

THE  
COMPREHENSIVE ZONING LAW



OF THE  
TOWN OF EAST GREENBUSH  
NEW YORK

Local Law #: 1 of 2008

Adopted: June 11, 2008

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OFFICIALS OF THE  
TOWN OF EAST GREENBUSH  
TOWN HALL

East Greenbush, New York 12061  
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2008

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|                     |            |
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## Section 1.1 PURPOSES AND SCOPE

### 1.1.1 PURPOSES

The Town of East Greenbush is hereby divided into zoning districts, and all land and building are regulated as to use, occupancy, location, construction and alteration for the purpose of protecting and promoting public health, safety, morals, comfort, convenience, economy, urban aesthetics, and the general welfare, and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of East Greenbush in accordance with the comprehensive master plan;
- B. To establish and perpetuate the integrity of compatible, property-oriented land use patterns and areas of future growth according to the trends and needs of the community;
- C. To eliminate or improve any existing detrimental conditions with regard to land or buildings or the use thereof;
- D. To eliminate the spread of undesirable strip business developments and provide for more adequate and suitably-located commercial facilities;
- E. To reduce the relative percentage of land devoted to streets, parking and other impervious surfaces;
- F. To create a suitable system of parks and recreation areas, available to all residents, as an integral part of the overall land use pattern;
- G. To utilize more fully the Hudson River frontage for recreation and industrial purposes;
- H. To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities;
- I. To realize a development plan properly designed to conserve the use of land and the cost of municipal services;
- J. To protect the areas of the Town which may be identified as important natural open space from future development.
- K. To prevent excessively dense or inefficiently-spaced development which uses up available open lands;
- L. To provide adequate access of light and air to all buildings;
- M. To assure privacy for residences and freedom from nuisances and things harmful to the senses;
- N. To protect the community against unsightly, obtrusive, and noisome land uses and operations;
- O. To promote efficient development clusters that can preserve adjacent natural areas;
- P. To enhance the value of property in the Town;
- Q. To improve the physical appearance of the community and promote higher aesthetic standards;
- R. To facilitate the proper administration and appropriate and effective enforcement of this Local Law; and
- S. To preserve biological and ecological integrity and to preserve and improve the quality of the natural and man-made environment within the Town.

### 1.1.2 SCOPE

The scope of this Local law is regulated generally by Town Law and includes the following specific provisions:

- A. Establishment of zoning districts;
- B. Establishment and interpretation of zoning district boundaries;
- C. Specification of uses permitted by right and special permit in each zoning district;
- D. Specification of certain prohibited uses;
- E. Establishment of regulations governing:
  - 01. building lot sizes;
  - 02. building coverage;
  - 03. building height;
  - 04. yard dimensions;
  - 05. distances of accessory buildings to principal buildings and lot lines;
  - 06. off-street parking and loading spaces;
  - 07. development density;
  - 08. noisome and injurious conditions and operations;
  - 09. non-conforming buildings and uses; and
  - 10. certain specific uses.
- F. Establishment, authority, and duties of the zoning enforcement officer;
- G. Establishment, authority, and duties of the Zoning Board of Appeals;
- H. Establishment of procedures for:
  - 01. administering and enforcing this Local Law;
  - 02. issuing building permits, certificates of occupancy, notices of violation, certificates of zoning compliance, variances, and special permits; and
  - 03. amending this Local Law.

### 1.1.3 Effective Date

These regulations, and any amendments or revisions shall take effect on the date of adoption listed on the front by the Town of East Greenbush.

### 1.1.4 Amendment

These provisions, including the boundaries of the zoning districts established, may be amended or revised following a public hearing in accordance with requirements and procedures established in the local Town Laws and Section 4.4 of this code.

### 1.1.5 Severability

The provisions of these regulations are severable. If any section or provision of these regulations or the application thereof is found to be unconstitutional or invalid by a jurisdictional court, such decision shall not affect the validity or application of the remaining provisions of these regulations.

## SECTION 2.1 ZONING DISTRICTS

### 2.1.1 Zoning Districts:

The Town of East Greenbush establishes and is hereby divided into the following zoning districts:

#### Residential Districts:

|      |                                  |
|------|----------------------------------|
| A-R  | Agriculture-Residential District |
| R-OS | Residential-Open Space District  |
| R-B  | Residential-Buffer District      |
| R-1  | Residence District               |
| R-1A | Residence District               |
| R-2  | Residence District               |
| R-3  | Residence District               |

#### Commercial and Industrial Districts:

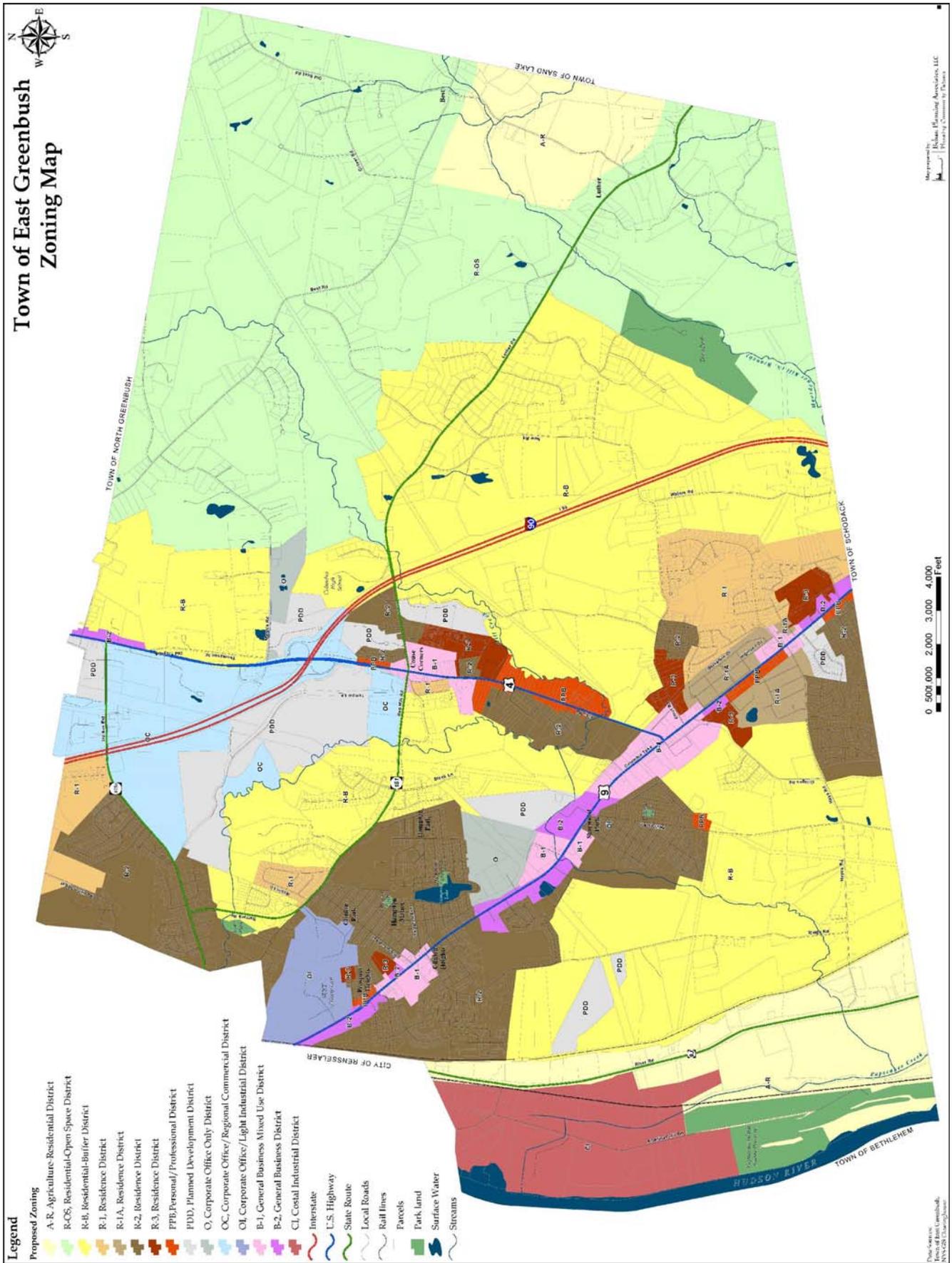
|     |   |
|-----|---|
| PPB | Personal/Professional District                |
| B-1 | General Business Mixed Use District           |
| B-2 | General Business District                     |
| O   | Corporate Office Only District                |
| OC  | Corporate Office/Regional Commercial District |
| OI  | Corporate Office/Light Industrial District    |
| CI  | Coastal Industrial District                   |

#### Overlay Districts and Floating Zones:

|     |  |
|-----|--|
| WMO | Watercourse Management Overlay District      |
| PDD | Planned Development District (floating zone) |

## 2.2 Official Zoning Map

- A. The location and boundaries of the zoning districts established in Section 2.1 are shown on the Official Zoning Map of the Town of East Greenbush which together with everything shown thereon and all amendments thereto is hereby adopted by reference and declared to be an appurtenant part of this Local Law.
01. The Official Zoning Map shall be identified by the signature of the Town Supervisor attested by the Town Clerk and shall bear the seal of the Town.
  02. If any changes or amendments to district boundaries, or to other data which is shown on the Official Zoning Map, are duly made in accordance with the provisions of this Local Law and Town Law, such changes or amendments shall be entered on the Official Zoning Map by the Enforcement Officer before the effective date of such change or amendment.
  03. No changes, alterations, or additions whatsoever shall be entered on the Official Zoning Map except in accordance with the provisions of this Local Law, and any person making such change not in accordance with the provisions of this Local Law shall be held in violation of this Local Law and subject to penalties under Section 4.1.
  04. The Official Zoning Map shall be continuously and conspicuously displayed in such place as is designated by the Town Board.
  05. The Official Zoning Map shall be the final authority as to the delineation of zoning districts and the location of zoning district boundaries, regardless of the existence of alleged reproduced copies of said Official Zoning Map which may show districts or boundaries in conflict to the Official Zoning Map.



Map for reference purposes only. Consult Official Zoning Map on file with Planning Office for latest changes.

## SECTION 2.3 Interpretation of District Boundaries

### 2.3.1 Interpretation of District Boundaries

- A. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, or public utility easements, said boundaries shall be construed to be coincident with such lines. Said boundaries shall be deemed to be automatically moved if a centerline or right-of-way line of such street, highway, railroad or public utility easement is moved no more than 50 feet.
- B. Where district boundaries are so indicated that they are approximately parallel to the centerline or right-of-way lines of streets, highways, railroads, or public utility easements, said boundaries shall be construed as being parallel thereto and at such distances therefrom as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- C. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such line or projections thereof.
- D. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- E. Where district boundaries are indicated as approximately following streams other than the Hudson River, said boundaries shall be construed to be coincident with the centerlines of the main channels of such streams, and said boundaries shall be deemed to be automatically moved if the main channels of such streams are moved by natural or artificial means no more than 50 feet.
- F. Any district boundary indicated as extending to the Hudson River, if also coincident with the Town boundary line, shall be construed as extending into the River along the Town boundary line to the pierhead line, if established, or to a line parallel to, and 200 feet distant from the mean high water shore line.
- G. Any district boundary indicated as approximately following the Hudson River shall be construed as being coincident with the pierhead line, if established, or a line parallel to, and 200 feet distant from, the mean high water shore line. If more than one zoning district is established along the Hudson River, the boundary line between district extends into the River shall be an extension of the zoning boundary line which meets, and is perpendicular to, the pierhead line, if established, or a line parallel to, and 200 feet distant from the mean high water shore line.
- H. Where a street, highway, railroad, or public utility easement centerline, or right-of-way line is coincident with a zoning boundary line and varies from the actual on-the-ground physical monument or mark, then such on-the ground physical monument or mark shall determine said zoning district boundary.

**Table II-A – Use Schedule.** This table is intended for general overview purposes and is not meant to be inclusive of all land use types allowed in all districts. For a complete listing of uses allowed in each district, refer to the specific pages regarding each district, which shall dictate in the event of a conflict.

| Section 2.4 Use Schedule                              |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
|---|-------------|------|-----|-----|------|-----|-----|-------------------------|-----|-----|-----|---|----|----|----|
| Primary Land Use                                      | Residential |      |     |     |      |     |     | Commercial / Industrial |     |     |     |   |    |    |    |
|   | A-R         | R-OS | R-B | R-1 | R-1A | R-2 | R-3 | PDD                     | PPB | B-1 | B-2 | O | OC | OI | CI |
| <b>Residential</b>                                    |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Residential; one family residence                     |             |      |     |     |      |     |     |                         |     | 1   | 1   | 1 | 1  |    |    |
| Residential; two family residence                     |             |      |     |     |      |     |     |                         |     | 1   | 1   | 1 | 1  |    |    |
| Residential; multi-family residence                   |             |      |     |     |      |     |     |                         |     | 1   | 1   |   |    |    |    |
| Residential; mixed use with commercial                |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Residential; senior housing                           |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| <b>General Business / Non-Residential</b>             |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Adult establishment                                   |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Agriculture; horticulture and farming, general        |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Agriculture; livestock or dairy                       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Agriculture; farm stand or market                     |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Animal; boarding, horse farm or stables               |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Animal; boarding; commercial kennel                   |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Animal; boarding, veterinary services                 |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Automotive; sales, new or used                        |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Automotive; service, wash or storage                  |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Automotive; gas station                               |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Boarding; hotel                                       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Boarding; convention center with hotel                |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Boarding; motel                                       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Boarding; inn or bed & breakfast                      |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Civic; religious facility                             |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Civic; cultural facility                              |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Civic; public facility, bank or government office     |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Health / Medical; hospital or clinic, inpatient       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Health / Medical; offices or clinic, outpatient       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Health / Medical; nursing or assisted living home     |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Health / Medical; cemetery                            |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Health / Medical; crematorium                         |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Parking, off-street or garage                         |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Parking, off-street or garage, commercial vehicles    |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; commercial amusement                      |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; golf course or range                      |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; indoor assembly or auditorium             |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; outdoor assembly or amphitheatre          |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; marina                                    |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; private, veteran/fraternal or social club |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Recreation; public, outdoor park or campground        |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Restaurant; indoor, fully enclosed                    |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Restaurant; with drive-thru or curbside service       |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Restaurant; with outdoor seating                      |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Restaurant; bar or tavern                             |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Retail; single tenant                                 |             |      |     |     |      |     |     |                         |     | 1   |     |   |    |    |    |
| Retail; single tenant, < 15,000 s.f.                  |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Retail; multi tenant shopping center                  |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Retail; with drive-thru                               |             |      |     |     |      |     |     |                         |     |     |     |   |    |    |    |

See Section 2.9

|     |                |
|-----|----------------|
| KEY | Permitted      |
|     | Special Permit |
|     | Not Permitted  |

