color or placement.

(9)

Any sign mounted or attached to a tree, utility pole, etc.

[Amended 7-25-1996 by L.L. No. 7-1996]

(10)

Roof signs.

(11)

Any sign which is not included under the types of signs permitted in specific district regulations or in this section.

F.

Sign measurement.

(1)

Sign face area.

(a)

The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet surrounding the sign face. Sign area does not include foundations, supports and other essential structures which are not serving as a backdrop or border to the sign. Only one side of a double-faced sign is counted.

(b)

When a sign is on a base material and attached without a frame, such as a wood or plexiglass panel, the dimensions of the base material are to be used unless it is clear that part of the base contains no sign, related display or decoration.

(c)

When signs are constructed of individual pieces or letters attached to a building wall, the sign area is determined by a perimeter drawn around all the pieces or letters.

(d)

For sign structures containing multiple modules oriented in the same direction, the modules together are counted as one sign face.

(e)

The maximum surface area visible at one time of a round or three-dimensional sign is counted to determine sign area.

(2)

Height of signs. The overall height of a sign or sign structure is measured from the grade directly below the sign to the highest point of the sign or sign structure.

G.

Nonconforming signs.

(1)

The lawful use of a sign or signs existing at the time of adoption of this chapter may be continued, even though the sign does not conform to the regulations and limitations of this section, until one or more of the following occurs:

(a)

The structure, size, location, advertising display matter or accessories of any or all signs previously granted approval and permits are altered, modified, changed, reconstructed or moved.

(b)

The structure, size, location, advertising display matter, lettering, color scheme or accessories of any or all signs on the property for which approval and/or permits have not been granted are altered, modified, changed, reconstructed or moved.

(c)

Buildings, structures or site improvements on the property upon which the sign is placed are altered in such a way as to require approval pursuant to Article XI of this chapter.

(d)

Any or all signs on the property are damaged or destroyed by fire, explosion or act of God to the extent of more than 60% of the actual value thereof.

(e)

Any or all signs on the property are abandoned.

(f)

Any or all signs on the property fall into a state of disrepair and/or become unsafe.

(2)

Nonconforming signs are not subject to the provisions of Article IX, Nonconforming Buildings, Structures and Uses, of this chapter.

(3)

Ordinary maintenance and repairs may be made to any nonconforming sign, provided that the structure, advertising display matter, lettering, color scheme or accessories are not altered, modified, changed, reconstructed or moved, and provided that such ordinary maintenance and repairs do not exceed 20% of the value of the sign in any one-year period.

(4)

Nothing contained in this section shall be deemed to require any change in the plans or construction of any sign upon which actual construction was lawfully initiated prior to the effective date of this section. "Actual construction" is hereby defined as the actual placing of the sign and/or structure materials in their permanent position in compliance with the previously obtained approval and permits.

H.

General design criteria.

(1)

Where more than one sign is permitted for the same activity, all signs should be coordinated with respect to color, letter style, illumination and other graphic features.

(2)

In multiple owner/tenant occupancies, the various signs required for identification of different activities should be coordinated with respect to placement on the building facade, legibility and illumination and should express uniformity of design and create a sense of harmonious appearance.

(3)

All signs should be legible and visible for the purpose and circumstances in which they are used.

(4)

Sign(s) shall be considered a site plan and architectural feature of the proposed development and, as such, should be coordinated in size, height, color, illumination, location, graphic design and finish detailing with the building(s), landscaping, area lighting and vehicular and pedestrian circulation and shall be shown on and approved with the use where Planning Board approval is required.

(5)

Where different uses are permitted side-by-side or on adjoining properties, signs permitted for one property or tenancy should not adversely affect the identification and reasonable use of the neighboring property or tenancy.

(6)

In general, product, price or other changeable copy area of any sign should occupy no more than 1/3 of the area of said sign.

(7)

All limited access highway-oriented signs and billboards shall not be of changeable copy type.

(8)

Where signs are to be placed near residential uses, sign height, size, location and illumination should be adjusted for minimum impact to the residential uses.

(9)

Sign content should be orderly, and graphics should be of simple shapes, such as rectangles, circles or ovals.

(10)

No more than two typefaces shall be used on any one sign or group of signs.

(11)

The number of colors used should be the minimum consistent with the design.

(12)

Illumination. Where illumination of signs is permitted, such illumination may only be between sundown and 11:00 p.m. (or close of business). Illumination shall only be of an even intensity at all times. Illumination may be direct (giving forth light from the interior of the sign through translucent material) or it may be indirect (when the light source is not visible from any adjoining property or street and is directed upon the sign) as specified in § 249-11K through O.

(a)

Illumination should be appropriate to the character of the sign and its surroundings and shall not adversely shine on or impact surrounding properties, uses or streets and roads.

(b)

No sign or similar advertisement shall be illuminated in such a manner so as to diminish or detract in any way from the effectiveness of any traffic signal or similar safety or warning device.

(13)

Any tenant or user making an application for a sign permit shall submit with his application evidence that the landlord or owner of the building has approved the particular signage.

[Added 12-27-1990 by L.L. No. 18-1990]

I.

General construction and placement criteria.

(1)

All signs installed after the effective date of this section shall have attached to the sign a nameplate giving the sign permit number and the name and address of the owner, person or corporation responsible for the general requirements and maintenance as outlined herein.

(2)

All internally illuminated signs shall be constructed in conformance with the Standards for Electric Signs (UL 48) of the Underwriters' Laboratories Inc., and bear the seal of the Underwriters' Laboratories label. The sign shall be inspected and certified by an electrical inspection agency approved by the Town.

[Amended 7-25-1996 by L.L. No. 7-1996]

(3)

All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.

(4)

All signs, including attached wall, projecting and suspended wall signs, shall be securely anchored and shall not swing or move in any manner.

(5)

All signs, sign finishes, supports and electric work shall be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.

(6)

All signs shall be painted and/or fabricated in accordance with generally accepted sign industry standards.

(7)

All signs and sign structures shall be erected and attached totally within the site.

(8)

Vision clearance area. No sign may be located within a vision clearance area. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less. "Vision clearance areas" are triangular shaped areas located at the intersection of any combination of streets, roads, rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 15 feet from the intersection of the vehicle traveled areas. The height of the vision clearance area is from 48 inches above grade to 10 feet above grade.

(9)

Vehicle area clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign shall be at least 14 feet above the grade. Vehicle areas include driveways, alleys, parking lots, loading, maneuvering areas, etc.

(10)

Pedestrian area clearances. When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign shall be at least 8 1/2 feet above the grade.

(11)

Signs may be erected in required yards and setback areas, unless otherwise specified in this chapter.

J.

Specific regulations; sign types.

(1)

Attached wall sign: any sign posted, painted or constructed, attached and parallel to the plane of the building wall, facade, marquee or porch of any structure.

(a)

An attached wall sign shall be flush and flat throughout its length and height to the face of the wall to which it is mounted.

(b)

An attached wall sign shall not extend beyond the ends or over the top of the wall to which it is mounted.

(c)

In multistory buildings, it shall be located no higher than the first floor.

(d)

Its length shall not exceed 70% of the width of the tenancy or building wall to which it is mounted.

(e)

Attached wall signs may only be directly illuminated.

(f)

Attached wall signs shall not be located on the rear of a building.

[Added 12-27-1990 by L.L. No. 18-1990]

(2)

Suspended wall sign: any sign which is suspended from a building wall, facade, marquee or porch by means of brackets, hooks, chains, etc., and whose face is parallel to the plane of said building wall, facade, marquee or porch.

(a)

A suspended wall sign shall not project more than 12 inches from the face of the wall to which it is mounted.

(b)

A suspended wall sign shall not extend beyond the ends or over the top of the wall to which it is mounted.

(c)

In multistory buildings, it shall be located no higher than the first floor.

(d)

Its length shall not exceed 70% of the width of the tenancy or building wall to which it is mounted.

(e)

Suspended wall signs may only be directly illuminated.

(f)

Suspended wall signs shall not be located on the rear of a building.

[Added 12-27-1990 by L.L. No. 18-1990]

(3)

Projecting sign: a sign which is attached to a building wall, facade, marquee or porch and which extends more than 12 inches from the face of such building wall, facade, marquee or porch.

(a)

Projecting signs shall not have more than two faces.

(b)

The exterior edge of a projecting sign shall not extend more than five feet from the building wall, facade, marquee or porch to which it is mounted.

(c)

No part of a projecting sign shall extend into vehicular traffic areas.

(d)

Projecting signs may only be directly illuminated.

(4)

Under-canopy sign: a projecting sign placed at a ninety-degree angle to the building facade of a retail establishment and attached to the ceiling of a canopy or covered walkway or attached to the storefront or building facade to facilitate identification of the particular retail store or tenant.

[Added 12-27-1990 by L.L. No. 18-1990]

(a)

The location of such sign shall be at least nine feet above the finished floor grade.

(b)

The area of under-canopy signs shall not be counted as part of the total allowable sign area for all permanent signs on the site.

(5)

Freestanding sign: a sign standing on the ground and usually, but not necessarily, supported from the ground by one or more poles, posts or similar uprights, with or without braces, and advertising products or uses made, sold, used or served on the premises displaying such sign.

(a)

No freestanding sign shall be located less than 15 feet from any front or side property line, or equal to the height of said sign, whichever is greater.

(b)

A freestanding sign shall be located no less than 10 feet from any building, or equal to the height of the sign, whichever is greater.

(c)

A freestanding sign shall be no more than 35 feet in height above finished grade. Signs which exceed 14 feet in height shall be designed and constructed to withstand winds of 100 miles per hour, and such shall be certified to by a professional engineer or registered architect licensed to practice in the State of New York.

(d)

A freestanding sign shall not overhang any property lines.

(e)

Masonry-wall-type signs shall not exceed four feet in height above finished grade and shall not be placed so as to impair the visibility of motorists.

(f)

All freestanding signs must be protected from vehicular damage by a poured-in-place concrete curb or planter.

(g)

Freestanding signs may either be directly or indirectly illuminated.

(6)

Billboard: a sign standing on the ground and usually, but not necessarily, supported from the ground by one or more poles, posts or similar uprights, with or without braces, and advertising products or uses not made, sold, used or served on the premises displaying such sign.

(a)

A billboard shall only be placed on lots which meet the minimum lot and building standards applicable to the district in which it is to be located.

(b)

A billboard shall be located no less than 35 feet from any property line.

(c)

A billboard shall be no more than 35 feet in height above finished grade. Billboards which exceed 14 feet in height shall be designed and constructed to withstand winds of 100 miles per hour, and such shall be certified to by a professional engineer or registered architect licensed to practice in the State of New York.

(d)

No sign face shall have a vertical dimension in excess of 12 feet nor exceed 300 square feet in total area.

(e)

If a lot has the ability to accommodate more than one billboard, the minimum distance between such billboards shall be 200 feet.

(f)

All double-faced billboards shall be special permit uses and uses subject to plan approval by the Planning Board in accordance with the provisions of Article XI herein.

(g)

If a billboard faces Interstate Route 84 or New York State Route 17, approval shall be obtained from the Senior Right-of-Way Agent in accordance with the New York State Sign Control Program.

(h)

Billboards may only be indirectly illuminated.

(7)

Window sign: a sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

(a)

The area of a window covered by window signs shall not exceed 25% of the area of said window.

(b)

Window signs may only be directly illuminated.

(8)

Awning sign: a sign mounted or painted on or attached to an awning or canopy.

(a)

No sign shall project out from, above, below or beyond the awning or canopy.

(b)

An awning sign shall only indicate the name and/or address of the use or premises.

(c)

Awning signs may not be illuminated.

(9)

Fence signs.

[Added 7-25-1996 by L.L. No. 7-1996]

(a)

No sign or banner shall be placed on any fence which will impede the vision of pedestrians and/or motorists.

(b)

All signs or banners placed on fences must be attached securely to prevent them from interfering with pedestrians and/or motorists' safety.

(c)

All signs and banners shall be kept and maintained in a clean, legible manner.

K.

Signs permitted in all districts. The following signs shall be permitted within any district in the Town:

(1)

Development/neighborhood identification signs. In conjunction with an existing development or neighborhood, on-site development or neighborhood identification signs may be placed, subject to the following conditions:

(a)

A maximum of two single-faced freestanding signs shall be permitted per development or neighborhood.

(b)

The maximum area per sign shall be 16 square feet. Development/neighborhood streets and collector streets: only one sign shall be placed per intersection.

(c)

Such signs shall only be indirectly illuminated.

(d)

If such signs are freestanding, the maximum height shall be 48 inches above the finished grade.

(2)

Multiple-family development identification signs. In conjunction with an existing multiple-family development having 20 units or more, on-site multiple-family identification signs may be placed subject to the following conditions:

(a)

One freestanding, attached wall or suspended wall sign, single- or double-faced, shall be allowed per street frontage from which vehicles gain access to the development.

(b)

The maximum area per sign shall be 20 square feet.

(c)

If such signs are freestanding, the maximum height shall be 48 inches above the finished grade.

(d)

If freestanding, such signs shall only be indirectly illuminated.

(e)

Thirty percent of the area of the sign may include information pertaining to the availability or size of the dwelling units.

(3)

Signs and banners generally.

[Amended 7-25-1996 by L.L. No. 7-1996]

(a)

All signs and banners must be legible, clean, orderly and maintained.

(b)

Banners shall not exceed 70% of the width of the building wall to which it is mounted.

(c)

Banners shall not be illuminated.

(d)

Banners shall not extend beyond the side of the wall to which it is mounted.

(4)

Long-term temporary signs.

(a)

Off-site directional signs. In conjunction with an approved subdivision or use, off-site directional signs may be placed subject to the following regulations:

[1]

All such signs shall be removed within 30 days of the final sale within the subdivision or final lease-up with the use. There shall be a deposit with the Town of Wallkill for each sign in the amount of \$100 as a guaranty of removal of each sign. The deposit will be refunded when each sign is removed and upon the request of the developer.

[2]

One such sign may be placed per intersection.

[3]

Such signs shall be located within 50 feet of the intersection, no further than five vehicular miles from the advertised site and no less than five feet from a property line.

[4]

Such signs shall be freestanding, with a maximum height of five feet.

[5]

The maximum sign area per directional sign shall be four square feet.

[6]

Directional signs shall have no commercial messages or copy and shall not be illuminated.

(b)

On-site real estate signs. Signs advertising the sale, lease or rent of the premises upon which such sign is located may be placed subject to the following regulations:

[1]

One attached wall or freestanding sign per street frontage will be permitted.

[2]

Area and height.

[a]

For improved multifamily residential properties, the maximum area per sign shall be 15 square feet with a maximum height of eight feet.

[b]

For improved nonresidential properties, the maximum area per sign shall be 24 square feet with a maximum height of eight feet.

[c]

For unimproved properties not exceeding two acres in size, the maximum area per sign shall be 32 square feet with a maximum height of 10 feet.

[d]

For unimproved properties exceeding two acres in size, the maximum area per sign shall be 60 square feet with a maximum height of 10 feet.

[3]

Real estate signs shall not be illuminated.

[4]

All such signs shall be removed within three days after the sale, lease or rental of the premises.

(c)

On-site construction signs. In conjunction with a use that has an approved building permit for a project or a development, construction signs may be placed subject to the following regulations:

[1]

There shall not be more than one such single-faced, freestanding sign for each project or development.

[2]

Such sign may only identify persons or companies involved with the construction, architecture, engineering and development of the premises.

[3]

Such sign shall be no larger than 32 square feet in total area and no more than 10 feet in height.

[4]

Construction signs shall not be illuminated.

[5]

Construction signs may be erected and maintained for a period not to exceed 14 days prior to the commencement of construction and shall be removed within 14 days of the termination of construction of the project or development.

(5)

Short-term temporary signs.

(a)

Editor's Note: Former Subsection K(5)(a), Political signs, was repealed 8-29-2002 by L.L. No. 6-2002. Said L.L. No. 6-2002 also provided for the redesignation of former Subsection K(5)(b) and (c) as Subsection K(5)(a) and (b). For current provisions on election signs, see Subsection D(13).

Civic event signs. Signs announcing a campaign, drive, activity or event of a civic, philanthropic, educational or religious organization for noncommercial purposes may be placed subject to the following regulations:

[1]

There shall not be more than one such sign for each tax lot. If the sign is not to be placed on property owned by the organization requesting the permit, then the permittee shall present written consents from all the property owners on whose property the sign is to be located.

[2]

Such signs may be freestanding or attached wall signs.

[3]

Such signs shall not be illuminated, shall not exceed 32 square feet in total area and, if freestanding, shall be no more than eight feet in height.

[4]

Civic event signs may be erected and maintained for a period not to exceed 30 days prior to the date of which the campaign, drive, activity or event advertised is scheduled to occur and shall be removed within three days of the termination of such campaign, drive, activity or event.

(b)

On-site commercial event signs. Signs, banners, posters and other similar promotional devices announcing a special, unique or limited activity, service, product or sale of limited duration may be placed subject to the following regulations:

[1]

No single sign shall exceed 32 square feet in total area nor exceed an aggregate total area of 64 square feet for the parcel.

[2]

If freestanding, no sign shall exceed 10 feet in height.

[3]

Permits for such commercial event signs shall not be issued more than twice for the same parcel within one calendar year.

[4]

All such signs shall be erected and maintained for a period not to exceed 30 days and shall be removed within three days of the termination of the activity, service, project or sale.

L.

Signs permitted in agricultural and residential districts. The following signs shall be permitted within any agricultural or residential district in the Town:

(1)

One nonilluminated, attached wall, suspended or freestanding sign advertising an approved home occupation or professional office may be placed on the premises subject to the following conditions:

(a)

Such sign shall not exceed four square feet in total area.

(b)

If freestanding, such sign shall not exceed six feet in height.

M.

Signs permitted in Neighborhood Commercial Districts. The following signs shall be permitted within a Neighborhood Commercial District in the Town:

(1)

Attached wall, suspended wall, projecting window and awning signs may be placed on the premises subject to the following conditions:

(a)

The total allowable sign area for all permanent signs on the site, except freestanding signs, shall be as follows:

[1]

If there is no freestanding sign on the site, then one square foot of sign area per linear foot of building wall that fronts on a street is allowed.

[2]

If there is a freestanding sign on the site, then 3/4 square foot of sign area per linear foot of building wall that fronts on a street is allowed.

(b)

There is no limit on the number of signs on a site if their aggregate square footage is within the total allowable area limit.

(2)

One freestanding sign may be placed on the premises subject to the following:

(a)

Such sign shall only be allowed if the building on the site is set back a minimum of 35 feet from the front property line.

(b)

On lots with a lot width of 100 feet or less, the maximum sign area shall be 40 square feet. On lots with a lot width of more than 100 feet, the maximum sign area shall be 60 square feet.

(c)

The maximum height shall be 14 feet.

N.

Signs permitted in Highway Commercial, Enterprise, Enterprise Light and Office and Research Districts. The following signs shall be permitted within the Highway Commercial, Enterprise, Enterprise Light and Office and Research Districts in the Town:

[Amended 7-26-2007 by L.L. No. 15-2007]

(1)

Attached wall, suspended wall, projecting, window, awning signs and billboards may be placed on the premises, subject to the following conditions:

(a)

The total allowable sign area for all permanent signs on the site, except freestanding signs, shall be as follows:

[1]

If there is no freestanding sign on the site, then 1 1/4 square feet of sign area per linear foot of building wall that fronts on a street is allowed.

[2]

If there is a freestanding sign on the site, then one square foot of sign area per linear foot of building wall that fronts on a street is allowed.

[3]

For billboards, if the lot has no buildings located on it, then one square foot of sign area per linear foot of lot frontage is allowed.

(b)

There is no limit on the number of signs on a site if their aggregate square footage is within the total allowable area limit.

(2)

One freestanding sign may be placed on the premises subject to the following conditions:

(a)

The maximum aggregate sign area shall be 250 square feet, with no individual sign face exceeding 150 square feet.

(b)

The maximum height shall not exceed the maximum permitted building height in the district in which the property is located. In the Office and Research District, the maximum height shall not exceed 35 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

O.

Signs permitted for specific uses. Regardless of the district in which it is located, for the uses listed below, the signs permitted on the site shall be governed by the following:

(1)

Shopping centers. Shopping center signs shall be subject to the following:

[Amended 12-27-1990 by L.L. No. 18-1990]

(a)

Shopping centers with a gross floor area of less than 200,000 square feet. Signs shall be subject to the following:

[1]

Attached wall, suspended wall, projecting, under-canopy and window signs may be placed on the premises subject to the following conditions:

[a]

The total allowable sign area for all permanent signs on the site, except freestanding signs and under-canopy signs, shall be 1 1/4 square feet of sign area per linear foot of building wall that fronts on a street or designated primary access drive or parking area.

[b]

There is no limit on the number of the above signs on a site if their aggregate square footage is within the total allowable area limit.

[c]

The character, size and graphic features of said signs should express a uniformity of design and present a harmonious appearance.

[2]

Under-canopy signs.

[a]

Under-canopy signs may be nonilluminated or internally illuminated.

[b]

The overall height of under-canopy signs shall not exceed 1 1/2 feet and the overall length shall not exceed four feet and shall be installed at least nine feet above pedestrian walk areas and finished floor grade.

[c]

The character, size and graphic features of said signs should express a uniformity of design and present a harmonious appearance.

[3]

One freestanding sign may be placed on the premises per site frontage which possesses a minimum of 200 linear feet of road frontage subject to the following:

[a]

Freestanding signs shall be placed at least 400 feet apart on the subject premises.

[b]

The maximum sign area shall be 200 square feet and shall be limited to the name of the shopping center and its insignia and/or symbol, if any, and shall include the official Town of Wallkill insignia.

[c]

Each shopping center freestanding sign may include a directory sign which indicates the names of the major tenants in the shopping center and shall contain no promotional advertising. The area of each tenant's individual portion of the directory sign shall count toward the total allowed area of the freestanding sign for that frontage.

[d]

The maximum height of the sign shall not exceed the maximum permitted building height in the district in which the property is located, except in the Office and Research District, where the maximum height of the sign shall not exceed 35 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

(b)

Shopping center with a gross floor area of 200,000 square feet and over. Signs shall be subject to the following:

[1]

Attached wall, suspended wall, projecting, under-canopy and window signs may be placed on the premises subject to the following conditions:

[a]

The total allowable sign area for all permanent signs on the site, except freestanding signs and under-canopy signs, shall be not more than two square feet of sign area per linear foot of storefront or designated primary access drive or parking area.

[b]

There shall be no limit on the number of the above signs on a site as long as their aggregate square footage is within the total allowable area.

[c]

The character, size and graphic features of said signs should express a uniformity of design and present a harmonious appearance.

[2]

Under-canopy signs.

[a]

Under-canopy signs may be nonilluminated or internally illuminated.

[b]

The overall height of under-canopy signs shall not exceed 1 1/2 feet and the overall length shall not exceed four feet and shall be installed at least nine feet above pedestrian walk areas and the finished floor grade.

[c]

The character, size and graphic features of said signs should express a uniformity of design and present a harmonious appearance.

[3]

One freestanding sign may be placed on the premises per site frontage which possesses a minimum of 200 linear feet of road frontage subject to the following:

[a]

Freestanding signs shall be placed at least 400 feet apart on the subject premises.

[b]

The maximum sign area shall be 200 square feet and shall be limited to the name of the shopping center and its insignia and/or symbol, if any, and shall include the official Town of Wallkill insignia.

[c]

Each shopping center freestanding sign may include a directory sign which indicates the names of the major tenants in the shopping center and shall contain no promotional advertising. The area of each tenant's individual portion of the directory sign shall count toward the total allowed area of the freestanding sign for that frontage.

[d]

The maximum height of the sign shall not exceed the maximum permitted building height in the district in which the property is located, except in the Office and Research District, where the maximum height of the sign shall not exceed 35 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

(c)

Comprehensive signage plan.

[1]

A comprehensive sign plan shall be submitted to the Planning Board as part of its site plan and/or special permit approval process for any shopping center to be reviewed and conceptually approved by the Planning Board.

[2]

The character, size and graphic feature of all signs as depicted in the comprehensive signage plan should express a uniformity of design and present a harmonious appearance.

[3]

Any retail store or tenant making an application for a sign permit shall submit with his application evidence that the landlord or owner of the shopping center has approved the particular signage.

(2)

Gasoline filling stations. Gasoline filling station signs shall be subject to the following:

(a)

One attached wall, suspended wall or projecting sign may be placed on the principal building, except that where the building abuts two or more streets, additional such signs, one oriented to each abutting street, shall be permitted. The maximum allowable sign area for the sign shall be 1/2 square foot of sign area per linear foot of building wall that fronts on a street.

(b)

One freestanding sign may be placed on the premises subject to the following:

[1]

The maximum sign area shall be 75 square feet.

[2]

The maximum height shall not exceed the maximum permitted building height in the district in which the property is located. In the Office and Research District, the maximum height shall not exceed 35 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

(c)

Service island identification signs. Service island identification signs indicating the price of gasoline, other relevant information or directions to persons using the facility, but containing no advertising material, shall be allowed subject to the following:

[1]

There shall be no more than one such sign for each service island located on the premises.

[2]

The maximum allowable sign area for each such sign shall not exceed six square feet.

[3]

Such signs may only be located attached directly to the service island structure, if any, or pump.

[4]

Such signs shall not project higher than the service island structure, if any, or pump, whichever is higher.

(3)

Gasoline service stations and motor vehicle repair garages. Gasoline service stations and motor vehicle repair garage signs shall be subject to the following:

(a)

One attached wall, suspended wall or projecting sign may be placed on the principal building, except that where the building abuts two or more streets, additional such signs, one oriented to each abutting street, shall be permitted. The maximum allowable sign area for the sign shall be 1/2 square foot of sign area per linear foot of building wall that fronts on a street.

(b)

One freestanding sign may be placed on the premises subject to the following:

[1]

The maximum sign area shall be 75 square feet.

[2]

The maximum height shall not exceed the maximum permitted building height in the district in which the property is located. In the Office and Research District, the maximum height shall not exceed 35 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

(c)

Service island identification signs. Service island identification signs (for gasoline service stations only) indicating the price of gasoline, type of service offered, other relevant information or directions to persons using the facility, but containing no advertising material, shall be allowed subject to the following:

[1]

There shall be no more than one such sign for each service island located on the premises.

[2]

The maximum allowable sign area for each such sign shall not exceed six square feet.

[3]

Such signs may only be located attached directly to the service island, if any, or pump.

[4]

Such signs shall not project higher than the service island structure, if any, or pump, whichever is higher.

(d)

Service bay identification signs. Service bay identification signs providing direction or instruction to persons using the facility, but containing no advertising of any kind, shall be subject to the following:

[1]

One attached wall or suspended wall sign may be placed on the principal building for each service bay.

[2]

The maximum sign area for each such sign shall be 10 square feet.

[3]

Such signs shall be located either adjacent to or over a service bay entrance.

P.

Permits.

(1)

Permit required. Except for the following, no person may erect, alter or relocate within the Town any sign without first obtaining a sign permit:

(a)

Exempt signs as specified in § 249-11D of this chapter.

(b)

Routine maintenance or changing of the parts of a sign, provided that the maintenance or change of parts does not alter the surface area, height, message copy or otherwise render the sign nonconforming.

(2)

Permit applications. Each sign being applied for shall require the filing of a separate permit application. Applications for sign permits shall be submitted to the Building Inspector on forms prescribed and provided by the Town and shall contain or have attached thereto the following information:

(a)

The names, addresses and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed and the person or company to be erecting or affixing the sign.

(b)

The location of the building, structure or lot on which the sign is to be erected or affixed.

(c)

A site plan of the parcel involved, showing all structures and the exact location of the proposed sign.

(d)

Two sets of plans and specifications of the sign to be erected or affixed and its method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, materials, color and weight.

(e)

If necessary, a certification from a professional engineer or registered architect licensed to practice in the State of New York indicating that the sign is designed to withstand winds of at least 100 miles per hour.

(f)

The written consent of the owner of the building, structure or property on which the sign is to be erected or affixed.

(g)

The method of illumination, if any, and the position of lighting or other extraneous devices and a copy of the electrical permit related to the electrical connection.

(h)

Such other information as the Building Inspector may require to determine full compliance with this and other applicable ordinances and regulations of the Town.

(3)

Issuance of permits. Upon the filing of an application for a sign permit, the Building Inspector shall examine the plans, specifications and other submitted data and the premises upon which the sign is proposed to be erected or affixed. If it appears that the proposed sign is in compliance with all the requirements of this Zoning Law and other applicable ordinances of the Town and if the appropriate permit fee has been paid, the Building Inspector shall, within 30 days, issue a permit for the proposed sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws, ordinances or regulations of the Town. If the work authorized under a sign permit has not been completed within 90 days after the date of issuance, the permit shall become null and void, but may be renewed within 15 days prior to the expiration, for good cause shown, for an additional 90 days, upon payment of 1/2 of the original permit fee.

(4)

Permit fees. At the time of filing a sign permit application, said application shall be accompanied by an appropriate application fee. Said application fees shall be established by Town Board resolution.

Q.

Review of existing signs.

(1)

Nonrequested inspections. The Building Inspector or his authorized representative shall have the authority, without a formal request, to inspect any sign for the purpose of identifying those signs which are not in compliance with the provisions of this chapter.

(2)

Requests for inspections. Any person may file a written request with the Building Inspector requesting an inspection of one or more existing signs as identified in the request. In each such instance, the Building Inspector shall promptly inspect such sign(s) to determine compliance with the provisions of this chapter. Following the inspection, the Building Inspector shall make a written report indicating the findings of the inspections to both the owner of the inspected sign and to the person filing the request for inspection.

(3)

Notice of violation. The Building Inspector shall notify, in writing, each owner of an existing sign found to be in violation of any provision of this chapter pursuant to inspections made under § 249-11Q(1) and (2) above. The notice shall specifically refer to each section of this chapter under which a violation has been found to exist and thereupon describe the features of the inspected sign found to be deficient.

(4)

Effect of notice. Upon receipt of a notice of violation for an existing sign, the owner of said sign shall have 15 days to correct the violation(s). If the violation(s) is not corrected after the conclusion of such fifteen-day period, the Building Inspector is hereby authorized to cause the sign to be removed or repaired forthwith at the expense of the owner of the building or premises on which such sign is located.

R.

Removal of certain signs.

(1)

Nonconforming signs. If the Building Inspector shall find that any nonconforming sign, except for those legal nonconforming signs as specified in § 249-11G, is displayed, he shall give written notice to the

owner of the premises on which such sign is located. Removal of the sign shall be effected within 15 days after receipt of the notice. If such sign is not removed after the conclusion of such fifteen-day period, the Building Inspector is hereby authorized to cause the sign to be removed forthwith at the expense of the owner of the building or premises on which such sign is located.

(2)

Obsolete signs. Any sign, whether existing on or erected after the effective date of this chapter, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within 30 days upon cessation of such business or sale of such product by the owner of the building or premises on which such sign is located. If the Building Inspector shall find that any such obsolete sign has not been removed within 30 days upon the cessation of such business or sale of such product, he shall give written notice to the owner of the building or premises on which such sign is located. Removal of the sign shall be effected within 15 days after receipt of the notice. If such sign is not removed after the conclusion of such fifteen-day period, the Building Inspector is hereby authorized to cause the sign to be removed forthwith at the expense of the owner of the building or premises on which such sign is located.

(3)

Unsafe signs. If the Building Inspector shall find that any sign is unsafe, insecure or is a menace to the public, he shall give written notice to the owner of the building or premises on which such sign is located. Correction of the condition which caused the Building Inspector to give such notice shall be effected within 15 days after receipt of the notice. If such condition is not corrected after the conclusion of such fifteen-day period, the Building Inspector is hereby authorized to cause the sign to be removed forthwith at the expense of the owner of the building or premises on which such sign is located.

Notwithstanding the foregoing provision, the Building Inspector is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner of the building or premises on which such sign is located, whenever he determines that such sign is an immediate peril to persons or property.

§ 249-12 Off-street parking and loading requirements.

[Amended 4-10-1980 by L.L. No. 4-1980; 4-8-1982 by L.L. No. 3-1982; 4-23-1987 by L.L. No. 2-1987]

A.

There shall be provided on the same site with any use off-street parking spaces for vehicles in accordance with the requirements herein. Where existing buildings or uses not meeting these requirements are proposed to be changed, altered or enlarged, in any district, off-street parking shall be provided as required herein.

B.

Permitted accessory parking. Off-street parking spaces, open or enclosed, are permitted accessory to any use, provided that:

(1)

There shall be no limitation on the number of agricultural vehicles permitted accessory to a farm use.

(2)

Not more than one commercial vehicle, not exceeding 25 feet in length, may be parked within a private garage or driveway in any RA, RA-1, R-1 or R-2 District on lots up to one acre in size.

[Amended 7-26-2007 by L.L. No. 15-2007]

(3)

For all residential lots, other than townhouse lots, any unoccupied camping trailer, utility trailer, house trailer, boat and/or boat trailer and recreational vehicle may be stored on the lot. Such outside storage shall take place to the rear of or to the side of such residence but shall be no closer than five feet to any side or rear property line.

(4)

For all Townhouse lots, not more than one unoccupied camping trailer, utility trailer, house trailer, boat and/or boat trailer or recreational vehicle may be stored on the lot. Such outside storage shall take place in the driveway.

C.

General parking area standards.

(1)

Mixed uses. In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use.

[Amended 11-9-1995 by L.L. No. 7-1995]

(a)

The Planning Board may, however, approve the alternating use of parking facilities in cases where parties wish to cooperatively establish and operate parking facilities and where these generate parking demands primarily during hours when the remaining uses are not in operation, i.e., one use may operate in the daytime and the other at night only, and the parking would then serve both uses. The applicant may also request that the Planning Board vary the requirements of the Bulk Table, § 249-12F, by decreasing the required parking. The applicant must provide adequate substantiation that the conditions of the use are unusual and provide adequate verification that the number of spaces required in accordance with Subsection F are excessive. The complete burden of proof for such a reduction in the total number of required parking spaces, however, shall remain with the applicant, and documentation

shall be submitted to the Planning Board substantiating the reason for this requested parking reduction. As a condition precedent to approving such alternating use, the Planning Board shall require:

[Amended 7-25-1996 by L.L. No. 7-1996]

[1]

That whatever alternative units of measurements are required for computing off-street parking requirements, that unit of measurement which provides the greater number of off-street parking spaces shall control.

[2]

The submission of satisfactory statements by the parties providing such facilities and describing the nature of the uses and times when such uses operate so as to indicate the lack of conflict between them.

[3]

That no use established pursuant to the provisions of this procedure may be changed without prior approval of the Planning Board.

(2)

Handicapped parking. All uses where 15 or more off-street parking spaces are required by the provisions of this section, except single-family detached and townhouse dwellings, shall be required to provide off-street parking spaces for handicapped persons. Such parking spaces shall be provided in accordance with the following requirements:

(a)

The number of handicapped parking spaces shall be included in the required number of parking spaces and shall be in accordance with the following table:

	Total Off-Street Parking Required	Handicapped Parking Required
	Up to 25	1
	26 to 50	2
	51 to 75	3
	76 to 100	4
	101 to 150	5
	151 to 200	6

	Total Off-Street Parking Required	Handicapped Parking Required
	201 to 300	7
	301 to 400	8
	401 to 500	9
	501 to 1,000	2% of total
	Over 1,000	20, plus 1 for each 100 over 1,000

(b)

Such spaces shall be the spaces closest to the entrance of the building or use for which they are provided and shall be connected thereto by a paved surface of which no less than five feet in width is unobstructed and has no point at which the gradient exceeds one foot rise or fall in 20 feet.