**Note 1:** Existing on or before the date of this Section.  
**Note 2:**  
**Note 3:**

**Section II - 4 Use Schedule, Cont.**

| Primary Land Use                                      | Residential    |  |     |     |      |     |     | Commercial / Industrial |     |     |     |   |    |    |    |
|---|----------------|--|-----|-----|------|-----|-----|-------------------------|-----|-----|-----|---|----|----|----|
|   | A-R            | R-OS   | R-B | R-1 | R-1A | R-2 | R-3 | PDD                     | PPB | B-1 | B-2 | O | OC | OI | CI |
| Retail; landscaping/gardening with outdoor display    |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Retail; with on site manufacturing and sales          |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| School; university, college or trade                  |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| School; nursery, day care, elementary or high         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Services; personal care                               |                |  |     |     |      |     |     |                         |     |     |     |   | 1  |    |    |
| Services; professional office                         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; self storage rental facility                 |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; wholesaling / warehousing, off site          |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; wholesale/distribution center, 3 truck bays  |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; wholesale/distribution center, 3+ truck bays |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; fuel or other hazardous materials            |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Transport; airport, public                            |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Transport; airport, private airstrip                  |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Transport; heliport                                   |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Transport; bus, railroad, truck, ship repair/storage  |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Transport; public transit passenger station           |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Utility; public service                               |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Utility; small above ground structure                 |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Utility; transmitting or communications tower         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Utility; municipal works yard or structure            |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| <b>Accessory Uses</b>                                 |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Accessory; dwelling unit                              |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Accessory; retail or services                         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Animal; boarding, private stable                      |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Animal; boarding, private kennel                      |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Boarding; dormitory                                   |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; indoors, merchandise in stock                |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Storage; outdoors, merchandise in stock               |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Home occupation                                       |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Parking; off street or garage                         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Parking; off street or garage, commercial vehicles    |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Residential recreation facility                       |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Structure; commercial garage or shed                  |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Structure; customary garage, shed or greenhouse       |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Structure; customary farm building                    |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| <b>Industrial Uses</b>                                |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; light, general non-nuisance                 |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; light, research and development lab         |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; light, printing and publishing              |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; light, assembly and fabrication             |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; retail, food product manufacturing          |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; recycling and materials reuse               |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; machinery repair or storage garage          |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| Industry; extractive operations or soil mining        |                |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
| KEY   | Permitted      | <b>Note 1:</b> Existing on or before the date of this Section.<br><b>Note 2:</b><br><b>Note 3:</b> |     |     |      |     |     |                         |     |     |     |   |    |    |    |
|   | Special Permit |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |
|   | Not Permitted  |  |     |     |      |     |     |                         |     |     |     |   |    |    |    |

See Section 2.9

## Section 2.5 Area and Bulk Standards

**2.5.0 – Area and Bulk Standards:** For Area and Bulk standards specific to a particular district, refer to the individual zoning pages for each district.

### 2.5.1 Supplementary Bulk Standards

#### A. Existing Undersized Lots

Any lot held in single and separate ownership prior to the adoption of the Town's initial Zoning Ordinance on March 6, 1961, or any amendment thereto, including this Local Law, whose area and/or width and/or depth are less than the specified minimum lot requirements for that district, may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

01. Such lot does not adjoin other undersized lot or lots held by the same owner, whose aggregate area is equal to or greater than the minimum lot area required for that district;
02. Such lot has an area of at least 4,000 square feet and a minimum width of at least 50 feet at the required setback line;
03. The following minimum yard dimensions are maintained: Side yards: eight feet; front and rear yards; 25 feet and;
04. All other bulk requirements for that district are complied with.

#### B. Height Exceptions

The height limitations of this Local Law, as listed in the Area and Bulk table for each zoning district shall not apply to the following structures: flagpoles, church spires, belfries, cupolas, domes not used for home occupancy, chimneys, ventilators, sky-lights, water-tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level, parapet wall or cornice for ornament extending above such height limit not more than five feet, radio or television receiving antennae, or a public utility transmission tower or cable. No such uses shall in their aggregate coverage occupy more than 20% of the roof area on which located.

#### C. Transition Requirements for District Boundaries

01. Where a lot in a non-residential district abuts a lot in a residential district, there shall be provided along such abutting side on said non-residential district lot, a required yard and landscape buffer as specified in Section III-2. Said yards shall not be used for storage of any material or goods, parking or roadway.
  - a) Where the property on one side of a street is zoned partly for residential use and partly for business or industrial use, the front yard depth along such street shall be at least equal to the required front yard depth of the residential district.

#### D. Yards

##### 01. Corner Lots

On a corner lot, each side which abuts a street shall be deemed a front lot line, and the required yard along each such lot line shall be a required front yard, however the Planning Board may make a determination to reduce one of the required front yard setbacks. The owner or developer shall decide which of the remaining yards shall be the required side yard and the required rear yard prior to subdivision approval.

##### 02. Side Yards for Attached Buildings

Side yards of semi-detached houses or row houses shall be required at the ends of the total structure.

##### 03. Double-Frontage Lots

- a) Any double frontage lots, fronting on parallel or abutting streets, require Planning Board review and approval.

- b) Residential double frontage lots are permitted driveway access or garage on only one (1) frontage, as determined and approved by the Planning Board prior to approval.
- c) For any approved double frontage lot, both frontages shall comply with the front yard requirements of the district in which it is located, except frontages on an approved laneway.

#### **04. Setbacks at Laneways**

Required building setbacks at approved laneways shall be determined by the Planning Board.

#### **05. Distance Separations**

- a) **Principal Buildings** - If two or more principal residential buildings are located on the same lot, one building's exterior walls containing windows shall be separated from the nearest point on any adjacent building by a horizontal distance, perpendicular to the wall with windows, equal to at least twice the width of the required side yard for the particular district in which the buildings are located.
- b) **Accessory Buildings**

Accessory buildings unattached to principal buildings shall be located no closer to the principal buildings than 12 feet or a distance equal to the height of each accessory building -- whichever is greater. Any accessory building physically attached to a principal building is deemed to be part of such principal building in applying bulk regulations.

#### **06. Encroachments in Required Yards**

- a) **Accessory Buildings** - Accessory buildings in R-OS, R-B, R-1, R-1A, R-2 and R-3 districts which are no larger than 10 feet by 12 feet in footprint, and 15 feet in height, are permitted no closer than 5 feet from a side or rear property line. No accessory buildings are permitted within, or encroaching within, the front yard area. Any accessory building physically attached to a principal building is deemed to be part of such principal building in applying bulk regulations.
- b) **Projections** The space in any required yard shall be open and unobstructed except as follows:
  - i) Window sills, belt courses, bay windows, cornices, eaves, and other similar architectural features shall be permitted to project no more than three feet.
  - ii) Awnings and canopies shall be permitted to project no more than six feet.
  - iii) Open fire escapes shall be permitted to project a maximum of eight (8) feet into required side yards, rear yards, or courts, but shall not project into required front yards or required open areas and shall not be placed on walls facing toward a street.

#### **07. Vehicle Restrictions In Residential Districts.**

RVs, campers, popup campers, boats, snowmobiles, all-terrain vehicles, box trailers, PODs and similar vehicles or storage containers, as well as trailers for hauling such vehicles, are not permitted within any residential front yard, unless enclosed within a garage, boathouse, or other structure that is in compliance with this chapter. Also, any such vehicles or storage containers located in side or rear yards are to be parked on an existing driveway, or on an apron of concrete, brick, block, asphalt, crushed stone, or any other finished surface that prevents the growth of grass or weeds.

### **E. Courts**

#### **01. Outer Court**

- a) An outer court shall have a minimum width that is:
  - i) no shorter than its depth;
  - ii) not less than one-half the height of the highest wall bounding such court; and
  - iii) in no case less than 15 feet.

#### **02. Inner Court**

- a) An inner or enclosed court shall have a minimum horizontal dimension that is:
  - i) not less than the height of the highest wall bounding such court; and

ii) in no case less than 25 feet.

- b) Two open and unobstructed passageways, each at least eight feet high and ten feet wide, shall be provided at ground level.

### 03. Interior Angles

- a) Court walls containing windows shall not be permitted to join other walls at angles of less than 60 degrees.

04. Must meet all applicable NYS Fire and Safety regulations.

## F. Access Ways

### 01. Lots on Streets To Be Closed

- a) No required pedestrian or vehicular access or entrance to a building, other structure, or tract of land shall be required from a street shown on the Comprehensive Master Plan as "to be closed."

### 02. Access to Lots

- a) A lot to be used for building purposes shall have direct frontage on a public street.

## G. Flag Lot Development Standards

**01. Intent** - The creation of flag lots is restricted. Flag lot development is permitted for the development of a legal building lot of record, or land within a subdivision, to allow property owners reasonable use and benefit of rear acreage that otherwise cannot meet the typical requirements of the Comprehensive Zoning Law and Land Subdivision Regulations, or to alleviate situations which would otherwise impose significant financial hardship on the property owner. Development of all flag lots under the provisions of this Article are subject to Planning Board review and approval.

**02. Lots** - Flag lots (also known as keyhole lots) are subject to the following standards:

- a) **Permitted Zoning Districts.** Flag lots shall only be allowed in residential zoning districts.
- b) **Permitted Uses.** Flag lots shall serve only one (1) single-family residence and its uninhabited accessory structure(s) otherwise allowed by zoning.
- c) **Frontage.** Each flag lot shall have at least twenty five (25) feet of frontage on a public street where lots are developed with well water and septic systems and shall have at least thirty (30) feet of frontage on a public street for lots developed with public water and sewer systems. The minimum frontage of the lot shall extend throughout the entire depth of the lot, otherwise known as the "flagpole."
- d) **Ownership.** The flagpole portion of the lot shall be considered a permanent part of the lot or parcel and must remain under the same ownership as the flag portion of the lot.
- e) **Access.** Access to a flag lot must be directly from a public street or right-of-way or as otherwise approved by the Town Planning Board.
- f) **Number.** A maximum of two (2) adjoining flag lots are allowed per parent parcel in a minor subdivision and/or under single ownership. Additional flag lot subdivisions of a parent parcel are not permitted. Flag lots are not permitted within major subdivisions.
- g) **Setbacks.** Minimum side and rear setbacks for primary and accessory structures on a flag lot shall conform to the requirements of the Town Comprehensive Zoning Ordinance. Minimum front yard setbacks for flag lots shall be double the regular front setback. Such setbacks shall be measured from the "flag" portion of the lot, where the flagpole shall extend through the entire lot.
- h) **Lot Area Calculation.** The minimum lot area of each flag lot being created must be at least one and a half (1.5) times the size of the remaining frontage parcel—not including the area of the "flagpole"—or must meet the minimum lot size requirements for the district while providing all setbacks which are twice the otherwise required setback distances for the flag lot. Streams, ponds, and wetlands as regulated by the Watercourse Management Overlay District, and areas of slope greater than 15% shall not be included in the calculation of the "flag" portion of the lot area.

- i) **Driveways.** Adjacent flag lots may be required to share a common curb cut at the road right of way, which shall be designed to allow vehicles to drive out forward. Line of sight requirements at the driveway-street intersection must comply with applicable engineering traffic safety standards. Driveways to flag lots must be designed to permit access of a fifty-thousand-pound, thirty-foot long vehicle, as determined by a licensed engineer.
- j) **Fire Protection.** Where public water is available, any building on a flag lot must be within 500' of a hydrant as measured along the vehicular path of travel. The Town shall be provided with all necessary easements for private hydrants located on private property.
- k) **Re-subdivision of flag lots.** No further subdivision of a flag lot shall be permitted without meeting the requirements for major subdivisions as outlined in the Comprehensive Zoning Law and Land Subdivision Regulations for the Town of East Greenbush.
- l) **Architectural Review.** Building elevations for all sides of the proposed residence must be submitted as part of the Planning Board review.
- m) **Street Address.** A reflective street number must be permanently displayed, and easily visible, along the public right-of-way in both directions of travel.
- n) **Separation between Flag Lots.** Wherever practicable, as determined by the Planning Board, two (2) adjoining flagpoles or a single flagpole access must be separated by a distance equal to the minimum frontage requirement within the zoning district where the lots are located. Separation distance shall be measured along the vehicular path of travel along the adjacent public street. Where two or more district boundaries intersect the vehicular path of travel along the adjacent public street, the required separation distance shall match the largest minimum frontage requirement along the vehicular path of travel.

## Section 2.6 - Residential Districts

### Section 2.6.1 Agriculture-Residential District (A-R)

**A – Intent:** The Agriculture-Residential District is intended to permit agricultural, rural, and open space uses, and also to permit a very low density of residential use (approximately 1 unit per 5 acres) designed to retain the open space and rural character of the District without conflicting with farm operations.

**B Permitted Uses:**

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Agriculture; horticulture and farming, general  
 Agriculture; livestock or dairy  
 Agriculture; farm stand or market  
 Animal; boarding, horse farm or stables  
 Animal; boarding; commercial kennel  
 Civic; religious facility

Civic; cultural facility  
 Recreation; public, outdoor park or campground  
 Residential; one family residence  
 School; nursery, day care, elementary or high

**C Special Permit Uses:**

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Animal; boarding, veterinary services  
 Boarding; inn or bed & breakfast  
 Health / Medical; offices or clinic, outpatient  
 Health / Medical; cemetery or crematorium  
 Recreation; golf course or range

Recreation; private veteran/fraternal or social club  
 School; university, college or trade  
 Transport; airport, private airstrip  
 Utility; public service  
 Utility; small above ground structure

**D Accessory Uses:**

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Accessory; dwelling unit (SP) as per Section 3.7.10  
 Animal; boarding, private kennel  
 Animal; boarding, private stables  
 Boarding; dormitory (SP)  
 Home occupation (SP)

Parking; off street or garage  
 Residential recreation facility  
 Structure; customary garage, shed or greenhouse  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

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| Minimum Lot Dimensions            |         |
|-----------------------------------|---------|
| Area                              | 5 Acres |
| Width (feet)                      | 400     |
| Minimum Yard Dimensions           |         |
| Front (feet)                      | 50      |
| Side (feet)                       | 50      |
| Rear (feet)                       | 50      |
| Maximum lot coverage              | 10%     |
| Density (Dwelling units per acre) | 0.2     |
| Maximum building height (feet)    | 35      |

**F Specific District Standards**

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*[Reserved]*

**Section 2.6.2 Residential Open Space District (R-OS)**

**A Intent:** The Residential-Open Space District is intended to permit agricultural, rural, and open space uses, and also to permit a low density of residential use (1 unit per 2 acres), designed to retain the open space and rural character of the District. This District encompasses much of the area of the Town east of Interstate 90.