(c)

Such spaces shall comply with the design standards set forth in the American National Standards Institute Standard ANSI A117.1-1980, Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People; provided, however, that in no instance shall the width of any such space be less than 13 feet. Each such space shall be identified by a nonmovable sign indicating parking for the handicapped only. Such sign shall display the international symbol of accessibility and shall not be able to be obscured by a vehicle parked in the space.

(3)

Compact car parking. For any required off-street parking area, which contains 100 or more spaces, 20% of all the required spaces may be requested to be compact car spaces.

(a)

Said compact car spaces shall be no less than eight feet wide.

(b)

Each such space shall be clearly identified by a nonmovable sign marked "Compact Car Only."

(4)

Required accessory parking spaces, open or enclosed, may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided that all spaces therein are located within 500 feet of walking distance of such use. In all cases, such parking spaces shall conform to all the regulations of the district in which they are located. In no event shall such parking spaces be located in any residential district unless the uses to which they are accessory are permitted in such district. Such spaces shall be in the same ownership as the use(s) to which they are accessory or leased for not less than 50 years, and

said owner or lessee shall maintain the required number of spaces available, either throughout the existence of such use or until parking spaces are provided elsewhere.

(5)

All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which such parking is accessory. No motor vehicle repair work, except emergency service, shall be permitted in association with any required off-street parking facilities.

(6)

Required off-street parking areas shall not be used for the sale, repair, dismantling or servicing of any vehicle (excluding emergency repairs to your personal vehicle), equipment, materials or supplies.

D.

Off-street parking layout, standards, construction and maintenance. Whenever the off-street parking requirements in this section require the construction of an off-street parking facility, such off-street parking lots shall be designed, constructed and maintained in accordance with the following standards and regulations:

(1)

Each parking space shall contain at least 162 square feet, exclusive of drives and aisles.

(a)

The minimum width shall be nine feet, and the minimum depth shall be 18 feet.

(b)

Each space shall be double striped. The stripes shall be four inches wide and 14 inches on center, thereby creating 12 inches between stripes. The nine-foot minimum space shall be measured at the midpoint between the stripes. All parking areas shall be restriped at least once a year.

(2)

Circulation.

[Amended 8-23-1990 by L.L. No. 13-1990]

(a)

Each row of parking spaces shall have curbed traffic safety islands installed at both ends.

[Amended 7-26-2007 by L.L. No. 15-2007]

(b)

Each row of parking shall be of such length as is deemed suitable by the Planning Board in consideration of site characteristics, circulation patterns, safety considerations and aesthetics.

(c)

See § 249-100D, Parking lot landscaping, for more specific requirements.

[Amended 7-26-2007 by L.L. No. 15-2007]

(3)

All off-street parking areas shall be provided with safe and convenient access to a public street. If any such areas are located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such location and construction as may be approved by the Planning Board. The width of ingress and egress drives shall be as follows:

(a)

A minimum of nine feet for all single-family dwellings.

(b)

A minimum of 12 feet for one-way traffic for all uses other than single-family dwellings.

(c)

A minimum of 24 feet for two-way traffic for all uses other than single-family dwellings.

(4)

Entrance and exit drives shall be designed and constructed to facilitate the safe and efficient flow of traffic. The number of drives shall be the minimum that will allow the property to accommodate the anticipated traffic. Except for single-family and two-family dwellings, drives shall be clearly and permanently marked by curbs, planting islands, fences or other devices placed adjacent to the driveway. The radius of any entrance curbs shall be at the discretion of the Planning Board.

(5)

No planting, fences or other visual obstructions more than 30 inches tall nor tree limbs maintained lower than eight feet from the ground shall be permitted within the area formed by the intersection of the driveway line, the street right-of-way line and a straight line joining said lines through points 20 feet from their intersection.

(6)

On all corner lots, there shall be a minimum distance of 30 feet from any entrance or exit drive to the lot line fronting on the intersecting street.

(7)

Except as may be qualified elsewhere in this chapter, off-street parking spaces and driveways located on the ground and open to the sky may be located in any required yard but not nearer to any front or side lot property line than 10 feet. Except as may be qualified elsewhere in this chapter, parking structures and carports shall be subject to the minimum yard requirements applicable in the district in which they are located.

(8)

Any lighting used to illuminate off-street parking or loading areas or garages shall be arranged and designed so as to reflect the light away from adjoining premises. Any such areas shall not be lighted at any time other than during the same hours that the use to which the parking is accessory is open for business, except for necessary security lighting.

(9)

The minimum width of interior aisles shall be as follows:

(a)

When ninety-degree parking is used with two-way traffic, it shall be 25 feet.

(b)

When sixty-degree parking is used with one-way traffic, it shall be 18 feet.

(c)

When forty-five- or thirty-degree parking is used with one-way traffic, it shall be 12 feet.

(10)

All parking areas shall be designed for proper drainage as approved by the Planning Board.

(11)

Screening and landscaping.

[Amended 8-23-1990 by L.L. No. 13-1990; 7-26-2007 by L.L. No. 15-2007]

(a)

See §§ 249-100C and D for more specific requirements.

(12)

All parking areas, other than for single-family dwellings, of less than 20 spaces, shall be provided with a stabilized base and dust-free surface. All other parking areas shall be provided with a bituminous-type surface. All such surfaces shall be approved as to type, depth and subgrade by the Planning Board.

[Amended 7-25-1996 by L.L. No. 7-1996]

(13)

Except for parcels devoted to one- and two-family dwellings, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

(14)

Parking facilities on more than one level shall be designed in accordance with the standards set forth herein for grade level parking facilities insofar as they are reasonably applicable.

E.

Computation of required off-street parking spaces. All off-street parking spaces shall be computed as set forth in Subsection F below, except as follows:

(1)

When the application of said Subsection F results in the requirement of a fractional parking space, any fraction up to $\frac{1}{2}$ may be disregarded, and any fraction equaling $\frac{1}{2}$ or more shall be construed as requiring one full parking space.

(2)

When required parking computations are based on gross floor area, any floor area devoted exclusively to parking shall not have off-street parking space requirements.

(3)

The parking space requirements for uses not listed in Subsection F shall be defined by the Planning Board. Such determination shall be based upon the requirements of the most comparable use specified in Subsection F.

(4)

Parking spaces required on an employee basis shall be based on the maximum number of employees on duty on the premises at any one time.

(5)

Parking spaces required on a person/patron basis shall be based on the maximum occupancy load of the building based on the Building Code.

Editor's Note: See Ch. 140, Housing Standards, Art. II.

(6)

For computation purposes, unless otherwise specified in Subsection F, all uses shall be classified in their entirety, not divided into components, i.e., a retail store's gross square footage shall all be classified as retail space, not retail area and warehouse area.

F.

Off-street parking spaces required. Every use hereafter inaugurated and every building or structure hereafter erected or altered shall have permanently maintained, on the same parcel, off-street parking spaces in accordance with the standards listed below, except where otherwise specified in this chapter. The number of off-street parking spaces required shall be no less than the following:

[Amended 7-30-1990 by L.L. No. 10-1990]

Use	Parking Spaces Required
Dwelling, other than multiple dwelling	2 per dwelling unit
Boardinghouse, motel, hotel or guest room	1 per habitable room or unit, plus 1 for every 2 employees
Church, meeting hall, theater, auditorium or other place of public assembly not otherwise classified	1 per 4 seats or 1 per 40 square feet of seating area where fixed seating is not provided
Home occupation	2 per 150 square feet of the use, plus 1 for each additional 150 square feet or fraction thereof
Offices and banks (except medical and dental	1 per 300 square feet of gross floor area
Medical and dental offices and clinics	1 per 150 square feet of gross floor area
Laboratory	1 per 1.25 employees, plus sufficient visitor parking
Retail stores	1 per 150 square feet for the first 2,000 square feet of gross floor area and 5.5 per 1,000 square feet of gross

		floor area in excess of 2,000 square feet
	Food store, supermarket, etc.	1 per 150 square feet of gross floor area
	Service shops	1 per 200 square feet of gross floor area
	Furniture, major appliance and carpet store	1 per 700 square feet of gross floor area, with a minimum of 20 spaces
	Eating and drinking establishments	1 per 50 square feet of patron area, plus 1 per 200 square feet of other area
	Eating and drinking establishments: fast-food, drive-in, drive-up and drive-through, i.e., product specialty hamburgers, donuts, pizza, deli-counter, ice cream, bakery, etc.	1 per 50 square feet of gross floor area, with a minimum of 20 spaces
	Shopping center [Amended 8-23-1990 by L.L. No. 13-1990; 2-27-1997 by L.L. No. 1-1997; 2-12-1998 by L.L. No. 2-1998; 5-29-1998 by L.L. No. 4-1998]	4.2 per 1,000 square feet of net floor area for centers up to 400,000 square feet
		4.5 per 1,000 square feet of net floor area for centers 400,000 square feet to 1,000,000 square feet
		4.0 per 1,000 square feet of net floor area for centers over 1,000,000 square feet
	Shopping center with:	
	Offices	
	Occupying up to 10% of GLA for all centers	No additional spaces required
	Occupying 10% or greater of GLA for all size centers	No additional spaces required for offices occupying up to the first 10% of GLA; 1 additional space per 600

		square feet of GLA of offices occupying 10% to 50% of shopping center GLA; 1 additional space per 300 square feet of GLA of offices occupying greater than 50% of shopping center GLA
	Cinemas	
	If GLA is under 100,000 square feet and cinemas greater than 10% of GLA	Additional 3 spaces per 100 seats
	If GLA is 100,000 to 200,000 square feet and cinema over 450 seats	Additional 3 spaces per 100 seats above 450 seats
	If GLA is 200,000 to 600,000 square feet and cinema over 750 seats	Additional 3 spaces per 100 seats above 750 seats
	If GLA is over 600,000 square feet	No additional spaces required
	Eating and drinking establishments, including fast-food drive-in, drive-up and drive-through, i.e., product specialty hamburgers, donuts, pizza, deli-counter, ice cream, bakery, etc., occupying up to 10% of GLA if GLA is under 100,000 square feet, or occupying up to 5% of GLA if GLA is 100,000 square feet and over	
	If GLA over 25,000square feet and under 100,000 square feet	Additional 10 spaces per 1,000 square feet of eating and drinking establishment
	If GLA 100,000 square feet and over and under 200,000 square feet	Additional 6.0 spaces per 1,000 square feet of eating and drinking establishment
	If GLA 200,000 square feet and over and under 600,000 square feet	Additional 2.0 spaces per 1,000 square feet of eating and drinking establishment
	If GLA 600,000 square feet and over	No additional spaces required for eating and drinking establishment
	Occupying 10% or greater of GLA	Parking spaces as required for above,

	if GLA under 100,000 square feet; or occupying 5% or greater of GLA if GLA 100,000 square or feet over	except as modified by the Planning Board in connection with its site plan and/or special permit review, except that no additional parking spaces shall be required for centers 600,000 square feet or over
	Occupying a separate structure in any size center	Parking spaces as required above for all eating and drinking establishments/but in no case less than 20 additional spaces except that no additional parking spaces shall be required for centers 600,000 square feet or over
	In the event that restaurant uses are not known at the time of site plan review, restaurant uses shall be assumed to occupy 10% of GLA up to 100,000 square feet and 5% of GLA over 100,000 square feet	Spaces as required above for varying- sized centers
	Funeral homes	1 per 40 square feet of public room area
	Indoor and outdoor commercial recreation	1 per 150 square feet of ground floor area devoted to the use
	Health clubs, spas, figure salons	1 per 100 square feet of gross floor area
	Bowling alleys	4 per alley/lane
	Manufacturing and industrial establishments	1 per 1,000 square feet of gross floor area or 1 per employee on the largest shift, whichever is greater, plus 1 per company vehicle
	Wholesale business	1 per 50 square feet of customer area, plus 1 per 1.5 employees
	Warehouse	1 per 1,500 square feet of gross floor area for the first 10,000 square feet, plus 1 per each additional 5,000 square feet, plus 1 per 300 square feet of office area

	Miniwarehousing	4 per 1,000 square feet of gross office space associated with the use, plus 1 per employee with a minimum of 4 spaces
	Outdoor sales lots	1 per 3,000 square feet of gross lot area
	Hospitals	3 per 2 beds, plus 1 per 3 employees
	Nursing homes, sanatoriums	1 per 3 beds
	Grade schools, elementary and junior high schools	1 per employee and faculty member
	Senior high school	1 per employee and faculty member, plus 1 per 6 students for which the facility is designed
	Trade schools, business and commercial schools, colleges	1 per employee and faculty member, plus 1 per 1.5 students for which the maximum capacity designed
	Day-care center, nursery school [Amended 12-27-1990 by L.L. No. 18-1990]	1 per 10 students and 1 per staff member
	Private school	1 per 12 seats/students based on ultimate capacity of the building
	Motor vehicle sales establishment [Added 12-27-1990 by L.L. No. 18-1990]	1 per 300 square feet of gross floor area; plus spaces required for storage of vehicles and 5 per service bay
	Gasoline filling station [Amended 12-27-1990 by L.L. No. 18-1990]	1 per pump island, plus 5 per service bay
	Motor vehicle repair garage [Amended 12-27-1990 by L.L. No. 18-1990]	5 per service bay
	Motor vehicle rental and leasing	1 per 100 square feet of gross floor

establishments [Added 12-27-1990 by L.L. No. 18-1990]	area excluding spaces provided for storage of vehicles	G. Permitted accessory loading berths. Off-street loading berths, open or enclosed, are permitted accessory to any use, except
Veterinary hospitals, dog kennels [Added 12-27-1990 by L.L. No. 18-1990]	1 per 250 square feet of gross floor area	

residences. Such berths shall not be located in any required yards.

H.

Off-street loading space standards.

[Amended 8-23-1990 by L.L. No. 13-1990]

(1)

All uses shall be provided with off-street loading spaces in accordance with the following requirements:

Use	Minimum Number of Required Loading Spaces
Dwelling, other than multiple dwelling, boardinghouse, motel, hotel or guest room	None
Church, meeting hall, theater, auditorium or other place of public assembly not otherwise classified	1
Offices and banks	
0 square feet to 10,000 square feet	None
10,000 square feet to 50,000 square feet	1
Each additional 50,000 square feet or major portion thereof	1
Medical and dental offices and clinics	Same as above

	Laboratory	Same as above
	Retail stores	
	0 square feet to 5,000 square feet	None
	5,000 square feet to 25,000 square feet	1
	25,000 square feet to 50,000 square feet	2
	50,000 square feet to 100,000 square feet	3
	Each additional 100,000 square feet or major portion thereof	1 additional
	Food store, supermarket, etc.	Same as above
	Service shops	Same as above
	Furniture, major appliance and carpet store	Same as above
	Eating and drinking establishments: fast-food, drive-in, drive-up and drive-through, i.e., product specialty hamburgers, donuts, pizza, delicounter, ice cream, bakery, etc.	Same as above
	Funeral homes	Same as above
	Indoor and outdoor commercial recreation	
	0 square feet to 10,000 square feet	1
	10,000 square feet to 100,000 square feet or major portion thereof	1 additional
	Health clubs, spas	Same as above
	Figure salons	Same as above
	Bowling alleys	Same as above
	Shopping center	

	25,000 square feet to 50,000 square feet	2
	50,000 square feet to 100,000 square feet	3
	Each additional 100,000 square feet or major portion thereof to 500,000 square feet	1
	Each additional 100,000 square feet or major portion thereof to 500,000 square feet	1
	Manufacturing and industrial establishments	
	0 square feet to 10,000 square feet	1
	10,000 square feet to 50,000 square feet	2
	50,000 square feet to 100,000 square feet	3
	Each additional 50,000 square feet or major portion thereof	1 additional
	Wholesale business	Same as above
	Warehouse	Same as above
	Miniwarehousing	None
	Outdoor sales lots	None
	Hospitals	
	Up to 100,000 square feet	1
	For each additional 100,000 square feet	1
	Nursing homes, sanatoriums	
	0 beds to 20 beds	None
	21 beds to 100 beds	1
	101 beds to 200 beds	2
	Over 200 beds	3
	Grade schools, elementary and junior high schools	

	0 square feet to 30,000 square feet	None
	30,000 square feet to 200,000 square feet or some fraction thereof	1
	Senior high school	Same as above
	Trade school, business and commercial schools, colleges	
	0 square feet to 10,000 square feet	None
	10,000 square feet to 100,000 square feet	1
	100,000 square feet to 200,000 square feet	2
	Each additional 100,000 square feet or major portion thereof	1
	Nursery school, day-care facility	
	0 square feet to 30,000 square feet	None
	30,000 square feet to 200,000 square feet	1
	Or some fraction thereof	1
	Private school	Same as above
	Motor vehicle sales establishment [Added 12-27-1990 by L.L. No. 18-1990]	
	0 square feet to 10,000 square feet	None
	10,000 square feet to 50,000 square feet	1
	Gasoline filling station [Amended 12-27-1990 by L.L. No. 18-1990]	Same as above
	Motor vehicle repair garages [Amended 12-27-1990 by L.L. No. 18-1990]	Same as above
	Motor vehicle rental and leasing establishment	Same as above

	[Added 12-27-1990 by L.L. No. 18-1990]		(2)
	Veterinary hospitals, dog kennels [Added 12-27-1990 by L.L. No. 18-1990]		Such spaces shall be provided and maintained on the same lot with the pertinent use or uses.
	0 square feet to 10,000 square feet	None	
	10,000 square feet to 50,000 square feet	1	(3)
	Each additional 50,000 square feet or major portion thereof	1	Each loading space

shall be not less than 14 feet wide, 50 feet long and 14 feet in height.

(4)

If such spaces are not enclosed, they shall be located not less than 200 feet from any residential district boundary. Such spaces shall also be effectively screened from such district. The screening plan shall be approved by the Planning Board.

(5)

All of the interior access roads or aisles leading to the loading spaces shall be a minimum of 15 feet wide for one-way traffic and 24 feet wide for two-way traffic. At any point where the access roads or aisles form corners, said corners shall have a minimum radius of 50 feet to the outside pavement line.

(6)

All loading spaces shall be located to provide direct access to the building to which they are accessory.

§ 249-13 Special permit uses and uses subject to plan approval.

A.

Purpose. To provide for the location of certain uses which are deemed desirable for the public welfare within a given district or districts, but which are potentially incompatible with typical uses permitted within them, a classification of special permit uses and uses subject to plan approval is hereby established.

B.

Procedure. A permit for special permit uses and uses subject to plan approval shall be subject to authorization and plan approval by the Town of Wallkill Planning Board in accordance with the provisions of §§ 249-38 through 249-40 of this chapter.

§ 249-14 Outdoor storage of vehicles.

A.

Purpose. In order to promote safety and good appearance, to preserve property values and to further the general purposes of this chapter, the following regulations shall apply to any business premises where automobiles, trucks, tractors or similar vehicles are kept outdoors, whether existing before or after the enactment of this chapter, or amendments thereto, and provided that such use otherwise complies with all other laws and ordinances.

B.

No vehicles shall be stored within 20 feet of a front property line, nor nearer than 10 feet to a side property line, now or hereafter, unless a variance has been approved as provided in this chapter.

C.

Vehicles shall be stored in line and in an orderly fashion, with not less than four feet between any part of two vehicles.

D.

No commercial vehicle exceeding 25 feet in length shall be parked, other than for the purpose of loading and unloading, in any residential area.

E.

The outdoor storage of parts of vehicles, or of vehicles from which parts have been removed, except for the purpose of immediate repair of said vehicle, is prohibited, whether the vehicle is licensed or unlicensed.

§ 249-15 Floodplain and ponding area subdistricts.

A.

Purpose. The areas of the Town of Wallkill which are subject to periodic inundation and ponding, as delineated on the Zoning Map, are designated as Floodplain and Ponding Area Subdistricts within the seven principal districts of the Town for the purposes of protecting human life, preventing material losses and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of areas subject to floods and ponding.

B.

Permitted uses. In the subdistrict, no structure shall be erected, constructed, reconstructed, altered or moved except as listed below:

(1)

Recreational uses, not involving buildings or structures, conservation areas and wildlife preserves.

(2)

Agricultural and commercial agricultural operations, including structures and uses accessory thereto.

(3)

Public utility structures, other than buildings.

(4)

Annual membership clubs, not including principal buildings.

(5)

Parking facilities, excluding structures.

C.

Exceptions. Notwithstanding the above, the Planning Board, upon finding that an area in an FP Subdistrict described by an application submitted by an owner or his agent is safe from flooding and/or ponding, may permit such area to be used in accordance with the regulations (including use, area, bulk and height) specified for the principal district. An applicant applying for such permission shall produce sufficient evidence that the area covered by the application is now actually safe from flooding and/or ponding. Such evidence shall include an indication that means of vehicular access to the premises from an existing street is safe from flooding and may include engineering surveys and reports. Evidence shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended use.

D.

Fill and basement elevations, along the Wallkill River, shall be in accordance with the following:

	Locations	Elevations Which No Filling Is Permitted	Lowest Elevation of Permitted Basement Floor	E. All proposals for lands within the FP Subdistrict or for which elevations are presented in Subsection D shall be reviewed by the Orange County Soil and Water Conservation Service and the Town of Wallkill Commissioner of
	Town line at southern point on Wallkill River	368.14	375.70	
	County Route 53 at point of Crossing Wallkill River	362.20	369.70	
	Town line at northern point on Wallkill River	360.95	368.50	

Public Works.

F.

Data necessary for plat approval of land in the FP Subdistrict.

(1)

Topography using contours at vertical intervals of not more than two feet to an elevation 10 feet above the FP Subdistrict boundary line. All elevations must be based on United States Geological Survey datum.

(2)

Finished basement floor elevations for all buildings.

(3)

Location and elevations of any facilities proposed to be placed in the FP Subdistrict as a permitted use.

§ 249-16 Soil and drainage standards.

All uses are subject to all soil and drainage standards set forth in the Town of Wallkill Subdivision Regulations now or hereafter adopted.

Editor's Note: See Ch. 209, Subdivision of Land.

§ 249-17 Highway safety shelters for school children.

A.

The erection and maintenance of highway safety shelters for school children shall be permitted in any zone of the Town of Wallkill, subject to the conditions and limitations herein provided.

B.

Highway safety shelters shall not exceed a maximum of eight feet in width, eight feet in length and 80 inches in height and shall be anchored to a slab of reinforced concrete at least four inches in thickness or to a substitute base flooring approved by the Building Inspector.

C.

The two outside walls of such shelter visible from the highway may have advertising signs painted thereon or affixed thereto, provided that the sign area shall not exceed three feet by seven feet on each of the two sides of the shelter. The advertising material shall contain no reference to tobacco or intoxicating beverages, nor any other material deemed offensive to the public dignity or unsuitable for school children.

D.

Permits. No shelter may be erected until a building permit has been secured therefor from the Building Inspector who shall have power to approve the location and any variation in size or materials. Before the permit may be issued, there shall be filed with the Building Inspector a written consent and a certificate of necessity issued by the school authorities of the school district and written consent by the owner of the property upon which the shelter is to be placed. Before any permit shall be issued, the applicant must also provide satisfactory evidence that liability insurance is provided with limits of \$500,000 and \$1,000,000 and the applicant must furnish a certificate of insurance or other written evidence thereof satisfactory to the Town of Wallkill. In the discretion of the Building Inspector, the usual building setback requirements shall not apply.

(1)

No shelter may be placed upon any highway or other property of the Town of Wallkill without the consent of the Town Board.

(2)

Fees. The fee of the Building Inspector for the permit shall be an amount set by resolution of the Town Board.

[Amended 3-23-2006 by L.L. No. 3-2006]

E.

If the Building Inspector should fail to act upon the application for the building permit or refuse to grant the building permit, then the applicant may appeal to the Zoning Board of Appeals, which Board is hereby authorized to conduct a hearing and thereafter, within 10 days, shall either issue the permit upon finding that the applicant complies with the provisions hereof or shall deny such permit upon a finding that a highway safety shelter is not needed at the proposed location or that the applicant is unable to comply with the provisions hereof.

F.

All highway safety shelters shall be maintained in good repair and safe condition and shall be repainted when necessary. If such shelter shall be found unsafe, unpainted or in disrepair, then the same shall be considered a prohibited shelter and the enforcement provisions provided in Article XVI of this chapter shall apply, with notice to the owner and the right to remove by the Town as provided in Article XVI.

G.

All existing highway safety shelters not conforming to this chapter shall be made to conform or shall be removed within six months after the effective date of this chapter.

§ 249-18 Uses in new subdivisions.

[Added 2-25-1988 by L.L. No. 4-1988]

Upon the review and approval of a site plan by the Town Planner in accordance with the provisions of this section, certain temporary uses as specified herein may be established within a subdivision for which a final map has been approved by the Planning Board, or in conjunction with a multiple-dwelling complex, solely for the marketing of dwellings and/or lots in the same development.

A.

Permitted uses. The following temporary uses may be permitted in conformance with the following standards:

(1)

Construction trailers for the storage of equipment and materials used in connection with the construction of the subdivision in which they are located. There shall be no more than two such construction trailers allowed in any subdivision. Such construction trailers may only be approved if the builder applying for the trailers is the sole builder in the subdivision. If the subdivision has two or more builders operating in it, the builders may jointly apply for and, if approved, utilize no more than two such construction trailers. Such uses may be kept for the construction life of the subdivision but in no event longer than two years.

(2)

Real estate sales office facilities for purposes of promoting the sale or rental of units and/or lots which are located within the same development. Such sales office shall be erected on an individual site which conforms to a lot shown on the approved subdivision, shall meet all setback requirements of the applicable zone and shall qualify in all respects for sale and occupancy upon termination of its use as a sales office.

(3)

Model homes in a number not to exceed that necessary to provide one example of each unit type being offered in the development. Reversed floor plans and exterior facade variations will not be considered as separate unit types. Each model shall be erected on an individual site which conforms to a lot shown on the approved subdivision, shall meet all setback requirements of the applicable zone and shall qualify in all respects for sale and occupancy upon termination of its use as a model home.

B.

Site plan review criteria. No use authorized by this section shall be located, installed or operated in a manner that will have an unnecessarily adverse effect on the use and enjoyment of any property on which an occupied unit is located or may be located during the duration of such authorized use.

C.

Site plan content. The site plan shall contain such maps and drawings as are necessary to show the location of the above temporary uses and their relationship to off-street parking, vehicular and pedestrian access and the surrounding area.

D.

Building permits. Prior to the issuance of a building permit for the temporary uses above, the following conditions shall be met:

(1)

The subdivision in which such temporary use is to be located must have been approved by the Planning Board, and the map stamped and signed by the Chairman.

(2)

Appropriate zoning must be in effect for the property encompassed by the subdivision or development to accommodate the lot sizes shown on the final map and the proposed uses thereof.

(3)

The site plan must be submitted to and approved by the Town Planner.

(4)

Necessary sanitary facilities must be provided as required by the Building Inspector.

ARTICLE V Regulations Pertaining to Residential Districts (§ 249-19 - § 249-24.2)

§ 249-19 RA Rural Agricultural District.

A.

Permitted uses.

(1)

One-family detached dwellings, not to exceed one such dwelling per lot.

(2)

Growing of crops, orchards, and the grazing of livestock, and appurtenant structures customarily associated with agricultural use, including, but not limited to, barns, greenhouses, and equipment sheds.

[Amended 11-30-2005 by L.L. No. 11-2005]

(3)

Buildings, structures and uses owned and operated by the Town of Wallkill.

(4)

On lots which have the ability (enough acreage) to be subdivided, in accordance with the environmental control formula, a second detached dwelling shall be permitted.

(a)

Both units must be under common ownership.

(b)

Both units must have the ability to meet all of the yard and size requirements of the RA District.

(c)

If, in the future, the building is to be sold, subdivision approval must be obtained from the Planning Board.

B.

Accessory uses.

(1)

The keeping of livestock, other than pigs and mink.

[Amended 12-11-1997 by L.L. No. 8-1997]

(a)

The minimum lot size for the keeping of livestock shall be 80,000 square feet for up to one such animal. One additional livestock may be kept for each additional 40,000 square feet of lot size.

(b)

No structure for such use shall be located nearer than 100 feet to any property line nor nearer than 200 feet to any residential district line, except where said structure is 26 feet or less in height, measured from the ground to its highest point, in which case said structure shall not be located any nearer than 50 feet to any property line nor nearer than 100 feet to any residential district line.

[Amended 11-14-2002 by L.L. No. 9-2002]

(c)

The keeping of pigs and/or mink is not authorized by this section but, where now existing as a nonconforming use, may be continued under the restrictions imposed by the ordinance entitled, "Ordinance Regulating the Keeping of Swine or Mink in the Town of Wallkill, Orange County," dated August 13, 1959,

Editor's Note: See Ch. 70, Animals, Art. II, Swine and Mink.

and the regulations for keeping pigs for home consumption, on farm premises, as stated therein, continue to apply.

(2)

The keeping of fowl.

(a)

The minimum lot size shall be 10 acres, except where no more than six fowl are kept for noncommercial purposes, in which case the minimum lot size shall be 80,000 square feet.

[Amended 11-14-2002 by L.L. No. 9-2002]

(b)

No structure for such use shall be located nearer than 100 feet to any property line nor nearer than 200 feet to any residential district line.

Editor's Note: Former Subsection B(3), regarding the keeping of domestic animals other than dogs or cats, which immediately followed, was repealed 12-11-1997 by L.L. No. 8-1997.

(3)

The keeping of dogs, cats or rabbits. Not more than six dogs, cats or rabbits over six months old may be harbored per dwelling unit.

[Amended 12-11-1997 by L.L. No. 8-1997]

(4)

The sale of agricultural products on the premises where the principal use is agriculture may be conducted within a seasonal roadside stand located on such premises.

(a)

Such stand shall not exceed one story in height.

(b)

Such stand shall not exceed 1,000 square feet in total floor area.

(c)

One sign shall be permitted, in accordance with the pertinent provisions of § 249-11, only during the period of operation.

(5)

A veterinary hospital, in conjunction with a permitted agricultural operation.

[Amended 12-27-1990 by L.L. No. 18-1990]

(a)

Any kennels, runs or similar animal housing shall comply with the following:

[1]

Said uses shall be solely for use by animals undergoing hospital care.

[2]

Said uses shall be placed a minimum of 100 feet from any lot line and shall be fenced.

[3]

Said uses shall be screened from all surrounding properties.

(b)

All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

(6)

The outside storage of farm and earthmoving equipment, provided that such equipment is kept beyond the required minimum front yard.

(7)

Private garage.

(8)

The renting of rooms, by a resident family, in a one-family dwelling for rooming or boarding purposes only. Accommodations by no more than four roomers can be provided in each dwelling.

(9)

In conjunction with a permitted use or an existing nonconforming use, one truck trailer may be placed on a parcel to be used for storage purposes only. The placement of the truck trailers must meet all applicable setback requirements, and they must be so placed as to not cause an unnecessarily adverse effect on the use and enjoyment of any adjacent properties, except that, in conjunction with an agricultural farm use, the total number of such truck trailers permitted per parcel will be based on the functionality of the site and the plan submitted.

[Added 2-25-1988 by L.L. No. 4-1988]

(a)

A site plan must be submitted and approved by the Town Planner prior to any such storage truck trailer being placed on a property. Said site plan shall contain such maps as are necessary to show the proposed locations and their relationship to the existing structures, off-street parking and vehicular and pedestrian access.

(b)

Such approvals shall be valid for one year from the date of approval. They may be renewed for additional one-year periods.

(c)

No hazardous materials shall be placed or stored in any such storage truck trailers.

(d)

All such storage truck trailers shall remain legally registered and mounted on their wheels.

(10)

In conjunction with a permitted one-family detached dwelling, one residential trailer may be placed on a working farm of 100 acres or over for the purpose of housing farm workers. The placement of the trailer must meet all applicable setback requirements; meet the requirements of the environmental control formula for septic systems and have adequate water supply. The trailer shall be placed so as not to cause an adverse effect on the use and enjoyment of any adjacent properties. In no case shall there be more than one trailer per farm. The trailer must be removed in the event the farm use terminates and/or the farm no longer requires the housing of farm workers.

[Added 7-30-1990 by L.L. No. 9-1990; amended 7-26-2007 by L.L. No. 15-2007]

(a)

A site plan must be submitted and approved by the Town Planner and Town Engineer prior to the placement of any such trailer on a property. Said site plan shall show the proposed trailer location and

its relationship to the existing structure or structures, off-street parking and vehicular and pedestrian access. The site plan must also show the septic system, septic system design details, water supply, well and associated details.

C.

Special permit uses and uses subject to plan approval by the Planning Board in accordance with the provisions of Article XI herein.

(1)

Public utility structures, buildings and rights-of-way necessary to serve areas within the Town, excluding business offices, repair facilities or equipment storage areas.

(2)

The following uses on lots of five acres or more, provided that no building shall be erected nearer than 50 feet to any street or property line and the lot coverage shall not exceed 20%:

(a)

Hospitals, sanitariums and nursing homes for general medical care.

(b)

Philanthropic and eleemosynary institutions.

(c)

Schools, colleges and other educational institutions.

(d)

Group housing.

(3)

Camps.

(a)

The minimum gross lot size shall be calculated based on 10,000 square feet per tent or cottage.

(b)

No building, tent, activity area or recreation facility shall be located nearer than 100 feet to any property line.

(4)

Day-care centers and nursery schools.

[Added 12-27-1990 by L.L. No. 18-1990]

(a)

Such uses may be allowed as accessory uses in conjunction with the following other special permit uses: philanthropic and eleemosynary institutions; and churches and religious institutions.

(b)

The required outdoor play area shall be adequate in size and location as determined by the Planning Board.

(c)

No play area shall be located in a required front yard.

(d)

All play areas shall be fenced and suitably landscaped and buffered.

(e)

Indoor play areas shall consist of a minimum of 35 square feet per child, excluding hallways, kitchens, bathrooms, office space and sleeping quarters for infants. Sleeping quarters for infants shall consist of a minimum of 20 square feet additional per infant where an infant is a child less than three years of age.

(f)

Adequate pickup/drop-off areas shall be provided and designed to ensure safe, direct access to the facility as determined by the Planning Board. Said areas shall not conflict with access to required parking.

(g)

There shall be a minimum of one toilet per 15 children.

(h)

Access shall be adequate to handle traffic in a safe and efficient manner.

(i)

Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

(j)

All child-care centers shall indicate the designated number of children and shall comply with all regulations of the New York State Department of Social Services as stated in 18 NYCRR Part 418 as they apply to centers for 44 or fewer and 45 or more children.

(5)

Summer hotel or bungalow colony, in which incidental recreational facilities may be furnished.

(a)

The operation must be under single ownership or control.

(b)

The minimum lot size shall be five acres.

(c)

No more than four summer dwellings, or units, are permitted per acre.

(d)

No building shall be located nearer than 100 feet to any lot line or watercourse which is part of any water system.

(e)

Said use shall be connected to water and sewer systems approved by the Orange County Department of Health and by the Town of Wallkill.

(6)

Public, or private, recreation facilities and open space, other than for a single-family residence, including playgrounds, swimming pools, lakes, golf courses and clubhouse, including the sale of food and drink, provided that:

(a)

Such use shall occupy a lot with an area of not less than two acres.

(b)

No building or structure shall be erected nearer than 50 feet to any lot line.

(c)

Plans for all outdoor public address systems are approved by the Planning Board.

(d)

Plans for lighting of outdoor recreational facilities are approved by the Planning Board.

(7)

Mining, loading and hauling of sand, gravel, topsoil or other aggregate. Such operation shall not include equipment or structures for screening, crushing or washing, except as may be specifically authorized for a limited time.

(8)

Cemeteries.

(a)

The minimum lot size, when not accessory to a religious institution, shall be three acres.