**B Permitted Uses:**

Agriculture; horticulture and farming, general  
 Agriculture; livestock or dairy  
 Agriculture; farm stand or market  
 Animal; boarding, horse farm or stables  
 Civic; religious facility

Civic; cultural facility  
 Residential; one family residence  
 Recreation; public, outdoor park or campground  
 Recreation; golf course or range  
 School; nursery, day care, elementary or high

**C Special Permit Uses:**

Animal; boarding, veterinary services  
 Animal; boarding; commercial kennel  
 Boarding; inn or bed & breakfast  
 Health / Medical; cemetery or crematorium  
 Health / Medical; offices or clinic, outpatient

Recreation; indoor assembly or auditorium  
 Recreation; private, veteran/fraternal or social club  
 School; university, college or trade  
 Transport; airport, private airstrip  
 Utility; public service/small above ground structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Animal; boarding, private kennel  
 Animal; boarding, private stables  
 Boarding; dormitory (SP)  
 Home occupation (SP)

Parking; off street or garage  
 Residential recreation facility  
 Structure; customary garage, shed or greenhouse  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            |             |
|-----------------------------------|-------------|
| Area                              | 87,120 s.f. |
| Width (feet)                      | 200         |
| Minimum Yard Dimensions           |             |
| Front (feet)                      | 50          |
| Side (feet)                       | 50          |
| Rear (feet)                       | 50          |
| Maximum lot coverage              | 10%         |
| Density (Dwelling units per acre) | 0.5         |
| Maximum building height (feet)    | 35          |

**F Specific District Standards**

**01.Principal Buildings Per Lot** - There shall be only one principal building and principal use per lot in R-OS Residence District.

**02.Accessory Building Setbacks** - As per 2.5.1-D 6a.

**Section 2.6.3 Residential Buffer District (R-B)**

**A Intent:** The purpose of the R-B district is to support low-density residential, agricultural, rural and open space uses and serve as a transition from the medium-density neighborhoods of East Greenbush to the more rural areas of town.

**B Permitted Uses:**

Agriculture; horticulture and farming, general  
 Agriculture; farm stand or market  
 Animal; boarding, horse farm or stables  
 Civic; religious facility  
 Civic; cultural facility  
 Recreation; golf course or range

Residential; senior housing  
 Residential; one family residence  
 Recreation; public, outdoor park or campground  
 School; nursery, day care, elementary or high

**C Special Permit Uses**

Animal; boarding, veterinary services  
 Animal; boarding; commercial kennel  
 Boarding; inn or bed & breakfast  
 Health / Medical; cemetery or crematorium  
 Health / Medical; offices or clinic, outpatient

Health / Medical; nursing or assisted living home  
 Recreation; indoor assembly or auditorium  
 Recreation; private, veteran/fraternal or social club  
 School; university, college or trade  
 Utility; public service/small above ground structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Animal; boarding, private kennel (SP)  
 Animal; boarding, private stables (SP)  
 Boarding; dormitory (SP)  
 Home occupation (SP)

Parking; off street or garage  
 Residential recreation facility  
 Structure; customary garage, shed or greenhouse  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            | R-B    | R-B Incentive Zoning with public water and sewer |
|-----------------------------------|--------|--|
| Area (sq. ft)                     | 65,340 | 21,780   |
| Width (feet)                      | 200    | 100  |
| Minimum Yard Dimensions           |        |  |
| Front (feet)                      | 40     | 25   |
| Side (feet)                       | 25     | 10   |
| Rear (feet)                       | 30     | 30   |
| Maximum lot coverage              | 10%    | 10%  |
| Density (Dwelling units per acre) | 0.66   | Up to 2.0  |
| Maximum building height (feet)    | 35     | 35   |

**F Specific District Standards**

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**01.Principal Buildings Per Lot** - There shall be only one principal building and principal use per lot.

**02.Accessory Building Setbacks** - As per 2.5.1-D 6a.

**03.R-B Incentive Requirements** - To be eligible for the R-B Incentive and associated lot dimensions and density bonus applicants for subdivision or site plan review must comply with the following standards:

- a) Have municipal water and sewer service which is:
  - i) existing on the proposed site in the required capacities, or;
  - ii) reasonably adjacent to the proposed site such that the applicant could get approval from the Town Board to make a connection to the existing services. Such approval would be conditional on the findings of an independent engineering report which evaluates the impact said connection would have on the existing municipal capacities and performance.
- b) Adhere to the procedures and standards set forth within the town's cluster ordinance in Section 3.5 with the exception that the area to be maintained as open space as described in Section 3.5.1-G shall be 50% of the total site with 20% of the site's buildable land included within this area.

**04.Required Undisturbed Area**

- a) For any lot in the R-B District developed by subdivision under the Town's Land Subdivision Regulations, whether the subdivision is of conventional design or a cluster design, a minimum of 30% of the total site area shall be maintained as undisturbed natural area. This undisturbed natural area may be incorporated into lots and/or it may be located in common open space blocks of land. The location and the form of ownership of the undisturbed area must be acceptable to the Planning Board.
- b) In a cluster subdivision in the R-B District, the 30% of the site which is to be maintained as undisturbed natural area may form all or part of the 25% common open space requirement specified in Section 3.5.1-G of this Zoning Law.

**Section 2.6.4 Residential District (R-1)**

**A Intent:** The purpose of the R-1 District is to provide moderate density residential housing opportunities of around 4 residential units per acre of land.

**B Permitted Uses:**

Agriculture; horticulture and farming, general  
 Civic; cultural facility  
 Civic; religious facility  
 Recreation; public, outdoor park or campground

Residential; senior housing  
 Residential; one family residence  
 School; nursery, day care, elementary or high

**C Special Permit Uses:**

Boarding; inn or bed & breakfast  
 Health / Medical; cemetery or crematorium  
 Health / Medical; offices or clinic, outpatient  
 Health / Medical; nursing or assisted living home

Recreation; golf course or range  
 Recreation; private, veteran/fraternal or social club  
 Utility; public service/small above ground structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Boarding; dormitory (SP)  
 Home occupation (SP)  
 Structure; customary garage, shed or greenhouse

Parking; off street or garage  
 Residential recreation facility  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            |        |
|-----------------------------------|--------|
| Area                              | 12,500 |
| Width (feet)                      | 80     |
| Minimum Yard Dimensions           |        |
| Front (feet)                      | 35     |
| Side (feet)                       | 10     |
| Rear (feet)                       | 25     |
| Maximum lot coverage              | 20%    |
| Density (Dwelling units per acre) | 4      |
| Maximum building height (feet)    | 35     |

**F Specific District Standards**

**01.Principal Buildings Per Lot** - There shall be only one principal building and principal use per lot.

**02.Accessory Building Setbacks** - As per 2.5.1-D 6a.

**Section 2.6.5 Residential District (R-1A)**

**A Intent:** The purpose of the R-1A is to provide medium density residential housing opportunities of around 5 residential units per acre of land.

**B Permitted Uses:**

Agriculture; horticulture and farming, general  
 Civic; religious facility  
 Civic; cultural facility  
 Recreation; public, outdoor park or campground

Residential; one family residence  
 Residential; senior housing  
 School; nursery, day care, elementary or high

**C Special Permit Uses:**

Boarding; inn or bed & breakfast  
 Health / Medical; cemetery  
 Health / Medical; crematorium  
 Health / Medical; offices or clinic, outpatient

Health / Medical; nursing or assisted living home  
 Recreation; golf course or range  
 Recreation; private, veteran/fraternal or social club  
 Utility; public service/small above ground structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Boarding; dormitory (SP)  
 Home occupation (SP)  
 Parking; off street or garage

Residential recreation facility  
 Structure; customary garage, shed or greenhouse  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            |            |
|-----------------------------------|------------|
| Area                              | 9,000 s.f. |
| Width (feet)                      | 75         |
| Minimum Yard Dimensions           |            |
| Front (feet)                      | 35         |
| Side (feet)                       | 8          |
| Rear (feet)                       | 25         |
| Maximum lot coverage              | 25%        |
| Density (Dwelling units per acre) | 5          |
| Maximum building height (feet)    | 35         |

**F Specific District Standards**

**01.Principal Buildings Per Lot** - There shall be only one principal building and principal use per lot.

**02.Accessory Building Setbacks** - As per 2.5.1-D 6a.

**Section 2.6.6 Residential District (R-2)**

**A Intent:** The purpose of the R-2 is to provide higher density residential housing opportunities of around six residential units per acre of land to match some of the older housing development patterns in the area.

**B Permitted Uses:**

|  |  |
|--|--|
| Boarding; inn or bed & breakfast<br>Civic; religious facility<br>Civic; cultural facility<br>Residential; one family residence | Residential; senior housing<br>Recreation; public, outdoor park or campground<br>School; nursery, day care, elementary or high |
|--|--|

**C Special Permit Uses:**

|  |   |
|--|---|
| Health / Medical; offices or clinic, outpatient<br>Health / Medical; nursing or assisted living home | Recreation; private, veteran/fraternal or social club<br>Utility; public service/small above ground structure |
|--|---|

**D Accessory Uses:**

|  |  |
|--|--|
| Accessory; dwelling unit (SP) as per Section 3.7.10<br>Boarding; dormitory (SP)<br>Home occupation (SP)<br>Parking; off street or garage | Residential recreation facility<br>Structure; customary garage, shed or greenhouse<br>Structure; customary farm building |
|--|--|

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            |       |
|-----------------------------------|-------|
| Area                              | 7,500 |
| Width (feet)                      | 75    |
| Minimum Yard Dimensions           |       |
| Front (feet)                      | 25    |
| Side (feet)                       | 8     |
| Rear (feet)                       | 25    |
| Maximum lot coverage              | 25%   |
| Density (Dwelling units per acre) | 6     |
| Maximum building height (feet)    | 35    |

**F Specific District Standards**

- 01.Principal Buildings Per Lot** - There shall be only one principal building and principal use per lot.
- 02.Accessory Building Setbacks** - As per 2.5.1-D 6a.

**Section 2.6.7 Residential District (R-3)**

**A Intent:** The purpose of the R-3 district is to continue to provide high-density housing opportunities with a mix of one, two and multi-family housing.

**B Permitted Uses:**

Boarding; inn or bed & breakfast  
 Civic; religious facility  
 Civic; cultural facility  
 Residential; one family residence  
 Residential; two family residence

Residential; multi-family residence  
 Residential; senior housing  
 Recreation; public, outdoor park or campground  
 School; nursery, day care, elementary or high

**C Special Permit Uses:**

Recreation; private, veteran/fraternal or social club

Health / Medical; nursing or assisted living home  
 Utility; public service/small above ground structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Boarding; dormitory (SP)  
 Home occupation (SP)  
 Parking; off street or garage

Residential recreation facility  
 Structure; customary garage, shed or greenhouse  
 Structure; customary farm building

*(SP) By Special Permit*

**E Area and Bulk Schedule:**

| Minimum Lot Dimensions            |   |
|-----------------------------------|---|
| Area (whichever is larger)        | 10,000 s.f Min Lot Size or 3,500 sf./DU |
| Width (feet)                      | 100                                     |
| Minimum Yard Dimensions           |   |
| Front (feet)                      | 25                                      |
| Side (feet)                       | 25                                      |
| Rear (feet)                       | 25                                      |
| Maximum lot coverage              | 35%                                     |
| Density (Dwelling units per acre) | 12                                      |
| Maximum building height (feet)    | 40                                      |

**Note:** Single family homes in the R-3 district shall comply with the area and bulk regulations listed for the R-2 district.

**F Specific District Standards**

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**01. Parking Setbacks** - In R-3 districts, open parking areas may encroach on a required side yard to within five feet of a side or rear lot line.

**02. Accessory Building Setbacks** - As per 2.5.1-D 6a.

**03. Required Open Areas:** For every dwelling unit erected in any R-3 District there shall be provided at least three hundred (300) square feet of designed open area, suitably graded and planted with lawn seed or sodded for active recreational activity. For every bedroom or room suitable for sleeping in excess of two an additional one hundred (100) square feet shall be required.

- a) Such recreational area may be located anywhere on the lot and may be provided in more than one plot, subject to approval of the Planning Board.
- b) The maximum slope of required designed open areas may not exceed three percent. Paved facilities such as tennis courts or swimming pools, or indoor community recreational facilities may be substituted for such active lawn area on an equivalent square foot basis.
- c) Required open areas shall not be obstructed.

## Section 2.7 – Commercial Districts

### Section 2.7.1 Personal / Professional District (PPB)

**A – Intent:** The intent of the Personal / Professional District is to provide transitional areas where existing single family home structures can transition or be converted into personal and professional offices, allowing commercial services while maintaining the small scale community neighborhood.

**B Permitted Uses:**

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|  |   |
|--|---|
| Civic; cultural facility<br>Civic; religious facility<br>Recreation; public, outdoor park or campground<br>Residential; one-family residence | Services; personal care<br>Services; professional office<br>School; nursery, day care, elementary or high |
|--|---|

**C Special Permit Uses:**

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|   |  |
|---|--|
| Boarding; inn or bed & breakfast<br>Health / Medical; offices or clinic, outpatient<br>Health / Medical; nursing or assisted living home<br>Recreation; private veteran/fraternal or social club<br>Residential; two-family residence | Residential; multi-family residence<br>Residential; mixed use with commercial<br>Residential; senior housing<br>Restaurant; indoor, fully enclosed |
|---|--|

**D Accessory Uses:**

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|  |  |
|--|--|
| Accessory; dwelling unit (SP) as per Section 3.7.10<br>Boarding; dormitory (SP)<br>Home occupation (SP)<br>Parking; off street or garage | Residential recreation facility<br>Structure; customary garage, shed or greenhouse<br>Structure; customary farm building |
|--|--|

(SP) By Special Permit

**E Area and Bulk Schedule:**

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| Minimum Lot Dimensions            |        |
|-----------------------------------|--------|
| Area (sq. ft)                     | 43,560 |
| Width (feet)                      | 100    |
| Minimum Yard Dimensions           |        |
| Front (feet)                      | 25     |
| Side (feet)                       | 12     |
| Rear (feet)                       | 25     |
| Maximum building coverage         | 35%    |
| Density (Dwelling units per acre) | 4      |
| Maximum building height (feet)    | 35     |

**F Specific District Standards**

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- 01.Site Plan Review** - All new uses and structures except one and two family dwellings, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.
- a) Parking** - All parking lots must be in accordance with Section 3.1 Parking.
  - b) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
  - c) Signs** - All signs must be in accordance with Section 3.3 Signs.
- 02.Existing Structures** - Where practicable, the maintenance and rehabilitation of existing residential structures shall be encouraged.
- a)** Where impracticable to maintain and rehabilitate existing residential structures, or where substantial modifications or new construction is required, residential design characteristics shall be used.
  - b)** Additions or expansion to the commercial operation shall be done to match the residential scale, character and materials of the building or neighborhood, and such expansion shall be added to the rear of the building whenever possible.
- 03.Maximum Building Size** - Except by special permit, maximum building area used for non-residential purposes shall be restricted to either 3000 square feet or a demand of 10 off-street parking spaces, as the particular use may require.
- 04.Additional Requirements** - The Planning Board may require additional site planning or landscaping measures to reduce impacts on adjacent residences by normal business operations.
- 05.Maximum Dwelling Units** - Maximum dwelling units per building through either adaptive reuse or new construction, shall be restricted to 4 dwelling units.

**Section 2.7.2 General Business Mixed Use District (B-1)**

**A – Intent:** The intent of the B-1 district is to promote redevelopment with high-density, mixed use structures which help define a coherent village atmosphere, providing local goods and services and linking nearby residential neighborhoods with a pedestrian-friendly environment.