[Added 2-11-1982 by L.L. No. 1-1982]

(9)

Churches and religious institutions.

(a)

The minimum lot size shall be three acres.

(b)

No building shall be nearer than 50 feet to any lot line.

(c)

The maximum lot coverage shall be 20%.

Editor's Note: Former Subsection C(9), Dog kennels, which immediately followed, was repealed 12-27-1990 by L.L. No. 18-1990.

(10)

Home occupations.

(a)

All approvals shall be granted as revocable permits. Such permits may be reviewed at any time by the Planning Board to ensure total compliance with the spirit and intent of the Zoning Law.

(b)

No display of goods shall be visible from the street.

(c)

The premises shall not be used in any manner so as to cause injury or disturbance to the surrounding properties, their owners or occupants.

(d)

No person, outside the resident family, shall be employed in the home occupation.

(e)

No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced or allowed on the premises.

(f)

The occupation shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used.

(11)

Two-family dwellings.

(a)

No more than one such dwelling may be placed on a lot.

(b)

Upon sketch plat submission, the Planning Board shall set the allowable percentage of two-family homes in each subdivision.

(c)

The following lot and building standards shall apply to two-family houses:

[1]

Lot and building standards. Minimum required:

[Amended 11-13-2003 by L.L. No. 13-2003; 11-30-2005 by L.L. No. 12-2005]

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

	Lot width	250 feet	[2] The minimum required lot size shall be arrived at in accord with ~ 249-19D(2). [Amended 7-24-2003 by L.L. No. 6-2003; 1-25-2007 by L.L. No. 3-2007] D. Lot and building standards for the RA District. (1)
	Lot depth	300 feet	
	Lot frontage	50 feet	
	Front yard	40 feet	
	Rear yard	50 feet	
	One side yard	30 feet	
	Both side yards	80 feet	
	Floor area	1,200 square feet	
	Maximum lot coverage	20%	
	Maximum building height	35 feet	

Minimum required.

[Amended 11-14-2002 by L.L. No. 9-2002; 12-12-2002 by L.L. No. 14-2002; 7-26-2007 by L.L. No. 15-2007]

	Minimum	
	Lot area	Arrived at using the environmental control formula, but not to be less than 2 acres

	Floor area	1,000 square feet	(2)
	Lot width	200 feet	Soil factors and lot size information. [Amended 11-14-2002 by L.L. No. 9-2002; 11-30-2005 by L.L. No. 12-2005 Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior
	Lot depth	300 feet	
	Front yard	60 feet	
	Rear yard	70 feet	
	One side yard	40 feet	
	Both side yards	100 feet	
	Lot frontage	200 feet	
	Maximum permitted		
	Lot coverage	20%	
	Building height	35 feet	

to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

		Type I Subdivision	
		Conventional Subdivisions	
	Group	Environmental Factor	Minimum Lot Size (acres)
	I	1.00	3
	II	0.68	3
	III	0.50	3
	IV	0.36	3
	V	0.34	3

	VI	0.34	3
	VII	0.17	4.5
	VIII	0.17	4.5
	IX	0.09	No septic
	X	0.05	No septic
	XI	0.09	8.7
	XII	0.17	No septic
	XIII	0.09	No septic
	XIV	0.05	No septic
	XV	0.05	No septic
		Type II Subdivision Conservation Subdivisions	
	Group	Environmental Factor	Minimum Lot Size (acres)
	I	2	2
	II	1.35	2
	III	1	2
	IV	0.71	2
	V	0.67	2
	VI	0.67	2
	VII	0.33	3
	VIII	0.33	3
	IX	0.17	No septic
	X	0.1	No septic

	XI	0.17	5.8			
	XII	0.33	No septic	(3)		
	XIII	0.17	No septic	Environmental control formula.		
	XIV	0.1	No septic			
	XV	0.1	No septic	(4)		
				Procedure for determining the maximum number of lots permitted.		
Notes: All Type I subdivisions shall adhere to the regulations of this section. Applications for Type II subdivisions shall adhere to the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).				(a)		
Parcels within the RA District under single ownership and identified on the Tax Map of the Town of Wallkill dated September 1, 2005, of less than 10 acres in size may be developed using the Type II subdivision calculations for conventional or conservation subdivisions.				Select soil types which are found on your site, and thereby the soil group.		
	Soil Group	Soil Types	Acreage	Environ-mental Factor	Environ-mental Factor	(b)
			Total acreage		Total environmental acreage quota = maximum number of lots permitted	Calculate and enter the acreage in each soil group.
						(c)

Enter the environmental factor for each soil group.

(d)

Multiply each environmental factor by the acreage in each soil group.

(e)

Total the environmental acreage quotas. This is the maximum number of lots permitted.

(5)

Procedure for determining the minimum lot size.

(a)

Delineate the various soil types and soil groups on the subdivision plat.

(b)

The lot size shall be determined by establishing which soil type, and thereby which soil group, the proposed septic system is being placed on.

[1]

To obtain the various lot sizes, use Subsection D(2), Column 4, entitled "Minimum Lot Size." (i.e., If the septic system is on a Group IV soil, the minimum lot size would be 1.4 acres.)

[2]

If the proposed septic system is on two or more different soil groups, the minimum lot size for the most restrictive soil group shall be utilized.

[3]

As stated in the Town of Wallkill Subdivision Regulations,

Editor's Note: See Ch. 209, Subdivision of Land.

there are soils on which septic systems shall not be allowed.

§ 249-19.1 RA-1 Low-Density Agricultural District.

[Added 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The RA-1 District is intended to provide areas of the Town of Wallkill for agricultural and farming operations.

B.

Permitted uses.

(1)

One-family detached dwellings, not to exceed one such dwelling per lot.

(2)

Growing of crops, orchards, and the grazing of livestock, and appurtenant structures customarily associated with agricultural use, including but not limited to barns, greenhouses, and equipment sheds.

(3)

Public use.

(4)

Religious institutions.

(a)

The minimum lot size shall be three acres.

(b)

No building shall be nearer than 50 feet to any lot line.

(c)

The maximum lot coverage shall be 20%.

C.

Special permit uses.

(1)

Schools and educational institutions.

(2)

Commercial recreation.

(3)

Cemeteries.

(a)

The minimum lot size, when not accessory to a religious institution, shall be three acres.

(4)

Home occupations.

(a)

All approvals shall be granted as revocable permits. Such permits may be reviewed at any time by the Planning Board to ensure total compliance with the spirit and intent of the Zoning Law.

(b)

No display of goods shall be visible from the street.

(c)

The premises shall not be used in any manner so as to cause injury or disturbance to the surrounding properties, their owners or occupants.

(d)

No person, outside the resident family, shall be employed in the home occupation.

(e)

No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced or allowed on the premises.

(f)

The occupation shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used.

(5)

Dog kennels.

(a)

The minimum lot size shall be 10 acres, except where no more than six animals are kept, in which case the minimum lot size shall be 80,000 square feet;

(b)

No structure for such use shall be located nearer than 100 feet to any property line, nor nearer than 200 feet to any residential district line;

(c)

Said uses shall be screened and fenced from all surrounding properties;

(d)

All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

D.

Accessory uses and structures.

(1)

The keeping of livestock, other than pigs and mink.

(a)

The minimum lot size for the keeping of livestock shall be 80,000 square feet for up to one such animal. One additional livestock may be kept for each additional 40,000 square feet of lot size.

(b)

No structure for such use shall be located nearer than 100 feet to any property line, nor nearer than 200 feet to any residential district line, except where said structure is 26 feet or less in height, measured from the ground to its highest point, in which case said structure shall not be located any nearer than 50 feet to any property line, nor nearer than 100 feet to any residential district line.

(c)

The keeping of pigs and/or mink is not authorized by this section, but where now existing as a nonconforming use may be continued under the restrictions imposed by the ordinance entitled, "Ordinance Regulating the Keeping of Swine or Mink in the Town of Wallkill, Orange County," dated August 13, 1959,

Editor's Note: See Ch. 70, Animals, Art. II, Swine and Mink.

and the regulations for keeping pigs for home consumption, on farm premises, as stated therein, continue to apply.

(2)

Keeping of fowl.

(a)

The minimum lot size shall be 10 acres, except where no more than six fowl are kept for noncommercial purposes, in which case the minimum lot size shall be 80,000 square feet.

(b)

No structure for such use shall be located nearer than 100 feet to any property line, nor nearer than 200 feet to any residential district line.

(3)

The sale of agricultural products on the premises where the principal use is agriculture may be conducted within a seasonal roadside stand located on such premises.

(a)

Such stand shall not exceed one story in height.

(b)

Such stand shall not exceed 1,000 square feet in total floor area.

(c)

One sign shall be permitted, in accordance with the pertinent provisions of § 249-11, only during the period of operation.

(4)

A veterinary hospital, in conjunction with a permitted agricultural operation.

(a)

Any kennels, runs or similar animal housing shall comply with the following:

[1]

Said uses shall be solely for use by animals undergoing hospital care;

[2]

Said uses shall be placed a minimum of 100 feet from any lot line and shall be fenced;

[3]

Said uses shall be screened from all surrounding properties.

(b)

All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

(5)

The outside storage of farm and earthmoving equipment, provided that such equipment is kept beyond the required minimum front yard.

(6)

Private garage.

(7)

The renting of rooms, by a resident family, in a one-family dwelling for rooming or boarding purposes only. Accommodations by no more than four roomers can be provided in each dwelling.

(8)

In conjunction with a permitted use or an existing nonconforming use, one truck trailer may be placed on a parcel to be used for storage purposes only. The placement of the truck trailers must meet all applicable setback requirements, and they must be so placed as to not cause an unnecessarily adverse effect on the use and enjoyment of any adjacent properties, except that, in conjunction with an agricultural farm use, the total number of such truck trailers permitted per parcel will be based on the functionality of the site and the plan submitted.

(a)

A site plan must be submitted and approved by the Town Engineer prior to any such storage truck trailer being placed on a property. Said site plan shall contain such maps as are necessary to show the proposed locations and their relationship to the existing structures, off-street parking and vehicular and pedestrian access.

(b)

Such approvals shall be valid for one year from the date of approval. They may be renewed for additional one-year periods.

(c)

No hazardous materials shall be placed or stored in any such storage truck trailers.

(d)

All such storage truck trailers shall remain legally registered and mounted on their wheels.

(9)

In conjunction with a permitted one-family detached dwelling, one residential trailer may be placed on a working farm of 100 acres or over for the purpose of housing farm workers. The placement of the trailer must meet all applicable setback requirements; meet the requirements of the environmental control formula for septic systems and have adequate water supply. The trailer shall be placed so as not to cause an adverse effect on the use and enjoyment of any adjacent properties. In no case shall there be more than one trailer per farm. The trailer must be removed in the event the farm use terminates and/or the farm no longer requires the housing of farm workers.

(a)

A site plan must be submitted and approved by the Town Planner and Town Engineer prior to the placement of any such trailer on a property. Said site plan shall show the proposed trailer location and its relationship to the existing structure or structures, off-street parking and vehicular and pedestrian access. The site plan must also show the septic system, septic system design details, water supply, well and associated details.

E.

Lot and building standards for the RA-1 District.

(1)

Minimum required.

	Minimum required		(2)
	Lot area (square feet)	Per environmental control formula, but not less than 5 acres (Type I) and 3 acres (Type II)	Soil factors and lot size information.
	Floor area (square feet)	1,000	(a)
	Lot width (feet)	250	Type I lots, Conventional:
	Lot depth (feet)	300	
	Front yard (feet)	60	
	Rear yard (feet)	70	
	One side yard (feet)	40	
	Both side yards (feet)	100	
	Lot frontage	250	
	Maximum permitted		
	Lot coverage	20%	
	Height (feet)	35	
	Group	Environmental Factor	Minimum Lot Size
	I	0.33	5
	II	0.22	5
	III	0.17	5
	IV	0.12	5

	XII	0.06	No Septic	(b)
	XIII	0.03	No Septic	Type II lots, Conservation:
	XIV	0.02	No Septic	(c)
	XV	0.02	No Septic	All Type I
	Group	Environmental Factor	Minimum Lot Size	subdivisions shall adhere to the regulations of this section.
	I	0.66	3	Applications for Type II subdivisions shall adhere to the regulations set forth within the Town of Wallkill's Conservation Subdivision Law.
	II	0.45	3	
	III	0.33	3	
	IV	0.24	3	
	V	0.22	3	
	VI	0.22	3	
	VII	0.11	4.5	Editor's Note: See § 249-80.
	VIII	0.11	4.5	§ 249-20 R-2
	IX	0.06	No Septic	Suburban Residential District.
	X	0.03	No Septic	
	XI	0.06	8.7	A.
	XII	0.11	No Septic	Permitted uses.
	XIII	0.06	No Septic	(1)
	XIV	0.03	No Septic	One-family detached dwellings, not to exceed one such
	XV	0.03	No Septic	

dwelling per lot.

(2)

Growing of crops and orchards.

(3)

Buildings, structures and uses owned and operated by the Town of Wallkill.

(4)

Tourist homes and lodging houses.

B.

Accessory uses.

(1)

The keeping of livestock, other than pigs and mink.

(a)

The minimum lot size shall be 20 acres, except for the keeping of horses, wherein the minimum lot size shall be three acres for the first horse kept and two acres for each additional horse kept.

[Amended 9-11-2003 by L.L. No. 9-2003]

(b)

No structure for such use shall be located nearer than 100 feet to any property line, nor nearer than 200 feet to any residential district line, and in the keeping of horses, the barn and paddock area must be located no nearer than 100 feet to any property line.

[Amended 9-11-2003 by L.L. No. 9-2003]

(c)

The keeping of pigs and/or mink is not authorized by this section but, where now existing as a nonconforming use, may be continued under the restrictions imposed by the ordinance entitled, "Ordinance Regulating the Keeping of Swine or Mink in the Town of Wallkill, Orange County," dated August 13, 1959,

Editor's Note: See Ch. 70, Animals, Art. II, Swine and Mink.

and the regulations for keeping pigs for home consumption, on farm premises, as stated therein, continue to apply.

(2)

The keeping of fowl.

(a)

The minimum lot size shall be 10 acres.

(b)

No structure for such use shall be located nearer than 100 feet to any property line, nor nearer than 200 feet to any residential district line.

(3)

The keeping of dogs or cats. Not more than three dogs or cats, over six months of age, may be harbored per dwelling unit.

(4)

The sale of agricultural products, on the premises where the principal use is agricultural, may be conducted within a seasonal roadside stand located on such premises.

(a)

Such stand shall not exceed one story in height.

(b)

Such stand shall not exceed 1,000 square feet in total floor area.

(c)

One sign shall be permitted, in accordance with the pertinent provisions of § 249-11, only during the period of operation.

(5)

The outside storage of farm and earthmoving equipment, provided that such equipment is kept beyond the required minimum front yard.

(6)

The renting of rooms, by a resident family, in a one-family dwelling for rooming or boarding purposes only. Accommodations by no more than four roomers can be provided in each dwelling.

(7)

Customary accessory uses, including private garages, sheds and pools.

C.

Special permit uses and uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI herein.

(1)

Home occupations.

(a)

All approvals shall be granted as revocable permits. Such permits may be reviewed at any time by the Planning Board to ensure total compliance with the spirit and intent of the Zoning Law.

(b)

No display of goods shall be visible from the street.

(c)

The premises shall not be used in any manner so as to cause injury or disturbance to the surrounding properties, their owners or occupants.

(d)

No person, outside the resident family, shall be employed in the home occupation.

(e)

No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced or allowed on the premises.

(f)

The occupation shall not occupy more than 1/2 of the ground floor area of the dwelling, or its equivalent elsewhere in the dwelling if so used.

(2)

Public utility structures, buildings and rights-of-way necessary to serve areas within the Town, excluding business offices, repair facilities or equipment storage areas.

(3)

The following uses on lots of five acres or more, provided that no building shall be erected nearer than 50 feet to any property line and the lot coverage shall not exceed 20%.

(a)

Hospitals, sanitariums and nursing homes for general medical care.

(b)

Philanthropic and eleemosynary institutions.

(c)

Schools, colleges and other educational institutions.

(4)

Day-care centers and nursery schools.

[Added 12-27-1990 by L.L. No. 18-1990]

(a)

Such uses may be allowed as accessory uses in conjunction with the following other special permit uses: philanthropic and eleemosynary institutions; schools, colleges and other educational institutions; and churches and religious institutions.

(b)

The required outdoor play area shall be adequate in size and location as determined by the Planning Board.

(c)

No play area shall be located in a required front yard.

(d)

All play areas shall be fenced and suitably landscaped and buffered.

(e)

Indoor play areas shall consist of a minimum of 35 square feet per child, excluding hallways, kitchens, bathrooms, office space and sleeping quarters for infants. Sleeping quarters for infants shall consist of a minimum of 20 square feet additional per infant where an infant is a child less than three years of age.

(f)

Adequate pickup/dropoff areas shall be provided and designed to ensure safe, direct access to the facility as determined by the Planning Board. Said areas shall not conflict with access to required parking.

(g)

There shall be a minimum of one toilet per 15 children.

(h)

Access shall be adequate to handle traffic in a safe and efficient manner.

(i)

Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

(j)

All child-care centers shall indicate the designated number of children and shall comply with regulations of the New York State Department of Social Services as stated in 18 NYCRR Part 418 as they apply to centers for 44 or fewer and 45 or more children.

(5)

Camps.

(a)

No tent, activity area or recreation facility shall be nearer than 100 feet to any property line.

(b)

The gross minimum lot size shall be calculated based on 10,000 square feet per tent or cottage.

(6)

Public or private recreation facilities and open space, other than for a single-family residence, including playgrounds, swimming pools, lakes, golf courses and clubhouse, including the sale of food and drink, provided that:

(a)

Such use shall occupy a lot with an area of not less than two acres.

(b)

No building or structure shall be erected nearer than 50 feet to any lot line.

(c)

Plans for all outdoor public address systems are approved by the Planning Board.

(d)

Plans for lighting of outdoor recreational facilities are approved by the Planning Board.

(7)

Mining, loading and hauling of sand, gravel, topsoil or other aggregate. Such operation shall not include equipment or structures for screening, crushing or washing, except as may be specifically authorized for a limited time.

(8)

Churches and religious institutions.

(a)

The minimum lot size shall be three acres.

(b)

No building shall be nearer than 50 feet to any lot line.

(c)

The maximum lot coverage shall be 20%.

(9)

Cemeteries.

(a)

The minimum lot size, when not accessory to a religious institution, shall be three acres.

[Added 2-11-1982 by L.L. No. 1-1982]

(10)

Mobile home parks in accordance with Article VIII.

(11)

Neighborhood grocery stores.

(a)

No such use may be located closer than one mile to a similar use.

(b)

The minimum lot size shall be 40,000 square feet.

(c)

The minimum road frontage shall be 150 feet.

(d)

The maximum floor area shall be 1,500 square feet.

(e)

No on-site consumption of food or beverages shall be permitted.

(12)

Two-family dwellings.

(a)

No more than one such dwelling may be placed on a lot.

(b)

Upon sketch plat submission, the Planning Board shall set the allowable percentage of two-family homes in each subdivision.

(c)

The minimum required lot size and building standards shall be arrived at in accord with § 249-19D.

[Amended 11-14-2002 by L.L. No. 12-2002; 1-25-2007 by L.L. No. 3-2007]

D.

Lot and building standards in the R-2 District.

[Amended 11-30-2005 by L.L. No. 1-2005]

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the

environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

(1)

Type I Subdivision — Conventional.

[Amended 1-25-2007 by L.L. No. 3-2007; 7-26-2007 by L.L. No. 15-2007]

		A	B	C	(2)
	Minimum required				Type II Subdivision — Conservation. [Amended 1-25-2007 by L.L. No. 3-2007; 7-26-2007 by L.L. No. 15-2007]
	Lot area (square feet) subject to soil and drainage review	1.5	1.5	Soils*	
	Lot width (feet)	150	150	200	
	Lot depth (feet)	200	200	250	
	Front yard (feet)	35	35	35	
	Rear yard (feet)	30	30	35	
	One side yard (feet)	20	20	20	
	Both side (feet)	40	40	40	
	Lot frontage (feet)	150	150	200	
	Floor area (square feet)	1,000	1,000	1,000	
	Maximum permitted				
	Lot coverage	30%	30%	25%	
	Building height (feet)	35	35	35	
		Note: *Use soils formula as set forth in table located at § 249-19D(2).			
		A	B	C	
	Minimum required				
	Lot area (square feet) subject to soil and drainage review	0.75	0.75	Soils*	
	Lot width (feet)	150	150	200	

	Lot coverage		30%	30%	25%	(3) All Type I subdivisions shall adhere to the regulations of this section. All development applications for
	Building height (feet)		35	35	35	
		Note: *Use soils formula as set forth in table located at § 249-19D(2).				

Type II subdivisions shall follow the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).

§ 249-21 (Reserved)

Editor's Note: Former § 249-21, Cluster developments, was repealed 11-30-2005 by L.L. No. 12-2005. See now § 249-80, Conservation subdivisions.

§ 249-22 R-1 Medium-Density Residential District.

A.

Permitted uses.

(1)

One-family detached dwellings not to exceed one such unit per lot.

(2)

Buildings, structures and uses owned and operated by the Town of Wallkill.

B.

Accessory uses.

(1)

The renting of rooms, by a resident family, in a one-family dwelling for rooming or boarding purposes only.

(a)

Accommodations for no more than four roomers can be provided in each dwelling unit, other than in a townhouse unit.

(b)

Accommodations for no more than two roomers may be provided in each townhouse unit.

(2)

Customary accessory uses, including private garages, sheds and pools.

(3)

The keeping of dogs or cats. Not more than three dogs or cats, over six months of age, may be harbored per dwelling unit.

C.

Special permit uses and uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI.

(1)

Public utility structures, buildings and rights-of-way necessary to serve areas within the Town of Wallkill, excluding business offices, repair facilities or equipment storage areas.

(2)

The following uses, on lots of five acres or more, provided that no building shall be located nearer than 50 feet to any property line and the lot coverage shall not exceed 20%.

(a)

Hospitals, sanitariums and medical arts buildings for general medical care.

(b)

Philanthropic or eleemosynary institutions.

(3)

Day-care centers and nursery schools.

[Added 12-27-1990 by L.L. No. 18-1990]

(a)

Such uses may be allowed as accessory uses in conjunction with the following other special permit uses: philanthropic and eleemosynary institutions; churches and religious institutions; multiple dwellings, row or attached housing and condominium detached-one-family units.

(b)

The required outdoor play area shall be adequate in size and location as determined by the Planning Board.

(c)

No play area shall be located in a required front yard.

(d)

All play areas shall be fenced and suitably landscaped and buffered.

(e)

Indoor play areas shall consist of a minimum of 35 square feet per child, excluding hallways, kitchens, bathrooms, office space and sleeping quarters for infants. Sleeping quarters for infants shall consist of a minimum of 20 square feet additional per infant where an infant is a child less than three years of age.

(f)

Adequate pickup/dropoff areas shall be provided and designed to ensure safe direct access to the facility as determined by the Planning Board. Said areas shall not conflict with access to required parking.

(g)

There shall be a minimum of one toilet per 15 children.

(h)

Access shall be adequate to handle traffic in a safe and efficient manner.

(i)

Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

(j)

The operation of day-care centers and nursery schools accessory to multiple dwellings, row or attached housing and condominium detached-one-family units shall be limited to a community facility building which may be provided as part of such developments. The location of such facility shall be reviewed by the Planning Board as part of the overall site plan and special permit review of the subject development.

(k)

All child-care centers shall indicate the designated number of children and shall comply with all regulations of the New York State Department of Social Services as stated in 18 NYCRR Part 418 as they apply to centers for 44 or fewer and 45 or more children.

(4)

Churches and religious institutions.

(a)

The minimum lot size shall be three acres.

(b)

No building shall be nearer than 50 feet to any lot line.

(c)

The maximum lot coverage shall be 20%.

(5)

The following institutional uses, provided that no building shall be located nearer than 50 feet to any property line, and the coverage shall not exceed 20%.

(a)

Schools, public, religious or private, including playgrounds, athletic fields and other customary accessory uses.

(b)

Public libraries and museums.

(6)

Multiple dwellings. Multiple dwellings consisting of a building or buildings containing three or more rental apartment units, but excluding townhouses, duplexes, fourplexes, row houses, in either fee simple or condominium ownership, provided that:

(a)

No building shall exceed 160 feet in length and shall be provided with a minimum five-foot offset at a maximum of every 40 feet of length. This offset shall include the rooflines.

(b)

The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest building and between a principal and accessory building shall be 20 feet.

(c)

Any inner court shall have a minimum dimension of 60 feet; any outer court shall have a minimum dimension of 20 feet, and its depth shall not exceed its width.

(d)

There shall be provided on the same lot suitable enclosed, equipped and landscaped children's playlots, subject to Planning Board approval in accordance with Article X of the Town Zoning Law.

(e)

Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f)

There shall be no parking areas located in required yards.

(g)

All fees applicable to individual dwellings found within the Subdivision Regulations shall be applicable to each individual apartment unit.

(h)

Medical (human) and dental offices may be allowed within a complex at no greater a ratio than one for every 50 apartment units. Such permission shall be by special permit of the Planning Board.

(i)

The following lot and building standards shall apply to such dwellings:

[Amended 11-30-2005 by L.L. No. 12-2005

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

; 7-26-2007 by L.L. No. 15-2007]

		Multiple Dwellings			
	Number of Hab- itable Rooms ¹ in the Dwelling Unit (DU)	1 (Effic- iency)	2 (1 bed- rooms)	3 (2 bed- rooms)	4 (3 bed- rooms)
	Minimum required				
	Land area (Type I Subdivision - Conventional):				
	Total (acres)	10	10	10	10
	Per DU (square feet) ²	11,700	14,400	21,600	43,500
	Land area (Type II Subdivision - Conservation):				
	Total (acres)	10	10	10	10
	Per DU (square feet) ²	7,800	9,600	14,400	29,000
	All developments:				
	Lot width (feet)	150	150	150	150
	Lot depth (feet)	150	150	150	150
	Front yard (feet)	40	40	40	40
	One side yard (feet)	30	30	30	30
	Both side yards (feet)	60	60	60	60
	Lot frontage (feet)	150	150	150	150
	Rear yard (feet)	30	30	30	30
	Livable floor area per DU (square feet)	600	800	1,000	1,200
	Off-street parking spaces per DU	1.75	2.0	2.5	3.0
	Maximum permitted				

	Lot coverage	20%	20%	20%	20%	(7) Row or attached housing consisting of a series of attached one-family dwelling units, each located on its own individual lot owned in fee simple, or in condominium ownership, provided that:
	Building height					
	Number of stories	2	2	2	2	
	Feet	35	35	35	35	
	Notes:					
	1See "room, habitable" under § 249-3.					(a) No building shall
	2To derive the acreage used in computing the allowable number of units on a given proposal, use the gross acreage minus the acreage allotted to bodies of water, areas subject to flooding and ponding area which have slopes of over 20%, and existing rights-of-way and easements.					
	All Type I subdivisions shall adhere to the regulations of this section. All development applications for Type II subdivisions shall follow the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).					

No building shall exceed 132 feet in length and shall be provided with an offset of a minimum of five feet at a maximum of every 44 feet of length. This offset shall include a roofline offset.

(b)

Adequate recreational facilities shall be provided as set forth in Article X.

(c)

The site shall be served with public sewer and public water facilities.

(d)

Where dwelling units abut a collector or major street, the Planning Board shall require marginal roads, reverse frontage with screening or vehicular access from an interior minor street.

(e)

Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f)

The site shall incorporate suitably enclosed, equipped and landscaped children's playlots subject to Planning Board approval.

(g)

The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest buildings. The distance between a principal building and an accessory building shall be 20 feet.

(h)

When providing off-street parking space for a unit owned in fee simple, the developer must provide a garage for one vehicle within each unit unless the development will have a homeowner's association and will not be deeding streets to the Town of Wallkill.

(i)

The following lot and building standards shall apply:

[Amended 11-30-2005 by L.L. No. 12-2005

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

Number of Habitable Rooms ¹ in the Dwelling Unit (DU)	2 (1 bedroom)	3 (2 bedrooms)	4 (3 bedrooms)
Minimum required			
Land area (Type I Subdivision - Conventional):			
Total (acres)	10	10	10
Per DU (square feet) ²	10,800	14,400	17,400
Land area (Type II Subdivision - Conservation):			
Total (acres)	10	10	10

	Per DU (square feet) ²	8,100	10,800	13,050
	All developments:			
	Lot width (feet) ³	224	224	224
	Lot depth (feet) ³	100	100	100
	Front yard (feet) ³	30	30	30
	One side yard (feet) ³	4	4	4
	Both side yards (feet) ³	--	--	--
	Rear yards (feet) ³	35	35	35
	Front yards (feet)	50	50	50
	Side yards (feet)	50	50	50
	Rear yard (feet)	50	50	50
	Livable floor area per DU (square feet)	800	1,000	1,200
	Off-street parking spaces per DU	2.0	2.5	3.0
	Maximum permitted			
	Lot coverage	20%	20%	20%
	Building height:			
	Number of stories	2 1/2	2 1/2	2 1/2
	Feet	35	35	35
	Notes:			
	1See "room, habitable" under § 249-3.			
	2To derive the acreage used in computing the allowable number of units on a given property, use the gross acreage minus the area allotted to bodies of water, areas subject to flooding and ponding, areas which have slopes over 20% and existing rights-of-way and easements.			
	3These figures are used only for each individual townhouse lots owned in fee			

	simple.	(8)
	4All end row or attached dwellings shall have a minimum lot width of 37 feet and a side yard of at least 15 feet.	A series of detached one-family dwelling units, not owned in fee simple but in condominium ownership,
	All Type I subdivisions shall adhere to the regulations of this section. All development applications for Type II subdivisions shall follow the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).	

provided that:

(a)

The maximum depth of any series of units (either in a cul-de-sac or parking lot arrangement) shall be 132 feet.

(b)

Adequate recreational facilities must be approved as set forth in Article X.

(c)

The site shall be served with public sewer and public water facilities.

(d)

Where dwelling units abut a collector or major street, the Planning Board shall require marginal roads, reverse frontage with screening or vehicular access from an interior minor street.

(e)

Off-street parking areas and services yards, if provided, shall be suitably landscaped to assure an attractive environment with the site.

(f)

The site shall incorporate suitably enclosed, equipped and landscaped children's playlots subject to Planning Board approval.

(g)

The minimum distance between side and rear elevations of principal buildings within each cluster shall be eight feet.

(h)

The minimum distance between any cluster grouping of units shall be 50 feet.

(i)

The maximum number of units in any cluster grouping of units shall not exceed 10 units and there shall be no more than five in any one continuous row.

(j)

Each cluster grouping of units shall have a minimum of two means of ingress and egress, one of which may be for emergency use only:

[1]

If the roads are to be dedicated, they must be built totally in conformance with the Town's minimum specifications.

Editor's Note: See Ch. A251, Street Specifications.

[2]

If the roads are not to be dedicated, at least one of the means of access to each cluster must be built to the Town's minimum specifications in all aspects except right-of-way width.

(k)

The following lot and building standards shall apply:

[Amended 11-30-2005 by L.L. No. 12-2005

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

	Number of Habitable Rooms in the Dwelling Unit (DU) ¹	2 (1 bedroom)	3 (2 bedrooms)	4 (3 bedrooms)
	Minimum required			
	Land area (Type I Subdivision - Conventional):			

	Total (acres)	10	10	10	(9)
	Per DU (square feet) ²	10,800	14,400	17,400	Two-family dwellings and conversions of one-family dwellings to two-family dwellings.
	Land area (Type II Subdivision - Conservation):				
	Total (acres)	10	10	10	
	Per DU (square feet) ²	8,100	10,800	13,050	(a)
	All developments:				There shall be no more than one structure per lot.
	Front yard (feet)	50	50	50	
	Side yards (feet)	50	50	50	(b)
	Rear yards (feet)	50	50	50	
	Livable floor area per DU (square feet)	800	1,000	1,200	The lot must be served by both public water and public sewerage systems.
	Off-street parking spaces per DU	2.0	2.5	3.0	
	Maximum permitted				(10)
	Lot coverage	20%	20%	20%	Cemeteries.
	Building height:				[Added 2-11-1982 by L.L. No. 1-1982]
	Number of stories	2 1/2	2 1/2	2 1/2	(a)
	Feet	35	35	35	
	Notes:				The minimum lot size, when not accessory to a religious institution, shall be three acres.
	1See "room, habitable" under § 249-3.				
	2To derive the acreage used in computing the allowable number of units on a given property, use the gross acreage minus the acreage allotted to bodies of water, areas subject to flooding and ponding, areas which have slopes of over 20% and existing rights-of-way and easements.				(11)
	All Type I subdivisions shall adhere to the regulations of this section. All development applications for Type II subdivisions shall follow the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).				Senior citizen multiple dwellings. Multiple dwellings constructed with governmental

funds, consisting of a building or buildings containing three or more rental apartment units, but

excluding townhouses, duplexes, fourplexes and row houses, in either fee simple or condominium ownership. The units can only be occupied by eligible elderly, physically handicapped or disabled households as defined by federal regulations.

[Added 5-26-1983 by L.L. No. 8-1983]

(a)

Editor's Note: Former Subsection C(10)(a), which provided that no building exceed 160 feet in length, as amended, which immediately preceded this subsection, was repealed 8-11-1988 by L.L. No. 16-1988.

The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest building. It shall be 20 feet between a principal and an accessory building.

(b)

Any inner court shall have a minimum dimension of 60 feet; any outer court shall have a minimum dimension of 20 feet and its depth shall not exceed its width.

(c)

Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(d)

There may be no parking located in required yards.

(e)

The complex may consist of only efficiency and one-bedroom units, except for one two-bedroom unit for the building superintendent/resident manager.

(f)

The following lot and building standards shall apply to such dwellings:

[Amended 7-26-2007 by L.L. No. 15-2007]

Number of Habitable Rooms1 in a Dwelling Unit (DU)	1 (Efficiency)	2 (1-bedroom)
Minimum required		

	Lot area:			(12)
	Total (acres)	5	5	Duplex housing units consisting of two attached one-family dwelling units in fee simple ownership, condominium ownership or as rental apartment units. [Added 5-8-1997 by L.L. No. 4-1997] D. Lot and building standards in the R-1 District. [Amended 11-30-2005 by L.L. No. 12-2005 Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan.
	Per DU (square feet)2	2,900	3,600	
	Lot width (feet)	150	150	
	Lot depth (feet)	150	150	
	Front yard (feet)	40	40	
	One side yard (feet)	30	30	
	Both side yards (feet)	60	60	
	Rear yard (feet)	30	30	
	Lot frontage (feet)	150	150	
	Livable floor area per DU (square feet)	400	500	
	Off-street parking spaces per DU	0.5	0.5	
	Maximum permitted			
	Lot coverage	20%	20%	
	Building height:			
	Number of stories	2	2	
	Feet	35	35	
	NOTES: 1See "room, habitable" under § 249-3.			
	2To derive the acreage used in computing the allowable number of units on a given proposal, use the gross acreage minus the acreage allotted to bodies of water, areas subject to flooding and ponding, areas which have slopes of over 20%, and existing rights-of-way and easements.			

subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

(1)

Type I Subdivision — Conventional.