**B Permitted Uses:**

|   |   |
|---|---|
| Boarding; inn or bed & breakfast                  | Residential; multi family residence*          |
| Boarding; hotel                                   | Residential; mixed use with commercial        |
| Civic; religious facility                         | Residential; senior housing                   |
| Civic; public facility, bank or government office | Retail; single tenant*                        |
| Civic; cultural facility                          | Retail; single tenant < 15,000 s.f.           |
| Recreation; public, outdoor park or campground    | Retail; multi-tenant shopping center          |
| Restaurant; indoor, fully enclosed                | School; nursery, day care, elementary or high |
| Restaurant; bar or tavern                         | Services; personal care                       |
| Residential; one family residence*                | Services; professional office                 |
| Residential; two family residence*                |   |

**C Special Permit Uses:**

|  |  |
|--|--|
| Health / Medical; hospital or clinic, inpatient      | Recreation; indoor assembly or auditorium          |
| Health / Medical; offices or clinic, outpatient      | Restaurant; with outdoor seating                   |
| Health / Medical; nursing or assisted living home    | Retail; landscaping/gardening with outdoor display |
| Recreation; private veteran/fraternal or social club | Retail; on site manufacturing and sales of goods   |
| Recreation; outdoor assembly or amphitheater         |  |

**D Accessory Uses:**

|   |  |
|---|--|
| Accessory; dwelling unit (SP) as per Section 3.7.10 | Residential; recreation facility                     |
| Boarding; dormitory (SP)                            | Storage; indoors, merchandise in stock               |
| Home occupation (SP)                                | Structure; commercial garage or shed (SP)            |
| Parking, off street or garage                       | Structure; customary garage, shed or greenhouse (SP) |

(SP) By Special Permit

\* Existing on or before the date of this Section.

**E Area and Bulk Schedule**

| Minimum Lot Dimensions            |                        |
|-----------------------------------|------------------------|
| Area (sq. ft)                     | 21,780                 |
| Width (feet)                      | 100                    |
| Minimum Yard Dimensions           |                        |
| Front (feet)                      | 0 ft min, 15 ft max    |
| Side (feet)                       | 12 †                   |
| Rear (feet)                       | 12 †                   |
| Maximum building coverage         | 70%                    |
| Density (dwelling units per acre) | 12                     |
| Building height (feet)            | 2 story min, 50 ft max |

† No setback required if constructed of an approved Party-wall / Fire-wall in accordance with NYS Fire Codes and Building Inspector approval.

**F Specific District Standards**

- 01.Site Plan Review** - All new uses and structures except one and two family dwellings, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.
- a) Parking** - All parking lots must be in accordance with Section 3.1 Parking.
- i)** All off-street parking must be located behind the building(s), in an internal courtyard, garage or otherwise located so as to be shielded from view from the public road frontage.
- ii)** Parking for developments which include a mix of both residential and commercial uses may reduce the number of required residential parking spaces by up to 20% for shared parking with Planning Board approval.
- b) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
- c) Signs** - All signs must be in accordance with Section 3.3 Signs.
- 02.Residential Mixed Use Requirement** - Residential uses are permitted only as part of a mixed-use commercial/residential plan which includes commercial uses either on the lower floors or as a separate structure on the same parcel. Such commercial uses must comprise of no less than 30% of the gross floor area of the residential and commercial uses combined.
- 03.Two story height requirement** – New construction must have a minimum of two story facade height for any portions of the buildings which have frontage along a public road. Such second story frontage must contain habitable space at least 20 feet deep measured from the front of the building to the back. Other portions which compose the rear of the building, structures further than 50 feet from the public road or that are otherwise not directly visible from the public way are exempt. The intent of this provision is to create a stronger and more traditional public street wall within the B-1 districts.
- 04.Multiple Building Designs** - Campus-like development designs will be encouraged. To this end:
- a)** Site development plans with multiple buildings should create a campus-like outdoor environment where the buildings work together to create meaningful outdoor public spaces, gardens or plazas which create attractive areas to walk from one building to another.
- b)** Landscaping plans should address streetscape aesthetics, so that as development occurs, an attractive streetscape will be ensured along the roads with parking areas concealed from view behind buildings or broken up into smaller components;
- c)** Curb cuts must be minimized, and adjacent uses may be required to combine accesses;
- 05.Accessory Dwelling Units** - A dwelling unit accessory to a premises principally used for office, retail, tourist accommodation, warehouse, or personal service activity may be permitted in accordance with Section 3.7.10.
- 06.Existing Buildings** – Existing structures undergoing small or moderate expansion are not required to comply with the two-story frontage height and rear parking requirements of this district so as to not create an undue burden on existing businesses which may not be able to comply due to site or building constraints. Existing structures are, however, encouraged to work toward the goals of reducing parking in the front yard area, creating mixed-use or multi-story opportunities and providing a more pedestrian friendly streetscape.

**Section 2.7.3 General Business District (B-2)**

**A – Intent:** The intent of the B-2 district is to provide contained areas for low to medium density commercial highway development along the traveled corridors which permits uses which would otherwise not be appropriate for the more pedestrian oriented B-1 and residential districts.

**B Permitted Uses:**

Animal; boarding, veterinary services  
 Animal; boarding; commercial kennel  
 Boarding; hotel or motel  
 Civic; public facility, bank or government office  
 Health / Medical office or clinic, outpatient  
 Parking; off street or garage  
 Recreation; private veteran/fraternal or social club  
 Recreation; indoor, assembly or auditorium  
 Recreation; commercial amusement  
 Residential; one family\*, two family \*, multi family\*  
 Restaurant; indoor, fully enclosed  
 Restaurant; with outdoor seating  
 Restaurant; with drive-thru or curb service

Restaurant; bar or tavern  
 Retail; single tenant, < 15,000 s.f.  
 Retail; single tenant  
 Retail; multi-tenant shopping center  
 Retail; with drive-thru  
 Retail; landscaping/gardening with outdoor display  
 Retail; on-site manufacturing and sales  
 Services; personal care  
 Services; professional office  
 Storage; wholesaling/warehousing, off-site  
 Storage; wholesale/distribution center, 3 truck bays  
 Transport; public transit passenger station

**C Special Permit Uses:**

Automotive; service, wash or storage  
 Automotive; gas station  
 Automotive; sales, new or used  
 Health / Medical; hospital or clinic, inpatient  
 Industry; light, general non-nuisance  
 Industry; light, printing and publishing

Parking; off street or garage, commercial vehicles  
 Recreation; outdoor assembly or amphitheater  
 Utility; public service  
 Utility; small above ground structure  
 Utility; transmitting or communications tower  
 Utility; municipal works yard or structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Home occupation (SP)  
 Parking, off-street or garage  
 Parking, off-street or garage, commercial vehicles (SP)

Storage; indoors, merchandise in stock  
 Storage; outdoors, merchandise in stock  
 Structure; commercial garage or shed (SP)

(SP) By Special Permit

\* Existing on or before the date of this Section.

**E Area and Bulk Schedule**

| Minimum Lot Dimensions            |        |
|-----------------------------------|--------|
| Area (sq. ft)                     | 21,780 |
| Width (feet)                      | 100    |
| Minimum Yard Dimensions           |        |
| Front (feet)                      | 25     |
| Side (feet)                       | 12 †   |
| Rear (feet)                       | 12 †   |
| Maximum building coverage         | 35%    |
| Density (Dwelling units per acre) | N/A    |
| Maximum building height (feet)    | 50     |

† No setback required if constructed of an approved Party-wall / Fire-wall in accordance with NYS Fire Codes and building inspector approval.

**F Specific District Standards**

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**01.Site Plans** - All new uses and structures except one and two family dwellings, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.

**a) Parking** - All parking lots must be in accordance with Section 3.1 Parking.

**b) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.

**c) Signs** - All signs must be in accordance with Section 3.3 Signs.

**02.Accessory Dwelling Units** - A dwelling unit accessory to a premises principally used for office, retail, tourist accommodation, warehouse, or personal service activity may be permitted in accordance with Section 3.7.10.

**Section 2.7.4 Corporate Office Only District (O)**

**A – Intent:** The Corporate Office Only District is intended to encourage a grouping of office uses, easily accessible by major roads, built to a high standard and primarily intended for corporate office centers and office buildings.

**B Permitted Uses:**

Civic; public facility, bank or government office  
 Civic; religious facility or cultural facility  
 Industry; light, research and development lab  
 Parking; off street or garage

Recreation; public, outdoor park or campground  
 Residence; one family residence\*  
 Residence; two family residence\*  
 Services; professional office

**C Special Permit Uses:**

Health / Medical office or clinic, outpatient  
 Health / Medical; hospital or clinic, inpatient  
 School; nursery, day care, elementary or high  
 School; university, college or trade  
 Transport; heliport

Utility; public service  
 Utility; small above ground structure  
 Utility; transmitting or communications tower  
 Utility; municipal works yard or structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Accessory; retail or services  
 Boarding; dormitory (SP)  
 Home occupation (SP)

Structure; commercial garage or shed  
 Structure; customary garage, shed or greenhouse  
 Parking, off street or garage  
 Parking, off-street or garage, commercial vehicles (SP)

(SP) By Special Permit

\* Existing on or before the date of this Section.

**E Area and Bulk Schedule**

| Minimum Lot Dimensions            |         |
|-----------------------------------|---------|
| Area                              | 5 acres |
| Width (feet)                      | 400     |
| Minimum Yard Dimensions           |         |
| Front (feet)                      | 25      |
| Side (feet)                       | 12      |
| Rear (feet)                       | 25      |
| Maximum building coverage         | 35%     |
| Density (Dwelling units per acre) | N/A     |
| Maximum building height (feet)    | 50      |

**F Specific District Standards**

---

- 01. Site Plans** - All new uses and structures, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.
- a) Parking** - All parking lots must be in accordance with Section 3.1 Parking.
  - b) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
  - c) Signs** - All signs must be in accordance with Section 3.3 Signs.
- 02. Professional Offices** - The minimum floor space for a professional office building shall be 10,000 square feet.
- 03. Special Review Criteria** - Campus-like development designs will be encouraged. To this end:
- a)** Landscaping plans should specifically address streetscape aesthetics, so that as development occurs, an attractive streetscape will be ensured along the major roads and large expanses of parking will be broken up and/or hidden from view at all times;
  - b)** Curb cuts must be minimized, and adjacent uses may be required to combine accesses;
  - c)** Site development plans should address the pedestrian environment for visitors and employees, creating a campus-like outdoor environment where the buildings work together to create meaningful outdoor public spaces and walk-ability from one building to another.
  - d)** Designs which integrate and protect existing wetland areas into the landscape design without disturbing them are encouraged through the use of trails, public access and or recreation areas.

### Section 2.7.5 Corporate Office/Regional Commercial District (OC)

**A – Intent:** The Corporate Office/Regional Commercial District is intended to permit and encourage a grouping of office and commercial uses, easily accessible by major roads, and built to a high standard. The intended uses include corporate office centers, tourist accommodations, convention centers, and regional-level commercial uses such as a regional shopping center. The regulations are designed to encourage large scale campus-type developments, and to discourage a strip form of development.

#### B Permitted Uses:

|  |   |
|--|---|
| <p>Agriculture; horticulture and farming, general<br/>         Animal; boarding, horse farm or stables<br/>         Boarding; hotel<br/>         Civic; public facility, bank or government office<br/>         Civic; religious facility or cultural facility<br/>         Health / Medical; cemetery<br/>         Industry; retail, food product manufacturing<br/>         Industry; light, printing and publishing<br/>         Industry; light, general non-nuisance<br/>         Parking; off street or garage</p> | <p>Parking; off street or garage, commercial vehicles<br/>         Recreation; indoor, assembly or auditorium<br/>         Recreation; public, outdoor park or campground<br/>         Restaurant; as per 2.7.5-F 01c<br/>         Residence; one or two family residence*<br/>         Retail; single tenant or multi-tenant<br/>         Retail; single tenant, &lt; 15,000 s.f.<br/>         Retail; landscaping/gardening with outdoor display<br/>         School; university, college or trade<br/>         Services; personal care* or professional office</p> |
|--|---|

#### C Special Permit Uses:

|   |   |
|---|---|
| <p>Agriculture; livestock or dairy<br/>         Boarding; convention center with hotel<br/>         Health / Medical; crematory<br/>         Health / Medical; hospital or clinic, inpatient<br/>         Health / Medical; offices or clinic, outpatient<br/>         Industry; light, research and development lab<br/>         Industry; light, assembly &amp; fabrication<br/>         Recreation; private veteran/fraternal or social club</p> | <p>Recreation; commercial amusement<br/>         Storage; wholesaling / warehousing, off site<br/>         Storage; self storage rental facility<br/>         Transport; airport, private airstrip or heliport<br/>         Utility; public service<br/>         Utility; small above ground structure<br/>         Utility; transmitting or communications tower<br/>         Utility; municipal works yard or structure</p> |
|---|---|

#### D Accessory Uses:

|   |   |
|---|---|
| <p>Accessory; dwelling unit (SP) as per Section 3.7.10<br/>         Accessory; retail or services<br/>         Boarding; dormitory (SP)<br/>         Storage; indoors, merchandise in stock<br/>         Structure; commercial garage or shed</p> | <p>Structure; customary farm building<br/>         Structure; customary garage, shed or greenhouse<br/>         Home occupation (SP)<br/>         Parking, off street or garage<br/>         Parking, off street or garage, commercial vehicles</p> |
|---|---|

(SP) By Special Permit

\* Existing on or before the date of this Section.

**E Area and Bulk Schedule**

| <b>Minimum Lot Dimensions</b>     |         |
|-----------------------------------|---------|
| Area (sq. ft)                     | 5 acres |
| Width (feet)                      | 400     |
| <b>Minimum Yard Dimensions</b>    |         |
| Front (feet)                      | 25      |
| Side (feet)                       | 12      |
| Rear (feet)                       | 25      |
| Maximum building coverage         | 35%     |
| Density (Dwelling units per acre) |         |
| Maximum building height (feet)    | 50      |

**F Specific District Standards****01. Specific Use Regulations**

- a) Professional Offices** - The minimum floor space for a professional office building shall be 10,000 square feet.
- b) Accessory Retail or Services**
- i)** are permitted as accessory and secondary to a hotel, or convention center. In this case, the retail and service component shall not exceed 15% of the total floor area. Or,
  - ii)** are permitted in a shopping center, mall, or combination shopping center/office center. In this case, the minimum lot size shall be 20 acres. Or,
  - iii)** are permitted as accessory and secondary to an office building. In this case, the retail and service component shall not exceed 5% of the total floor area.
- c) Restaurants** - Restaurants with both indoor or outdoor seating are permitted as accessory and secondary to a hotel, convention center, mall, shopping center, or office building, or, if an independent use, with a minimum seating capacity of 200; Restaurants existing on or before the date of this Section are permitted as a pre-existing use.