[Amended 1-25-2007 by L.L. No. 3-2007; 7-26-2007 by L.L. No. 15-2007]

		A	B	C
	Minimum required			
	Lot area (square feet) subject to soil and drainage review	18,750	18,750	Soils*
	Lot width (feet)	100	100	125
	Lot depth (feet)	125	125	150
	Front yard (feet)	35	35	35
	Rear yard (feet)	30	30	35
	One side yard (feet)	20	20	20
	Both side (feet)	40	40	40
	Lot frontage (feet)	100	100	125
	Floor area (square feet)	600	600	600
	Maximum permitted			
	Lot coverage	35%	35%	25%
	Building height (feet)	35	35	35
	Note: *Use soils formula as set forth in table located at § 249-19D(2).			

(2)

Type II Subdivision — Conservation.

[Amended 1-25-2007 by L.L. No. 3-2007; 7-26-2007 by L.L. No. 15-2007]

		A	B	C
	Minimum required			
	Lot area (square feet) subject to soil and drainage review	12,500	12,500	Soils*
	Lot width (feet)	80	80	100
	Lot depth (feet)	100	100	125
	Front yard (feet)	35	35	35

	<p>Note:</p> <p>*Use soils formula as set forth in table located at § 249-19D(2).</p>	<p>(3)</p> <p>All Type I subdivisions shall adhere to the regulations of this</p>
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section. All development applications for Type II subdivisions shall follow the regulations set forth within the Town of Wallkill's Conservation Subdivision Law (see § 249-80).

§ 249-23 R-M(B) Multiple-Family (Bonus) Residential District.

[Added 4-23-1987 by L.L. No. 2-1987]

A.

Permitted uses. There are no uses permitted by right in the R-M(B) District. Refer to Subsection C for special permit uses subject to plan approval.

B.

Accessory uses.

(1)

The keeping of dogs or cats. Not more than three dogs or cats, over six months of age, may be harbored per dwelling unit.

C.

Special permit uses and uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI.

(1)

Multiple dwellings. Multiple dwellings consisting of a building or buildings containing three or more rental apartment units, but excluding townhouses, duplexes, fourplexes or row houses, provided that:

(a)

No building shall exceed 160 feet in length, and each shall be provided with a minimum five-foot offset at a maximum of every 40 feet of length. This offset shall include the rooflines.

(b)

The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest building, and, between a principal and accessory building, the minimum distance shall be 20 feet.

(c)

Any inner court shall have a minimum dimension of 60 feet; any outer court shall have a minimum dimension of 20 feet, and its depth shall not exceed its width.

(d)

There shall be provided, on the same lot, suitably enclosed, equipped and landscaped children's playlots, subject to Planning Board approval in accordance with Article X of this chapter.

(e)

Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f)

There shall be no parking areas located in required yards.

(g)

All fees applicable to individual dwellings found within the Subdivision Regulations

Editor's Note: See Ch. 209, Subdivision of Land.

shall be applicable to each individual apartment unit.

(h)

The following lot and building standards shall apply to such dwellings:

[Amended 7-26-2007 by L.L. No. 15-2007]

	Multiple Dwellings				
		1	2	3	4
	Number of Habitable Rooms ¹ in the Dwelling Unit (DU)	(Efficiency)	(1 Bedroom)	(2 Bedrooms)	(3 Bedrooms)
	Minimum required				
	Land area:				

	Total (acres)	5	5	5	5	(2)
	Per DU (square feet)2	3,900	4,800	7,200	14,500	Moderate-income density bonus. In order to encourage the production of rental housing for low- and moderate-income residents, the density of multifamily developments within the R-M(B) District may be increased under the provisions of this section, pursuant to the following regulations:
	Lot width (feet)	150	150	150	150	
	Lot depth (feet)	150	150	150	150	
	Front yard (feet)	40	40	40	40	
	One side yard (feet)	30	30	30	30	
	Both side yards (feet)	60	60	60	60	
	Rear yard (feet)	30	30	30	30	
	Lot frontage (feet)	150	150	150	150	
	Livable floor area per DU (square feet)	600	800	1,000	1,000	
	Off-street parking spaces per DU	1.25	1.75	2.25	2.5	
						(a)
	Maximum permitted					The Planning Board may, upon request by the applicant and in conjunction with a pending application, authorize an increase in the permitted density by not more than 60% if the applicant agrees to maintain, for a minimum of 15 years, at least 30% of the additional density units as
	Lot coverage	20%	20%	20%	20%	
	Building height:					
	Number of stories	2	2	2	2	
	Feet	35	35	35	35	
	NOTES:					
	1See "room, habitable" under § 249-3.					
	2To derive the acreage used in computing the allowable number of dwelling units on a given proposal, use the gross acreage minus the acreage allotted to bodies of water, areas subject to flooding and ponding, areas which have slopes of over 20% and existing rights-of-way and easements.					

(b)

Distribution. All such moderate-income units shall be and remain rented only to moderate-income families for a period of not less than 15 years. Such units shall be physically integrated into the design of the overall development in a manner satisfactory to the Planning Board and shall be distributed among efficiency, one- , two- and three-bedroom units in the same proportion as all other units. However, the Planning Board may require a different proportion if it feels that the revised proportion is better related to the current or projected housing needs of the Town.

(c)

The Town Board of the Town of Wallkill shall, from time to time, determine the maximum family aggregate gross income from all sources for family eligibility for moderate-income housing in this zone.

[Amended 5-10-1990 by L.L. No. 8-1990]

(d)

Maximum rent levels.

[1]

The maximum monthly rent for a moderate-income unit, including utilities, shall not exceed the following standards:

[a]

One-person family: \$431.

[b]

Two-person family: \$492.

[c]

Three-person family: \$555.

[d]

Four-person family: \$616.

[e]

Five-person family: \$654.

[f]

Six-person family: \$694.

[2]

These rent levels are based upon 30% of the maximum gross monthly income for each specific family size. The utility cost deductions for each unit size shall be based upon the current Section 8 existing subsidy utility allowance standards.

(e)

Minimum floor area. The minimum gross floor area per moderate-income dwelling unit shall not be less than the following:

[1]

Efficiency: 450 square feet.

[2]

One bedroom: 700 square feet.

[3]

Two bedrooms: 850 square feet.

[4]

Three bedrooms: 1,050 square feet.

(f)

Occupancy standards. In renting the moderate-income units, the following occupancy standards shall apply:

		Number of Persons	
	Number of Bedrooms	Minimum	Maximum
	Efficiency	1	1
	1 bedroom	11	2
	2 bedrooms	2	4
	3 bedrooms	3	6
	1NOTE: Only if an efficiency is not available. Tenants should be transferred to an efficiency unit when, and if, one becomes available in the development and the		

lease should so provide.

(g)

Eligibility priorities. Moderate-income families applying for moderate-income dwelling units shall be selected on a first-come-first-served system, and the following categories of priority shall be utilized:

[1]

Residents of the Town of Wallkill.

[2]

Persons employed in the Town of Wallkill.

[3]

Residents of Orange County.

[4]

All others.

(h)

Selection priorities. Within the context of the above-stated eligibility priorities, applicants shall be selected according to the following:

[1]

Families displaced by governmental action.

[2]

Families whose head of household or spouse is 62 years of age or older.

[3]

Families of which the head of household or spouse is handicapped (certified by a physician).

(i)

Continued eligibility.

[1]

Applicants for moderate-income dwelling units referred to in this section shall, if eligible and if selected for occupancy by the owner or manager of the development, sign a lease for a term of not less than one

year nor more than two years. Each family shall be recertified for continued eligibility and thereby continued occupancy, annually.

[2]

As long as a resident family remains eligible, as defined in this section, and has complied with the terms of its lease, said resident family shall be offered a lease renewal of not less than one year nor more than two years. If a resident family's annual gross income should subsequently exceed, by more than 10% of the maximum income for a family of its size, as defined in this section, it's allowable, and if there is at that time an otherwise eligible applicant, said resident may complete his current lease term and shall be offered a non-moderate-income dwelling unit, if available, in the development at the termination of such lease term. If no such unit shall be available at said time, the resident may be allowed to sign one six-month lease extension for the moderate-income dwelling unit he/she occupies but shall not be offered any additional lease extensions beyond said term.

(j)

Administration.

[1]

The approval for a developer to utilize the moderate-income density bonus provision shall be undertaken as a special permit use under §§ 249-38 and 249-39 of this chapter.

[2]

Following the approval of a moderate-income density bonus by the Planning Board, the Town Board shall be responsible for the administration of the requirements of this section. The Town Board shall also be responsible for the promulgation of such rules and regulations as may be necessary to implement such requirements.

[3]

Prior to the time of the issuance of a certificate of occupancy (C.O.), the Building Inspector shall forward a copy of such certificate to the Town Board, which shall then inform the owner of the maximum rental charge which may be established for the moderate-income dwelling units in such development and the maximum annual gross family income for eligibility for occupancy of said units.

[4]

The Town shall certify as eligible all applicants for the moderate-income dwelling units and shall annually reexamine or cause to be reexamined each occupant family's income.

[5]

The Town shall, following irregular program advertisements, maintain a list of preliminary eligible applicants. The development owner, upon a vacancy occurring in a moderate-income dwelling unit, shall

request a list of eligible families from the Town. Following the request, the Town shall forward the owner a list containing the top three eligible family names from the appropriate family size list relating to the size of the available unit to one of the families on the list provided him by the Town.

[6]

No development owner may discriminate against or deny occupancy to any eligible family in the rental of a moderate-income unit based upon race, color, sex, religion or national origin, except for good cause, including, but not limited to, tenants who previously failed to pay rent or maintain their apartment or otherwise violated terms of their tenancy.

[7]

From time to time, the income eligibility standards (Section 8 income limits), and thereby the maximum chargeable rent, shall be modified by the United States Department of Housing and Urban Development. At such times, the Town Board may act to amend the appropriate provisions of this section.

[8]

The owner shall annually certify to the Town that the development is in compliance with the terms of its approval and this section.

(k)

Tax assessment. The limited rental income of the moderate-income dwelling units in a development shall be taken into consideration by the Town Assessor in determining the basis for assessments on such units.

(l)

Subleasing. Moderate-income dwelling units shall only be occupied by the currently certified eligible lessee and his/her immediate family. Subleasing shall not be allowed.

(m)

Condominium, cap conversion. Following five years from the date the development is initially issued a certificate of occupancy (C.O.), nothing shall prohibit the owner from converting to condominium or co-op ownership, except such laws that may govern such conversion of those units that are not the moderate-income dwelling units. Any such moderate-income dwelling units shall remain as such until the balance of the fifteen-year period expires or such longer period as may be necessary for the expiration of the leases on such units.

(n)

Except where specified and/or altered by this section, all other requirements specified in this chapter shall apply.

(o)

The maximum building height (number of stories) for the development shall not exceed three stories.

(p)

In general, no building shall exceed 160 feet in length, and each shall be provided with a minimum five-foot offset at a maximum of every 40 feet of length. This offset shall include the rooflines. However, the Planning Board may approve relaxed requirements, following a request by the applicant, if, in the opinion of the Planning Board, the basic design intent is adhered to.

§ 249-24 R-AH Residential District (Floating Zone).

[Added 2-25-1988 by L.L. No. 4-1988]

A.

Anchoring the zone.

(1)

An application for construction of a development under these regulations shall follow a two-step procedure for the proper rezoning of the land and review and approval of the development plans.

(2)

An application to the Town Board for rezoning for an affordable housing development shall include the following:

(a)

The developer shall submit a detailed pro forma analysis indicating that the proposed development will be affordable to moderate-income residents.

(b)

The developer shall submit his economic analysis or other evidence illustrating the need for affordable housing of the type proposed.

(c)

The developer shall submit a general land use of the surrounding neighborhood showing the relationship between the proposed development and traffic arteries, public transportation, neighboring land uses, available services and general drainage patterns.

(d)

The developer shall furnish a sketch site plan of the proposed development showing tentative building locations, size and shape, parking area arrangement, streets and points of ingress and egress.

(3)

If the rezoning is approved by the Town Board, the developer shall submit the necessary development plans to the Planning Board within one year from the rezoning. If this is not accomplished, the Town Board may, at its option, return the parcel to its original zoning.

B.

Affordability. All dwelling units constructed in the R-AH District shall be affordable to moderate-income residents.

(1)

Moderate income: the levels of income, designated from time to time by resolution of the Town Board, which prohibit or severely limit the financial ability of residents to purchase or rent housing in the Town of Wallkill, based on experience in the housing market in the Town, and which require the type of moderately priced housing intended to be developed under the provisions of this district. For the purposes of this district, the levels of gross family income designated as "moderate-income" shall be determined by the Town Board. In making such determination, the Town Board shall consider, among other factors, family size and number of dependents, income of all wage earners in the family and sources of family income.

(2)

Moderately priced dwelling unit: a dwelling unit which is sold or rented in accordance with the following:

(a)

For-sale housing. The sale price of housing for sale for single-family dwelling units, including closing costs and fees, shall not exceed the applicable maximum sales price as established from time to time by the Town Board. These sale prices shall be based upon the understanding that the owner's monthly costs for housing (mortgage, insurance, taxes, utilities and maintenance charges) shall not exceed 30% of the maximum gross monthly income for each specific family size.

(b)

Rental housing. The rental price for housing shall not exceed the applicable maximum rent levels as established from time to time by the Town Board. These rent levels shall be based upon the understanding that the lessee's monthly housing costs (rent and utilities) shall not exceed 30% of the maximum gross monthly income for each specific family size.

C.

Restriction on sale or lease and subsequent resale.

(1)

Every purchaser or renter of a moderately priced dwelling unit shall certify, on a form prescribed by the Town, that he/she is acquiring or leasing said unit for his/her own or family's primary place of residence. Purchasers of moderately priced dwelling units shall not be permitted to lease said units to other parties, this being enforced by a deed restriction. Landlords of rented units must provide proof to the Town that their lease prohibits the moderate-income lessee from subleasing his/her unit to other parties. No developer shall sell or lease any unit without first obtaining such certificate from the purchaser or lessee.

(2)

Moderately priced dwelling units constructed or offered for sale or rent under this district may be sold at any time following their date of original sale. However, the sale price shall not exceed a price that equals the original selling price plus a percentage of the unit's original selling price equal to the increase in the annual cost of living as determined by the United States Department of Labor's consumer price index between the date of original sale and the date of resale, plus a fair market value for improvements made to the unit. A covenant shall be recorded with the Orange County Clerk's office which shall give the Town the right to approve or disapprove the subsequent sale price of the unit. The above-listed restrictions on the resale price of a unit shall remain effective until December 21, 1999.

D.

Administration.

(1)

Following the approval of a development, under the provisions of this district, by the Planning Board, the Town Board shall be responsible for the administration of the requirements of this district. The Town Board shall also be responsible for the promulgation of such rules and regulations as may be necessary to implement such requirements.

(2)

The Town shall certify as eligible all applicants for the moderate-income dwelling units.

(3)

The Town shall, following irregular program advertisements, maintain a list of preliminary eligible applicants.

(4)

No development owner or subsequent unit owner may discriminate against or deny occupancy to any eligible family in the sale or rental of a moderate-income unit based upon race, color, sex, religion or national origin.

E.

Permitted uses shall be as follows:

(1)

One-family detached dwellings not to exceed one such unit per lot.

F.

Accessory uses shall be as follows:

(1)

Customary accessory uses, including private garages, sheds and pools.

(2)

The keeping of dogs or cats. Not more than three dogs or cats, over six months of age, may be harbored per dwelling unit.

G.

Special permit uses and uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI, shall be as follows:

(1)

Multiple dwellings. Multiple dwellings consisting of a building or buildings containing three or more dwelling units either for rental purposes or owned in condominium ownership, but excluding dwelling units in fee-simple ownership, provided that:

(a)

No building shall exceed 160 feet in length, and it shall be provided with a minimum five-foot offset at a maximum of every 40 feet of length. This offset shall include the rooflines.

(b)

The minimum distance between facing elevations of principal buildings shall be 35 feet.

(c)

Any inner court shall have a minimum dimension of 60 feet. Any outer court shall have a minimum dimension of 20 feet, and its depth shall not exceed its width.

(d)

There shall be provided on the same lot suitable enclosed, equipped and landscaped children's playlots, subject to Planning Board approval in accordance with Article X.

(e)

Adequate recreational facilities shall be provided as set forth in Article X.

(f)

Every attempt should be made to design the development so no parking areas are located in required yards.

(g)

The parcel shall be served with public sewer and public water facilities.

(h)

The following lot and building standards shall apply:

[1]

When the minimum lot size of the development is at least two acres but less than five acres, the following will be utilized to establish the allowable number of dwelling units: the minimum required square footages per dwelling unit shall be 3,900 square feet for a unit with one habitable room, 4,800 square feet for a unit with two habitable rooms, 7,200 square feet for a unit with three habitable rooms and 14,500 square feet for a unit with four habitable rooms. When the minimum lot size of the development is at least five acres, the following will be utilized to establish the allowable number of dwelling units: the minimum required square footages per dwelling unit shall be 2,420 square feet for a unit with one habitable room, 2,722 square feet for a unit with two habitable rooms, 3,111 square feet for a unit with three habitable rooms and 3,900 square feet for a unit with four habitable rooms. (See "room, habitable" under § 249-3.)

[2]

The overall site shall have minimum required yards as follows: front yard 50 feet, side yards of 40 feet and a rear yard of 40 feet.

[3]

The site shall have a minimum lot width of 200 feet.

[4]

All dwelling units shall have minimum livable floor areas of 450 square feet for a unit with one habitable room, 700 square feet for a unit with two habitable rooms and 850 square feet for a unit with four habitable rooms.

[5]

The following off-street parking standards shall be utilized: 1.25 spaces for each unit with one habitable room, 1.50 spaces for each unit with two habitable rooms, 2.25 spaces for each unit with three habitable rooms and 2.5 spaces for each unit with four habitable rooms.

[a]

When designing off-street parking areas in a project, the following standards shall apply: in projects where the roads will not be dedicated, the off-street parking may be designed as parking lots off the access drives; and in projects where the roads are to be dedicated, the parking areas shall be designed as off-street parking lots and shall be located in common areas.

[b]

The following off-street parking standards shall be utilized for rental unit projects when it can be shown that a deed and lease restriction is in effect to allow the units to only be rented to senior citizens: 0.5 space for each unit with either one or two habitable rooms. The design restrictions found in § 249-24G(1)(h)[5][a] will still be required.

[6]

The maximum lot coverage shall be 20%.

[7]

The maximum permitted building height shall be three stories.

[8]

To derive the acreage used in computing the allowable number of dwelling units on a given property, use the gross acreage minus the area allotted to bodies of water, areas subject to flooding, ponding or officially designated freshwater wetlands, areas which have slopes in excess of 20% and existing rights-of-way and easements.

(i)

Occupancy standards. In renting the moderate-income units, the following occupancy standards shall apply:

		Number of Persons		(j)
	Number of Bedrooms	Minimum	Maximum	Continued eligibility.
	Efficiency	1	1	[1]
	1	1	2	Applicants for dwelling units shall, if eligible and if selected for occupancy by the
	2	2	4	
	3	3	6	

developer, sign a lease for a term of not less than one year nor more than two years. Each family shall be recertified for continued eligibility and thereby continued occupancy, annually.

[2]

As long as a resident family remains eligible, as defined in this section, and has complied with the terms of its lease, said resident family shall be offered a lease renewal of not less than one year nor more than two years. If a resident family's annual gross income should subsequently exceed, by more than 10% of the maximum income for a family of its size as defined in this section, its allowable maximum income and if there is at that time an otherwise eligible applicant, said resident may complete his/her current lease term. If said resident family cannot find a non-moderate-income apartment to rent prior to his/her lease termination, the resident may be allowed to sign one six-month lease extension for the moderate-income unit he/she occupies, but shall not be offered any additional lease extensions beyond said term.

(2)

Mobile home courts.

(a)

All land within 50 feet of any property line shall be kept free of all mobile homes and roads. Said land shall be utilized as a green buffer area; however, it may be utilized for the installation of utilities.

(b)

The parcel shall be served with public sewer and public water facilities.

(c)

All individual mobile home lots shall be owned in fee simple by the dwelling unit owner.

(d)

The Planning Board shall require the mobile home court to be screened from the surrounding properties and residents. Said screening shall be by living foliage; and the screening plan shall be approved by the Planning Board as to composition, height and location.

(e)

Each mobile home lot shall be provided with piers and tie-downs and a concrete patio of at least 10 feet by 20 feet.

(f)

Each mobile home lot without a basement shall be provided with a four-inch-thick concrete base under each mobile home.

(g)

All interior roads in the mobile home court shall have a minimum thirty-five-foot-wide right-of-way with a minimum pavement width of 24 feet. All dead-end roads shall be provided with a cul-de-sac with a minimum right-of-way diameter of 130 feet and a minimum outside diameter of traveled ways of 120 feet.

(h)

There shall be provided, within the mobile home court, suitably enclosed, equipped and landscaped children's playlots in accordance with Article X.

(i)

Adequate recreational facilities shall be provided within the mobile home court in accordance with Article X.

(j)

Each mobile home shall be provided with a mobile home skirt.

(k)

Lot and building standards:

	Minimum Required	
	Lot area (square feet)	5,000
	Front yard (feet)	20
	1 side yard (feet)	10

	Both side yards (feet)	20	H.
	Rear yard (feet)	10	Lot and building standards in the R-AH District.
	Floor area (square feet)	600	
	Maximum Permitted		[Amended 7-26-2007 by L.L. No. 15-2007]
	Lot coverage (percentage)	40	
	Minimum Required		§ 249-24.1 (APR) Airport Residential District.
	Lot area (square feet)	6,000	
	Lot width (feet)	50	[Added 2-25-1988 by L.L. No. 4-1988]
	Lot depth (feet)	100	A.
	Front yard (feet)	25	Permitted uses.
	Rear yard (feet)	30	There are no uses permitted by right in the Airport Residential District (APR). All uses are subject to approval by the Planning Board in accordance with the provisions of Article XI herein.
	1 side yard (feet)	5	
	Both side yards (feet)	15	
	Lot frontage (feet)	50	
	Floor area (square feet)	600	
	Maximum Required		
	Lot coverage (percentage)	35	B.
	Building height (feet)	35	Accessory uses shall be as follows:
	All lots shall be served by both public water and public sewerage systems.		

(1)

Fences and security measures. The Planning Board shall determine a need for placement of and the type and height of all fences and other security measures it may require.

(2)

Customary accessory uses, including private garages, sheds, hangars for airplanes and swimming pools. Hangars for airplanes shall not exceed 60 feet by 60 feet.

(3)

The keeping of dogs or cats. Not more than three dogs or cats, over six months of age, may be harbored per dwelling unit.

(4)

In conjunction with an airport, heliport or gliderport, the Planning Board may approve retail stores, service and personal service establishments and professional offices if they are proven to be clearly related, yet ancillary, to the main use.

C.

Special permit uses and uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI, herein, shall be as follows:

(1)

Airport, heliport, gliderport and related uses.

(a)

Any such facility shall be required to meet the standards established by the Federal Aviation Authority for a basic utility Stage I and Stage II category airport.

(b)

The hours of operation may be limited by the Planning Board to prevent disturbances to off-site residences.

(c)

No area to be used by aircraft under its own power on the ground shall be nearer than 100 feet to any exterior lot line. Evidence shall be submitted to the Planning Board that ample safeguards to minimize hazards and disturbances from aircraft noise will be assured at all times of operation from affecting adjoining properties.

(d)

Access to areas used by aircraft in motion shall be required to be controlled by fences and gates; and other safety provisions shall be determined as required to include appropriate regulations governing the use by and storage of aircraft using the facility.

(e)

Vending machines, newsstands, governmental installations, airlines and express offices and aircraft repair facilities may be permitted within completely enclosed buildings.

(f)

The storage and sale of aviation gasoline and aircraft repair parts and accessories may be permitted.

(2)

Eating and drinking establishments.

(3)

Hotel, motel and/or conference centers. The minimum lot area shall be 40,000 square feet plus 1,500 square feet for each guest room in excess of four.

(4)

One-family detached dwellings not to exceed one such unit per lot.

(5)

Multiple dwellings. Row or attached housing consisting of a series of attached one-family dwelling units, each located on its own individual lot owned in fee simple or in condominium ownership, provided that:

(a)

No building shall exceed 132 feet in length, and it shall be provided with an offset of a minimum of five feet at a maximum of every 44 feet of length. This offset shall include a roofline offset.

(b)

Adequate recreational facilities shall be provided as set forth in Article X.

(c)

The site shall be served with public sewer and public water facilities.

(d)

Where dwelling units abut a collector or major street, the Planning Board may require marginal roads, reverse frontage with screening or vehicular access from an interior minor street.

(e)

Off-street parking and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f)

The site shall incorporate suitably enclosed, equipped and landscaped children's playlots, subject to Planning Board approval.

(g)

The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest buildings. The distance between a principal building and an accessory building shall be 20 feet.

(h)

When designing off-street parking spaces in a project, the following standards shall apply:

[1]

In projects where the roads will not be dedicated, the off-street parking may be designed as parking lots off the access drives.

[2]

In projects where the roads are to be dedicated, the off-street parking shall be designed as off-street parking lots and shall be located in common areas, preferably to the rear of the individual fee-simple lots.

[3]

The area which may be computed as the required off-street parking spaces may include a carport or other areas available for parking, other than a street or garage. A driveway within a required front yard may be computed as one space.

(i)

The following lot and building standards shall apply:

[1]

The minimum required lot size shall be five acres.

[2]

To establish the allowable number of dwelling units, the minimum required square footage per dwelling unit shall be 5,400 square feet for a unit with two habitable rooms, 7,200 square feet for a unit with three habitable rooms and 8,700 square feet for a unit with four habitable rooms. (See "room, habitable" under § 249-3.)

[3]

The overall site shall have minimum required yards as follows: front yard of 50 feet, side yards of 50 feet and rear yards of 50 feet.

[4]

Individual townhouse fee-simple lots shall meet the following minimum standards: lot width of 22 feet unless it is an end unit which shall be 37 feet wide, lot depth of 100 feet, front yard of 30 feet, one side yard for end units of 15 and rear yards of 35 feet.

[5]

All dwelling units shall have minimum livable floor areas of 800 square feet for a unit with two habitable rooms, 1,000 square feet for a unit with three habitable rooms and 1,200 square feet for a unit with four habitable rooms.

[6]

The following off-street parking standards shall be utilized: 1.75 spaces for each unit with two habitable rooms, 2.25 spaces for each unit with three habitable rooms and 2.5 spaces for each unit with four habitable rooms.

[7]

The maximum lot coverage shall be 20%.

[8]

The maximum permitted building height shall be 2 1/2 stories and 35 feet.

[9]

To derive the acreage used in computing the allowable number of dwelling units on a given property, use the gross acreage minus the area allotted to bodies of water, areas subject to flooding and ponding, areas which have slopes in excess of 20% and existing rights-of-way and easements.

D.

Lot and building standards for nonresidential uses:

[Amended 7-26-2007 by L.L. No. 15-2007]

	Minimum Required	
	Lot area (square feet)	40,000
	Lot width (feet)	150

	Lot depth (feet)	200	(1)
	Front yard (feet)	50	All unbuilt-upon or unpaved areas of any lot shall have adequate grading and drainage and shall be continuously maintained with suitable landscaping which shall be approved by the Planning Board.
	Rear yard (feet)	50	
	Side yard (feet)	20 (or equal to the height of the building, whichever is greater)	
	Lot frontage (feet)	150	
	Floor area (square feet)	600	
	Maximum Permitted		
	Building height (feet)	35	E.
	Lot coverage (percentage)	40	Lot and building standards for

residential uses.

[Amended 7-26-2007 by L.L. No. 15-2007]

		Type of Lot1		
		A	B	C
	Minimum Required			
	Lot area (square feet)	12,500	12,500	Arrived at using the environmental control formula, but not less than 20,000 square feet [See § 249-19D(2) through (5).]
	Lot width (feet)	80	80	100
	Lot depth (feet)	100	100	125
	Front yard (feet)	35	35	35
	Rear yard (feet)	30	30	35
	1 side yard (feet)	15	15	15

	Both side yards (feet)	30	30	35	F. Performance standards. No use shall be permitted that does not conform to the following standards of use, occupancy and operation. Such standards are hereby established as the minimum requirements to be maintained. (1)
	Lot frontage (feet)	80	80	100	
	Floor area (square feet)	600	600	600	
	Maximum Permitted	A	B	C	
	Lot coverage (percentage)	35	35	25	
	Building height (feet)	35	35	35	
	1NOTE:				Noise. Noise generated from the site shall not exceed an intensity, as measured from the boundaries of the
	A: Lots served by both public water and public sewerage systems.				
	B: Lots served by a public sewerage system, but no public water system.				
	C: Lots not served by either a public sewerage system or a public water system.				

lot where such use is situated, greater than the average intensity, occurrence and duration of the noise of street traffic at adjoining streets.

(2)

Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot, except in accordance with the standards approved by the New York State Department of Health, New York State Department of Environmental Conservation or other similarly empowered agency.

(3)

Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which the use is situated.

(4)

Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private disposal system or stream or on or into the ground, except in accordance with the standards approved by the New York State Department of Health and the New York State Department of Environmental Conservation and in accordance with the Town of Wallkill Sewer Ordinance.

Editor's Note: See Ch. 194, Sewers and Sewage Disposal, Art. II, Sewer Use.

(5)

Fire and explosion hazards. All activities involving the storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.

(6)

Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated; nor shall any electrical disturbance be created which adversely affects the operation of any equipment, other than that of the creator of such disturbance.

§ 249-24.2 Cul-de-sacs.

[Added 1-13-2005 by L.L. No. 2-2005]

Any cul-de-sac design that is part of any residential subdivision or residential development site plan shall be no more than 1,000 feet in length from entrance to the boundary of its terminus.

ARTICLE VI Regulations Pertaining to Commercial Districts (§ 249-25 - § 249-26.2)

§ 249-25 NC Neighborhood Commercial District.

A.

Permitted uses.

(1)

One-family dwelling not to exceed one such dwelling per lot. Lot and building standards:

		Type of Lot ¹		
	Minimum required	A	B	C
	Lot area (square feet) subject to soil and drainage review	10,000	15,000	20,000
	Lot width (feet)	80	90	100
	Lot depth (feet)	100	100	150

	Front yard (feet)	35	35	35	(2)
	1 side yard (feet)	15	15	15	Offices for professional and business use.
	Both side yards (feet)	30	30	40	
	Floor area (square feet)	600	600	600	(3)
	Lot coverage	35%	30%	25%	Retail stores.
	Building height (feet)	35	35	35	(4)
	1Note:				Personal service shops.
	A: Lots served by both a public sewerage system and a public water system.				
	B: Lots served by a public water system but not a public sewerage system.				(5)
	C: Lots not served by either a public sewerage system or a public water system.				Retail dry-cleaning and laundry establishments.

(6)

Appliance repair shops.

(7)

Printing shops.

B.

Accessory uses.

(1)

Outdoor vending machines.

(2)

All allowable uses, other than off-street parking, shall be carried on within fully enclosed buildings.

(3)

Not more than three dogs or cats over six months of age may be harbored per dwelling unit.

(4)

Fences. The Planning Board shall determine the need, placement, type and height of all fencing.

[Added 8-25-1983 by L.L. No. 10-1983]

C.

Special permit uses subject to plan approval by the Planning Board, in accordance with the provisions of Article XI herein.

(1)

Eating and drinking establishments.

(2)

Gasoline filling stations.

(a)

All driveways shall be located a minimum of 10 feet from any property line.

(b)

Gasoline pumps shall be located at least 20 feet from any property line.

(c)

There shall be no outdoor storage of vehicles on the site.

(d)

The minimum street frontage shall be 100 feet on each street involved.

(3)

Gasoline service stations.

(a)

All driveways shall be located a minimum of 10 feet from any property line.

(b)

Gasoline pumps shall be located at least 20 feet from any property line.

(c)

There shall be no more than five motor vehicles stored or parked outdoors on the site.

(d)

The minimum street frontage shall be 100 feet on each street involved.

(4)

Public utility buildings and structures.

(5)

Churches and religious institutions.

(a)

The minimum lot size shall be three acres.

(b)

No building shall be nearer than 50 feet to any lot line.

(c)

The maximum lot coverage shall be 20%.

(6)

Two-family dwellings, not to exceed one such structure per lot.

(a)

The minimum lot area shall be 23,000 square feet.

(b)

The remaining lot and yard requirements shall be the same as Subsection A(1) (C lots).

(c)

The lot must be served by both public water and public sewers.

(7)

Cemeteries.

[Added 2-11-1982 by L.L. No. 1-1982]

(a)

The minimum lot size, when not accessory to a religious institution, shall be three acres.

(8)

Day-care centers and nursery schools.

[Added 12-27-1990 by L.L. No. 18-1990]

(a)

Such uses may be a principal use or allowed as accessory uses in conjunction with the following other special permit uses: offices for professional and business uses; retail stores; and churches and religious institutions.

(b)

The required play space shall be adequate in size and location as determined by the Planning Board.

(c)

No play area shall be located in a required front yard.

(d)

All play areas shall be fenced and suitably landscaped and buffered.

(e)

Indoor play areas shall consist of a minimum of 35 square feet per child, excluding hallways, kitchens, bathrooms, office space and sleeping quarters for infants. Sleeping quarters for infants shall consist of a minimum of 20 square feet additional per infant where an infant is a child less than three years of age.

(f)

Adequate pickup and drop-off areas shall be provided and designed to ensure safe, direct access to the facility as determined by the Planning Board. Said areas shall not conflict with access to required parking.

(g)

There shall be a minimum of one toilet per 15 children.

(h)

Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

(i)

All child-care centers shall indicate the designated number of children and shall comply with regulations of the New York State Department of Social Services as stated in 18 NYCRR Part 418 as they apply to centers for 44 or fewer and 45 or more children.

D.

Lot and building standards.

	Type of Lot ²			
	A	B	C	
Minimum required				
Lot area (square feet)	5,000	10,000	20,000	
Lot width (feet)	50	75	100	
Lot depth (feet)	100	100	100	
Front yard (feet)	35	35	35	
Rear yard ¹	15	15	15	
Side yards ¹	15	15	15	
Maximum permitted				
Building height (feet)	35	35	35	
Floor area (square feet)	5,000	5,000	5,000	
Notes:				
1When adjacent to an RA, R-1 or R-2 District, the pertinent side and/or rear yards shall comply with the adjacent district requirements.				
2A: Lots served by both public water and public sewer systems.				
B: Lots served by a public sewer system but not served by a public water system.				

C: Lots not served by a public sewer or public water system.
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§ 249-26 HC
Highway
Commercial

District.

[Amended 2-11-1982 by L.L. No. 1-1982; 8-25-1983 by L.L. No. 10-1983; 2-25-1988 by L.L. No. 4-1988; 12-27-1990 by L.L. No. 18-1990; 10-24-1996 by L.L. No. 8-1996; 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The Highway Commercial District is intended to provide areas suitable for small- to medium-scale retail, office and service operations serving local needs.

B.

Permitted uses.

(1)

Financial institutions.

(2)

Offices.

(3)

Public uses.

(4)

Religious institutions.

(5)

Retail.

(6)

Service and repair shops.

C.

Special permit uses.

(1)

Clubs and lodges.

(2)

Day care and nurseries.

(3)

Eating and drinking establishments.

(4)

Funeral parlors and mortuaries.

(5)

Gasoline filling and service stations.

(6)

Hotels/motels.

(7)

Schools, vocational.

(8)

Schools.

(9)

Shopping centers.

(10)

Single-family residences.

(11)

Theaters, including drive-ins.

(12)

Veterinary hospitals.

D.

Accessory uses and structures. Accessory uses that are customarily incidental to an allowed principal use may be allowed in this district and must comply with the regulations and standards of this chapter. All accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

E.

Area and bulk requirements. The following table represents the baseline requirements, and in some cases, additional standards may apply (e.g., special permit uses or through overlay districts).