**02. Site Plans** - All new uses and structures, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.

- a) Campus-like development designs** will be encouraged. To this end:
- i)** Landscaping plans should address streetscape aesthetics, so that as development occurs, an attractive streetscape will be ensured along the roads and large expanses of parking will be broken up and/or hidden from view at all times;
  - ii)** Curb cuts must be minimized, and adjacent uses may be required to combine accesses;
  - iii)** Site development plans should address the pedestrian environment for visitors and employees; creating a campus-like outdoor environment where the buildings work together to create meaningful outdoor public spaces and walk-ability from one building to another.
  - iv)** Designs which integrate and protect existing wetland areas into the landscape design without disturbing them are encouraged through the use of trails, public access and or recreation areas.
- b) Parking** - All parking lots must be in accordance with Section 3.1 Parking.
- c) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
- d) Signs** - All signs must be in accordance with Section 3.3 Signs.

**Section 2.7.6 Corporate Office/Light Industrial District (OI)**

**A – Intent:** The OI District is intended to permit and encourage the development of light manufacturing, research, offices and warehousing uses which do not require rail or water access.

**B Permitted Uses:**

Agriculture; livestock or dairy  
 Civic; cultural facility  
 Civic; public facility, bank or government office  
 Industry; light, assembly and fabrication  
 Industry; light, printing and publishing  
 Industry; light, general non-nuisance  
 Industry; light, research and development lab  
 Industry; machinery repair or storage garage  
 Industry; retail, food product manufacturing

Industry; recycling and materials reuse  
 Parking; off street or garage  
 Parking; off street or garage, commercial vehicles  
 Recreation; indoor, assembly or auditorium  
 Recreation; public, outdoor park or campground  
 School; university, college or trade  
 Services; professional office  
 Storage; wholesale/distribution center <3 truck bays  
 Storage; wholesaling / warehousing, off site

**C Special Permit Uses:**

Animal; boarding, veterinary services  
 Health / Medical office or clinic, outpatient  
 Health / Medical; hospital or clinic, inpatient  
 Industry; extractive operation or soil mining  
 Recreation; private veteran/fraternal or social club  
 Recreation; commercial amusement  
 Transport; airport, private airstrip

Transport; public transit passenger station  
 Transport; heliport  
 Utility; public service  
 Utility; small above ground structure  
 Utility; transmitting or communications tower  
 Utility; municipal works yard or structure

**D Accessory Uses:**

Accessory; dwelling unit (SP) as per Section 3.7.10  
 Accessory; retail or services  
 Animal; boarding, private stable  
 Parking, off street or garage  
 Parking, off street or garage, commercial vehicles  
 Storage; indoors, merchandise in stock

Storage; outdoors, merchandise in stock  
 Structure; customary farm building  
 Structure; customary garage, shed or greenhouse  
 Structure; commercial garage or shed

(SP) By Special Permit

\* Existing on or before the date of this Section.

**E Area and Bulk Schedule**

| Minimum Lot Dimensions         |         |
|--------------------------------|---------|
| Area (sq. ft)                  | 3 acres |
| Width (feet)                   | 300     |
| Minimum Yard Dimensions        |         |
| Front (feet)                   | 35      |
| Side (feet)                    | 12      |
| Rear (feet)                    | 25      |
| Maximum building coverage      | 35%     |
| Maximum building height (feet) | 50      |

**F Specific District Standards**

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- 01.Site Plans** - All new uses and structures, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.
- a)** Landscaping plans should address streetscape aesthetics, so that as development occurs, an attractive streetscape will be ensured along the public roads;
  - b)** Curb cuts must be minimized, and adjacent uses may be required to combine accesses;
  - c)** Designs which integrate and protect existing wetland areas into the landscape design without disturbing them are encouraged through the use of trails, public access and or recreation areas.
  - d) Parking** - All parking lots must be in accordance with Section 3.1 Parking.
  - e) Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
  - f) Signs** - All signs must be in accordance with Section 3.3 Signs.

**Section 2.7.7 Coastal Industrial District (CI)**

**A – Intent:** The CI District is intended to permit and encourage the development of light manufacturing and warehousing uses appropriate along the waterfront which require access to the river, rail line or require large quantities of water.

**B Permitted Uses:**

|   |   |
|---|---|
| Adult establishment<br>Agriculture; horticulture and farming, general<br>Agriculture; livestock or dairy<br>Agriculture; farm stand or market<br>Industry; light, general non-nuisance<br>Industry; light, printing and publishing<br>Industry; light, assembly and fabrication | Industry; light, research and development lab<br>Recreation; public, outdoor park or campground<br>Parking; off street or garage<br>Transport; bus, railroad, truck, ship repair/storage<br>Storage; self storage rental facility |
|---|---|

**C Special Permit Uses:**

|   |  |
|---|--|
| Automotive; service, wash or storage<br>Industry; extractive operations or soil mining<br>Industry; recycling and materials reuse<br>Industry; machinery repair or storage garage<br>Parking; off street or garage; commercial vehicles<br>Recreation; marina<br>Storage; wholesale/distribution center 3+ truck bays | Storage; wholesaling / warehousing, off site<br>Storage; fuel or other hazardous materials<br>Transport; public transport passenger station<br>Utility; public service<br>Utility; small above ground structure<br>Utility; transmitting or communications tower<br>Utility; municipal works yard or structure |
|---|--|

**D Accessory Uses:**

|   |  |
|---|--|
| Accessory; dwelling unit (SP) as per Section 3.7.10<br>Accessory; retail or service<br>Animal; boarding, private stables<br>Parking; off street or garage<br>Parking; off street or garage, commercial vehicles | Structure; commercial garage or shed<br>Structure; customary farm building<br>Structure; customary garage, shed or greenhouse<br>Storage; indoors, merchandise in stock<br>Storage; outdoors, merchandise in stock |
|---|--|

(SP) By Special Permit

**E Area and Bulk Schedule**

| Minimum Lot Dimensions            |          |
|-----------------------------------|----------|
| Area (sq. ft)                     | 10 acres |
| Width (feet)                      | 500      |
| Minimum Yard Dimensions           |          |
| Front (feet)                      | 50       |
| Side (feet)                       | 25       |
| Rear (feet)                       | 25       |
| Maximum building coverage         | 35%      |
| Density (Dwelling units per acre) | N/A      |
| Maximum building height (feet)    | 50       |

**F Specific District Standards**

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**01. Specific Use Regulations**

- a) **Restaurant** - Restaurants with both indoor or outdoor seating are permitted as accessory and secondary to a permitted marina.

**02. Site Plans** - All new uses and structures, and all changes of use, shall require site plan review and approval in accordance with the procedures and requirements stated within Section 4.3.1 of this Local Law.

- a) Designs which integrate and protect existing wetland and river shoreline areas into the landscape design without disturbing them are encouraged through the use of trails, public access and or recreation areas.
- b) Development plans shall be designed to minimize any conflict with existing adjacent agricultural operations. A minimum building setback of 100 feet is required from an adjacent existing agricultural operation.
- c) Development plans shall address streetscape aesthetics so that as development occurs, an attractive streetscape will be ensured along the major roads.
- d) Curb cuts must be minimized and adjacent uses may be required to combine accesses.
- e) **Parking** - All parking lots must be in accordance with Section 3.1 Parking.
- f) **Landscaping** - All landscaping must be in accordance with Section 3.2 Landscaping.
- g) **Signs** - All signs must be in accordance with Section 3.3 Signs.

**03. Required Waterfront Access** – In order to promote and protect publicly available access to the riverfront, all new development with water frontage along the Hudson River must provide a continuous pedestrian esplanade along the width of the property adjacent to the waterway as a recreational trail. This esplanade must link to any esplanade(s) on adjacent properties, and must also be linked to a public right-of-way by a waterfront access path.

- a) The waterfront access paths to and from the public way may be provided through the ground floor interior of a building on the site and be restricted during business closing hours.
- b) Waterfront access paths should be identified as a throughway to and from the water with a Town-approved sign and provide a view of the water from the public way.
- c) Waterfront access paths may be provided along a side property line so that it is a shared access arrangement with the neighboring property. Such paths would meet the waterfront access requirements of both properties simultaneously.
- d) At least one public bench and trash receptacle should be provided no less than every 200 feet along a waterfront access path or pedestrian esplanade.
- e) Waterfront access paths and pedestrian esplanades should be illuminated with Town-approved lamps at least once every 50 feet.
- f) These pedestrian access ways must meet all requirements of the Americans with Disabilities Act, including the transitions from one property to another.

## Section 2.8 Overlay Districts

### Section 2.8.1 Watercourse Management Overlay District (WMO)

**2.8.2 Intent:** The purpose of the Watercourse Management District includes the following:

1. To preserve and protect natural and cultural resources in the stream corridor.
2. To enhance surface water quality.
3. To control non-point source pollution sources such as erosion and sedimentation.
4. To protect people and structures from flood hazards.

### 2.8.3 Location:

Watercourse Management Overlay Districts are hereby established for a horizontal distance 50 feet from the high water mark of ponds and lakes and from the nearest bank of streams and rivers. The controls described below are to be superimposed on any other district regulations in the Watercourse Management District. The water bodies covered by the Watercourse Management District have been classified by the New York State Department of Environmental Conservation (NYSDEC) as designated water classes "AA" through "D".

### 2.8.4 Approvals:

Before any improvements are made on any public or private property or public place within the Watercourse Management District, the project must first be given approval by the Town Planning Board. No permits shall be issued nor shall any encroachment on public places be permitted until such approval is secured. The applicant is responsible for indicating any water bodies and their 50 foot overlay boundary on their proposed site plans and obtaining any permits required by other authorities.

### 2.8.5 Submission Requirements:

- A. Within any Watercourse Management District, the following shall be submitted to the Planning Board for review and approval:
01. Any plans for new buildings, structures, or signs including a general location map; site plan showing location of building, topography, access to the property, setbacks, yards and parking areas; landscape plan including grading, drainage and planting; water supply and sewage disposal facilities.
  02. Any plans for renovation, remodeling, or reconstruction of existing buildings, structures, or signs shall include plans similar to those required in 01 above.
  03. Site and planting plans for any playground, park, or parking lot.
  04. Erosion control plans when grading or disturbance of soil will be undertaken.
  05. Location of 100 year flood plains.
  06. Federal wetlands and state designated wetlands.
  07. Areas of significant habitats.
  08. Any Permits required/obtained from other authorities.

- B.** In reviewing the plans, the Planning Board shall give consideration to:
- 01.** Possible deterioration of stream or lake quality due to erosion, siltation or point or non-point pollution.
  - 02.** Natural habitats for birds, mammals, reptiles, and aquatic organisms.
  - 03.** Active and passive recreation activities.
  - 04.** Flood hazards.
- C.** Nothing in this Section shall be construed to prevent ordinary maintenance or repair or any structure within the Watercourse Management District; nor shall anything in this Section be construed to prevent the construction, alteration, repair, moving, or demolition of any structure under a permit issued by the Zoning Office, prior to the adoption of these regulations.
- D.** The Planning Board may employ experts for advice and counsel regarding the objectives of this Section and for this purpose may incur such expenses as may be necessary and proper, not exceeding the appropriation that may be made for such Planning Board.

## Section 2.9 Planned Development District

**2.9.1 – Intent:** The Planned Development District is intended to encourage creative, compact development while fostering community amenities such as a usable open space system for residents and nearby neighborhoods throughout the town. Approved Planned Development Districts will address the unique environmental, physical and cultural resources of the project area and neighborhood through a customized, site-specific master plan and accompanying regulatory framework.

**2.9.2** The Planned Development procedure provides a flexible land use and design regulation through the use of performance criteria so that development may be matched with sensitivity to the unique characteristics of its site and innovative development techniques may be accommodated that might not otherwise be possible through strict application of standard zoning and subdivision requirements. The conventional use, area, bulk and density specifications set forth by other sections of this Local Law are intended to be replaced by the approved PD District plan, which then becomes the basis legislatively established by the Town Board for detailed design, review and control of subsequent development.

**2.9.3** While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with the comprehensive plan, municipal service capability, and the purposes of this Local Law, shall ensure the general welfare through equal treatment under the law, as well as precise control of all aspects of the development as approved.

**2.9.4 General Criteria** - The legislative determination to establish a Planned Development District shall be based upon the following standards:

**A. Location** - A Planned Development (PD) District may be established at any location within the Town, except within the A-R or R-OS Districts, if the objectives and provisions of this article are satisfied as determined by the Town Board.

**B. Developable Area** - The minimum development area required to qualify for a Planned Development District shall be twenty (20) adjacent acres of land in the case of residential or general use, and ten (10) adjacent acres in the case of commercial or light industrial uses. The calculation of such land area shall not include existing streets, easements, parks, or otherwise dedicated land or water areas in excess of five percent (5%) of the minimum gross acreage, lands designated on the official map for public purposes, or lands undevelopable by reasons of topography, drainage, periodic inundation by flood waters, or adverse sub-soil conditions. Sites proposed for development for two or more use classifications shall consist of the aggregate of the gross land areas required for each use.

**C. Ownership** - The tract of land for a project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project or contract vendee(s) or holder of bona fide purchase option. In the case of multiple ownership, the approved plan and all amendments shall be binding on all owners and all successors in title and interest.

**D. Permitted Uses in PD Districts** - The classification and mix of uses permitted within an area designated as a PD District shall be determined by the provisions of this Section and the approved plan of the project concerned. During consideration of the rezoning request, the Town Board may determine that specific uses are inappropriate for certain locations of town and establish a refined list on a case-by-case basis. This final list would be established for each PD application and included in the PD District Legislation and SEQR findings statement.

**01.** For a PD District which occurs upon the rezoning of lands heretofore zoned in primarily residential districts, the approvable land uses shall be restricted to the following:

- a) Residences which may be of any variety of type as appropriate within the intent and objectives of this PD regulation;
- b) private garages, storage spaces, recreational and community facilities as appropriate within the PD; and

- c) limited commercial, service and other non-residential accessory uses scaled to primarily serve the residents of the PD and which are in keeping with the scale and, size and traffic of the neighborhood and its structures.

**02.** PD Districts created through the rezoning of lands elsewhere in the Town may additionally include the following land uses:

- a) commercial, service and other non-residential accessory uses scaled to serve the residents of the PD and the surrounding community; and
- b) commercial, service, light industrial and other non-residential land uses as either the sole principal use, or a co-principal use in a mixed use development.