Minimum required		Type of Lot1			F.
		A	B	C	Mandatory buffer of preexisting residential structures. (1) All nonresidential development shall provide buffering for adjacent, preexisting residential uses. In general, this buffering shall be developed to alleviate the impact of nonresidential development, including but not limited to: (a) Light; (b) Parking and loading areas; (c)
	Lot area (square feet)	10,000	15,000	20,0002	
	Lot width (feet)	100	100	130	
	Lot depth (feet)	100	100	120	
	Front yard (feet)	35	35	35	
	Rear yard (feet)	40	40	40	
	One side yard (feet)	20	20	20	
	Both side yards (feet)	30	30	30	
	Floor area (square feet)	600	600	600	
	Maximum permitted				
	Building height (feet)	35	35	35	
NOTES:					
1	A: Lots served by a public sewerage and a public water system.				
	B: Lots served by a public sewerage system, but not served by a public water system.				
	C: Lots not served by a public water system or a public sewerage system.				
2	For residential construction, refer to § 249-20D.				

Noise and odor;

(d)

Location of ancillary equipment such as dumpsters and HVAC; and

(e)

Traffic flow and light glare from vehicles.

(2)

Buffer area. The area of buffer shall be commensurate with the potential impact to neighboring properties.

(3)

Review process. During site plan review, development applicants shall provide a buffering plan demonstrating how the project will alleviate any potential adverse impacts to adjacent, preexisting residential structures. The Planning Board shall review the buffer plan and reject for resubmittal, accept, or accept with modifications. In all cases, the Planning Board review shall include review by the Town's landscape architect.

G.

Fences.

(1)

The Planning Board shall determine the need, placement, type and height of all fencing.

H.

Site plan approval.

(1)

A site plan showing the location of buildings, signs and other improvements including off-street parking facilities, truck loading spaces, landscaping and access to all public rights-of-way shall be submitted to the Planning Board for approval prior to the issuance of a building permit. The procedures and requirements set forth in § 249-38 of this chapter shall be adhered to.

§ 249-26.1 Town Center District

[Added 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The Town Center District is intended to provide areas suitable for large-scale shopping centers serving regional needs. Such centers are characterized by uses offering retail comparison shopper goods, locations accessible from regional highways, and an integrated and connected complex of structures with internal roadways.

B.

Permitted uses.

(1)

Financial institutions.

(2)

Offices.

(3)

Public uses.

(4)

Religious institutions.

(5)

Retail.

(6)

Service and repair shops.

C.

Special permit uses.

(1)

Car washes.

(2)

Clubs and lodges.

(3)

Commercial recreation.

(4)

Day care and nurseries.

(5)

Eating and drinking establishments.

(6)

Funeral parlors and mortuaries.

(7)

Gasoline filling and service stations.

(8)

Motor vehicle sales and rental establishments.

(9)

Hotels/motels.

(10)

Research facilities.

(11)

Schools, vocational.

(12)

Shopping centers.

(13)

Theaters/cinemas.

D.

Accessory uses and structures. Accessory uses that are customarily incidental to an allowed principal use may be allowed in this district and must comply with the regulations and standards of this chapter. All

accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

E.

Area and bulk requirements. The following table represents the baseline requirements, and in some cases, additional standards may apply (e.g., special permit uses or through overlay districts).

	Lot Area (sq. ft.)	Lot Width (feet)	Lot Depth (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Height (feet)	Maxi- mum Imper- vious Cover- age	F. Mandatory buffer of preexisting residential structures. (1) All nonresidential development shall provide buffering for adjacent, preexisting residential uses. In general, this buffering shall be
	60,000	200	200	50	50	501	60	70%	
	NOTES:								
	1	50 feet or equal to the height of the building, whichever is greater.							

developed to alleviate the impact of nonresidential development, including but not limited to:

(a)

Light.

(b)

Parking and loading areas;

(c)

Noise and odor;

(d)

Location of ancillary equipment such as dumpsters and HVAC; and

(e)

Traffic flow and light glare from vehicles.

(2)

Buffer area. The area of buffer shall be commensurate with the potential impact to neighboring properties.

(3)

Review process. During site plan review, development applicants shall provide a buffering plan demonstrating how the project will alleviate any potential adverse impacts to adjacent, preexisting residential structures. The Planning Board shall review the buffer plan and reject for resubmittal, accept, or accept with modifications. In all cases, the Planning Board review shall include review by the Town's landscape architect.

G.

Fences.

(1)

The Planning Board shall determine the need, placement, type and height of all fencing.

H.

Site plan approval.

(1)

A site plan showing the location of buildings, signs and other improvements including off-street parking facilities, truck loading spaces, landscaping and access to all public rights-of-way shall be submitted to the Planning Board for approval prior to the issuance of a building permit. The procedures and requirements set forth in § 249-38 of this chapter shall be adhered to.

§ 249-26.2 Office and Research District.

[Added 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The Office and Research District provides areas suitable for businesses such as corporate headquarters, research and development facilities, medical and educational facilities, and institutional uses in a landscaped setting. A high quality of design is maintained within the district through the integration and consideration of natural resources and features with development, inclusion of open space, and landscaping and buffering from surrounding uses.

B.

Permitted uses.

(1)

Financial institutions.

(2)

Offices.

(3)

Public uses.

(4)

Religious institutions.

C.

Special permit uses.

(1)

Day care and nurseries.

(2)

Eating and drinking establishments.

(3)

Gasoline filling and service stations.

(4)

Hospitals.

(5)

Hotels/motels.

(6)

Research facilities.

(7)

Retail.

(8)

Schools, vocational.

(9)

Service and repair shops.

D.

Accessory uses and structures. Accessory uses that are customarily incidental to an allowed principal use may be allowed in this district and must comply with the regulations and standards of this chapter. All accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

E.

Area and bulk requirements. Please note that the following table represents the baseline requirements, and in some cases, additional standards may apply (e.g., special permit standards or through overlay districts).

Lot Area (sq. ft)	Lot Width (feet)	Lot Depth (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Height (feet)	Lot Coverage (buildings)	Maximum Impervious Coverage	F. Mandatory buffer of preexisting residential structures. (1) All nonresidential development shall provide buffering for adjacent, preexisting residential uses. In general, this buffering shall be developed to alleviate the impact of nonresidential development, including, but not limited to:
40,000	200	200	30	30	301	1002	40%	60%	
	NOTES:								
	1	30 feet or equal to the height of the building, whichever is greater.							
	2	Maximum building height: Any structure within 100 feet of preexisting residential uses (measured at the lot line) or a residential zoning district shall not exceed 45 feet in height. The one-hundred-foot maximum building height limitation may be waived at the discretion of the Planning Board for hospitals, provided the structure is not within 100 feet of a preexisting residential use or district.							

(a)

Light;

(b)

Parking and loading areas;

(c)

Noise and odor;

(d)

Location of ancillary equipment such as dumpsters and HVAC; and

(e)

Traffic flow and light glare from vehicles.

(2)

Buffer area. The area of buffer shall be commensurate with the potential impact to neighboring properties.

(3)

Review process. During site plan review, development applicants shall provide a buffering plan demonstrating how the project will alleviate any potential adverse impacts to adjacent, preexisting residential structures. The Planning Board shall review the buffer plan and reject for resubmittal, accept, or accept with modifications. In all cases, the Planning Board review shall include review by the Town's landscape architect.

G.

Accessory structures.

(1)

All accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

H.

Fences.

(1)

The Planning Board shall determine the need, placement, type and height of all fencing.

I.

Site plan approval.

(1)

A site plan showing the location of buildings, signs and other improvements including off-street parking facilities, truck loading spaces, landscaping and access to all public rights-of-way shall be submitted to the Planning Board for approval prior to the issuance of a building permit. The procedures and requirements set forth in § 249-38 of this chapter shall be adhered to.

ARTICLE VII Regulations Pertaining to Industrial Districts (§ 249-27 - § 249-28)

§ 249-27 Enterprise District.

[Added 7-26-2007 by L.L. No. 15-2007

Editor's Note: Former § 249-27, MI Manufacturing Industrial District, as amended, was repealed 7-26-2007 by L.L. No. 15-2007.

]

A.

Purpose. The Enterprise District is intended primarily to accommodate a variety of businesses engaged in the manufacturing, processing, distribution, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other accessory commercial uses are allowed to support the range of services and employment opportunities. This district is intended to ensure that sufficient land area is appropriately designated within the Town to provide an adequate and diversified economic base that will facilitate job creation and retention.

B.

Permitted uses.

(1)

Public uses.

(2)

Financial institutions.

(3)

Religious institutions.

C.

Special permit uses.

(1)

Airports/heliports.

(2)

Car washes.

(3)

Commercial recreation.

(4)

Dog kennels.

(5)

Gasoline filling and service stations.

(6)

Manufacturing and production.

(7)

Motor vehicle sales and rental establishments.

(8)

Motor vehicle repair establishments.

(9)

Office research facilities.

(10)

Self storage.

(11)

Veterinary hospitals.

Warehouses.

Wholesale establishments.

Quarries.

Junkyards.

Accessory uses and structures. Accessory uses that are customarily incidental to an allowed principal use may be allowed in this district and must comply with the regulations and standards of this chapter. All accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

Area and bulk requirements. Please note that the following table represents the baseline requirements, and in some cases, additional standards may apply (e.g., special permit uses or through overlay districts).

Lot Area (sq. ft.)	Lot Width (feet)	Lot Depth (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Height (feet)	Lot Coverage	Maximum Impermissible Coverage	F. Outdoor storage of building supplies, raw material or equipment. (1)
40,000	150	200	50	201	50	35	40%	70%	In no case shall the material be stored so as to exceed the height of any wall or fence.
	NOTES:								
	1	20 feet or equal to the height of the building, whichever is greater.							(2)

Liquids may be stored in underground tanks subject to all appropriate provisions of the fire and building codes.

Editor's Note: See Ch. 82, Building Construction, and Ch. 122, Fire Prevention.

G.

Mandatory buffer of preexisting residential structures.

(1)

All nonresidential development shall provide buffering for adjacent, preexisting residential uses. In general, this buffering shall be developed to alleviate the impact of nonresidential development, including but not limited to:

(a)

Light;

(b)

Parking and loading areas;

(c)

Noise and odor;

(d)

Location of ancillary equipment such as dumpsters and HVAC; and

(e)

Traffic flow and light glare from vehicles.

(2)

Buffer area. The area of buffer shall be commensurate with the potential impact to neighboring properties.

(3)

Review process. During site plan review, development applicants shall provide a buffering plan demonstrating how the project will alleviate any potential adverse impacts to adjacent, preexisting residential structures. The Planning Board shall review the buffer plan and reject for resubmittal, accept, or accept with modifications. In all cases, the Planning Board review shall include review by the Town's landscape architect.

H.

Fences.

(1)

The Planning Board shall determine the need, placement, type and height of all fencing.

I.

Site plan approval.

(1)

A site plan showing the location of buildings, signs and other improvements including off-street parking facilities, truck loading spaces, landscaping and access to all public rights-of-way shall be submitted to the Planning Board for approval prior to the issuance of a building permit. The procedures and requirements set forth in § 249-38 of this chapter shall be adhered to.

(2)

Before approvals are given on buildings, the plat must note the type of use which will occupy the building. If the applicant does not know what use will occupy the building at the time of approval, the applicant must come back before the Planning Board for approval of the use before a certificate of occupancy can be issued for the building.

J.

Performance standards. No use shall be permitted that does not conform to the following standards of use, occupancy and operation. Such standards are hereby established as the minimum requirements to be maintained.

(1)

Noise. Noise not to exceed an intensity, as measured from the boundaries of the lot where such use is situated, greater than the average intensity occurrence and duration of the noise of street traffic at adjoining streets.

(2)

Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot, except in accordance with the standards approved by the New York State Department of Health or similarly empowered agency.

(3)

Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which the use is situated.

(4)

Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private disposal system or stream or on or into the ground, except in accordance with the standards approved by the New York State Department of Health and in accordance with the Town of Wallkill Sewer Ordinance.

Editor's Note: See Ch. 194, Sewers and Sewage Disposal, Art. II, Sewer Use.

(5)

Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.

(6)

Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated; nor shall any electrical disturbance be created which adversely affects the operation of any equipment, other than that of the creator of such disturbance.

§ 249-27.1 Light Enterprise District.

[Added 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The Light Enterprise District is intended primarily to accommodate research- and development-oriented industries as well as distribution and manufacturing uses which do not include adverse effects from smoke, noise, odors, dust and dirt. This district is designed to attract and encourage uses that generally do not require processes associated with heavy industry and large-scale production. This district is also intended to accommodate several different forms of adult uses which serve as an outlet for free expression in the Town of Wallkill while also protecting the health, safety and general welfare of the community by mitigating the potential adverse secondary effects of such uses, as further regulated in Chapter 59 of the Town Code of the Town of Wallkill.

[Amended 7-31-2008 by L.L. No. 9-2008]

B.

Permitted uses.

(1)

Financial institutions.

(2)

Offices.

(3)

Public uses.

(4)

Religious institutions.

C.

Special permit uses.

(1)

Adult entertainment uses, subject to the further requirements of Town Code Chapter 59, entitled "Adult Entertainment," including, without limitation, Article I thereof, entitled "Locational Restrictions."

[Added 7-31-2008 by L.L. No. 9-2008

Editor's Note: This local law also redesignated former Subsection C(1) through C(18) as Subsection C(2) through C(19), respectively.

]

(2)

Car washes.

(3)

Commercial recreation.

(4)

Day care and nurseries.

(5)

Eating and drinking establishments.

(6)

Funeral parlors and mortuaries.

(7)

Gasoline filling and service stations.

(8)

Hospitals.

(9)

Hotels/motels.

(10)

Manufacturing and production, light.

(11)

Motor vehicle sales and rental establishments.

(12)

Motor vehicle repair establishments.

(13)

Retail.

(14)

Research facilities.

(15)

Self storage.

(16)

Service and repair shops.

(17)

Veterinary hospitals.

(18)

Warehouses.

(19)

Wholesale establishments.

D.

Accessory uses and structures. Accessory uses that are customarily incidental to an allowed principal use may be allowed in this district and must comply with the regulations and standards of this chapter. All accessory structures shall be subject to the same area and bulk requirements as are required for principal structures within such districts.

E.

Area and bulk requirements. Please note that the following table represents the baseline requirements, and in some cases, additional standards may apply (e.g., special permit uses or through overlay districts).

Lot Area (sq. ft.)	Lot Width (feet)	Lot Depth (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Height (feet)	Lot Coverage	Maximum Impervious Coverage	F. Outdoor storage of building supplies, raw material or equipment. (1) In no case shall the material be stored so as to exceed the height of any wall or fence.
40,000	150	200	50	201	50	35	40%	60%	
NOTES:									
	1	20 feet or equal to the height of the building, whichever is greater.							(2)

Liquids may be stored in underground tanks subject to all appropriate provisions of the Fire and Building Codes.

Editor's Note: See Ch. 82, Building Construction, and Ch. 122, Fire Prevention.

G.

Mandatory buffer of preexisting residential structures.

(1)

All nonresidential development shall provide buffering for adjacent, preexisting residential uses. In general, this buffering shall be developed to alleviate the impact of nonresidential development, including but not limited to:

(a)

Light;

(b)

Parking and loading areas;

(c)

Noise and odor;

(d)

Location of ancillary equipment such as dumpsters and HVAC; and

(e)

Traffic flow and light glare from vehicles.

(2)

Buffer area. The area of buffer shall be commensurate with the potential impact to neighboring properties.

(3)

Review process. During site plan review, development applicants shall provide a buffering plan demonstrating how the project will alleviate any potential adverse impacts to adjacent, preexisting residential structures. The Planning Board shall review the buffer plan and reject for resubmittal, accept, or accept with modifications. In all cases, the Planning Board review shall include review by the Town's landscape architect.

G.1.	Mandatory buffering for adult entertainment uses. In addition to the requirements of this Chapter 249, adult entertainment uses shall be subject to all requirements of the Town of Wallkill Code Chapter 59, Adult Entertainment, including, without limitation, Article I thereof, entitled "Locational Restrictions." [Added 7-31-2008 by L.L. No. 9-2008]	H. Fences. (1) The Planning Board shall
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determine the need, placement, type and height of all fencing.

I.

Site plan approval.

(1)

A site plan showing the location of buildings, signs and other improvements including off-street parking facilities, truck loading spaces, landscaping and access to all public rights-of-way shall be submitted to the Planning Board for approval prior to the issuance of a building permit. The procedures and requirements set forth in § 249-38 of this chapter shall be adhered to.

(2)

Before approvals are given on buildings, the plat must note the type of use which will occupy the building. If the applicant does not know what use will occupy the building at the time of approval, the applicant must come back before the Planning Board for approval of the use before a certificate of occupancy can be issued for the building.

J.

Performance standards. No use shall be permitted that does not conform to the following standards of use, occupancy and operation. Such standards are hereby established as the minimum requirements to be maintained.

(1)

Noise. Noise not to exceed an intensity, as measured from the boundaries of the lot where such use is situated, greater than the average intensity occurrence and duration of the noise of street traffic at adjoining streets.

(2)

Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot, except in accordance with the standards approved by the New York State Department of Health or similarly empowered agency.

(3)

Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which the use is situated.

(4)

Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private disposal system or stream or on or into the ground, except in accordance with the standards approved by the New York State Department of Health and in accordance with the Town of Wallkill Sewer Ordinance.

Editor's Note: See Ch. 194, Sewers and Sewage Disposal, Art. II, Sewer Use.

(5)

Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.

(6)

Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated; nor shall any electrical disturbance be created which adversely affects the operation of any equipment, other than that of the creator of such disturbance.

§ 249-28 (Reserved)

Editor's Note: Former § 249-28, PID Planned Interchange Development District, as amended, was repealed 7-26-2008 by L.L. No. 15-2007.

ARTICLE VIII Mobile Home Courts (§ 249-29 - § 249-31)

§ 249-29 Permits required.

A.

No person shall own or operate a mobile home court without a permit obtained as herein provided. Failure to obtain such a permit shall constitute a violation of this chapter. The Town Board shall, by resolution, fix and determine the fees for such permit and the times when such fee is payable.

B.

Upon approval and issuance of a mobile home court permit, the same shall be valid until the end of the calendar year in which the permit is issued. Such permit shall be renewable annually. The application for the permit renewal shall be made in writing to the Building Inspector at least 60 days prior to the expiration date of the existing permit. Prior to the issuance of the renewed permit, the Building Inspector shall inspect and approve said mobile home court.

C.

A mobile home court established hereafter shall be allowed only by special permit, following site plan approval, by the Planning Board within those districts where said uses are listed.

D.

Metal storage buildings may be placed on existing mobile home sites as accessory storage buildings as long as such sheds shall not exceed 100 square feet. Such sheds may be placed against existing mobile homes as long as there are at least 10 feet of clear open space between such shed and any adjacent mobile home or shed. Only one such shed shall be allowed per site.

[Added 4-12-1996 by L.L. No. 2-1996]

§ 249-30 General conditions and requirements.

A.

The minimum lot size for a mobile home court shall be 10 acres.

B.

All land within 50 feet of any property line shall be kept free from all mobile homes or roads on which mobile homes may face. Said strip of land shall be utilized as a green buffer area. Said area may be utilized for the installation of utilities, such as water supply and sewage disposal lines.

C.

All mobile home courts shall have central-type water supply and a central-type sewage disposal system. Said systems shall be approved by the Orange County Department of Health.

D.

The Planning Board may require the mobile home court to be screened for the general welfare of the surrounding residents. Said screening shall be by either a fence or living foliage.

(1)

Said screening shall be approved as to composition, height and location by the Planning Board at the time of site approval.

(2)

Said screening shall be a minimum of six feet in height if foliage is utilized and a maximum of six feet in height if a fence is utilized.

(3)

Said screening shall not be placed so as to interfere with roadside sight distances.

E.

Each mobile home stall shall have a minimum area of 5,000 square feet.

(1)

The minimum setback from each interior street of each mobile home stall shall be 20 feet.

(2)

The minimum side setback shall be 10 feet for each mobile home stall.

(3)

The minimum rear setback shall be 10 feet for each mobile home stall.

(4)

Each mobile home stall shall contain a minimum of 3,000 square feet of usable open space.

F.

A minimum of two off-street parking spaces shall be provided for each mobile home stall, one of which shall be within the mobile home stall.

G.

The minimum floor area of each mobile home shall be 600 square feet.

H.

All interior roads in the mobile home court shall have a minimum thirty-foot-wide right-of-way with a minimum pavement width of 20 feet.

(1)

The pavement cross sections of all the interior roads shall be inspected by the Commissioner of Public Works.

(2)

No dead-end streets shall be permitted within the interior road system.

(3)

All interior roads must be kept in a passable condition at all times.

I.

All means of egress and ingress, drives, lanes and public spaces shall be adequately lighted.

(1)

All lighting shall be directed so as only to illuminate the public roadways and spaces, but shall not shine on Town roads.

(2)

Said illumination shall be of such intensity as to produce an illumination equal to at least 7,900 lumens.

J.

Piers and tie-downs shall be provided and utilized for each mobile home stall.

K.

A four-inch-thick reinforced concrete base shall be provided under each mobile home.

L.

Each mobile home stall shall be equipped with a concrete patio. Said patio shall be at least 10 feet by 20 feet.

M.

Within each mobile home court there shall be provided a developed recreation site. A minimum of 1,000 square feet per mobile home stall shall be provided.

N.

Mobile home courts with 20 or more mobile home stalls shall have two means of ingress and egress to public roads. The area within 50 feet of either side of the entrance road or roads shall be landscaped and maintained by the mobile home court owner. Said fifty-foot-wide area shall run between the public road and the first trailer stall.

O.

Fire hydrants and adequate size water mains shall be provided where feasible.

P.

A fire alarm shall be provided for each mobile home court. Said alarm system shall be approved by the Chief of the fire company in whose district the court is located.

Q.

Provisions shall be made for the collection and removal of garbage from the mobile home court premises at least once a week.

R.

All utilities, including electric and telephone, shall be placed underground. Each mobile home stall shall be equipped with at least:

(1)

One sewer connection.

(2)

One water main connection.

(3)

One electrical connection.

(4)

One telephone connection.

(5)

If provided, one gas connection and one cable television connection.

S.

Mobile home sales will be allowed on the mobile home court site, provided that each such trailer is displayed on a minimum size mobile home stall as defined under Subsection E above. The location of all sales areas shall be at the discretion of the Planning Board, but in no event shall they be placed in any buffer zone.

T.

A laundromat and/or small necessity store may be provided on the mobile home court site for the use of the mobile home occupants only.

(1)

No such establishments shall present any visible evidence from any street outside the court of their commercial character which would attract customers other than occupants of the court.

(2)

The structures housing such facilities shall not be located closer than 150 feet to any property line and shall be accessible only from the interior road pattern of the court.

U.

Any additions to any mobile home, such as porches, storage rooms, enclosed entrances, etc., shall be subject to all building standards as required by the Building Inspector.

(1)

All such additions shall be subject to all of the stall standards required for mobile home courts.

(2)

All such additions shall be approved by the Building Inspector.

V.

All required plans for mobile home courts shall be drawn by a registered architect, licensed land surveyor or a professional engineer and shall show the exact location of all mobile home stalls. Said plans shall be updated at least once every five years, or a certified statement of no change shall be submitted by a licensed professional architect, licensed land surveyor or a licensed professional engineer.

W.

No mobile home shall be permitted within the court except when placed on a stall in accordance with the provisions of this chapter.

X.

Any expansion of a mobile home court after the effective date of this chapter shall be made in accordance with this article.

Y.

Each mobile home shall have a mobile home skirt.

Z.

Setback requirements for accessory storage sheds of preexisting mobile home courts. Setback requirements for building permit approval for accessory storage sheds for preexisting mobile home courts shall be:

[Added 7-25-1996 by L.L. No. 7-1996]

(1)

Metal shed with no greater than 100 square feet.

(2)

There shall be 10 clear feet of open space from any neighbors' mobile home, shed, porch or deck.

(3)

There shall be only one shed allowed per stall.

§ 249-31 (Reserved)

ARTICLE IX Nonconforming Buildings, Structures and Uses (§ 249-32 - § 249-32)

§ 249-32 Conditions for continuance.

The following provisions shall apply to all buildings and uses existing on the effective date of this chapter, which buildings and uses do not conform to the requirements set forth in this chapter; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is part thereof; and to all buildings housing nonconforming uses.

A.

Any nonconforming use may be continued indefinitely, except those listed in Subsection E, but:

(1)

Alterations shall not be enlarged, extended, reconstructed, restored [except in conformance with Subsection B(3)] or placed on a different portion of the lot occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever; except that, the Planning Board may permit one expansion, not to exceed 15% of the existing ground floor area of said nonconforming use, provided that the bulk requirements specified in the district in which said nonconforming use is located shall be complied with. Such expansion permit shall be dealt with under the provisions of §§ 249-38 through 249-40 of this chapter. Nonconforming single-family residences, existing on the effective date of this chapter, shall not be governed by this subsection, except that they must conform to all required yard standards in the particular district.

(2)

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

(3)

Changes. No nonconforming use shall be changed to another nonconforming use without a special permit (governed by §§ 249-38 through 249-40) from the Planning Board, and then only to a use which, in the opinion of said Board, is of the same or a more restrictive nature.

(4)

Discontinuance. No nonconforming use shall be reestablished if such use has been discontinued for any reason for a period of one year or more or has been changed to or replaced by a conforming use.

(a)

The intent to resume a nonconforming use within the specified one-year period shall not confer the right to do so.

(b)

Nonconforming single-family residences existing on the effective date of this chapter shall not be governed by this subsection.

(5)

District changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses already existing within the area or subsequently created by the rezoning.

B.

Any nonconforming building or a building housing a nonconforming use may be continued indefinitely, but:

(1)

Altered. No nonconforming building shall be structurally altered, enlarged, restored [except in conformance with Subsection B(3)] or placed on a different portion of the lot on the effective date of this chapter; except that the Planning Board may permit one expansion, not to exceed 15% of the existing ground floor area of said nonconforming building, provided that the most restrictive bulk requirements specified in the district in which said nonconforming building is located shall be complied with. Such expansion permit shall be dealt with under the provisions of §§ 249-38 through 249-40 of this chapter. Nonconforming single-family residences, existing on the effective date of this chapter, shall not be governed by this subsection, except that they must conform to all required yard standards in the particular district.

(2)

Removed. No nonconforming building shall be moved to another location where such building and/or intended use would be nonconforming.

(3)

Restored after damage. A nonconforming building and/or use may be restored if damaged or destroyed by fire, vandalism or other act of God. Said restoration must be initiated and earnestly pursued within a one-year period following such damage.

C.

Nonconformity of area. Normal maintenance and repair, structural alteration, moving, reconstruction or enlargement of a building which does not contain a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, lot depth, front yard, side yard, rear yard, maximum height, maximum lot coverage or minimum livable floor space per unit, is permitted if the same does not increase the degree of or create any new nonconformity.

D.

Normal maintenance. Nothing in this chapter shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the Building Inspector shall state the precise reasons why such alterations were deemed necessary.

E.

Cessation. The nonconforming uses specified below are deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and blight the proper and orderly development and general welfare of such district and the Town to the point that such nonconforming use shall be terminated on or before the expiration of the specified period of time for each use.

(1)

Any nonconforming dog kennels shall be terminated within one year from the effective date of this chapter unless they are made to conform with the following:

(a)

All dogs shall be confined in a fully enclosed and suitably ventilated building between the hours of sunset and 7:00 a.m.

(b)

Such animals may also be confined in a pound which shall be completely surrounded by an opaque fence at least six feet in height.

(2)

Any nonconforming parking lot or junkyard in an RA, RA-1, R-1 or R-2 District must be terminated.

[Amended 7-26-2007 by L.L. No. 15-2007]

(3)

Nonconforming signs. In the event that a sign was erected prior to the effective date of this chapter, which sign does not conform with the provisions and standards of this chapter, the requisite permit, as specified in § 249-11P, shall be granted for every such sign, provided that said sign is properly repaired and maintained and otherwise in conformance with this chapter. Nonconforming signs which are structurally altered, relocated or replaced shall immediately comply with all provisions of this chapter.

(4)

Any trailers or mobile homes not located in an approved trailer court, in accordance with §§ 249-29 and 249-31 of this chapter shall be deemed nonconforming. If the lot and/or trailer is vacated, abandoned or not occupied for one year or more, the Town shall cause such trailer to be removed as a nuisance and public hazard. Such lot shall not again be used as a trailer site. Notwithstanding the above, a nonconforming trailer or mobile home may be replaced by another trailer with a minimum floor area of 600 square feet, unless the one-year unoccupied status stated above is involved.

(5)

All uses made nonconforming by the adoption of this chapter, in the interest of safety and welfare, must be made to conform to the chapter within 60 days of the effective date of this chapter (i.e., swimming pools, fencing, flashing signs, etc.).

ARTICLE X Park, Playground and Recreational Sites (§ 249-33 - § 249-34)

§ 249-33 Approval procedure.

A.

Before the approval by the Planning Board of a plat showing lots, blocks or sites, with or without streets or highways, or the approval of a plat already in the office of the Clerk of the county wherein such plat is situated if such plat is entirely or partially undeveloped, such plat shall also show, in proper cases and when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes. Where a proposed park, playground or other permanent recreation area is shown on the Comprehensive Development Plan to be located in whole or part in a proposed subdivision, the Planning Board shall require that such area or areas be shown on said plat.

B.

The Planning Board shall require, as a condition to approval of any such plat, a payment to the Town of a parkland fee, which fee shall be available for use by the Town for park, playground and/or recreation purposes, including acquisition of property.

[Amended 4-23-1987 by L.L. No. 2-1987]

C.

When said permanent recreational areas are to be required to be so shown, the subdivider shall submit to the Planning Board a suitable tracing, at a scale of not less than 30 feet to an inch, indicating:

(1)

The boundaries of said recreation area.

(2)

Existing physical features, such as brooks, ponds, trees, rock outcrops, structures, etc.

(3)

Existing and, if applicable, proposed changes in grades of said area and the land immediately adjacent.

D.

In no event shall the Planning Board require that more than 10% of the gross area of a proposed subdivision be so shown. The minimum area of contiguous open space acceptable in fulfillment of this requirement shall be generally three acres. However, in the case of subdivisions of less than 10 acres, smaller recreation areas may be approved by the Planning Board whenever it deems that the difference between the area shown and three acres may be made up in connection with the subdivision of adjacent land.

E.

In applicable cases, the Planning Board shall require execution and filing of a written agreement between the applicant and the Town Board regarding costs of grading, development, equipment and maintenance of said recreation areas, as well as the conveyance of whatever rights and title deemed necessary to ensure that said premises will remain open for use by the residents of the Town of Wallkill.

F.

No moneys received by the Town in lieu of land, as aforesaid, shall be returned to any subdivider or developer by reason of the nullification of his building permits for failure to comply with § 249-39D, nor shall any rights of title in land conveyed to the Town as aforesaid be affected by same.

§ 249-34 Determination of required land or moneys.

A.

For every 100 people in a development, one acre of land must, at the discretion of the Planning Board, be provided for by the developer. For the purposes of computation:

[Amended 4-23-1987 by L.L. No. 2-1987]

(1)

Single-family detached = four people per unit.

(2)

Efficiency apartment = one person per unit.

(3)

One-bedroom townhouse, condominium or apartment = two people per unit.

(4)

Two-bedroom townhouse, condominium or apartment = three people per unit.

(5)

Three-bedroom townhouse, condominium or apartment = four people per unit.

B.

For all developments and subdivisions, other than two-lot minor subdivisions, if the Planning Board has required the incorporation of recreation facilities by the developer on his site, the parkland fee shall be \$1,250 per unit or lot. If the Planning Board has not required the incorporation of recreation facilities by the developer on his site, the parkland fee shall be \$2,500 per unit or lot.

[Amended 4-23-1987 by L.L. No. 2-1987; 2-25-1988 by L.L. No. 4-1988; 1-13-2005 by L.L. No. 1-2005]

C.

In either case, the total amount of parkland fees required to be paid by the developer shall be delivered to the Town prior to the issuance of any building permits.

[Amended 4-23-1987 by L.L. No. 2-1987]

D.

In instances where the Planning Board requires the construction of on-site recreation facilities, and if the development is approved in sections in accordance with general Town Law § 276, Subdivision 6, said recreation facilities shall be constructed proportionally with the sections.

[Amended 4-23-1987 by L.L. No. 2-1987]

Editor's Note: This local law also provided for the deletion of former Subsection E, which dealt with money in lieu of parkland.

]

E.

In the case where the Planning Board deems it in the best interest of the Town to require land instead of money, the Town will enter into a contract agreement with the developer. This contract will be executed before final approval is granted by the Planning Board.

F.

Whereas the domicile of an applicant for a development or subdivision, greater than a two-lot subdivision, is located on said land proposed for development or subdivision, the fee required by this section upon the applicant's post-subdivision domicile parcel is waived.

[Added 6-12-2003 by L.L. No. 5-2003]

ARTICLE XI Planning Board (§ 249-35 - § 249-41)

§ 249-35 General responsibilities of members; composition.

A.

The Planning Board of the Town of Wallkill shall be governed by the provisions of all applicable state statutes, local laws and ordinances.

B.

The Board shall become familiar with all the duly enacted ordinances and laws of the Town of Wallkill under which it may be expected to act, as well as with the applicable state statutes.

C.

The Board shall become familiar with the community goals, desires and policies as expressed in the Town of Wallkill Master Plan.

D.

The Planning Board shall consist of three members appointed by the Town Board.

[Amended 8-28-2003 by L.L. No. 8-2003; 5-10-2007 by L.L. No. 6-2007]

(1)

All members shall serve for terms of three years.

[Amended 8-28-2003 by L.L. No. 8-2003; 5-10-2007 by L.L. No. 6-2007]

(a)

Said terms shall be established so as to expire at staggered time intervals.

(b)

If a vacancy occurs by means other than expiration of the term, it shall be filled by the Town Board for the remainder of the unexpired term.

(c)

Any member may be removed by the Town Board, for just cause, after a public hearing.

(d)

Said just cause shall include absence from four or more consecutive regular meetings or more than eight meetings within a calendar year.

(2)

The Planning Board may appoint a Chairman and a Vice Chairman at its annual meeting.

(a)

The Chairman shall perform all duties required by applicable laws and ordinances.

(b)

The Chairman shall preside at all meetings of the Board.

(c)

The Chairman shall decide on all points of order and procedure.

(d)

The Chairman shall appoint any standing or special committees found necessary to carry out the business of the Board.

(e)

The Chairman's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.

(f)

The Vice Chairman shall serve in the absence of the Chairman. The Vice Chairman shall have all the powers of the Chairman during his absence, disability or disqualification.

§ 249-36 Meetings.

A.

Regular meetings. The Board shall establish its own regular meeting date, to be held at the Town of Wallkill Town Hall.

B.

Annual meeting. The annual organizational meeting of the Board shall be the first regular meeting of the year after the Town Board's reorganization meeting. The Chairman and Vice Chairman may be appointed at this meeting, and the meeting schedule shall also be decided upon at that time.

C.

Special meetings. Special meetings of the Board may be called by the Chairman. At least 72 hours' notice shall be given each member of the Board. The Chairman shall also call a special meeting within 10 days of receipt of a written request from any four (a majority of the Board) members of the Board.

D.

Cancellation of meetings. Whenever there are no applications or other business to act upon at a regular meeting, the Chairman may dispense with such meeting by notice to all members at least 48 hours prior to the meeting.

§ 249-37 Quorum; voting.

A.

Quorum. A quorum shall consist of at least four members of the Planning Board. No hearing or meeting of the Board shall be held nor any action taken in the absence of a quorum.