**2.9.5 Intensity of residential land uses** - In order to provide additional amenities to the town, and prior to incentives or bonuses the residential density allowed within a Planned Development District shall be determined according to the following standards:

- A. Where a Planned Development District occurs by a rezoning of a prior residential district, the density shall not exceed the base density otherwise permitted per developable area in the "District Area and Bulk Schedule" for that district. The project amenity package will be considered for potential incentive to allow an increased density and/or smaller lot size per developable area above that base density.
- B. Where a Planned Development District occurs by a rezoning of a prior non-residential district and/or inclusion of residential uses in districts where residential is currently not permitted, the base residential density shall not exceed two (2) units per acre of developable area which shall also exclude areas used for nonresidential uses. Allowance of and any increases in residential density per developable area above the base shall be determined on the amenity package provided as part of the planned development.
- C. Amenity package shall include provision of on-site and/or off-site amenities beyond measures required to service the needs of the subject project and/or beyond the measures needed to mitigate the impact of the subject project. The amenities may include but not be limited to the following:
  - 01.** Open space system open to the public including a comprehensive multi-purpose path system and conservation lands (including developable land) permanently protected by conservation easement or other measure acceptable to the town.
  - 02.** Recreation amenities including parks, athletic fields beyond that required for the immediate residents of the project.
  - 03.** Provision for the enhancement of public facilities including the public water, wastewater (sewage) and community services/public safety/transportation facilities.
  - 04.** Housing facilities for persons of low to moderate income.
  - 05.** Cash payment to the Town for improvements or acquisition of public/community facilities such as parks, trails, water, sewer, etc.
- D. Where the Town Board determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the board may require, in lieu thereof, a payment to the town of a sum to be determined by the board. These funds shall be deposited in a trust fund to be used by the town board exclusively for community benefits or amenities as defined herein.
- E. Increase or bonus in density and/or change in permitted land use provided by the town in the PDD shall be commensurate with the amenity or benefit provided. As a general guideline, the amenity package proposed must be commensurate with any density increase or use change proposed, based on each additional unit beyond the base or allowed residential density and/or per 1,000 square feet of previously not permitted nonresidential (e.g., commercial) use. The Town Board may establish and maintain a required amenity schedule which outlines cash or equivalent reimbursements.

### 2.9.6 Approval Procedure.

**A. Application.** Application for establishment of a Planned Development shall be made in writing to the Town Board, include the information detailed in Section 3.1.7-02 and shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board. The Town Board shall refer the application to the Town Planning Board and its professional planning consultant for review and recommendation within thirty (30) days of the date of application. The Town Board is under no specific obligation to accept a PD District application.

**01.Pre-application meetings:** Prior to submission of a formal application, all PD District applicants are required to present preliminary concepts to the Town Planner, Town Board, and Planning Board. Prior to accepting a formal application, the Town Board may determine that such a meeting is necessary and require an informal, pre-application meeting or meeting(s) be held.

**02.Application materials:** For each formally-submitted Planned Development District application, the applicant shall furnish maps, images, graphics and narrative which clearly demonstrate the following minimum levels of information:

- a) The proposed PD District site's existing conditions including but not limited to:
  - i) boundaries of the proposed Planned Development;
  - ii) all properties within 1000' of the proposed PD including ownership, zoning, and current land use;
  - iii) existing zoning of the proposed PD District;
  - iv) topography and subsoil conditions;
  - v) wetlands, floodplains, watercourses, ponds and other water resources on the site;
  - vi) existing land uses;
  - vii) existing conditions site photographs including aerial photographs;
  - viii) cultural or historical structures or sites within the proposed PD District or 1000' vicinity.
- b) The PD District proposal including but not limited to:
  - i) proposed land use plan;
  - ii) utility and access plans;
  - iii) roadway and pedestrian circulation plans;
  - iv) conceptual site layout including the proposed location of buildings and structures;
  - v) conceptual phasing plan and development schedule;
  - vi) a narrative describing the following information:
    - general traffic impacts and implications of the proposed PD project;
    - economic feasibility of the project as well as fiscal impact to the town;
    - the general need for the Planned Development District in this location;
    - phasing proposals and alternatives;
- c) Payment into an escrow account of estimated costs for review of application by town's planning, engineering, and other required consultants.
- d) Development Standards Element. The development standards element shall become the applicable regulations under this ordinance for the physical development within the proposed planned development district. Where standards are not changed or established in the PDD, the standards of the underlying zoning district shall be noted appropriately. The PDD shall include a summary table identifying the following standards where applicable:
  - i) Permitted uses, conditional and accessory uses.
  - ii) Maximum development intensity of residential uses.

- iii) Floor area ratio for non-residential uses.
- iv) Lot coverage.
- v) Height.
- vi) Build-to distances from public and private ways.
- vii) Setbacks for structures and parking areas.
- viii) Minimum lot size;
- ix) Parking requirements;
- x) Minimum lot frontages and building massing;
- xi) Landscaping;
- xii) Preservation of historic structure(s);
- xiii) Preservation of open space and natural areas;
- xiv) Mobility (bikes, pedestrians, etc.) through the district.
- xv) Design standards and guidelines
- xvi) Any other information that may be required by the Planning Board for a reasonable understanding of the nature and character of the proposed development.

**2.9.7 Planning Board Review.** In its review of the application, the Planning Board shall generally follow the procedure established within the Town's Land Subdivision Regulations for preliminary plat review of a major subdivision.

- A. The Planning Board shall additionally consider, among other factors, the following:
  - 01.the need for the proposed land use or uses at the proposed location;
  - 02.the existing character of the neighborhood in which the use or uses would be located;
  - 03.the location of principal and accessory buildings on the site in relation to one another;
  - 04.the pedestrian circulation and open space in relation to structures;
  - 05.the traffic circulation features within the site, and the amount, location, and access to automobile parking areas.
- B. The Planning Board may recommend at this stage such changes in the proposed PD District plans that it deems necessary to protect established or permitted uses in the vicinity, promote and protect the orderly growth and sound development of the Town, and otherwise meet the requirements of this Local Law.
- C. The Planning Board shall recommend approval, approval with modifications, or disapproval by the Town Board of such PD District application and shall report its findings to the Town Board within 90 days from days following the date of referral from said Board. The planning board may secure agreement from the applicant for an extended review period in order to address the reasonable questions, concerns, and changes to the concept plan recommended by the planning board prior to the planning board rendering its report to the town board.

**2.9.8 Town Board Action.** Upon receipt of the Planning Board's report, the Town Board may then consider the legal establishment of the Planned Development District through Zoning Map amendment. The procedure followed shall be as specified in Section 4.4 of this Local Law. In particular, any application for creation of a Planned Development District to accommodate commercial or light industrial uses shall be a Type 1 action under SEQR. In that this creation of a Planned Development District is a legislative act of the town, the town board is not legally bound in any way to approve any request for the creation of such district.

**A. Town Board Findings.** As part of its written decision to approve, condition, and/or modify the proposed PD District the Town Board shall make the following findings:

01. That the project as a whole and uses proposed will add to the assets of the community and will advance the goals of the Town.
02. That the density and scale of the project and the overall site, architectural and landscape plans are compatible as appropriate with the current and planned community character of the neighborhood.
03. That any increase in density from the underlying zoning is commensurate with the overall benefit to the community.
04. That the state environmental quality review (SEQR) requirements have been met.
05. Additional performance requirements which may have been specified by the Town Board in its PD District approval action may also be included in the findings statement.

**2.9.9 Relationship to Other Requirements.** Upon approval of the Planned Development District by the Town Board, application shall be made within sixty (60) days for approval of all or some portion of the intended development, in accordance with the more specific review requirements of the Town's Land Subdivision Regulations, the Site Plan Review and Approval Procedure contained in Article V herein, and other applicable regulations.

**A.** Additional performance requirements which may have been specified by the Town Board in its PD District approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, shall also be strictly enforced, with the Town Board acting to return the property to its prior zoning classification unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.

#### **2.9.10 Amendments to Planned Development Districts.**

**A. Exemptions.** Proposed changes to a previously-established planned development district will be exempt from the formal amendment process if any or all of the following conditions are the only changes proposed:

01. Decrease of height or floor area of any approved project or program element or,
02. Reduction or elimination of any non-required parking spaces or,
03. Change to an approved building resulting in a net impact of less than five percent of total gross square footage for projects less than 100,000 square feet.

**2.9.11 Determination of Amendment.** Minor and Major - The code enforcement officer shall determine whether a proposed amendment is a minor or major change to the approved site plan.

**2.9.12 Minor amendment.** In making its determination, the code enforcement officer shall make findings of fact upon which the decision shall be based. The officer must find that the effect of approving the amendment would have no significant additional adverse impact on the site or nearby neighborhood relative to the impact of the previously-approved plan. A minor amendment may be approved by the planning board subsequent to a public hearing.

**2.9.13 Major amendment.** A major amendment is any change to a master plan and/or development standards and development program that has not been classified as "minor". A major amendment shall be approved by the following the process described in the approval procedure section of this article.

**2.9.14 Effect of Conditions.** All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any Certificate of Occupancy or Use issued for any use or structure in such development.

## Section 3.0 Town-wide Standards

### Section 3.1 Off Street Parking & Loading

**3.1.1 – Intent:** It is the intent of the Town of East Greenbush to ensure adequate parking is available, yet at the same time take steps to reduce the amount of impervious asphalt surface created by overly-large or redundant parking areas. To this end, the Town has identified alternatives to permit smaller, more efficient parking layouts and pervious parking surfaces.

**3.1.2** In all districts, at the time any new building or structure is erected, existing building enlarged or changed in use, off-street parking and loading space shall be provided in accordance with the minimum standards set forth below.

**Table III-A – Off Street Parking and Loading Dock Standards**

For uses not specifically listed, the requirement shall be the same as for the most similar use listed as determined by the Planning Board at the time of site plan review, as provided for in this Local Law. Fractional results for the number of spaces should be rounded up to the next whole number. Any spaces mandated by ADA for handicapped accessibility should be counted toward the overall amounts required.

| Land Use  | Minimum Number of Off-Street Parking Spaces                         | Note   |
|---|---|--------|
| Residential   | Parking spaces per Dwelling Unit (d.u.)                             |        |
| Single-family or Duplex (Detached)  | 2.0   |        |
| Single-family Townhouse or Condominium (Attached)                                       |   |        |
| <ul style="list-style-type: none"> <li>• 1 bedroom or studio apartment</li> </ul>       | 1.5   |        |
| <ul style="list-style-type: none"> <li>• 2 bedroom</li> </ul>                           | 1.8   | Note 1 |
| <ul style="list-style-type: none"> <li>• 3 bedroom</li> </ul>                           | 2.0   | Note 1 |
| Multi-family developments   |   |        |
| <ul style="list-style-type: none"> <li>• 1 bedroom or studio apartment</li> </ul>       | 1.7   |        |
| <ul style="list-style-type: none"> <li>• 2 bedroom</li> </ul>                           | 2.0   | Note 1 |
| <ul style="list-style-type: none"> <li>• 3 bedroom</li> </ul>                           | 2.2   | Note 1 |
| Senior Housing  |   |        |
| <ul style="list-style-type: none"> <li>• 1 bedroom or studio apartment</li> </ul>       | 1.2   |        |
| <ul style="list-style-type: none"> <li>• 2 bedroom</li> </ul>                           | 1.5   |        |
| <ul style="list-style-type: none"> <li>• Nursing / Care providing facilities</li> </ul> | 1 for every 2 residents + 1 for every 1.5 employee at maximum shift |        |
| Other / Institutional   | Parking spaces per seating capacity                                 |        |
| Schools   | 2 for every classroom + 1 for every 3 auditorium / assembly seats   | Note 2 |
| Churches, Meeting Halls, Conference facilities  | 1 for every four 4 assembly seats                                   |        |

**Note 1:** At least 1 of the parking spaces for each d.u. must be provided in an enclosed garage.

**Note 2:** When determining the total number of parking spaces at a school with an auditorium, half of the spaces allotted for the classrooms may be used toward the auditorium seating requirement.

TABLE III-A, Cont.

| Land Use   | Minimum Number of Off-Street Parking Spaces   | Maximum                         | Note                                 |
|--|---|---------------------------------|--------------------------------------|
| Office & Professional  | Parking spaces per employee or s.f. GFA   |                                 |                                      |
| Medical professional   | 5 for every doctor + 1 for each other employee  |                                 |                                      |
| Bank   | 3 for every indoor Teller window + 1 for each customer service desk                                   |                                 | Note 3                               |
| General professionals (attorneys, realtors, insurance, engineers, etc.)  | 1 for every 120 square feet of GFA  |                                 |                                      |
| General offices not specified above  | 1 for every 250 square feet of GFA  |                                 |                                      |
| Commercial / Retail  | Parking spaces per 1000 s.f. GFA  |                                 |                                      |
| Retail commercial stores / centers   |   |                                 |                                      |
| <ul style="list-style-type: none"> <li>• Less than 15,000 s.f.</li> <li>• 15,000 – 45,000 s.f.</li> <li>• 45,000 – 80,000 s.f.</li> <li>• Greater than 80,000 s.f.</li> </ul>  | 2.6<br>2.5<br>2.4<br>2.3  | 4<br>3.9<br>3.8<br>3.5          | Note 4<br>Note 4<br>Note 4<br>Note 4 |
| Fast Food Restaurants (w/ drive thru)  | 10  | 12                              |                                      |
| Bars & Restaurants, Other than above   | 10  | 15                              |                                      |
| Gas stations w/ convenience store  | 3.3   | 4                               |                                      |
| Convenience store with seating areas   | 3.3   | 8                               |                                      |
| Vehicle service garages, oil change, car wash, tire or brake, etc.   | 3 for every service bay + 1 per employee at maximum shift   | 5 for every bay                 | Note 5                               |
| Marina   | 0.60 spaces/slip + 1 for every employee at maximum shift  |                                 |                                      |
| Indoor sports/recreation   | 5   | 1 for every 2 seats             |                                      |
| Outdoor sports/recreation  | 6   | As determined by Planning Board |                                      |
| Theatres & Cinemas   | 1 for every 3 seats   | 1 for every 2 seats             |                                      |
| Lodging establishments   | 1 for every rental room + 1 for every 2 employees at maximum shift + any required for restaurant/bar. | 1.3 for every rental room       |                                      |
|  |   |                                 |                                      |
| Industrial   | Parking spaces per employee at maximum shift  |                                 |                                      |
| Manufacturing  | 1.2   | 1.4                             | Note 5                               |
| Warehousing / Storage / Self-storage   | 1.5   | 1.7                             | Note 5                               |
| <p><b>Note 3:</b> Drive-thru windows, including those for food service, food service kiosks, bank tellers and ATMs must provide an additional 4-space vehicle queuing area for each service lane.</p> <p><b>Note 4:</b> When computing square footages, each separate building and/or use should be calculated on an individual basis.</p> <p><b>Note 5:</b> 1 additional space may be allotted for each official company vehicle which will be located on site.</p> |   |                                 |                                      |

### 3.1.3 General Parking Provisions

- A. **Shared Parking** - In the case of a mixture of uses on nearby or adjacent parcels, the requirements for off-street parking spaces may be reduced with planning board approval if it can be established by the applicant that staggered hours of use would permit the adjacent lots to share some of the parking demand. The Planning Board may optionally request such shared parking arrangements be provided if it would reduce the number of parking spaces while serving multiple uses.
- B. **Adaptive Reuse** – The Planning Board may require that redevelopment projects which include pre-existing parking areas which are larger than that required for the newly-proposed use are required to re-design the lot to meet current parking and landscaping standards and remove additional parking areas or asphalt which is no longer needed. The areas of asphalt removal should be reclaimed as landscaped islands, medians or perimeter buffers.