B.

Voting.

(1)

All matters before the Board shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board. A tie vote, or a favorable vote by a lesser number than the required majority, shall be considered a rejection of the matter under consideration.

(2)

No member of the Board shall sit in a hearing or vote on any matter in which he possesses a conflict of interest. Said member shall not be counted by the Board in establishing the quorum for such matter.

§ 249-38 Procedure for special permit uses.

A.

In all cases where this chapter requires special permit approval by the Planning Board, a building permit shall only be issued upon approval of and in conformity with the plans by the Planning Board.

B.

An applicant for a special permit approval shall make application to the Planning Board at least 10 days prior to its regular meeting.

C.

The Planning Board shall hold a public hearing on the application within 45 days of the initial submission at a regularly scheduled Planning Board meeting. Said public hearing must be advertised at least once in a newspaper of general circulation in the Town at least 10 days prior to the hearing. The notice shall also be sent, by the applicant, to the owners of all properties within 300 feet of the site within 10 days prior to the hearing, except when the site is within those zones designated RA - Rural Agricultural District and RA-1 Low Density Agriculture District, where all properties within 1,000 feet of the site shall be noticed, by certified mail, return requested, by first class mail with a certificate of mailing or by hand delivery with the signature of each property owner with a proof of compliance.

[Amended 9-10-2004 by L.L. No. 9-2004; 7-26-2007 by L.L. No. 15-2007]

D.

In accordance with §§ 239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York, if the site lies within 500 feet of a county or state road, institution, park, drainage easement or a municipal boundary, a copy of the submission shall be forwarded to the Orange County Department of Planning for its review and action.

E.

Within 45 days of the public hearing, the Planning Board shall act to approve, conditionally approve with modifications or disapprove the application.

(1)

If disapproved, the Board shall specify in writing its reasons for any such action.

(2)

Notwithstanding the above, the time in which a final decision is to be rendered may be extended upon mutual agreement of the Board and the applicant for not more than two additional forty-five-day periods.

F.

All special permit approvals shall expire one year after the date of Planning Board approval if no substantial construction has been completed.

[Amended 12-27-1990 by L.L. No. 18-1990]

(1)

The mere issuance of a building permit shall not extend the above-stated one-year period.

(2)

Prior to the expiration of the one-year period, upon request by the applicant, the Planning Board may grant a one-year extension of approval in cases of proven hardship if the application in question is in compliance with all current zoning laws.

(3)

The Planning Board may grant up to two one-year extensions per application.

G.

In all instances where plan approval is also necessary for a specific use, the dual procedures may be held currently. The public hearing specified in Subsection C shall then coincide with approval of the preliminary site plan as noted in § 249-40D(3).

§ 249-39 Requirements for special permit uses.

[Amended 7-26-2007 by L.L. No. 15-2007]

A.

Special uses listed in this chapter possess characteristics of a nature such as to require special review and the application of special standards in order to assure an orderly and harmonious arrangement of land uses in the district and in the community. Before a special use is approved, the Board shall find that the proposed use:

(1)

Will be properly located in regard to transportation, water supply, waste disposal, fire protection, police protection or other facilities.

(2)

Will not create undue traffic or congestion or traffic hazards.

(3)

Will not adversely affect the value of property, character of the neighborhood or the pattern of development.

(4)

Will encourage appropriate use of land consistent with the needs of the Town of Wallkill.

(5)

Will not impair the public health, safety and general welfare.

(6)

Meets all applicable requirements of this chapter, and the Planning Board may impose any additional requirements the Board deems appropriate to assure that the proposed use will be in harmony with the surrounding properties.

(a)

Before imposing such conditions, the Board shall consider the following:

[1]

The location and the intensity of the use;

[2]

The location and height of the proposed buildings and structures;

[3]

Traffic access and circulation;

[4]

The location and extent of parking and loading areas;

[5]

The location, extent and type of exterior artificial lighting and advertising;

[6]

The proposed landscaping, screening and fencing;

[7]

The probable extent of noise, vibration, smoke, dust, and other adverse influences.

B.

The Planning Board may impose a limit on the hours of operation of a use upon finding that such a limit is necessary.

C.

Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which such use is located. Said special use shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

D.

For condominiums or cooperative housing projects requiring approval by the New York State Attorney General, the one-year approval period shall not commence running until the final approval is granted by the Attorney General.

(1)

In all cases, proof of submission of the plans to the Attorney General shall be furnished to the Planning Board within 60 days of the Board's conditional or final approval of the special use. If the proof of submission is not furnished in the prescribed period of time, the special use shall be deemed null and void.

(2)

Upon approval of the application by the Attorney General, a copy of said approval shall be submitted to the Planning Board for its records. In the event that the Attorney General denies approval of the application, the special use shall be deemed null and void.

E.

Each application for a special use shall be accompanied by a proposed site plan as set forth in § 249-40.

§ 249-39.1 Standards for specific special permit uses in commercial and industrial districts.

[Added 7-26-2007 by L.L. No. 15-2007]

In addition to the general objectives stated above and the Town's site plan review considerations, the following specific requirements shall be complied with for the particular special permit uses cited below.

A.

Accessory retail store for manufacturing and production uses.

(1)

An accessory retail store for the display and/or sale of merchandise primarily manufactured upon the premises subject to the following conditions:

(a)

The accessory retail store shall be carried on in an attached, enclosed building and shall not exceed 20% of the entire manufacturing floor area or 1,000 square feet in floor area, whichever is less.

(b)

One parking space shall be provided per 150 square feet of floor area.

(c)

One sign is permitted on the premises in accordance with § 249-11.

B.

Airports and heliports.

(1)

The hours of operation shall be limited by the Planning Board to prevent disturbance to nearby residences.

(2)

No area to be used by aircraft under its own power on the ground shall be nearer than 200 feet to any lot line. Evidence shall be submitted to the Board that ample safeguards to minimize hazards and disturbances from aircraft noise will be assured at all times of operation from affecting residents and properties in the vicinity.

(3)

Access to areas used by aircraft in motion shall be controlled by fences and gates.

(4)

Vending machines, newsstands, governmental installations, airlines and express offices and aircraft repair facilities may be permitted within completely enclosed buildings.

(5)

The storage and sale of aviation gasoline may also be permitted.

C.

Cemeteries.

(1)

The minimum lot size, when not accessory to a religious institution, shall be three acres.

D.

Churches and religious institutions.

(1)

The minimum lot size shall be three acres.

(2)

No building shall be nearer than 50 feet to any lot line.

(3)

The maximum lot coverage shall be 20%.

E.

Day-care centers and nursery schools.

(1)

Such uses may be a principal use or allowed as accessory uses in conjunction with the following other special permit uses: office and research buildings; hotels, motels and conference centers; retail stores, service and personal service establishments; conference centers or other similar facilities; high-rise multiple residences; health-related facilities; and churches and religious institutions.

(2)

The required outdoor play space shall be adequate in size and location as determined by the Planning Board.

(3)

No play area shall be located in a required front yard or landscaped buffer strips.

(4)

All play areas shall be fenced and suitably landscaped and buffered.

(5)

Indoor play areas shall consist of a minimum of 35 square feet per child, excluding hallways, kitchens, bathrooms, office space and sleeping quarters for infants. Sleeping quarters for infants shall consist of a minimum of 20 square feet additional per infant where an infant is a child less than three years of age.

(6)

Adequate pickup/dropoff areas shall be provided and designed to ensure safe, direct access to the facility as determined by the Planning Board. Said areas shall not conflict with access to required parking.

(7)

There shall be a minimum of one toilet per 15 children.

(8)

Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

(9)

All child-care centers shall indicate the designated number of children and shall comply with regulations of the New York State Department of Social Services as stated in 18 NYCRR Part 418 as they apply to centers for 44 or fewer and 45 or more children.

F.

Dog kennels.

(1)

All animal housing, kennels or runs and related structures shall be placed a minimum of 50 feet from any lot line and shall be fenced.

(2)

All facilities shall be permanently screened from all surrounding properties.

(3)

All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

G.

Eating and drinking establishments.

(1)

Where drive-in components are proposed, the operation of the establishment shall not adversely impact the public safety in streets and sidewalks.

(2)

Vehicle stacking lanes for any drive-up service must be adequate so that adjacent sidewalks or streets are not obstructed.

(3)

No stacking space, when occupied, shall prevent vehicles in designated parking spaces from turning into or backing out of a parking space, nor prohibit or inhibit vehicles from making turns or movements within the site.

(4)

Only one point of ingress and one point of egress, or one point of combined ingress and egress shall be provided per street for each eating and drinking establishment. Where the point of ingress is provided separately from the point of egress on the same street, such points of access shall be separated by a minimum distance of 100 feet, measured from the center line of each point of access at the street line.

(5)

Points of ingress and egress shall be limited to the adjacent thoroughfare having commercial-zoned frontage only.

(6)

The physical design, including the color and use of materials, of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces and uses in the particular location.

H.

Gasoline filling stations.

(1)

The minimum lot size shall be 40,000 square feet.

(2)

All remaining lot and building standards shall comply with § 249-26D (Lot Type C).

(3)

All driveways shall be located a minimum of 10 feet from any property lines.

(4)

Gasoline pumps shall be located at least 20 feet from any property lines.

(5)

There shall be no outdoor storage of vehicles on the site.

I.

Gasoline service stations.

(1)

The minimum lot size shall be 40,000 square feet. All remaining lot and building standards shall comply with § 249-26D (Lot Type C).

(2)

All driveways shall be located a minimum of 10 feet from any property lines.

(3)

Gasoline pumps shall be located at least 20 feet from any property lines.

(4)

There shall be no more than five motor vehicles stored or parked outdoors on the site.

J.

Hotels, motels and conference centers, including eating and drinking establishments either attached to the hotel, motel, conference center or freestanding. The minimum lot area shall be 40,000 square feet plus 1,500 square feet for each guest room in excess of four.

(1)

Motor vehicle rental facilities may be accessory to the hotels, motels and conference centers subject to approval by the Planning Board at the time of special permit approval.

(a)

The minimum additional lot size for the rental use shall be 20,000 square feet.

(b)

Service facilities exclusively for subject vehicles may be accessory to the rental use if approved by the Planning Board at the time of special permit approval.

(c)

If permitted, all service or repairs shall be conducted in a building fully enclosed on all sides.

(d)

Two gasoline pumps may be permitted incidental to the use of the premises, but the sale of gasoline to the general public shall not be permitted. Said pumps shall not be located in front of any building.

(e)

Outdoor storage of rental vehicles shall be permitted only in the side or rear yards of any building and shall comply with required parking space size and aisle widths as specified in § 249-12.

(f)

All driveways related to rental uses shall be located a minimum of 10 feet from any property line. Said driveways shall be so laid out as to avoid the necessity for any vehicle entering the site to back out across any public right-of-way or portion thereof.

K.

Junkyards, including automobile junkyards, subject to all the provisions of an Ordinance for Licensing and Regulating Dealers in Secondhand, Junk and Auto Parts Activities and Businesses in the Town of Wallkill, adopted April 21, 1961, or as amended.

Editor's note: See Ch. 145, Junk Dealers.

L.

Motor vehicle repair garages.

(1)

The minimum lot size shall be 40,000 square feet. All remaining lot and building standards shall comply with § 249-26D (Lot Type C).

(2)

Two gasoline pumps may be permitted incidental to the use of the premises, but the sale of gasoline to the general public shall not be permitted. Said pumps shall not be located in front of any building.

(3)

All driveways shall be located a minimum of 10 feet from any property line.

(4)

There shall be no more than 10 motor vehicles stored or parked outdoors.

M.

Motor vehicle rental and leasing establishments.

(1)

The minimum lot size shall be 20,000 square feet.

(2)

All remaining lot and building standards shall comply with § 249-26D (Lot Type C).

(3)

Service facilities exclusively for subject vehicles may be accessory to the rental/lease use if approved by the Planning Board at the time of special permit approval.

(4)

If permitted, all service or repairs shall be conducted in a building fully enclosed on all sides.

(5)

Two gasoline pumps may be permitted incidental to the use of the premises, but the sale of gasoline to the general public shall not be permitted. Said pumps shall not be located in front of the building.

(6)

Outdoor storage of motor vehicles shall be permitted only in the side or rear yards and shall comply with required parking space size and aisle widths.

(7)

All driveways shall be located a minimum of 10 feet from any property line. Said driveways shall be so laid out as to avoid the necessity for any vehicle entering the site to back out across any public right-of-way or portion thereof.

N.

Motor vehicle sales establishment.

(1)

The minimum lot size shall be 40,000 square feet.

(2)

All remaining lot and building standards shall comply with § 249-26D (Lot Type C).

(3)

Service facilities may be accessory to the sales use if approved by the Planning Board at the time of special permit approval.

(4)

Entrance and exit driveways shall have an unrestricted width of not less than 30 feet.

(a)

Said driveways shall be located not closer than 10 feet to any property line.

(b)

Said driveways shall be so laid out as to avoid the necessity for any vehicle entering the site to back out across any public right-of-way or portion thereof.

(5)

Outdoor storage of motor vehicles shall be permitted only in the side or rear yards, except that a small area for only the display of new or used motor vehicles may be permitted by the Planning Board at the time of site plan approval.

(6)

If permitted, all service or repairs shall be conducted in a building fully enclosed on all sides.

(7)

Two gasoline pumps may be permitted incidental to the use of the premises, but the sale of gasoline to the general public shall not be permitted. Said pumps shall not be located in front of the building.

(8)

Motor vehicle rental and leasing facilities may be accessory to the sales use if approved by the Planning Board at the time of special permit approval.

O.

Self-storage.

(1)

The following standards apply for all self storage uses:

(a)

Minimum lot size: two acres;

(b)

Minimum lot width: 200 feet;

(c)

Minimum front yard setback: 100 feet.

(2)

There shall be no outdoor storage of materials or goods.

(3)

All mini-warehouse structures shall have their exterior walls that face or are visible from along a public right-of-way, or are adjacent or opposite a residentially zoned lot, consist of decorated brick or stone or similar quality material.

P.

Single-family residences in Highway Commercial Districts.

(1)

All single-family residences proposed by special permit for the Highway Commercial District shall adhere to the standards set forth in § 249-20D (Lot and building standards in the R-2 District).

Q.

Theaters/cinemas. Such use shall be permitted only as part of a shopping center of 300,000 square feet or over and shall be housed in the principal shopping center building.

R.

Veterinary hospitals.

(1)

Any kennels, runs or similar animal housing shall comply with the following:

(a)

Such use shall be solely for use by animals undergoing hospital care.

(b)

Such use shall be placed a minimum of 50 feet from any lot line and shall be fenced.

(c)

Said uses shall be screened from all surrounding properties.

(2)

All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

§ 249-40 Site and development plan approval.

A.

Intent. In all cases where this chapter requires special permit uses and/or plan approval by the Planning Board, no building permit shall be issued by the Building Inspector except upon approval of and in conformity with the plans approved by the Planning Board.

(1)

In instances where the building exists, the site is in conformity with a previously approved site plan and a change of occupancy is occurring without exterior structural changes to the building, the following procedures shall be followed:

[Added 2-25-1988 by L.L. No. 4-1988]

(a)

If the new use is of the same type and intensity (i.e., office to office, sit-down restaurant to sit-down restaurant, etc.), no Planning Board action will be required prior to the issuance of a building permit and/or certificate of occupancy.

(b)

If the new use is not of the same type and intensity (i.e., office to retail, sit-down restaurant to fast-food restaurant, etc.), the new occupant shall appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy.

(2)

In instances where the building exists, the site is not in conformity with a previously approved site plan and a change of occupancy is occurring without exterior structural changes to the building, a revised site plan approval shall be required prior to the issuance of a building permit and/or certificate of occupancy.

[Added 2-25-1988 by L.L. No. 4-1988]

(3)

In instances where the building exists, a change of occupancy is occurring and exterior structural changes will be made to the building, a revised site plan approval shall be required prior to the issuance of a building permit and/or certificate of occupancy.

[Added 2-25-1988 by L.L. No. 4-1988]

(4)

In instances where the building exists, no change of occupancy is occurring and exterior structural changes will be made to the building, the new occupant shall appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy.

[Added 2-25-1988 by L.L. No. 4-1988]

B.

Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular. The Board may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this chapter and also the accomplishment of the following objectives in particular:

(1)

Traffic access: that all proposed traffic accesses are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street intersections or other places of public assembly; and other similar safety considerations.

(2)

Circulation and parking: that adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any person connected with or visiting the use; also that the interior circulation system is adequate to provide safe accessibility into and within the site.

(3)

Landscaping and screening: All projects requiring site plan approval by the Planning Board must comply with the provisions of § 249-100, Landscape regulations.

[Amended 7-26-2007 by L.L. No. 15-2007]

(4)

Existing trees, over 12 inches in diameter, measured three feet above the base of the trunk, shall be retained to the maximum extent possible.

[Added 7-26-2007 by L.L. No. 15-2007]

C.

Effects of site development plan approval.

(1)

No building permit shall be issued for any structure covered by §§ 249-38, 249-39 and this section until an approved site plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.

(2)

No certificate of occupancy (CO) will be issued for any structure or use covered by §§ 249-38, 249-39 and this section unless the structure and appropriate appurtenances have been developed in total compliance with the approved site plan or Article XII has been complied with.

D.

Procedure for action upon site development plans.

(1)

Sketch plan conference. Prior to the formal submission of a site development plan, the applicant shall meet with the Planning Board. The purpose of such a conference shall be to discuss the proposed uses and/or development in order to determine which of the elements listed in Subsection E shall be submitted to the Planning Board so that the Board may act upon the proposal.

(2)

Within six months following the sketch plan conference, six copies of the site plan and any related information deemed necessary shall be submitted to the Planning Board at least 15 days prior to a regularly scheduled meeting. If said site plan is not submitted within the prescribed six-month period, a new sketch plan conference shall be required.

(3)

The Planning Board shall act to approve, disapprove or approve with modifications said site plan within 45 days after the meeting at which approval is requested.

(a)

Failure to act within the prescribed forty-five-day period shall be deemed an approval.

(b)

On all site plans which the Planning Board deems large in scope and importance (i.e., apartment projects, condominium projects, shopping centers, etc.), the forty-five-day time period shall not be utilized; instead, the following procedure shall be utilized:

[1]

The sketch plan conference as outlined in Subsection D(1) shall remain the same.

[2]

Within six months following the sketch plan conference, six copies of the preliminary site plan and any related information deemed necessary shall be submitted to the Planning Board at least 15 days prior to a regularly scheduled meeting. If said site plan is not submitted within the prescribed six-month period, a new sketch plan conference shall be required.

[3]

If the preliminary site plan is located within 500 feet of a municipal boundary, boundary of an existing or proposed county or state park or other recreation area, a right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or any other county- or state-owned land, the site plan shall be forwarded to the Orange County Planning Department for review and action. If the site will involve access on any county or state roads, a copy of the preliminary site plan shall be forwarded to the Orange County Department of Public Works and/or Regional Office of the New York State Department of Transportation for their approval.

[4]

The Planning Board must hold a public hearing on the preliminary site plan within 45 days after the receipt of such site plan.

[a]

The hearing must be advertised at least once in a newspaper of general circulation in the Town at least 10 days before it is held and by posting notice thereof by certified mail to the owners of property within 300 feet of the proposed property.

[b]

Said public hearing shall be the hearing called for in § 249-38C concerning the authorization.

[5]

The Planning Board shall act to approve, approve with modifications or disapprove the preliminary site plan within 45 days after the public hearing.

[a]

Approval of preliminary site plan shall not in any way constitute an approval of the final site plan, but rather it shall be deemed an expression of basic design approval and as a guide to the preparation of the final site plan.

[b]

In the event that the Planning Board fails to act on a preliminary plat within the time noted, the site plan shall be deemed granted preliminary approval.

[6]

The approval of the preliminary site plan shall expire six months after the date of such formal action.

[a]

No further Planning Board action shall be taken after such expiration until a new application and filing fee are submitted.

[b]

An extension of the preliminary approval time may be granted in cases of proven hardship upon petition to the Planning Board if the application in question is in total compliance with all current zoning laws.

[7]

Within six months following the approval of the preliminary site plan, the applicant shall submit six copies of his final site plan. If the site plan is not submitted within the prescribed six-month period, the Planning Board shall refuse to act on the final site plan and shall require a submission starting with Subsection D(3)(b)[3].

[8]

The Commissioner of Public Works shall prepare and submit the performance bond estimate. (See Article XII) to the Planning Board.)

[9]

A second public hearing may be held, at the discretion of the Planning Board, within 45 days after the submission of the final site plan.

[a]

Such public hearing may be held if the Board feels that the final site plan is different enough from the preliminary site plan to warrant further public input.

[b]

In the event that such public hearing is held, the advertising of the notice and the notification by mail shall be identical with that of the public hearing on the preliminary site plan.

[10]

The Planning Board shall, within 45 days after the public hearing, if one is held, or within 45 days after the formal submission of the final site plan if no hearing is held, act to approve, disapprove or conditionally approve, with or without modifications, the final site plan.

[a]

The forty-five-day time period may be extended upon mutual consent of the developer and the Planning Board.

[b]

In the event that action is not taken within the prescribed time period, or the extended time period, the site plan shall be deemed approved.

[c]

If the final site plan is conditionally approved, the developer shall have six months in which to satisfy the conditions set forth. Said time period may be extended after the developer has petitioned the Board and proven hardship, if the application in question is in total compliance with current zoning laws.

[11]

The various information needed at either the preliminary or final site plan stage shall be determined by the Planning Board.

(4)

In accordance with §§ 239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York, any site plan application located within 500 feet of any municipal boundary of any existing or proposed county or state park or other recreation area, right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or county- or state-owned land shall be forwarded to the Orange County Department for review and action.

(5)

A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 203, Stormwater Management, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article XVIIA of this chapter. The approved site plan shall be consistent with the provisions of the Town's Stormwater Management and Erosion and Sediment Control Plan.

Editor's Note: This local law also redesignated former Subsection D(5) as Subsection D(6).

[Added 8-24-2006 by L.L. No. 10-2006]

(6)

After the Planning Board has granted full site plan approval to a project, it may amend said site plan in its sole discretion upon application where the Planning Board deems said amendment to be minor in nature and in cases where structures have not already been constructed.

[Amended 4-12-1996 by L.L. No. 3-1996]

E.

Site development plan elements. The applicant shall cause a site plan map to be prepared by himself or an engineer, surveyor, architect, planner or landscape architect, each of whom must be licensed in New York State. Site plan elements shall include those listed below which are deemed appropriate to the proposed development as indicated by the Planning Board at the sketch plan conference.

(1)

Legal data.

(a)

Section, lot and block number taken from the latest tax records.

(b)

Name and address of the record owner.

(c)

Name and address of the person, firm or organization preparing the map; the pertinent license number and seal, if appropriate.

(d)

Date, North arrow and scale.

(e)

Sufficient description or information to precisely define the boundaries of the property.

(f)

The name, location and widths of all adjacent streets.

(g)

The names and locations of all adjoining lands as shown on the latest tax records.

(h)

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

(i)

A complete outline of all deed restrictions or covenants applying to the property.

(j)

Existing zoning of the property.

(k)

A location map, at the maximum scale of one inch equals 2,000 feet, to indicate the relationship of the proposed use to its surrounding area.

(2)

Natural features.

(a)

Existing contours with intervals of five feet based on United States Geological Survey datum. On all projects which the Planning Board has deemed large in scope and importance [See § 249-38D(3)(b).], the contour interval shall be two feet based on United States Geological Survey datum.

(b)

Approximate boundaries of any areas subject to flooding and/or ponding.

(c)

Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of 12 inches or more measured three feet above the ground, and any other existing features deemed appropriate.

(3)

Existing structures and utilities.

(a)

Location of all existing structures and uses on the site or within 100 feet of its property line.

(b)

Location of all paved areas, sidewalks and curb cuts on the site.

(c)

Location, size, type, gradient and flow direction of all existing culverts, sewers and waterlines.

(d)

Location of all existing utility services serving the site.

(e)

Other existing development, such as fences, landscaping, screening, etc.

(4)

Proposed development.

(a)

The location and size of all proposed buildings or structural improvements; proposed first floor elevations of all buildings.

(b)

The location and design of all uses not requiring structures, such as off-street parking and loading areas.

(c)

The location and size of all outdoor signs.

(d)

The location, direction, power and duration of use for any proposed outdoor lighting or public address system.

(e)

The location and arrangement of all proposed means of ingress and egress, sidewalks and other paved areas. Plans and profiles indicating the grading and cross-sectional makeup of the above.

(f)

The location of all proposed waterlines, valves and hydrants or wells.

(g)

The location of all proposed sewer lines or other means of sewage disposal and treatment.

(h)

Any proposed grading, screening and other landscaping, including types and locations.

(i)

An outline of any proposed deed restrictions or covenants.

(j)

Size, type and location of any contemplated improvements on adjoining property.

(k)

If the site plan only addresses a first stage of development, a supplementary plan shall indicate ultimate development.

(5)

Any other information deemed necessary by the Planning Board to determine conformity of the site plan with the intent and spirit of this chapter.

§ 249-41 Miscellaneous procedures.

A.

Each decision of the Planning Board shall be recorded in accordance with the standard forms adopted by the Board and shall fully set forth the circumstances of the case. They also shall contain a complete record of the findings on which the decision is based. Copies of the above, with all substantiating documentation, shall be filed with the Town Clerk and the Building Inspector.

B.

Building permits for all townhouses, condominiums and apartments shall be issued as individual permits for each unit.

C.

All final approvals shall be valid for a period not to exceed 12 months. If the twelve-month period expires and no construction has been initiated, the approval shall be null and void.

[Amended 12-27-1979 by L.L. No. 8-1979]

(1)

The mere issuance of a building permit shall not extend the above-stated twelve-month period.

(2)

Prior to the expiration of the twelve-month period, the applicant may petition the Planning Board for an extension of final approval if the application in question is in total compliance with all current zoning laws.

(3)

Site plan approvals that were in effect as of September 13, 1979, when the Zoning Ordinance was adopted shall be extended for a period of one year.

[Added 2-14-1980 by L.L. No. 3-1980]

D.

Before the final approval can be granted on any project, all approvals, from all pertinent departments and agencies, in writing, must be in the hands of the Chairman of the Planning Board.

E.

For all lots or uses which require septic systems and/or wells, these systems must be designed and certified by a licensed professional engineer.

F.

Site plan expiration; hardship extension.

[Added 5-10-2007 by L.L. No. 9-2007]

(1)

Site plan expiration.

(a)

All final site plan approvals shall be valid for a period not to exceed the following maximum times from the date of said final approval:

[1]

Site plans of up to 20 units: 24 months;

[2]

Site plans of more than 20 units and all commercial and mixed-use construction: 36 months.

(b)

If the maximum period expires and at least one certificate of occupancy has not been obtained for at least one unit or structure on the site plan, then the site plan approval shall expire.

(c)

If the maximum period expires and at least one certificate of occupancy has been obtained, then the site plan shall expire as to any other or additional structures and/or units on the site plan, which require a certificate of occupancy, but which have not received a building permit within the maximum period. In this event, the units and/or structures not having timely received a building permit shall be deemed deleted from the site plan.

(d)

If any building permits which are obtained within the maximum period are permitted to subsequently expire without certificates of occupancy being issued within the time frame set forth elsewhere in this Code, then, in addition to any other ramifications provided elsewhere in this Code, the site plan shall expire as to those units or structures, and the units and/or structures shall be deemed deleted from the site plan.

(2)

Hardship extension.

(a)

Notwithstanding the foregoing, the Town Board may grant a hardship extension to any applicant or property owner, provided that no such application may be received after the date that a site plan shall be deemed to have expired or more than 30 days after the date that a unit and/or structure shall be deemed deleted from the site plan, pursuant to the provisions of this subsection, and provided that only one application shall be permitted as to any site plan or unit or structure contained on that site plan.

(b)

A hardship extension minimally shall be granted only upon a finding by the Town Board as to the following issues: that the site plan remains compliant with all then-current specifications, codes, and other requirements as to the improvements contemplated therein, including, without limitation, wetlands, water, sewer, drainage, roadways, curbing, building code, and so forth; that no outstanding violations of this Code exist at the time of the application, including that construction is compliant with the Code, the Planning Board's approvals, and the approved site plan; that the applicant and/or owner have proceeded diligently to complete the improvements contemplated by the site plan; that substantial construction of the improvements on the site plan already has been completed and is ongoing; and that the improvements and/or units and/or structures have not been completed timely through circumstances outside the control of the owner and/or applicant.

ARTICLE XII Improvements (§ 249-42 - § 249-42)

§ 249-42 Construction; bonding; inspections; as-built plans.

[Amended 4-23-1987 by L.L. No. 2-1987; 2-25-1988 by L.L. No. 4-1988; 5-10-1990 by L.L. No. 8-1990]

A.

Intent. It is the stated intent of the Town of Wallkill to protect the general health, safety and welfare of all its citizens. In order to better accomplish this goal, through full compliance with all plans approved by the Planning Board, all public and nonpublic improvements shall be fully completed and approved by the Town prior to a certificate of occupancy being issued.

B.

Bonding.

(1)

Public improvements. A construction bond, which shall only be in the form of cash, letter of credit or negotiable securities, may be delivered to the Town of Wallkill. Said construction bond shall guarantee to the Town that the owner/developer of said parcel will faithfully cause to be constructed and completed, within a reasonable period of time, the required public improvements on all approved site plans and subdivisions.

Editor's Note: Original Subsection B(2), Nonpublic improvements, which immediately followed this subsection, was repealed 9-27-1990 by L.L. No. 15-1990.

(2)

Following the granting of final approval by the Planning Board, but prior to the issuance of any building permits, the owner/developer of a parcel shall follow the procedure listed either in Subsection B(2)(a) or (b) below:

[Amended 9-27-1990 by L.L. No. 15-1990]

(a)

The owner/developer shall file construction bonds, as specified in Subsection B(1) above, with the Town Clerk.

[1]

The amount of the construction bonds shall be established by the Commissioner of Public Works, based upon detailed cost estimates prepared by the owner's/developer's design professional.

[2]

Any such construction bonds shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.

(b)

The owner/developer shall complete all the public and nonpublic improvements to the satisfaction of the Commissioner of Public Works.

(c)

The owner/developer may, upon request and approval, utilize a combination of Subsection B(2)(a) and (b) above [i.e., construct and have approved a portion of the public and nonpublic improvements and post construction bond(s) for the balance of the improvements prior to the issuance of a building permit].

(3)

Bonding for nonpublic improvements shall only be necessary prior to the issuance of building permits when the nonpublic improvements amount to over \$2,000,000.

[Added 9-27-1990 by L.L. No. 15-1990]

(4)

The required improvements shall not be considered to have been completed until their installation has been approved by the Commissioner of Public Works.

(5)

If construction bonds have been posted, they may only be released upon the certification of the Commissioner of Public Works and the Town Attorney that all the requirements of the bond have been satisfied.

(6)

If the Town decides at any time during the term of the construction bond that the extent of the development that has taken place is not sufficient to warrant all the improvements covered by such bond, that the required improvements have been installed in a sufficient amount to warrant a reduction in the face amount of said bond or that the character and extent of such development requires additional improvements, the Town may mandate an increase or decrease in the face value of such construction bond by any appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board.

C.

Inspections; as-built plans.

(1)

Routine inspections.

(a)

All improvements will be inspected by the Town Engineer to ensure satisfactory completion. In no case shall any paving work, including prime and seal coats, be done without permission from the Town Engineer. At least five days' notice shall be given to the Town Engineer prior to any such construction so that a representative of the Town may be present at the time work is to be done. The Town Engineer shall be notified after each of the following phases of the work has been completed so that he or his representative may inspect the work:

[1]

Road subgrade.

[2]

Curb and gutter forms.

[3]

Road paving, after each coat in the case of priming and sealing.

[4]

Sidewalk forms.

[5]

Sanitary sewers, drainage pipes and other drainage structures before backfilling.

[6]

All underground utilities prior to backfilling.

(b)

If the Town Engineer or other duly designated representative does not carry out inspection of required improvements during construction, the subdivider or the bonding company shall not in any way be relieved of his or its responsibilities.

(2)

As-built plans. The Town Engineer will prepare as-built plans of the parcel's improvements, to include the locations of waterlines, sewer lines, drainage improvements, valves, manholes, pavement widths, curbs, sidewalks and any other information the Commissioner of Public Works may request.

(3)

If the Commissioner of Public Works, the Superintendent of Sewer and Water or the Town Engineer shall find or cause to have found that any of the required improvements have not been installed or constructed in accordance with the approved site plan, he shall so report to the Town Board, Planning Board, Town Clerk and Building Inspector.

(a)

Upon receipt of such notification, the Town Board shall notify the owner/developer and, if necessary, the bonding company and take any and all necessary steps to preserve the Town's rights under the bond.

(b)

If the owner/developer has posted a construction bond, the Town Board shall declare said bond in default and utilize the funds to install such improvements as were covered. In no event shall the Town install improvements exceeding the dollar amount of the construction bond.

(c)

No additional plans shall be accepted or approved by the Planning Board or Building Inspector as long as the owner/developer is in default or not in compliance with a previously approved plan.

(4)

Inspection fee. The owner/developer is responsible for the payment of all inspections, as-built drawings and related costs. Initially, an inspection fee of a percentage to be set by resolution of the Town Board, of the amount of the construction costs shall be paid to the Town, prior to the time that the Chairman of the Planning Board signs the final plat or the start of any site improvement work.

[Amended 3-23-2006 by L.L. No. 3-2006]

ARTICLE XIII Zoning Board of Appeals (§ 249-43 - § 249-48)

§ 249-43 General responsibilities of members; composition.

A.

The Zoning Board of Appeals of the Town of Wallkill shall be governed by the provisions of all applicable state statutes, local laws and ordinances.

B.

The Board shall become familiar with all the duly enacted ordinances and laws of the Town of Wallkill under which it may be expected to act, as well as with the applicable state statutes.

C.

The Board shall become familiar with the community goals, desires and policies, as expressed in the Town of Wallkill Master Plan, and shall grant the minimum relief which will ensure that the goals and policies of the plan are preserved and substantial justice is done.

D.

The Board shall consist of seven members appointed by the Town Board.

(1)

All members shall serve for terms of three years.

[Amended 8-28-2003 by L.L. No. 7-2003; 5-10-2007 by L.L. No. 6-2007]

(a)

Said terms shall be established so as to expire at staggered time intervals.

(b)

If a vacancy occurs by means other than expiration of the term, it shall be filled by the Town Board for the remainder of the unexpired term.

(c)

Any member may be removed by the Town Board, for just cause, after a public hearing.

(d)

Said just cause shall include absence from two or more consecutive regular meetings or more than five meetings in a calendar year.

(2)

The Town Board may designate the Chairman of the Zoning Board of Appeals.

(a)

The Chairman shall perform all duties required by all laws and ordinances.

(b)

He shall preside at all meetings of the Board.

(c)

The Chairman shall decide on all points of order and procedure.

(d)

The Chairman shall appoint any standing or special committees found necessary to carry out the business of the Board.

(e)

The Chairman may administer oaths and compel the attendance of witnesses as necessary to carry out the business of the Board.

(f)

The Chairman's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.

(3)

The Zoning Board of Appeals shall appoint an Acting Chairman and a Secretary at its annual meeting.

(a)

The Acting Chairman shall serve in the absence of the Chairman.

(b)

The Acting Chairman shall have all the powers of the Chairman during his absence, disability or disqualification.

(c)

The Secretary shall keep records of all Board examinations and any other official actions.

§ 249-44 Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law, which are more particularly specified below, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

A.

Interpretations. Any board, agency or official of the Town or any member of the general public may request an interpretation concerning:

(1)

A determination of the meaning of any portion of the text of this chapter.