### 3.1.4 Parking Area Reductions & Enlargements

#### A. Parking areas smaller than the required minimum:

- 01. **Voluntary Reductions** – Any applicant proceeding with site plan review may request that the minimum number of required off-street parking spaces be reduced for their project if they can demonstrate to the planning board that their business would not actually warrant the minimum amount required during normal operations, or that other opportunities, such as shared parking, would account for the difference.
- 02. **Off-Site Employees** - Parking requirements may be reduced by Planning Board review if it can be demonstrated that a sufficient number of employees would be carpooling, traveling, working from home or otherwise away from the office during a typical work-week.
- 03. **On-Street Parking** – For development on parcels which abut or are adjacent to on-street parking, some of the required parking spaces may be eliminated with Planning Board approval if it can be demonstrated that the on-street parking will reasonably account for the reduction.

#### B. Parking areas larger than the required maximum: Parking areas which are larger than the required maximum are permitted only with planning board approval provided that any additional parking spaces above the maximum are provided through one or more of the following methods:

- 01. **Pervious Parking Surfaces** – Additional parking spaces above the maximum may be provided by pervious paving surfaces in lieu of traditional asphalt.
- 02. **Structured Parking** - Spaces provided within the footprint area of a structure such as a building, including rooftop, at-grade, or below grade spaces. If such parking spaces are part of a multi-floor parking garage or deck structure only, then all but the topmost level shall still be counted against the maximum number of spaces.
- 03. **Banked Parking** – Additional parking spaces above the maximum may be permitted as banked parking with planning board approval.
- 04. **Public Parking** – Additional parking spaces above the maximum may be provided with planning board approval provided they are designed and designated with signage as specifically available for use by the general public as a shared parking area for adjacent or nearby properties or a Park & Ride system. Such public parking area must be no less than 8 spaces, and must be made accessible to adjacent or nearby properties via a direct connection with sidewalks, crosswalks or other pedestrian access paths as approved by the planning board.
  - a) **Seasonal or Peak Overflow** – Development projects which expect to experience their highest parking demands only at select times of the year, such as special events or holiday shopping peaks, may be required by the planning board to provide some or all of this additional parking as separate shared public parking as outlined above.

### 3.1.5 Exceptions to Maximum Parking Requirements

- A. The following shall not count towards the maximum number of allowable spaces required by this section:
01. Parking spaces and their associated travel lanes constructed of pervious parking surfacing as approved by the Planning Board.
  02. Structured Parking: Spaces provided within the footprint of a structure, including rooftop, at-grade, or below grade spaces.
  03. Public Parking: Spaces provided and designated with signage as specifically available for use by the general public as a shared parking area for adjacent or nearby properties. Such nearby properties must be made accessible via a direct connection with sidewalks, crosswalks or other pedestrian access paths as approved by the Planning Board.
  04. Carpool, Vanpool and Car-Share Parking: Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program. Such spaces shall be reserved for such use and be signed or marked accordingly.

**Table III-B: Design Standards for Off-Street Parking Spaces**

| PARKING DIMENSIONAL STANDARDS |                         |                        |                 |                              |                            |
|-------------------------------|-------------------------|------------------------|-----------------|------------------------------|----------------------------|
| Angle of Parking Space        | Length of Parking Space | Width of Parking Space | Depth from Curb | Curb Length of Parking Space | Minimum Travel Aisle Width |
| Parallel to Curb              | 22'                     | 9'                     | 9'              | 22'                          | 12'                        |
| 45 degrees                    | 20' 6"                  | 9'                     | 16'             | 12' 9"                       | 15'                        |
| 60 degrees                    | 21' 6"                  | 9'                     | 19'             | 10' 5"                       | 18'                        |
| 90 degrees                    | 18'                     | 9'                     | 18'             | 9'                           | 24'                        |

### 3.1.6 Parking Areas in Residential Districts:

- A. No open or enclosed parking areas shall encroach on any required yard or required open areas, except where specifically allowed by district. The garaging, storage, or parking of more than one light commercial vehicle on any premises within any residential district is prohibited, or the garaging, storage, or parking of any heavy commercial vehicle within any residential district is prohibited except for farm vehicles used in the farm operations as defined in New York State Agriculture and Markets Law Article 25AA, Section 301.

**Table III-C: Parking Area Minimum Setbacks**

| Table III-C PARKING AREA MINIMUM SETBACKS |   |                  |                  |        |
|---|---|------------------|------------------|--------|
| Land Use / District                       | Front Yard (feet)   | Side Yard (feet) | Rear Yard (feet) | Note   |
| 1 and 2 Family Residential                | 5   | 5                | 5                | Note 1 |
| 3+ Multifamily Residential                | 10  | 10               | 10               |        |
| Business / Industrial                     | Not Permitted within Front Yard, required Open Areas or 15 feet from a public right-of way. | 5                | 5                | Note 2 |

**Note 1:** The building inspector may allow the distance to be reduced up to a minimum of one (1) foot provided proper drainage can be provided.  
**Note 2:** Except that if abutting a residential district, a minimum of fifteen (15) feet setback from the property line shall be maintained.

All dead-end parking aisles shall be extended at least five (5) feet beyond the last parking space to permit convenient egress from such parking spaces.

### 3.1.7 Access to Parking Areas

- A. Unobstructed and direct access-way between a street and a parking area shall be provided with roadways or driveways which cross front yards approximately perpendicular to street lines.
01. One curb-cut/driveway at least eight (8) feet wide, but no larger than twenty (20) feet wide, for parking areas with five spaces or less;
  02. One curb-cut/driveway at least ten (10) feet wide, but no larger than twenty-two (22) feet wide, for parking areas having 6 or more spaces;
  03. Additional curb-cuts/driveways may be granted only with approval by the Planning Board provided the applicant can show recent traffic data and alternate circulation patterns that would warrant it.
  04. Curb-cut radiuses should be no larger than 10 feet unless specifically required for truck access.
- B. All parking areas, aisles, access roads and driveways shall be designed in regular or rectangular shapes which are efficiently compact so as to minimize the amount of impervious paved surface area created by the overall layout. Parking areas which create unnecessarily awkward or unused areas of pavement by following irregular lot boundaries are discouraged.
- C. All parking areas shall be suitably drained. Appropriate signage, surfacing, curbing, drainage and other features shall comply with standards established by the Town and shall be reviewed by the Planning Board during site plan review in accordance with this Local Law.
- D. With the exception of driveways for one or two-family residences located on a local street, all off-street parking areas shall be designed to eliminate the need to back out onto the public road or highway.

**3.1.8 Handicapped Parking** - Parking spaces for disabled persons shall comply with current the Americans with Disabilities Act. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility in addition to painting / striping identification.

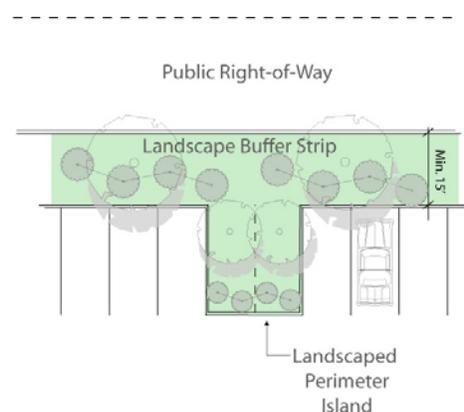
**3.1.9 Parking Lot Landscaping** - All parking areas shall conform to the following landscape standards.

**A. Perimeter landscaping** - A minimum perimeter landscape buffer strip of fifteen (15) feet shall be provided for any parking area abutting a public right-of-way. This requirement does not apply to areas within required driveway or other access points.

01. The parking lot perimeter landscape buffer shall consist of planting materials and structural features to create a minimum three (3) foot high visual relief screen in the form of a hedge, fence, planter box, berm, dividers, shrubbery, trees, or a combination thereof, or as deemed appropriate by the Planning Board.

02. The Planning Board encourages, and may require, any existing trees to remain and be incorporated into the parking lot design which would count towards the landscape requirements of this section.

03. If 30 or more consecutive spaces are proposed along a perimeter edge, a landscape perimeter island shall be provided in a central location and every 20 spaces thereafter. The landscape island shall be a minimum of two parking spaces in width and equal to the length of the proposed spaces. (For example, if 30 9' x 18' spaces are proposed, an island shall be provided at approximately 15 spaces that is 18' x 18'. If 40 spaces are proposed, an island shall be provided at approximately 20 spaces. If 60 spaces are proposed, two islands shall be provided approximately 20 spaces apart.)

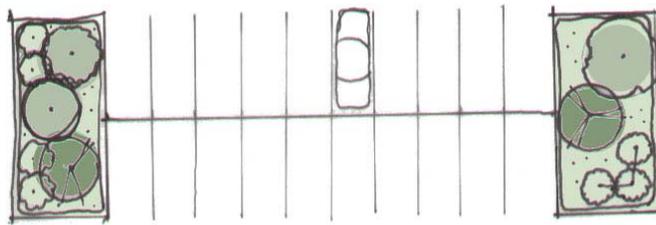


**B. Internal landscaping** – Internal parking lot landscaping shall consist of a minimum of 5% of the total parking area. Landscaped perimeter islands may be counted towards the 5% requirement, landscaping provided for the perimeter buffer strip does not.

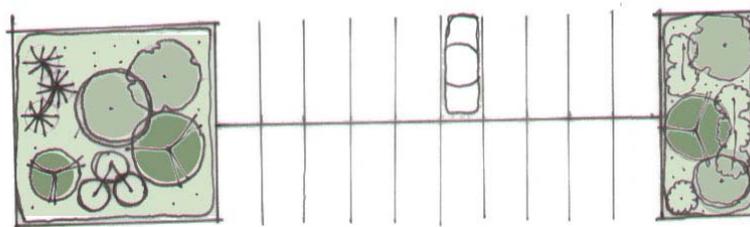
- 01. Landscaped areas shall be a minimum of 600 square feet and shall not be less than 18' in width.
- 02. Landscaped areas shall be covered with trees, shrubs, or groundcover, to cover the ground within 3 years, so that not more than 50% of any landscaped area is covered by lawn.
- 03. Trees shall be provided in the landscaped area at a minimum of 1 tree for every 200 square feet.

**C. Design and Layout Considerations** – The following should be considered in layout of parking areas:

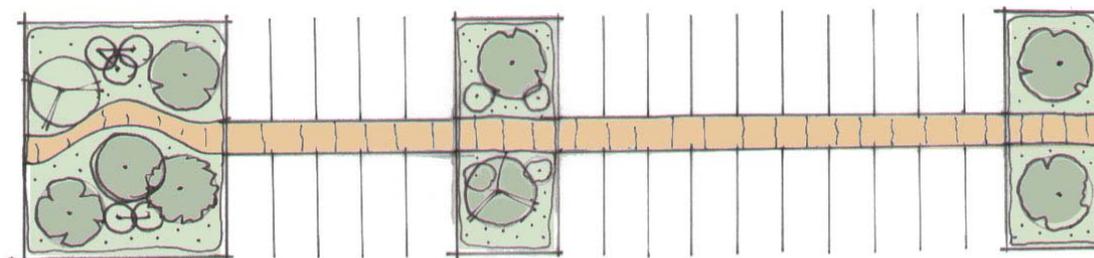
- 01. Shading spaces / sun aspect – Sun aspect and angle shall be considered in the layout of parking areas and tree selections so that the maximum number of spaces are provided with shade.
- 02. Snow storage/ removal - Areas for snow storage shall be indicated on the submitted site plan and/or landscape plan. These areas should be provided in such a way as to minimize damage to proposed vegetation. Snow storage space should be located on proposed pavement or perimeter landscaped areas, rather than internal landscaped areas. If internal landscaped areas are proposed to be used for snow storage, vegetation shall be selected and located in order to avoid damage.
- 03. Recommended layout options –



Option 1



Option 2

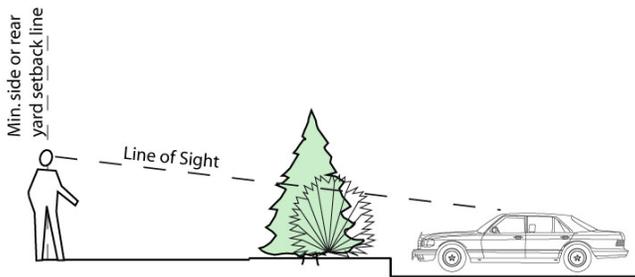


Option 3

- a) **Option 1** – For smaller parking lots, islands may be located on either end of a parking aisle. The smallest islands permitted are those that are 18' wide and the length of adjacent parking stalls (approximately 36').
- b) **Option 2** – For medium sized parking lots with aisles that are more than 10 spaces in length, a larger island shall be included that is approximately 4 spaces in size (36' x 36' for 9' by 18' parking spaces).
- c) **Option 3** – For large parking lots with multiple aisles proposed, one or more aisles should include pedestrian walkways through proposed parking and landscaped areas. This option should be used in front of buildings such that the pedestrian walkway aligns with the building entrance.

#### D. Required Screening

01. Open off-street parking or loading areas shall be screened from adjoining residential lots by walls, fences, evergreen trees, or evergreen hedges. This visual buffer shall be of sufficient height to prevent the viewing of parked vehicles from any point along the minimum side or rear yard setback lines of such adjoining residential lots.



**3.1.10 Required Off-Street Loading** - Off-street loading which is designed logically, conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles anticipated, and accessible to said vehicles when required off-street parking spaces are filled, shall be considered for all commercial and light industrial uses and provided as deemed necessary by the Planning Board during site plan review in accordance with this Local Law.

- A. **Access to Loading Berths** - Access-ways, at least ten feet in width, shall connect all loading berths or areas to a street. Such access-ways may be coincidental with access roadways or driveways to parking areas.
- B. **Required Loading Areas** - All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Each required loading berth may be open or enclosed and shall have the following minimum dimensions: 35 feet long, 12 feet wide, 14 feet high. Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area, or access-way.

## Section 3.2 Landscaping

**Note:** See Section 3.1 for landscaping regulations pertaining to parking lots.

### 3.2.1 Landscaping Requirements for Commercial, Industrial, and Business Districts

#### A. Applicability and Approvals

01. The following minimum landscape requirements are applicable to development in Commercial, Industrial, and Business District, in particular the PPB, PDD, B-1, B-2, O, OC, OI, and CI Districts. These requirements pertain to the minimum area of greenspace, and the types of required on-site landscaping for the site.
02. Except for single and two family dwellings, prior to the issuance of any building permit, a plot and planting plan shall be submitted to and be approved by the Planning Board as described in Section 4.3 Site Plan Review and Approval Procedure. No building permit in cases of greenspace reduction shall be issued unless the plot plan has been reviewed and certified by the Planning Board as complying with the provisions of this section.
03. All landscaping shall be installed in accordance with the plot plan as finally approved prior to issuance of a certificate of occupancy and shall be installed in accordance with accepted landscape practices within the area. In instances where conditions do not permit immediate planting, the applicant may be required to post a performance bond, or in lieu thereof, sufficient monies as described in Site Plan Review and Approval Procedure.
04. A minimum of 25% of the developable area shall remain as greenspace. Greenspace is herein defined as areas free from built structures, parking lots, loading areas, covered by vegetation meeting the landscape requirements set out in this section.
05. The greenspace required under this Section may not be made up of wetlands, streams, or slopes in excess of fifteen percent (15%) unless their function and aesthetic quality is to be enhanced through design and planting efforts. Approval of said enhancements is to be left to the discretion of the Planning Board.
06. Buffers shall employ existing vegetation, nursery stock, fences, walls, earth berms or grade changes in accordance with these minimum standards.