(2)

A determination of the exact location of any district boundary shown on the Official Zoning Map of the Town.

B.

Appeals. The Board shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of any local law or ordinance adopted by the Town.

(1)

Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Town.

(2)

An appeal must be made within 30 days of the action of the administrative official appealed from. The applicant must file a notice of such appeal with the administrative official from whom the appeal is taken and with the Board.

C.

Variances. The Board may grant such variances from the terms of this chapter as will not be contrary to the public interest where, owing to exception and extraordinary circumstances, there are unnecessary hardships in the way of carrying out the strict letter of the law.

(1)

Area variances. These are utilized when an applicant requests relief, usually of a dimensional nature, from such as yard requirements, setback lines, lot coverage, frontage requirements, etc.

(a)

These variances may be granted upon showing of practical difficulties by the applicant on whose shoulders rests the burden of proof.

(b)

In granting relief for an area variance, the Board should grant the minimum relief necessary to allow the reasonable use of the land.

(2)

Use variance. These are utilized where an applicant desires to use his land for a use not allowed in the particular district. Since the Zoning Board of Appeals has no power to amend a zoning law or map, extreme care should be taken when considering use variances that the action taken does not, in effect, amend the law.

D.

All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board. All applications shall be accompanied by a fee as established by the Town Board. No fee shall be charged for an interpretation as made pursuant to Subsection A.

E.

Each application shall be accompanied by a proposed plan showing the size and location of the lot and a site plan showing the location of all existing and proposed buildings and structures, all access drives, parking areas, landscaping and all streets within 200 feet of the site.

F.

Every application shall refer to the specific section of the law involved and all other pertinent facts involved.

§ 249-45 Meetings.

A.

Regular meetings. The Board shall establish its own regular meeting date, to be held at the Town of Wallkill Town Hall.

B.

Annual meeting. The annual organizational meeting of the Board shall be the first regular meeting of the year after the Town Board's reorganization meeting.

C.

Special meetings. Special meetings of the Board may be called by the Chairman. At least 72 hours' notice shall be given each member of the Board. The Chairman shall also call a special meeting within 10 days of the receipt of a written request from any four (a majority of the Board) members of the Board.

D.

Cancellation of meetings. Whenever there are no appeals, variance applications or other business to transact at a regular meeting, the Chairman may dispense with such meeting by notice to all members at least 48 hours prior to the meeting.

E.

Proceedings. The order of business at regular meetings shall be as follows: roll call; approval of the minutes of the preceding meeting; actions on cases that have been held over; public hearings, when scheduled; other business; adjournment.

§ 249-46 Quorum; voting.

A.

Quorum. A quorum shall consist of at least four members of the Board. No hearing or meeting of the Board shall be held nor any action taken in the absence of a quorum.

B.

Voting. All matters shall be decided by a roll call vote.

(1)

Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board. A tie vote or a favorable vote by a lesser number than the required majority shall be considered a rejection of the matter under consideration.

(2)

No member of the Board shall sit on a hearing or vote on any matter in which he possesses a conflict of interest. Said member shall not be counted by the Board in establishing the quorum for such matter.

(3)

No member shall vote on the determination of any matter requiring a public hearing unless he has attended the public hearing thereon. However, where such a member has familiarized himself with such matter by reading the minutes, he shall then be qualified to vote.

§ 249-47 Public hearings.

A.

Time of hearing. The Board shall schedule a hearing on all appeals or applications within 60 days of the filing of the appeal or application.

B.

Notice of hearing. The Board shall have public notice of the hearing given at least 10 days prior to the date thereof by publication in the official newspaper of the Town.

(1)

Also, the applicant shall cause notice to be given to all owners of property within 300 feet of the site except when the site is within those zones designated RA - Rural Agricultural District, where all properties within 1,000 feet of the site shall be noticed, or such additional distance as the Board may deem advisable.

[Amended 9-10-2004 by L.L. No. 9-2004]

(a)

Such notice shall be mailed by certified mail and proof of compliance shall be given the Board before the hearing is commenced.

(b)

The owners shall be those whose names appear on the latest Town tax rolls.

(2)

If the property for which the appeal or application is being applied for is located within 500 feet of a municipal boundary, boundary of an existing or proposed county or state park or other recreation area, a right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or any other county- or state-owned land, the application shall be forwarded to the Orange County Planning Department for its review and action.

(a)

The Orange County Planning Department shall have 30 days in which to render a decision on any such appeal or application.

(b)

If, within the thirty-day period, the Orange County Planning Department disapproves the proposal or recommends modifications thereof, the Zoning Board of Appeals shall not act contrary to such disapproval or modification except by a vote of a majority plus one of the full Board. If the required vote is obtained to override the county's disapproval, the Board must pass a resolution fully setting forth the reasons for such action.

(3)

At least 10 days prior to the date of the hearing, the Board shall transmit a copy of any appeal or application, together with a copy of the notice, to the Planning Board. The Planning Board may submit an advisory opinion on said appeal or application to the Zoning Board of Appeals at any time prior to the rendering of a decision.

(4)

Form of notice. Such notice shall state the location of the building or lot; the general nature of the question involved; the date, the time and place of the hearing; and the nature of the relief sought.

C.

Proceedings. The order of business at a public hearing shall be as follows: The Chairman shall read the notice and give a brief statement of the case; any correspondence and reports received thereon shall be read; the applicant presents his case; questions from the public; questions from the Board; rebuttal by both sides; adjournment of the hearing; and decision by the Board.

D.

General rules. Any applicant may appear in person, by agent or attorney. The Chairman or, in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.

§ 249-48 Decisions.

A.

Time of decisions. Decisions by the Board shall be made not later than 60 days from the date of the public hearing.

B.

Basis for decision. The Board, in reaching said decision, shall be guided by standards in all applicable laws and ordinances, as well as by the community goals and policies as set forth in the Town of Wallkill Master Plan, and by the findings of the Board in each case.

C.

Findings. The findings of the Board, and the supporting facts, shall be spelled out in detail regardless of whether they are based on evidence submitted or on the personal knowledge of the Board.

(1)

In general, the Board should show that:

(a)

It has made an intelligent review of the question.

(b)

It has considered all of the information or evidence.

(c)

It has heard all parties in question.

(d)

Any knowledge it has of the subject under question has been taken into account.

(e)

It has made a personal inspection of the parcel in question and from this examination certain findings were ascertained.

(2)

Findings of facts for area variances. When the variance requested is an area variance, the Board may grant said variance upon the finding that:

(a)

There are practical difficulties, such as:

[1]

How substantial the variation is in relation to the requirement.

[2]

The effect, if the variance is allowed, of the increased population density, if any, thus produced on available government facilities (fire, water, waste disposal, etc.).

[3]

Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created.

[4]

Whether the difficulty can be obviated by some method feasible for the applicant to pursue, other than a variance.

[5]

Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

(b)

The variance would observe the spirit of the law and would not change the character of the district.

(c)

The variance would observe the intent of the Town of Wallkill Master Plan.

(3)

Findings of facts for use variances. When the variance requested is a use variance, the Board may grant said variance upon the finding that:

(a)

The land in question cannot yield a reasonable return if used only for a purpose allowed in the district in question. The applicant must show that he is suffering a hardship because of the zoning regulations; that his property cannot be put to a permitted use that will provide a reasonable return under normal conditions. Proof of a more profitable return if the use variance is granted is not itself evidence of hardship.

(b)

The use to be authorized will not alter the essential character or quality of the neighborhood.

(c)

The use variance, if granted, does not effect the letter and spirit of the Zoning Law.

(d)

Strict application of the Zoning Law would produce undue hardship and that the hardship is not self-created.

(4)

In all decisions of the Board, it shall be the duty of said Board to attach such conditions and safeguards as may be required in order that the results of its action may be in as close accord with the spirit and intent of this chapter as possible.

D.

Filing of decisions. Decisions of the Board shall be recorded in accordance with the standard forms adopted by the Board, shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be by resolution and each shall be filed in the office of the Town Clerk, by case number, together with all documents pertaining thereto. The Board shall also notify the Planning Board, Building Inspector, the Orange County Planning Department if its action was mandatory on the given application, and the Town Board of each decision.

E.

Expiration of approvals. Unless otherwise specified, all approvals shall be null and void after a period of six months following the date of the decision, unless construction has commenced and is diligently pursued. The mere issuance of a building permit shall in no way be construed as fulfilling this subsection.

F.

Extension of approvals. Prior to the expiration of the six-month validity period for a variance, the applicant may petition the Zoning Board of Appeals for an extension of the variance approval. In no event may the extension of the time exceed six months.

ARTICLE XIV Amendments (§ 249-49 - § 249-49)

§ 249-49 Procedure.

This chapter, or any part thereof, may be amended, supplemented or repealed from time to time by the Town Board on its own motion, on petition or upon recommendation by the Planning Board as provided in § 274 of the Town Law of the State of New York,

Editor's Note: Section 274 of the Town Law was repealed by L. 1992, c. 663, § 1. For current provisions, see § 271 of the Town Law.

in the manner as provided by § 265 of the Town Law of the State of New York.

A.

Every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. Unless the Planning Board fails to render such report within 60 days after its next regularly

scheduled meeting following the date of such referral, the Town Board shall not take action on any such amendment without recommendation from the Planning Board. If such report is received by the Town Board, it shall become an official part of the minutes of the mandatory public hearing held by the Town Board.

[Amended 7-22-2004 by L.L. No. 5-2004]

(1)

Within 30 days after such referral by the Town Board, the Planning Board shall hold a public informational hearing on the matter.

(2)

Within 30 days after the public informational hearing, the Planning Board shall render its advisory opinion to the Town Board. In rendering such an opinion on the proposed amendment, the Planning Board shall make an inquiry and determination concerning the items specified below:

(a)

Text. Concerning a proposed amendment to or change in the text of this chapter:

[1]

Whether such change is consistent with the aims and principles embodied in this chapter to the particular districts concerned.

[2]

Which areas and establishments in the Town will be directly affected by such change and in what way they will be affected.

[3]

The indirect effect of such change on other regulations.

[4]

Whether such proposed amendment is consistent with the aims of the Town of Wallkill Master Plan.

(b)

Map. Concerning a proposed amendment involving a change in the Zoning Map:

[1]

Whether the uses permitted by the proposed change would be appropriate in the area concerned.

[2]

Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.

[3]

Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

[4]

The effect of the proposed amendment upon the growth of the Town as envisioned by the Town's Master Plan.

[5]

Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Town and the probable effect thereof.

B.

Public hearing. By resolution adopted at a stated meeting, the Town Board shall fix the time and place of the public hearing on the proposed amendment and cause notice to be given in accordance with the provisions of §§ 264 and 265 of the Town Law of the State of New York.

(1)

Where the land involved in any proposed amendment (whether it be text or map) is located within 500 feet of any municipal boundary, boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or the existing or proposed right-of-way of any stream or drainage channel owned by the county or from which the county has established channel lines, or from the existing or proposed boundary of any county- or state-owned land, such application, accompanied by the notice of the public hearing, shall be forwarded to the Orange County Planning Department for review at least 10 days prior to the date of the public hearing in accordance with the provisions of §§ 239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York.

(2)

Should any proposed amendment involve any area within 500 feet of the boundary of any other municipality, a copy of the notice of public hearing shall be transmitted to the Clerk of such other municipality at least 10 days prior to the public hearing.

(3)

All public hearing notices shall specify:

(a)

The nature of any proposed amendment.

(b)

The land or district affected.

(c)

The date and time when and the place where the public hearing will be held.

C.

Decisions.

(1)

In all cases where the Town Board shall approve an amendment, the Town Board shall find that, for reasons fully set forth in the findings, such amendment is in conformity with the Master Plan of the Town of Wallkill.

(2)

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of the Town Law of the State of New York.

ARTICLE XV Interpretation (§ 249-50 - § 249-51)

§ 249-50 Interpretation and scope.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with the rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelters or premises, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; however, that where this chapter imposes a greater restriction upon the use of buildings or premises, or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit, or by any easement or agreement, the provisions of this chapter shall control.

§ 249-51 Conflicts with other legislation.

In the event of any conflict between any provisions of this chapter, the more restrictive provisions shall control.

ARTICLE XVI Penalties for Offenses (§ 249-52 - § 249-57)

§ 249-52 Unlawful activities.

It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or portion thereof in violation of any provision of this chapter or fail in any manner to comply with a notice, directive or order of the Building Inspector or to construct, alter, use or occupy any building, structure or part thereof in any manner not permitted by an approved building permit or certificate of occupancy.

§ 249-53 Penalties for noncompliance.

[Amended 7-25-1996 by L.L. No. 7-1996]

Any person who shall fail to comply with a written order of the Building Inspector within five days following written notice served by mail or by personal service by the Building Inspector that a violation of any provision of this chapter exists, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate shall be guilty of a violation and, upon conviction thereof, shall be subject to a fine of not less than \$50 per day or imprisonment for a period not to exceed six months, or both, and in addition shall pay all costs and expenses incurred by the Town in determining such violation. Each and every day that such violation continues shall constitute a separate violation. Any violation that is only temporarily corrected shall constitute a continuation of the original violation and be punishable accordingly without the necessity of reservice of a notice to remedy said violation.

§ 249-54 Prosecution.

Penalties shall be collected and violations of this chapter shall be prosecuted in the manner prescribed by law or ordinance effective in the Town of Wallkill.

§ 249-55 Classification of offenses.

Except as provided otherwise by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

§ 249-56 Nonapplicability.

[Amended 7-25-1996 by L.L. No. 7-1996]

This section shall not apply to violations of the provisions of the State Building Construction Code punishable under § 382 of the Executive Law of the State of New York, nor to violations of the provisions of the Multiple Residence Law punishable under § 304 of the Multiple Residence Law of the State of New York.

§ 249-57 Abatement.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises; and these remedies shall be in addition to the penalties prescribed in the preceding section.

ARTICLE XVII Administration and Enforcement (§ 249-58 - § 249-60)

[Added 2-25-1988 by L.L. No. 4-1988]

§ 249-58 Building permit.

A.

No building, structure or sign in any district shall be erected, added to, moved or structurally altered without a building permit duly issued upon application to the Building Inspector. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter or any other applicable law. Any building permit issued in violation of the provisions of this chapter shall be null and void and of no effect, and any work undertaken or use established pursuant to any such permit shall be unlawful.

B.

Application.

(1)

Application for a building permit shall be made to the Building Inspector on forms provided by him and shall contain the following information:

(a)

The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any, if they are corporations.

(b)

The valuation of the proposed work.

(c)

Such other information as may reasonably be required by the Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.

(2)

Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work.

C.

Plans and specifications.

(1)

Content. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications indicating the nature and character of the work to be performed and the materials to be incorporated, the details of structural, mechanical and electrical work and the design of the septic system, if applicable.

(2)

Signature. Plans and specifications shall bear the signature of the person responsible for the design and drawings.

(3)

Amendment. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Building Inspector.

D.

Plot plans. Every application for a building permit shall be accompanied by a plot plan drawn to scale showing:

(1)

The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected or of the lot on which it is situated if an existing building.

(2)

The section, block and lot numbers as they appear on the official tax records.

(3)

The exact size and locations on the lot of the proposed building or buildings or alterations of an existing building and of other existing buildings on the same lot.

(4)

The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.

(5)

The existing and currently intended use of all buildings, existing or proposed, and the number of dwelling units the building is designed to accommodate.

(6)

Such topography or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.

(7)

Information on percolation tests taken at suitable intervals and information as to depth to water table will be required where the applicant proposes new construction or new or expanded septic systems. In such instances, the septic system design shall be signed and stamped by a professional engineer licensed by the State of New York.

(8)

The Building Inspector may vary or waive the above requirements in specific instances for cause.

E.

Building permit fees.

(1)

Upon the filing of an application for a building permit, all applicable fees shall be payable. Such fees shall be established by the Town Board.

(2)

In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of the fee paid. Once construction work has been initiated, the fees shall not be refunded.

F.

Frontage and access. No building permit shall be issued for the construction or alteration of any building upon a lot without frontage upon a street improved to the satisfaction of the Town of Wallkill and meeting the requirements of § 280-a of the General Town Law of the State of New York.

G.

Compliance with plans approved by the Planning Board. No building permit shall be issued for any building where the use and/or lot is subject to subdivision, site plan or special use permit approval by the Planning Board except in complete conformity with such authorization and the plans approved by the Planning Board.

H.

Compliance with Zoning Law. No building permit shall be issued for any building where the lot and/or use is not in conformity with all applicable provisions of this Zoning Law, except where a variance has been granted by the Zoning Board of Appeals.

I.

Variance. No building permit shall be issued for a building for which a variance has been granted by the Zoning Board of Appeals except in conformance with the conditions established by said Board.

J.

Duplicate documentation. The application and all supporting documentation shall be submitted in duplicate.

K.

Issuance of building permit.

(1)

Examination. The Building Inspector shall examine or cause to be examined all applications for permits, together with the plans, specifications and documents filed therewith.

(2)

Approval. Upon approval of the application for a building permit, the Building Inspector shall issue a building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto. Both sets of plans and specifications shall be endorsed with the word "APPROVED."

(3)

File copy. One set of such approved application, plans and specifications shall be retained in the files of the Building Inspector.

(4)

The other set of such approved applications, plans and specifications shall be returned to the applicant, together with the building permit.

L.

Denial of building permit. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building regulations and zoning laws, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. The Building Inspector shall state in writing the reasons for such denial.

M.

Performance of work under building permit.

(1)

The issuance of a building permit shall constitute authority to the applicant to proceed with the work in conformance with the approved application, plans and specifications and in accordance with the applicable building laws, ordinances or regulations.

(2)

Throughout the entire course of construction, the applicant shall cause the building permit number to be posted conspicuously on the building site.

N.

Expiration. Every building permit shall expire if the work authorized has not commenced within six months after the date of issuance, except, upon request, the Building Inspector may grant up to two three-month extensions. Following the commencement of construction, the building permit shall remain valid until the construction is completed, provided that the work is diligently pursued.

O.

Revocation of building permit. The Building Inspector may revoke a building permit theretofore issued and approved in the following instances:

(1)

Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

(2)

Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

(3)

Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

(4)

Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

P.

Stop orders. Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building law, ordinances or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such stop order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed, either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

Q.

Road Maintenance.

[Added 5-10-2007 by L.L. No. 8-2007]

(1)

It shall be the responsibility of an applicant for a building permit for a residential dwelling on a road which is offered, or to be offered, to the Town of Wallkill to maintain and keep open said road, at the applicant's sole cost and expense, for emergency vehicles until such time as the road is accepted by the Town of Wallkill.

(2)

Before a building permit may be issued for construction of a residential dwelling on a road offered or to be offered for dedication to the Town of Wallkill, the applicant shall deposit with the Town of Wallkill a cash bond in the amount of \$1,500 for each residential dwelling for which a building permit is sought, as security to assure that the applicant shall keep and maintain the road so offered, or to be offered, free of construction debris, plowed of snow, sanded, salted, and otherwise clear, in safe condition and open for use by emergency vehicles at all times. Said bond shall be in addition to any other bonding required under this Code.

(3)

In the event that the applicant shall fail to maintain the road as required herein, the Building Inspector shall be authorized to issue a stop-work order, pursuant to § 249-58P, or to issue a violation notice, pursuant to § 249-53. In addition, in the event the Building Inspector, in his discretion, shall determine that the applicant has failed to maintain the road such that imminent threat to the public health, safety, convenience, or general welfare is presented, including particularly to the residents occupying dwellings on said road, then the Building Inspector shall advise the applicant forthwith and, in the event said imminent threat is not remedied within a period of not less than 24 hours, the Town of Wallkill shall be empowered, but not required, to enter upon the road, without further notice of any kind to applicant, to take whatever measures are appropriate to ensure that the road is kept free of construction debris, plowed of snow, sanded, salted, and otherwise clear, in safe condition and open for use by emergency vehicles at all times. The applicant shall indemnify and hold the Town of Wallkill harmless from any measures taken to ensure that the road is free of construction debris, plowed of snow, sanded, salted, and otherwise clear, in safe condition and kept open for use by emergency vehicles, including the cost of contractors, materials, and labor, and cash bond(s) may be used by the Town of Wallkill to cover the cost of same. In the event that there is more than one applicant on said road, then each shall be liable jointly and severally for the cost of any and all measures taken by the Town of Wallkill under this section.

(4)

In the alternative, in lieu of the Town of Wallkill entering upon the road to ensure that the road is kept free of construction debris, plowed of snow, sanded, salted, and otherwise clear, in safe condition and open for use by emergency vehicles at all times, after at least 24 hours notice from the Building Inspector, any resident occupying a residential dwelling on said road shall be empowered and entitled to take such action as may be deemed reasonably necessary to ensure that the road is maintained and kept open, and the reasonable cost and expense actually incurred by said owner shall be the responsibility of and indemnified by the applicant.

(5)

Prior to and as a condition of issuance of a certificate of occupancy for any residential dwelling on a road offered or to be offered to the Town of Wallkill, the applicant shall provide a temporary mailbox, in a form satisfactory to the United States Postal Service, in a location reasonably accessible to the owner of the residential dwelling and the United States postal carrier, along the nearest adjacent public road.

§ 249-59 Certificate of occupancy.

A.

New construction. No building or structure hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector.

B.

Alteration. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than 14

days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the Building inspector.

C.

Change of use. No change shall be made in the use or type of occupancy of an existing building, whether conforming or nonconforming, unless a certificate of occupancy authorizing such change shall have been issued by the Building Inspector.

D.

Requirements.

(1)

Affidavit. The owner or his agent shall make an application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector an affidavit of the registered architect or licensed professional engineer who supervised the construction of the work or of the superintendent of construction who supervised the work and who, by reason of his experience, is qualified to superintend the work or the builder, if none of the above were utilized, for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought and that the structure has been erected in accordance with the approved plans and, as erected, complies with the laws governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.

(2)

Electrical inspection certificate. A copy of the certificate of proper completion issued by the New York Board of Fire Underwriters, if applicable, shall accompany the application for a certificate of occupancy.

(3)

Septic system inspection. A copy of a letter from the licensed professional engineer who designed the septic system, attesting to its proper installation and his inspection thereof and bearing his stamp, shall accompany the application for a certificate of occupancy, if applicable.

(4)

Site improvements. A copy of a letter from the Town's Planning Department stating that all proposed site improvements have been constructed as per the plans which were approved by the Town's Planning Board shall accompany the application for a certificate of occupancy, if applicable.

(5)

Inspection. Before issuing a certificate of occupancy, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit

to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

(6)

Filing. There shall be maintained in the office of the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the law.

E.

Issuance of certificate of occupancy.

(1)

Uses permitted upon authorization and approval of plans by the Planning Board. No certificate of occupancy shall be issued for any use of a building or of land requiring authorization and approval of plans by the Planning Board unless and until such authorization and approval has been duly issued by said Board.

(2)

Variance. Every certificate of occupancy in connection with which a variance has been granted by the Zoning Board of Appeals shall contain a detailed statement of such variance and of any conditions to which the same is subject.

(3)

Subdivisions and buildings. No certificate of occupancy for any building, whether or not part of an approved subdivision, where bonds have been posted under any other section of the law shall be issued by the Building Inspector until all the improvements, including water supply system, sewage disposal system, roads, sidewalks and any other requirements of the Planning Board, have been completed in every detail and approved by the appropriate authorities.

(4)

Action. A certificate of occupancy shall be issued, where appropriate, within 14 days after complete and proper application has been made.

(5)

Issuance. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate of occupancy upon the form provided by him.

(6)

Denial. If it is found that the proposed work has not been properly completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

(7)

Certification. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, ordinances and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

(8)

Recording. A record of all certificates of occupancy shall be kept in the office of the Building Inspector, and copies shall be furnished on request to any agency of the Town or to any persons having a proprietary or tenancy interest in the building or land affected.

F.

Tests. Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 249-60 Powers and duties of Building Inspector.

A.

Designation of Building Inspector as public official. There is hereby designated in the Town of Wallkill a public official to be known as the "Building Inspector," who shall be appointed by the Town Board at a compensation to be fixed by it.

B.

Appointment of Assistant Building Inspectors. The Town Board may appoint one or more Assistant Building Inspectors, as the need may appear, to act under the supervision of the Building Inspector and to exercise any portion of his power and duties. The compensation of such Assistant Building Inspectors shall be fixed by the Town Board.

C.

Acting Building Inspector. In the absence of the Building Inspector or in the case of his inability to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act on the behalf of the Building Inspector and to exercise all of the powers conferred upon him by law.

D.

Restrictions on employees. No officer or employee of the Building Department shall engage in any activity inconsistent with his/her duties or with the interests of the Building Department and the Town of Wallkill, nor shall he/she, during the term of his/her employment, be engaged directly or indirectly in any real estate or building business, in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof, within the Town of Wallkill, excepting only that this provision shall not prohibit any employee from such activities in connection with the construction of a building or structure owned by him/her and not constructed for sale.

E.

Administration and enforcement. Except as otherwise specifically provided by law, ordinance or regulation or except as herein otherwise provided, the Building Inspector shall administer and enforce all the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal and demolition of building and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof, such administration and enforcement to be in accordance with the most strict interpretation of all pertinent laws, ordinances and regulations.

F.

Issuance of permits and certificates. He shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the permits that have been issued for the purpose of ensuring compliance with laws, ordinances and regulations governing building construction and, upon application, of certifying fitness for occupancy.

G.

Insurance of compliance. He shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations.

H.

Inspection. The Building Inspector shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from assistant inspectors or other employees of the Building Department, Planning Department or Highway Department. The Building Inspector or his duly authorized assistant(s), upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

I.

Tests. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, the Building Inspector may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

J.

Complaints of violations. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed by the complainant and filed with the Building Inspector or his duly authorized representative. The Building Inspector shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken consequent to each complaint, which records shall be public records.

K.

Records. The Building Inspector shall keep permanent official records of all transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection, upon proper request, during business hours.

L.

Reports. The Building Inspector shall be present at each regular meeting of the Town Board and shall, monthly as well as annually, submit to the Town Board a written report and summary of all business conducted by the Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, appeals or litigation pending and all complaints of violations, with the action taken by him consequent thereon.

M.

Cooperation of other departments. The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Police, Fire and Health Departments, of officers and of all other Town officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

ARTICLE XVIIIA Stormwater Control (§ 249-61 - § 249-79)

Editor's Note: For additional provisions regarding stormwater control, see Ch. 203, Stormwater Management.

[Added 8-24-2006 by L.L. No. 10-2006]

§ 249-61 Stormwater pollution prevention plan requirement.

No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

§ 249-62 Contents of stormwater pollution prevention plans.

A.

All SWPPPs shall provide the following background information and erosion and sediment controls:

(1)

Background information about the scope of the project, including location, type and size of project;

(2)

Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area at a scale of no smaller than one inch equals 100 feet; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

(3)

Description of the soil(s) present at the site;

(4)

Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than three acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

(5)

Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(6)

Description of construction and waste materials, expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;

(7)

Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control, and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

(8)

A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(9)

Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(10)

Temporary practices that will be converted to permanent control measures;

(11)

Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(12)

Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(13)

Name(s) of the receiving water(s);

(14)

Delineation of SWPPP implementation responsibilities for each part of the site;

(15)

Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(16)

Any existing data that describes the stormwater runoff at the site.

B.

Land development activities as defined in § 249-3 of this chapter and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection C below as applicable:

(1)

Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(2)

Condition B: Stormwater runoff from land development activities disturbing five or more acres.

(3)

Condition C: Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

C.

SWPPP requirements for Conditions A, B and C:

(1)

All information in Subsection A;

(2)

A description of each post-construction stormwater management practice;

(3)

Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

(4)

Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

(5)

Comparison of post-development stormwater runoff conditions with pre-development conditions;

(6)

Dimensions, material specifications and installation details for each post-construction stormwater management practice;

(7)

Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;

(8)

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

(9)

Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 249-68.

§ 249-63 Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.

§ 249-64 Other environmental permits.

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

§ 249-65 Contractor certification.

A.

Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

B.

The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

C.

The certification statement(s) shall become part of the SWPPP for the land development activity.

§ 249-66 SWPPP copy on site.

A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 249-67 Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

A.

Technical standards. For the purpose of this article, the following documents shall serve as the official guide and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

Editor's Note: See also Ch. 203, Stormwater Management.

(1)

The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual"); and

(2)

New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

B.

Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 249-68 Maintenance and repair of stormwater facilities.

A.

Maintenance during construction.

(1)

The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2)

The applicant or developer or his or her representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

B.

Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Wallkill to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article.

Editor's Note: The Sample Stormwater Control Facility Maintenance Agreement is on file in the Town offices.

The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Wallkill.

C.

Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall operate and maintain the stormwater management practices to achieve the goals of this article.

Editor's Note: See also Ch. 203, Stormwater Management.

Proper operation and maintenance also includes as a minimum, the following:

(1)

A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article;

(2)

Written procedures for operation and maintenance and training new maintenance personnel; and

(3)

Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 249-67B.

D.

Maintenance agreements. The Town of Wallkill shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Orange County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Wallkill, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 249-69 (Reserved)

§ 249-70 (Reserved)

§ 249-71 (Reserved)

§ 249-72 (Reserved)

§ 249-73 (Reserved)

§ 249-74 (Reserved)

§ 249-75 (Reserved)

§ 249-76 (Reserved)

§ 249-77 (Reserved)

§ 249-78 (Reserved)

§ 249-79 (Reserved)

ARTICLE XVIII Additional Provisions (§ 249-80 - § 249-100)

§ 249-80 Conservation subdivisions.

[Added 11-30-2005 by L.L. No. 12-2005

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

]

A.

Intent and purpose. The purpose of the section is to allow future subdivision of land and the construction of new homes in the Town of Wallkill to be creatively designed and located in the landscape in a way that protects the natural resources and existing character of the Town. In addition to this general purpose, conservation subdivisions shall promote the following objectives:

(1)

Maintain the rural and open character of the Town and encourage the preservation of open space.

(2)

Protect important views and scenic corridors as well as steep slopes, hillsides, and ridges.

(3)

Conserve scenic resources of rural corridors and roads and reduce the occurrence of strip development.

(4)

Protect historic, archeological, and cultural features.

(5)

Protect valuable wildlife and habitat areas.

(6)

Locate buildings and structures on portions of the site that are most appropriate for development considering development suitability and conservation importance.

(7)

Allow for site design that provides flexibility and encourages a more practical lot layout, utility, and transportation network and facilitate the construction and maintenance of streets, utilities and public services in an economical and efficient manner.

(8)

Encourage site design that is appropriate to the existing setting and consistent with surrounding land use and development patterns.

(9)

Reduce adverse impacts of growth on surface water and groundwater quality.

(10)

Protect contiguous open space areas and corridors.

(11)

Promote efficient use of land in harmony with its natural features.

(12)

Promote the maintenance of agricultural lands, farmland and farm uses.

(13)

Encourage the creation and provision of neighborhood-scale recreation resources through the subdivision and development process.

B.

Applicability. The Planning Board is authorized to permit use of this section, Conservation subdivisions, for all Type II subdivision applications in the R-1, RA, RA-1, and R-2 Zoning Districts.

[Amended 7-26-2007 by L.L. No. 15-2007]

C.

Procedures.

(1)

All applications being considered under this section shall adhere to the submission requirements set forth within Chapter 209, Subdivision of Land, § 209-7. The following requirements shall be followed in addition to sketch plan submission requirements:

(a)

Determination of lot count.

(b)

Identification of conservation resources and open space requirements.

(c)

Subdivision layout.

(2)

Following completion of these requirements, the applicant may submit a preliminary plat per § 209-9 for major subdivisions and request final approval under § 209-8 for minor subdivisions.

(3)

Determination of lot count. To determine the maximum number of lots within a conservation subdivision at the sketch plan phase, the applicant shall submit to the Planning Board a conventional subdivision plan showing the number of approvable lots on the parcel meeting the area and dimensional requirements of a Type II subdivision within the underlying district (as, if provided). The final number of lots shall be subject to Planning Board approval or request for modification of the applicant's submission during sketch plan review.

(4)

Conservation resources, areas, and requirements.

(a)

Tract resource map. The applicant shall develop a tract resource map and conduct a conservation analysis according to the procedures set forth below to identify the site's resources and unique features. The conservation analysis will assist in the design evaluation process for the site layout of the development area and will help identify the site's conservation areas. At a minimum, the following resources shall be included on the tract resource map:

[1]

Existing farms and farmland.

[2]

Lands that adjoin other conservation lands and larger tracts of land which have the potential to create continuous networks of conservation.

[3]

Environmentally sensitive lands such as streams and water bodies, wetlands, floodplains, steep slopes, natural habitats, etc.

[4]

Scenic rural roads and viewsheds.

[5]

Historic structures and other cultural features such as stone walls, old barns, and foundations.

[6]

Forested and vegetated areas.

[7]

Proposed land for recreational use, including all active and passive recreation areas such as ballfields and trails.

(b)

Conservation areas and requirements. Based on the conservation analysis and information provided on the tract resource map, the subdivider shall highlight proposed conservation areas on the site map. For each conservation subdivision a portion of the total lot and a portion of the total buildable acreage must be included within the conservation area. Requirements vary for each residential district and are described below:

[1]

RA and RA-1 Districts:

[Amended 7-26-2007 by L.L. No. 15-2007]

[a]

A minimum of 40% of the site must remain as a permanently protected conservation area through conservation easement enforceable by the Town of Wallkill.

[b]

Within the forty-percent open space a portion of land must be considered buildable. This area is determined as a calculation of the total buildable land on the site. For the RA and RA-1 Districts, a minimum of 15% of the site's total buildable land shall be included in the conservation area.

RA District Example:		[2]
100 acre parcel within the RA District		R-2 District:
	40 acres wetlands and steep slopes (unbuildable)	[a]
	60 acres buildable land	A minimum of 30% of the site must remain as a permanently protected conservation area through conservation easement enforceable by the Town of Wallkill.
Total required open space: 40 acres (40% of 100 acres)		
	Buildable acres required to be included within the 40 acres of open space: 9 acres (15% of 60 buildable acres)	
Summary: The total amount of conservation land required in this example is 40 acres. Within this conservation area, 31 acres could be unbuildable (e.g., wetlands, steep slopes, etc.) while at least 9 acres must be classified as buildable land.		

[b]

Within the thirty-percent conservation area, a portion of this land must be considered buildable. This area is determined as a calculation of the total buildable land on the site. For the R-2 District, a minimum of 10% of the site's total buildable land shall be included in the conservation area.

R-2 District Example:		[3]
50 acre parcel within the R-2 District		R-1 District:
	25 acres wetlands and steep slopes (unbuildable)	[a]
	25 acres buildable land	A minimum of 20% of the site must remain as a permanently protected conservation area through conservation easement enforceable by the
Total required open space: 15 acres (30% of 50 acres)		
	Buildable acres required to be included within the 30 acres of open space: 2.5 acres (10% of 25 buildable acres)	
Summary: The total amount of conservation land required in this example is 15 acres. Within this conservation area, 12.5 acres could be unbuildable (e.g., wetlands, steep slopes, etc.) while at least 2.5 acres must be classified as buildable land.		

Town of Wallkill.

[b]

Within the twenty-percent conservation area, a portion of land must be considered buildable. This is calculated as a percentage of the total buildable land on the site. For the R-1 District, a minimum of 5% of the site's total buildable land shall be included in the conservation area.

	R-1 District Example:	[4]
	30 acre parcel within the R-1 District	Allowed uses within conservation areas.
	10 acres wetlands and steep slopes (unbuildable)	
	20 acres buildable land	
	Total required open space: 6 acres (20% of 30 acres)	[a]
	Buildable acres required to be included within the 30 acres of open space: 1 acre (5% of 20 buildable acres)	Land designated as conservation areas shall be limited to the following uses:
	Summary: The total amount of conservation land required in this example is 6 acres. Within this conservation area, 5 acres could be unbuildable (e.g., wetlands, steep slopes, etc.) while at least 1 acre of the conservation area must be classified as buildable land.	

[ii]

Passive recreation.

[iii]

Active recreation.

[iv]

Stormwater management systems, water supplies and distribution systems.

[v]

Septic systems. (Note: If septic systems are located within the conservation areas, minimum area requirements described herein as well as buildable lot requirements per Section 5 of the Town of Wallkill Subdivision Regulations still apply.)

[vi]

Agricultural or farming operations.

[vii]

Forestry operations with a forest management plan developed by a professional forester participating in the New York State DEC's cooperating forestry program.

[b]

No structure shall be erected upon the lands of such open areas except such as shall be determined by the Planning Board to be incidental to an allowed use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the Planning Board in accordance with Article XI.

(c)

Planning Board approval of conservation areas and uses. The selection of land to be designated as the conservation area and associated uses shall be subject to the approval of the Planning Board. The Planning Board shall base its decision upon consideration of the tract resource map and in consideration of how the submission responds to the purpose and intent of this section.

(d)

Ownership and management of conservation areas.

[1]

Lands designated as conservation areas may be held in private or public ownership. The applicant will provide documentation for review and approval by the Planning Board of the proposed ownership and management entity of the conservation lands. Conservation lands held in private ownership shall be described in a conservation easement and recorded by the Town on the official Zoning Map of the Town and recorded by the County Clerk.

[2]

Ownership shall be with one of the following: the Town; another public agency subject to its acceptance; a qualified organization, including a land trust incorporated with a purpose consistent with the use and management requirements for permanent protection of land; shared, common interest by all property owners in a subdivision; a homeowner, condominium, or cooperative association or organization; or other private ownership encumbered by a conservation easement.

(e)

Acceptance of ownership of conservation areas by Town Board. For all projects proposing Town ownership of conservation areas the planning board shall refer the preliminary subdivision plat to the Town board for a determination on the acceptability of the ownership structure for the proposed conservation areas. The Town may consider but shall not be obligated to accept ownership of any proposed conservation areas, either in fee simple or by conservation easement.

(5)

Subdivision layout: development area, uses, and dimensions.

(a)

Development area and site layout. Once land designated for conservation has been approved by the Planning Board, the applicant shall identify appropriate lands and layout for development on the site. A sketch plan shall be submitted per Article III of Chapter 209, Subdivision of Land.

(b)

Subdivision perimeter setbacks. For conservation subdivision projects within the RA and RA-1 Districts, the building area of new lots shall adhere to the following setbacks:

[Amended 7-26-2007 by L.L. No. 15-2007]

[1]

Two hundred feet from all preexisting Town, county, and state roads (waiver may be requested to not less than 50 feet where vegetated natural buffer will remain).

[2]

Fifty feet from all adjacent properties that are not a part of the new subdivision.

(c)

Planning Board review. The Planning Board shall review the layout of lots and siting of structures for all applications being considered under conservation subdivision in accordance with Article III of Chapter 209, Subdivision of Land. In addition, all projects shall also be reviewed in consideration of conformance with the Town of Wallkill Comprehensive Plan.

(d)

Permitted and special permit uses. The permitted and special uses for the development area within any conservation subdivision shall be the same as the applicable, underlying zoning district.

(e)

Minimum lot size and dimensions. To determine lot dimensions for the conservation subdivision, adherence to the following tables shall be required:

[Amended 7-26-2007 by L.L. No. 15-2007]

[1]

Single-family dwellings located in the RA and RA-1 Zoning Districts. (Note: Table relates to single-family uses only. All other uses shall conform to the dimensional standards detailed within the RA District (§ 249-19) or RA-1 District (§ 249-19.1), respectively.

		RA and RA-1			[2] Single-family dwellings located in the R-2 Zoning District. (Note: Table relates to single-family uses only. All other uses shall conform to the dimensional standards detailed within the R-2 District (§ 249-20).
	Minimum required				
	Lot area (square feet)		32,670		
	Lot width (feet)		150		
	Lot depth (feet)		200		
	Front yard (feet)		35		
	Rear yard (feet)		30		
	One side yard (feet)		30		
	Both side (feet)		60		
	Lot frontage (feet)		150		
	Floor area (feet)		1,000		
	Maximum permitted				
	Maximum lot coverage		30%		
	Maximum building height (feet)		35		
		A	B	C	
	Minimum required				
	Lot area (square feet)		21,780	21,780	32,670
	Lot width (feet)		100	100	150
	Lot depth (feet)		125	125	200
	Front yard (feet)		35	35	35
	Rear yard (feet)		30	30	30
	One side yard (feet)		20	20	30
	Both side (feet)		40	40	60
	Lot frontage (feet)		100	100	150
	Floor area (feet)		600	600	1,000

	Type A: Sewer and Water	[3] Single-family dwelling units in the R-1 Zoning District. (Note:
	Type B: Sewer Only	
	Type C: No Sewer or Water	

Table relates to single-family units only. All other uses shall conform to the dimensional standards detailed within the R-1 district (§ 249-22).

		A	B	C	D.
	Minimum required				Waivers.
	Lot area (square feet) subject to soil and drainage review	10,000	10,000	Soils**	(1)
	Lot width (feet)	80	80	100	To allow for flexibility in site design and layout to meet the goals and intent of this section, any applicant applying for approval of a conservation subdivision may request a waiver from the Planning Board of the following requirements.
	Lot depth (feet)	100	100	125	
	Front yard (feet)	35	35	35	
	Rear yard (feet)	30	30	35	
	One side yard (feet)	15	15	15	
	Both side (feet)	30	30	35	
	Lot frontage (feet)	80	80	100	
	Floor area (square feet)	600	600	600	
	Maximum permitted				(a)
	Lot coverage	35%	35%	25%	One-thousand-foot limit on cul-de-sac length (waiver from § 249-24.2, Culs-de-sac), not to exceed 2,500 feet.
	Building height (feet)	35	35	35	
		Note:			(b)
		**Use soils formula, but no less than 20,000 square feet.			

Roadway width and pavement areas from Town of Wallkill road specifications with authorization from Planning Board and Highway Superintendent.

(c)

Two hundred-foot setback from all preexisting Town, county, and state roads to no less than 50 feet. Reduction in setback requirement may only be awarded where vegetated natural buffer will remain.

(d)

Within the RA and RA-1 Districts, reduction of one-hundred-fifty-foot lot width to no less than 110 feet.

[Amended 7-26-2007 by L.L. No. 15-2007]

(2)

The Planning Board shall provide a statement of findings stating that the waivers granted are commensurate with improvements in project design related to the purpose and intent of this section.

E.

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

BUILDABLE LAND

Lands, excluding water bodies, areas subject to flooding and ponding, areas which have slopes of over 20%, and existing rights-of-way and easements.

RECREATION, ACTIVE

Leisure activities usually performed with others, often requiring equipment and taking place at prescribed places, sites or fields. Active recreation includes but is not limited to swimming, tennis, and other court games, baseball and other field sports, and playground activities.

RECREATION, COMMERCIAL

Recreational activities provided on a fee-for-service basis such as golf courses, driving ranges, country clubs, downhill ski areas, horseback trail rides and similar activities, conservation or game clubs and hunting clubs, but not including such intensive uses as miniature golf operations, race tracks, water slide parks, or amusement parks.

RECREATION, PASSIVE

Recreational activities that generally do not require a developed site. This generally includes such activities as hiking, horseback riding, and picnicking.

§ 249-81 (Reserved)

§ 249-82 (Reserved)

§ 249-83 (Reserved)

§ 249-84 (Reserved)

§ 249-85 (Reserved)

§ 249-86 (Reserved)

§ 249-87 (Reserved)

§ 249-88 (Reserved)

§ 249-89 (Reserved)

§ 249-90 Performance Overlay Zoning District (POD).

[Added 11-30-2005 by L.L. No. 12-2005

Editor's Note: This local law also provided that it shall not apply to properties which had applications that were pending relating to construction of three or more new residential dwelling units and which applications had received, prior to 11-30-2005, preliminary or final site plan, subdivision, special permit or variance approvals, or which had received a SEQRA determination of no significant impact on the environment or for which a draft environmental impact statement had been accepted by the SEQRA lead agency.

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A.

Purpose and intent. The purpose of this overlay is to establish special land use standards and procedures for areas of Wallkill where the Office and Research, Town Center, Enterprise, and Light Enterprise

Districts abut a residential district in order to limit conflicts between business and residential uses in close proximity.

[Amended 7-26-2007 by L.L. No. 15-2007]

B.

Application. The regulations, standards, and procedures of this section shall apply to:

[Amended 7-26-2007 by L.L. No. 15-2007]

(1)

All land in the Office and Research, Town Center, Enterprise, and Light Enterprise Districts within 200 feet of a residential zoning district.

(2)

All land in a residential district within 50 feet of a Office and Research, Town Center, Enterprise, and Light Enterprise District.

C.

Definitions.

[Amended 7-26-2007 by L.L. No. 15-2007]

(1)

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

POD CORE OVERLAY AREA

(a)

One-hundred-foot buffer within the Office and Research, Town Center, Enterprise, and Light Enterprise Districts where said districts abut a residential zone.

(b)

Fifty-foot buffer within all residential districts that abut the Office and Research, Town Center, Enterprise, and Light Enterprise Districts.

POD SECONDARY OVERLAY AREA

Two-hundred-foot buffer within the Office and Research, Town Center, Enterprise, and Light Enterprise Districts where said districts border with a residential district.

(2)

In the case of very small or narrow lots which would become unbuildable with the required buffers, POD overlay buffers may be reduced to a minimum of 25% of the lot width, with additional landscaping and screening as directed and approved by the reviewing board.

D.

Uses.

(1)

POD Core Overlay. No structure, including parking areas, may be placed within the POD Core Overlay Area with the exception of the following:

(a)

Fences and walls to be used for landscaping and screening purposes.

(b)

Accessory structures for residential uses, including sheds and garages (does not include structures for occasional, temporary, or permanent use by persons residing on the site such as swimming pools, decks, and accessory dwelling units).

(2)

POD Secondary Overlay. Land within the POD Secondary Overlay may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions presented herein.

(3)

The following uses are specifically prohibited within the POD:

(a)

Manufacturing, altering, fabricating, assembling, finishing, or processing of products or materials.

(b)

Exercise and amusement establishments, such as bowling alleys, skating rinks, golf driving ranges, miniature golf, pinball and video arcades, dance halls, sports arcades, pool arcades, go-cart racing, target practice, archery and related uses.

(c)

Warehouses and wholesale establishments.

(d)

Hotels, motels and conference centers, etc.

(e)

Bus, truck and railroad freight terminals.

(f)

Auditoriums, conference centers, sports arenas or other similar facilities.

(g)

Airports and heliports.

(h)

Quarry operations for sand, gravel, topsoil or other aggregate.

(i)

Motor vehicles sales establishments.

(j)

Gasoline filling stations.

(k)

Gasoline service stations.

(l)

Motor vehicle repair garages.

(m)

Motor vehicle rental and leasing establishments.

(n)

Outdoor storage of building supplies, raw material or equipment.

(o)

Junkyards.

E.

Area and dimensional standards, maximum allowed:

(1)

Height: 35 feet.

(2)

Building size: 10,000 square feet. Note: No part of any structure larger than 10,000 square feet may be located within the POD.

F.

Landscaping. Applicants for development within the POD shall submit a landscaping plan for review by the Planning Board and the Town's landscape architect. The landscaping plan shall conform to the minimum standards detailed below:

(1)

Within Office and Research, Town Center, Enterprise, and Light Enterprise portions of the POD Core Overlay Area:

[Amended 7-26-2007 by L.L. No. 15-2007]

(a)

Any side yards or rear yards within the POD shall be a minimum of 100 feet in width.

(b)

Parallel to the lot line of such side or rear yard within the first 25 feet in depth from said lot line, but not closer to the lot line than 10 feet, there shall be erected a wood or masonry fence 15 feet high, in front of which shall be planted hedges, trees, shrubbery, or other suitable screening material approved by the Planning Board.

(c)

The Planning Board may allow an alternate mitigation measure to required fencing and buffering after review and approval by the Town's landscape architect.

(2)

Within residential portions of the POD Core Overlay Area:

(a)

Any side yards or rear yards which are adjacent to a Office and Research, Town Center, Enterprise, and Light Enterprise District shall be a minimum of 50 feet in width.

[Amended 7-26-2007 by L.L. No. 15-2007]

(b)

Parallel to the lot line of such side or rear yard within the first 15 feet from said lot line, there shall be planted hedges, evergreens, deciduous trees and other appropriate screening material approved by the Planning Board

G.

Performance standards. The following standards shall apply to all uses and structures located within the POD:

(1)

Privacy. Business uses must not infringe on the privacy of neighbors or their quiet and peaceful enjoyment of their property.

(2)

Traffic and connections. The Planning Board during site plan review may limit and/or require vehicle or pedestrian interconnections between neighboring properties in order to protect the safety of the public, to reduce congestion, and to reduce the adverse impacts of commercial traffic along residential streets.

(3)

New commercial buildings. New buildings, conversions, and site modifications located within the POD shall be sited, designed, constructed and landscaped in such a manner that, to the maximum extent feasible, the appearance reflects the existing scale and character of adjacent residential structures.

(4)

Parking. All parking facilities located within the POD shall be landscaped per § 249-12D(11), Screening and landscaping.

(5)

Lighting.

(a)

All exterior lighting, including lighting fixtures, lighting of walks and of parking areas, shall be accomplished with low-level lighting.

(b)

The maximum height of any freestanding light fixture shall be 15 feet.

(c)

No light source shall be positioned or installed so as to cause glare or spillage into neighboring property beyond that normally associated with residential use.

(d)

Lighting fixtures shall include a cutoff-type luminary to prevent glare and spillage of direct light above the fixture.

(6)

Signs.

(a)

Business uses shall have no more than one sign.

(b)

The maximum sign area will be one square foot in area for every ten linear feet of lot frontage, but not exceeding 15 square feet.

(c)

Lighting of such sign is permitted by direct illumination (no backlit or translucent signs permitted), provided the lighting source is entirely screened from view and otherwise consistent with § 249-11H(12).

(d)

Signs shall otherwise be consistent with the provisions of § 249-11.

H.

Site plan review. All building and zoning permits applications in the POD shall be subject to site plan approval. Preexisting nonconformity with this section shall be reduced to the maximum extent practicable.

§ 249-91 (Reserved)

§ 249-92 (Reserved)

§ 249-93 (Reserved)

§ 249-94 (Reserved)

§ 249-95 (Reserved)

§ 249-96 (Reserved)

§ 249-97 (Reserved)

§ 249-98 (Reserved)

§ 249-99 (Reserved)

§ 249-100 Landscape regulations.

[Added 7-26-2007 by L.L. No. 15-2007]

A.

Purpose. The purpose of this section is to establish general standards for landscape design, site buffering, and screening. In addition, these regulations are intended to:

(1)

Facilitate the protection and maintenance of the existing natural environment.

(2)

Preserve and enhance the aesthetic character of the community.

(3)

Provide adequate tree canopy and vegetative cover.

(4)

Increase the compatibility between abutting land uses through landscaped screening and buffers.

(5)

Alleviate the visual impact of development.

B.

General applicability, procedures, and requirements.

(1)

Applicability. This section applies to all applications for site plan review.

(2)

Procedure. The Planning Board shall review the landscape plan during site plan review procedures and may accept, reject for resubmittal, or accept with modifications. Where a specific case arises that the standard needs to be modified, the Planning Board can do so upon making findings that the modifications proposed meet the purposes of these landscape regulations. In all cases, this review shall include an evaluation by the Town's landscape architect.

(3)

Landscape plan required.

(a)

A landscape plan, prepared by a licensed landscape architect or qualified landscape designer, shall be included as part of the site plan review submission materials in order to demonstrate how the applicant meets the requirements of this section.

(b)

The landscape plan shall be consistent with the site plan and architectural plans for the project and, in general, shall provide the Planning Board with a clear understanding of the character, massing and compatibility of the landscape program. The landscape plan shall include:

[1]

Tree survey depicting the location, size, description and number of existing trees with a six-inch or greater caliper.

[2]

Location, type, size, height, and number and botanical name for all proposed landscaping materials.

[3]

Location of all proposed hardscape features such as parking lots and structures.

[4]

Construction limit line.

[5]

A selective removal plan should be provided delineating trees to remain within the limit area, including description of protection mechanisms such as fences and hay bales.

[6]

Irrigation plan as required by the Planning Board.

[7]

Additional site features such as sidewalks, crosswalks, benches, fences, fountains, and other amenities.

[8]

Any other information deemed necessary by the Planning Board.

(4)

Plant material selection. The selection of plant varieties shall be based on regional climatic conditions, constraints of location, effectiveness in screening adjacent properties (where appropriate), resistance to disease and insect attack, cleanliness and ease of maintenance. To the greatest extent possible, plants shall be selected based on consideration of water conservation. Plants that require minimal irrigation are to be considered and included in the landscape design and maintenance regime where feasible.

(5)

Plant and tree sizes. The following plant sizes are the minimum required at time of installation. However, the Planning Board may require larger material to address particular site issues.

(a)

Deciduous shrubs: twenty-four-inch spread or height or three-gallon container.

(b)

Evergreen shrubs: eighteen-inch spread or height or three-gallon container.

(c)

Coniferous trees: six feet height.

(d)

Ornamental and understory trees: caliper of 1.25 inches.

(e)

Deciduous shade trees: caliper of 2.5 inches.

(f)

Ground cover: pot of 2.5 inches (or similar size if not provided in pots).

(6)

Irrigation. The Planning Board may require nonresidential development over 10,000 square feet to provide irrigation through either:

(a)

Underground sprinkler system.

(b)

Outside hose attachment.

C.

Yard landscaping. The existing natural landscape character shall be preserved to the maximum extent practical. Complete clearing and stripping of the natural vegetation on a lot is prohibited.

(1)

Frontage along public streets. Proposed landscaping along public streets shall include a mix of evergreens, deciduous trees and shrubs, lawn areas and perennial/annual beds meeting the following minimum standards:

(a)

There shall be a minimum of one shade tree per 40 linear feet of frontage along public streets.

(b)

There shall be a minimum of one shrub per five linear feet of frontage along public streets.

(c)

Required trees and shrubs may be located and organized in a fashion most appropriate to the site, as approved by the Planning Board during site plan review.

(2)

Buffers for side and rear yards.

(a)

Landscaping for side and rear yards is intended to provide varying levels of visual screening and buffering. In general, this buffering shall be developed to alleviate the impact of nonresidential development, including but not limited to light, parking and loading areas, noise and odor, location of ancillary equipment such as dumpsters and HVAC, traffic flow and light glare from vehicles.

(b)

Buffers shall employ existing vegetation, nursery stock, fences, walls, earth berms or grade changes in accordance with these minimum standards. Existing trees to remain within the side and rear yard and perimeter areas may count towards landscape requirements below:

[1]

Landscaped buffers required:

[a]

Along the property line where a nonresidential use is adjacent to a residential zoning district or use.

[b]

Along the property line where a multifamily use is adjacent to any residential zoning district or use.

[c]

Landscaped buffers may be required by the Planning Board where certain nonresidential uses are adjacent to other nonresidential uses.

Use	Minimum Width of Buffer Area (feet)	Trees per 100 Linear Feet	Shrubs per 100 Linear Feet	[2] Additional requirements. For all projects, the Planning Board may increase the above buffer standards and/or require a combination of fencing, walls, or berms to minimize the adverse impacts of development upon adjacent uses.
Nonresidential use adjacent to a residential district.1	20	5 (evergreen)	20	
Multifamily use adjacent to a residential use	15	4 (may be mix of evergreen and deciduous)	15	
Nonresidential use adjacent to a nonresidential use or preexisting nonconforming residential use1 (where required by Planning Board)	10	4 (may be mix of evergreen and deciduous)	10	
NOTES:				[3]
1	The buffer area, number of trees, and number of shrubs may be increased by the Planning Board to be commensurate with the potential impact to neighboring properties.			Internal landscaping requirements. [a]

For multifamily and nonresidential uses, the following percentages of the site's disturbed area(s) shall be dedicated to internal landscaping:

[i]

Multifamily in any zoning district: 15% of the site's disturbed area.

[ii]

Nonresidential uses: 5% of the site's disturbed area.

[b]

The minimum internal landscaped area may not include trees and areas proposed to meet the requirements of other landscape sections such as parking lot, street frontage, and landscaped buffers.

[4]

Design standards.

[a]

A minimum of one tree for every 500 square feet of the required minimum internal landscaping area is required.

[b]

The minimum required internal landscaped area shall consist of at least 50% coverage by live plant materials other than lawn, such as trees, shrubs, and perennial/annual beds.

D.

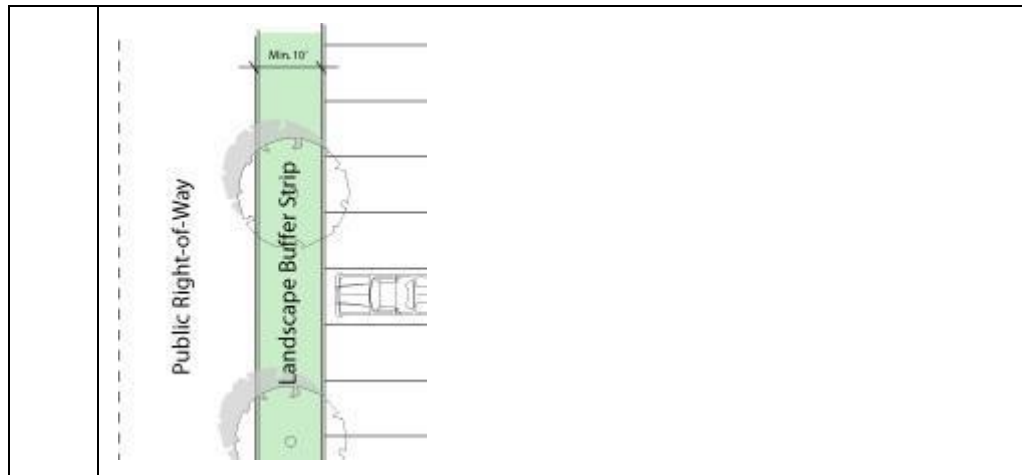
Parking lot landscaping. All parking areas that include more than 10 spaces shall conform to the following landscape standards. The Planning Board may allow existing trees to remain within the parking lot area to count towards the landscape requirements below.

(1)

Parking lot perimeter landscaping.

(a)

A minimum perimeter landscape buffer strip of 10 feet shall be provided for any parking area abutting a public right-of-way and, at the discretion of the Planning Board, along the main access road. This requirement does not apply to areas within required driveway or other access points.



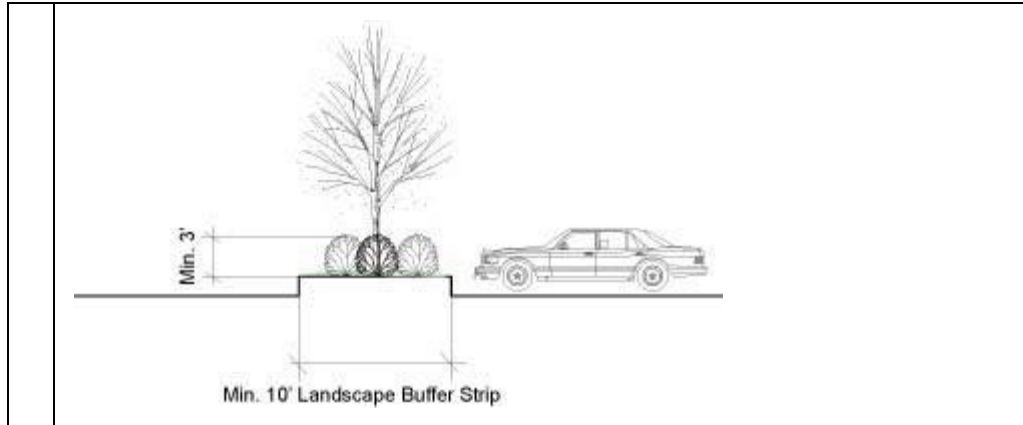
(b)

The parking lot perimeter landscape buffer shall consist of planting materials and structural features to create a minimum three-foot high visual relief screen in the form of a hedge, fence, planter box,

berm, dividers, shrubbery, trees, or a combination thereof, as deemed appropriate by the Planning Board.

(c)

The buffer strip may also include street trees as required above along the frontage.



(2)

Parking lot interior landscaping.

(a)

If more than 25 spaces in a row are proposed, then planted islands meeting the

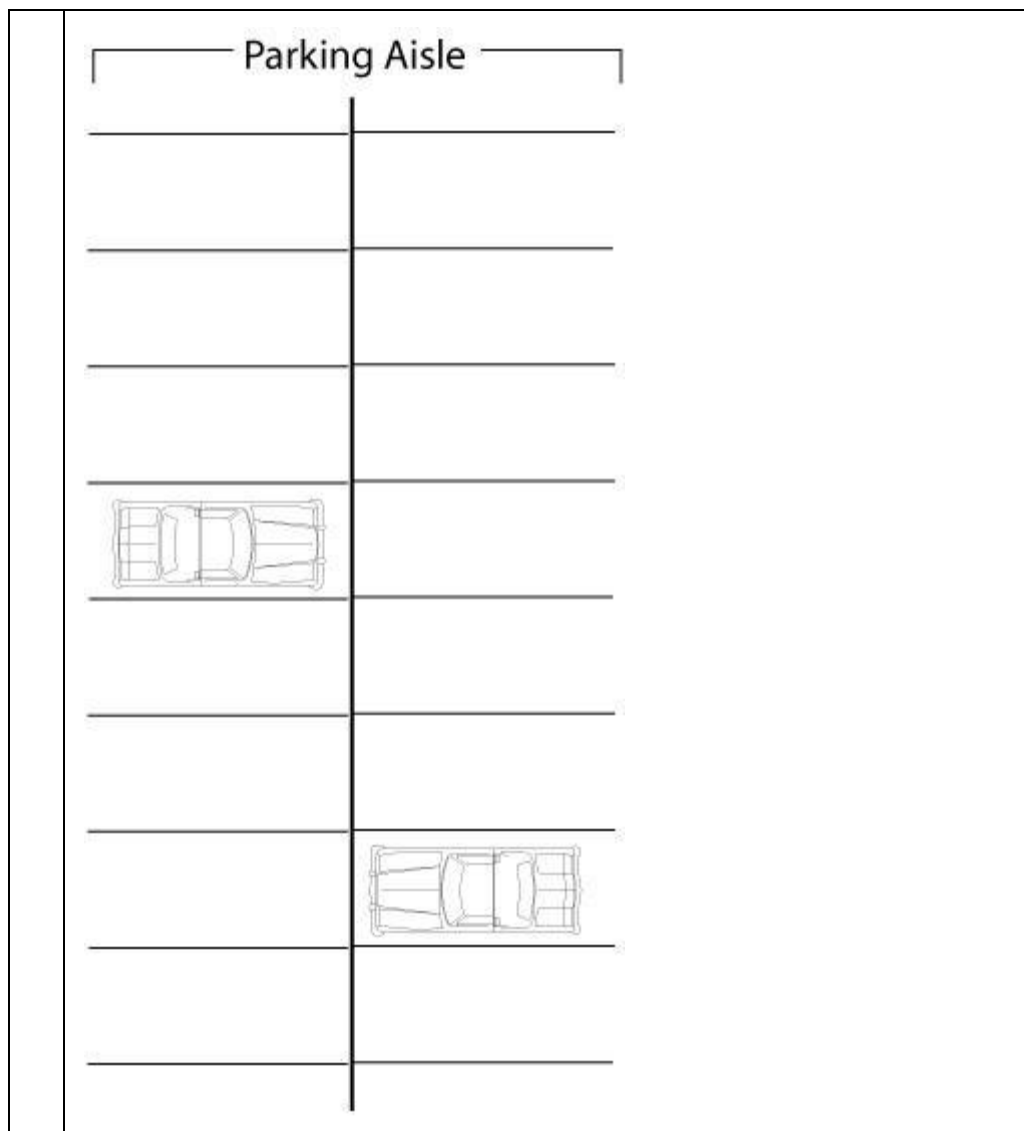
standards described herein shall be provided.

(b)

Where a series of three or more parking aisles in a row are proposed, a planted median with islands meeting the standards described herein shall be provided. Where four or more aisles are proposed, every other aisle shall contain a median.

(c)

Landscaped medians and islands in parking areas may require irrigation as determined by the Planning Board.



(3)

Design and landscaping of parking lot medians. All medians shall conform to the following standards:

(a)

Medians shall have a minimum width of 10 feet between parking rows.

(b)

At least one shade tree for each 40 feet of median length or one ornamental tree for each 30 feet of median length.

(c)

At least one shrub per five feet of

median length.

(d)

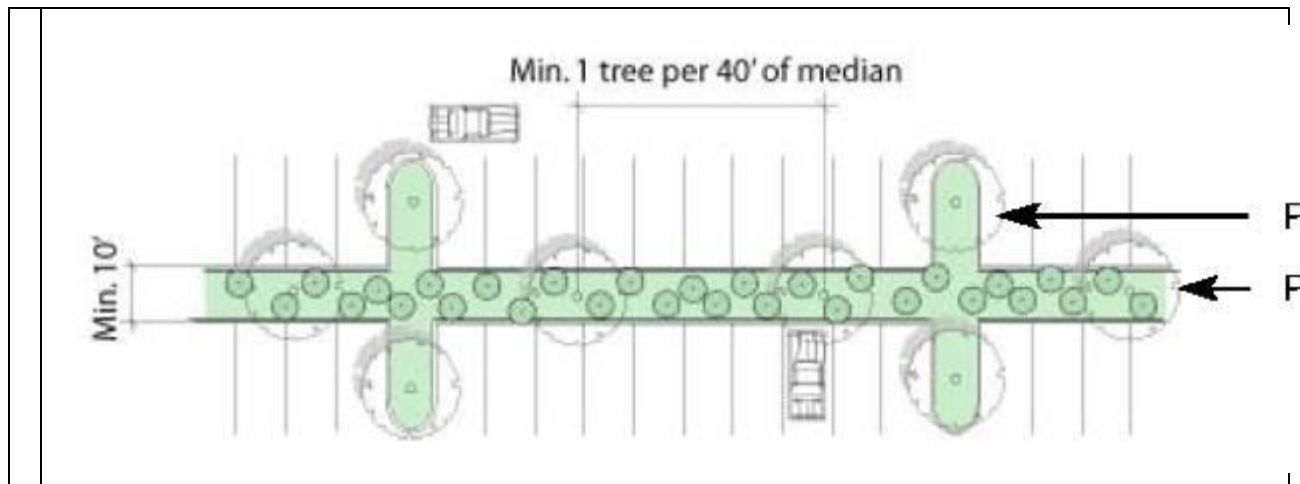
The median shall contain adequate ground cover.

(e)

Medians shall not be paved or contain sidewalks except as appropriate for safe pedestrian circulation.

(f)

Where sidewalks are deemed necessary by the Planning Board in a median, the minimum median width shall be 20 feet, to allow for a six foot sidewalk.



(4)

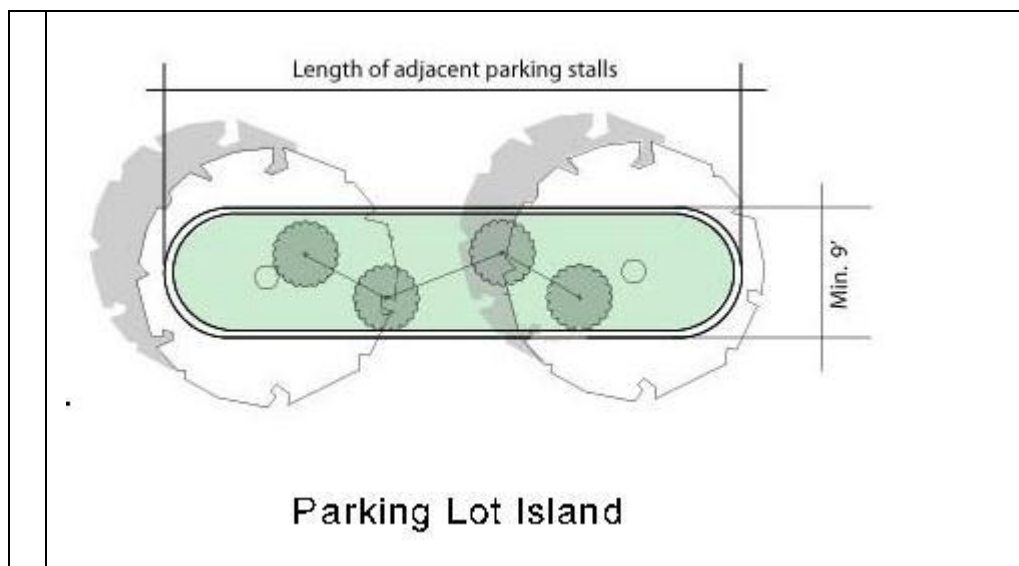
Design and landscaping of parking lot islands. All parking lot islands shall conform to the following standards:

(a)

Islands shall have a minimum width of nine feet. Islands shall extend the length of the adjacent parking stalls.

(b)

Landscaped islands shall include a minimum of one shade tree per 15 feet of length, and at least one shrub per five feet of island length.



E.

Retaining wall landscaping. All retaining walls that exceed five feet in height, including tiered walls, should be screened by vegetation, such as trees, shrubs and vines, and are subject to the following landscape

standards:

(1)

For walls five feet to just below 10 feet in height, provide a mix of shrubs and evergreen trees at one plant per 10 linear feet. Installation height shall be a minimum of three feet.

(2)

For walls 10 feet in height or greater, provide one evergreen tree per 10 linear feet and one shrub per five linear feet. Minimum installation size for trees shall be six feet in height, with a height at maturity to be equal to or greater than the height of the wall.

(3)

Space along the wall for the above landscaping requirements shall be provided. Under certain circumstances, the Planning Board may waive that requirement and recommend alternate landscape screening.

F.

Additional standards. In addition to the minimum standards above, landscaping and pedestrian area design shall:

(1)

Highlight public access points into buildings, for example, by the use of smaller-scale flowering trees and shrubs.

(2)

Include benches, lighting, and occasional waste receptacles in entrance courtyards and along pedestrian walkways or malls.

(3)

Provide for continuous pedestrian circulation between uses on-site, and connecting to adjacent public, County, or state roads and transit facilities.

(4)

Screen from view any mechanical equipment, air-conditioning units, dumpsters, and other equipment not located within the building, service areas, and loading docks.

(5)

Provide visual relief and interest along large expanses of building walls and accent building entrances and architectural features.

G.

Installation. Installation of plantings according to the approved landscape plan shall be ensured by the Building Inspector before a certificate of occupancy is issued.

H.

Maintenance of landscaping.

(1)

The owner, tenant, or agent, if any, shall be responsible for providing, protecting, and maintaining all landscaping in healthy and growing conditions, replacing it when necessary to ensure continuous conformance with these guidelines and keeping it free from refuse and debris. Maintenance shall include the replacement of all dead plant material within the guaranteed contract period (one year).

(2)

The Planning Board shall require that a bond or letter of credit, in the amount of 10% of the total installation cost, be held to ensure the maintenance of landscape as shown on the approved landscape plan submitted with the site plan. The Planning Board is authorized to require guaranteed performance contracts such as a letter of credit, bond or other reasonable contract as means to ensure adequate and timely maintenance or replacement of the approved landscaping.