### 3.2.2 General landscape design and site standards

- A. The greenspace shall be covered by the following:
  01. native vegetation; or
  02. trees, shrubbery, nursery plants with appropriate mulch; or
  03. any combination of the above
  04. sod, lawn, or other variety of groundcover in combination with any of the above

Table III-A Perimeter Landscaping

| TABLE III-A PERIMETER LANDSCAPING SCHEDULE           |                 |                                 |                        |                      |                 |                      |
|--|-----------------|---------------------------------|------------------------|----------------------|-----------------|----------------------|
| Land Use Type  | Adjacent to     | Landscaping Buffer Requirements |                        |                      |                 |                      |
|  |                 | Interior Property Lines         |                        |                      | Street Frontage |                      |
|  |                 | Landscape Type                  | Required Abutting Yard | Minimum Buffer Depth | Landscape Type  | Minimum Buffer Depth |
| <b>Commercial</b><br>(B-1, B-2 and PDD Districts)    | Residential     | Type II                         | 25'                    | 20'                  | Type IV         | 10'                  |
|  | Commercial      | Type III                        |                        | 10'                  |                 |                      |
|  | Industrial      | Type I                          |                        | 15'                  |                 |                      |
|  | Business/Office | Type II                         |                        | 15'                  |                 |                      |
| <b>Industrial</b><br>(CI and OI Districts)           | Residential     | Type I                          | 50'                    | 20'                  | Type IV         | 10'                  |
|  | Commercial      | Type I                          |                        | 20'                  |                 |                      |
|  | Industrial      | Type III                        |                        | 10'                  |                 |                      |
|  | Business/Office | Type I                          |                        | 20'                  |                 |                      |
| <b>Business/Office</b><br>(PPB, O, and OC Districts) | Residential     | Type II                         | 25'                    | 20'                  | Type IV         | 10'                  |
|  | Commercial      | Type II                         |                        | 15'                  |                 |                      |
|  | Industrial      | Type I                          |                        | 20'                  |                 |                      |
|  | Business/Office | Type III                        |                        | 10'                  |                 |                      |

Required landscape buffers shall begin at a point not more than five feet from the front and/or side property line and shall extend along the full dimensions of the abutting lots.

Required abutting yards shall not be used for storage of any material or goods, parking or roadway.

- B.** Internal landscaping, defined as landscaping that is not proposed to meet buffer or frontage requirements, shall be a minimum of 5% for all non-residential uses and shall meet the following requirements:
  - 01.**A minimum of 1 tree for every 500 square feet of the required minimum internal landscaping shall be provided.
  - 02.**A minimum of 50% of the required internal landscaped area shall be covered by plant materials other than lawn such as trees, shrubs, and perennial/annual beds.
- C.** Vegetation used in parking areas should be salt tolerant and drought resistant.
- D.** Shrubbery and trees shall not obstruct motorists' sight, especially at intersections of driveways and roads. Plant materials will not exceed 3-1/2 feet in height. Trees are permitted if the trunk is free of branches below 6 feet in height.
- E.** 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.
  - 01.**Deciduous shrubs: 24" spread or height or 3 gallon container
  - 02.**Evergreen shrubs: 18" spread or height or 3 gallon container
  - 03.**Coniferous trees: 6' height
  - 04.**Ornamental and understory trees: 1.25" caliper
  - 05.**Deciduous shade trees: 2.5" caliper
  - 06.**Ground cover: 2.5" pot (or similar size if not provided in pots)

### 3.2.3 Landscape design and site standards by type

#### A. Type I

**01.Purpose:** Type I landscaping is intended to provide a very dense sight barrier to significantly separate uses and Land Use Districts.

**02.Description:**

- a) Two rows of evergreen trees a minimum of 6 feet in height and planted at intervals of no greater than 20 feet on center. The trees must be backed by a sight obscuring fence, a minimum of 5 feet or higher or the required width of the planting area must be increased by 10 feet, and
- b) Shrubs a minimum of 3-1/2 feet in heights planted in an area a strip at least 5 feet in width, and other plant materials, planted so that the ground will be covered within 3 years.
- c) Alternatively, the trees and shrubs may be planted on an earthen berm at least 15 feet in width and an average of 5 feet along its midline.
- d) Existing vegetation may count toward these requirements at the discretion of the planning board.

#### B. Type II

**01.Purpose:** Type II landscaping is intended to create a visual separation between uses and Land Use Districts.

**02.Description:**

- a) Evergreen and deciduous trees, with no more than 30% being deciduous, a minimum of 6 feet in height, and planted at intervals no greater than 20 feet on center, and
- b) Shrubs, a minimum of 3-1/2 feet in height and other plant materials, planted so that the ground will be covered within 3 years.
- c) Existing vegetation may count toward these requirements at the discretion of the Planning Board.

#### C. Type III

**01.Purpose:** Type III landscaping is intended to provide visual separation of compatible uses so as to soften the appearance of streets, parking areas, and building elevation.

**02.Description:**

- a) Evergreen and deciduous trees, with no more than 50% being evergreen, a minimum of 6 feet in height, and planted at intervals no greater than 30 feet on center, and
- b) If planted to buffer a building elevation, shrubs, a minimum of 3-1/2 feet in height, and living ground cover planted so that the ground will be covered within 3 years, or a combination of shrubs and lawn is required, or
- c) If planted to buffer a parking area, access, or site development other than a building, any of the following alternatives may be used unless otherwise noted:
  - i) Shrubs, a minimum of 3-1/2 feet in height and living ground cover must be planted so that the ground will be covered within 3 years.
  - ii) Earth mounding, an average of 3-1/2 feet in height, planted with shrubs or living ground cover so that the ground will be covered within 3 years, or planted with a combination of shrubs and lawn.

#### D. Type IV

**01.Purpose:** Type IV landscaping is intended to provide visual relief as well as visual interest along roadways and other public-right-of-ways.

**02.Description:** 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 1 shade tree per 30 linear feet of frontage.

- b) There shall be a minimum of 1 shrub per 5 linear feet of frontage.
- 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.

### 3.2.4 Maintenance Assurance

- A. All required plantings shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable these landscaping requirements. All required fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

### 3.2.5 Alternative Landscaping Option

- A. The applicant may request a modification of the landscaping requirements set forth in this section.
- B. The Planning Board may approve a modification of the landscaping requirements of this Chapter only if:
  - 01. The proposed landscaping represents a superior result than that which could be achieved by strictly following the requirements of this Section, and
  - 02. The proposed landscaping complies with the stated Purpose and Intent of the appropriate, required level of landscaping, and
  - 03. The proposed landscaping either:
    - a) Incorporates the increased retention of significant trees and naturally occurring undergrowth, or
    - b) Better accommodates or improves the existing physical conditions of the subject property.
- C. The applicant must present a landscape plan following the landscaping requirements along with the proposed modified landscape plan to show the differences and superiority of the proposed modified landscape plan.

### 3.2.6 Exterior Lighting Standards

- A. Gasoline service station lighting must be achieved by fully recessed, shielded fixtures which emit light downward onto the pumping area only, so that the light source itself is not directly visible when observed from the public way or adjacent parcels, and produces no discomforting glare. Alternately, the underside of arched, vaulted or otherwise concave canopies may be indirectly illuminated by means of "up-lighting" from fixtures mounted on the canopy supports, providing a general illumination to the pumping area by means of diffused reflection.
- B. All exterior lighting used for signs, walkways, parking lots, security and facade lighting should be full cut-off or recessed fixtures which project light downward only, with no exposed bulbs readily visible from the public way or adjacent parcels. The light from these fixtures should not spill over into adjacent properties, and provide only as much light as needed to illuminate the target surfaces.
- C. Parking and Security lighting must not exceed 18 feet in height.
- D. Façade lighting must be shielded and mounted so as to only distribute light directly up or down along the plane of the façade.
- E. Landscape lighting may be directed upwards with reviewing board approval only provided that the fixtures are fully shielded and no bare bulbs are readily visible from the public way. Landscape lighting should not exceed 3 feet in height.
- F. Internally lit and translucent canopies or awnings are prohibited.
- G. Metal halide, incandescent or fluorescent lamps are recommended for typical exterior uses. Mercury vapor, low pressure sodium, high pressure sodium or neon can be used with reviewing board approval only. Laser lights, moving, pulsing or flashing lights are prohibited.

## Section 3.3 Signs

### 3.3.0 – Intent

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The intent of this Section is to promote and protect the public health, safety, and welfare by regulating the erection, construction, repair, structural alteration and maintenance of existing and proposed outdoor advertising, outdoor advertising signs, window signs for outdoor viewing and outdoor signs of all types within the Town of East Greenbush. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. It is further intended to reduce distractions and obstructions which may contribute to traffic accidents, reduce hazards caused by signs overhanging or projecting over public right-of-way, provide more open space, and curb the deterioration of natural beauty and community environment.

### 3.3.1 Authority

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- A. Pre-Existing Conforming Signs** - Pre-existing signs which were in conformance with the previous Town sign regulations before the date of adoption of this ordinance may remain as-is, and are not required to be modified or removed to be in conformance with this ordinance.
- B. Pre-Existing Non-Conforming Signs** - Pre-existing signs which were not in conformance with the previous Town sign regulations at the date of adoption of this ordinance shall be considered non-conforming, and must be modified or removed to be in compliance with this section within ninety (90) days of written notice by the Town.
- C. Non-Conforming Signs** – Any sign or accessory signs such as banners, flags, balloons or similar devices which are placed on display after the effective date of this section that do not meet the requirements of this section due to design or lack of maintenance are considered non-conforming and must be modified or removed to be in compliance with this section within ninety (90) days of written notice by the Town.
- D. Modifications to Signs** – Any pre-existing sign which is modified, changed in name or business use, enlarged, reconstructed, extended, moved or structurally altered after the effective date of this ordinance are required to be brought into compliance with all applicable provisions of this section.
- E. New Signs** - No sign or other device shall be erected, established, constructed, reconstructed, enlarged, extended, moved, or structurally altered after the effective date of this section without application for and issuance of a permit, except as otherwise provided for herein, and must be in compliance with all applicable provisions of this section.
- F. Noncommercial signs or messages** are permitted to be substituted for any sign expressly allowed under the time, place and manner of these regulations.

**3.3.2 Permitted Signs** - Within Business and Industrial Districts or on a permitted commercial site, no sign shall be permitted except as specified within this section.

#### **A. Façade Mounted Signs**

**01.Channel Lettering or Wall Signs.** Each commercial use is permitted one (1) instance of applied channel lettering or a surface-mounted wall sign for each street frontage on a Town road.

- a) Commercial properties located at corner intersections are permitted one additional instance of applied channel lettering or surface mounted wall sign for the second façade facing a public road or right-of-way.
- b) The total cumulative area of all signs permitted on such lot, excluding on-site directional signs, shall be calculated at the rate of one (1) square foot of sign area per lineal foot of building front.
  - i) In the B-2 district, a total sign area of at least thirty-two (32) square feet shall be permitted for any use regardless of building frontage.
  - ii) In the PPB District where sixteen (16) square feet shall be the maximum such total sign area.
  - iii) In all other commercial districts, where the maximum shall be twenty-four (24) square feet.
- c) Surface applied channel lettering which is framed by or integrated into the architectural features of the façade is preferred to wall signs and should be utilized whenever appropriate.
  - i) New commercial construction is required to design the front facade specifically to accommodate an area or areas for applied channel lettering or surface-mounted wall signs. The applied channel lettering or wall sign should be framed by the architecture of the facade.

**02.Projecting Sign.** Businesses are permitted one projecting sign (hung perpendicular to the building façade) in lieu of any façade mounted channel lettering or wall sign. Businesses with a pre-existing projecting sign in place at the date of adoption of this section are permitted to maintain a projecting sign in addition to any other permitted signs. Projecting signs shall be no larger than 5 square feet per side, with a minimum clearance of 8 feet below.

- a) No projecting sign shall extend a distance of more than four (4) feet over a sidewalk or other public right-of-way and in no event shall extend more than six (6) feet from the face of the building to which it is attached.

**03.Plaque Sign.** In addition to any other permitted sign, businesses are permitted one surface mounted plaque sign per tenant which is no larger than 1 s.f. in area, located near the primary building entry. An additional 1 s.f. of plaque sign may be permitted to accommodate street address information and/or official building name. Individual plaque signs should be designed in matching style, though no more than 3 tenant plaque signs are permitted at a given entryway.

**04.Directory Sign.** In lieu of a plaque sign, businesses are permitted a single surface mounted directory sign for listing 4 or more tenants, located near the common building entry. Such directory must not exceed 6 s.f. in area, although an additional 1 s.f. may be permitted to accommodate street address information and/or official building name.

**05.Window and Door Sign.** In lieu of a facade mounted sign, businesses are permitted a window sign or signs provided the total area of all window signs does not exceed 15% of the total window area of that façade. Temporary or permanent posters, notices, advertisements (not including hours of operation, street address and similar information) shall be counted toward the total amount of window sign area.

**06.Window Lettering.** Businesses are permitted to use permanent painted, sandblasted or otherwise affixed window lettering in addition to any other permitted signs with color approval from the Planning Board. Maximum lettering sizes shall not exceed 8 inches in height.

**07.Street Number.** All properties are required to display their street number on the front facade next to or above the primary entry, or in a reasonably obvious location. Street numbers should be between 6 and 10 inches tall, and should contrast well with their background to be legible.

**B. Monument / Freestanding Signs****01.** Within the B-2 District;

- a) Where groups of four (4) or more stores are located together in a planned shopping center, or where a lesser number of stores total not less than twenty thousand (20,000) square feet of gross leasable area, one common free standing sign shall be permitted, consisting of the official name, street address and optional slogan of the development only. The name of the individual businesses or other information is not permitted. Such signs shall not obstruct views or contain panels between the heights of four (4) feet and eight (8) feet above grade. All other signs shall be attached to buildings, of a wall, projecting or soffit-type, and coordinated, as practicable, to material, shape, lettering color and/or decorative elements. The total cumulative area of all signs permitted on such lot, including freestanding signs but excluding on-site directional signs, shall be calculated at the rate of one (1) square foot of sign area per lineal foot of building front.
- b) No free standing sign shall be more than sixty-four (64) square feet per side.
- c) No free standing sign shall be more than twenty-five (25) feet in height above finished grade, except within the PPB District where fifteen (15) feet shall be the maximum height. Such height shall be measured vertically from the established average grade directly below the sign or at the entry level of the building or structure, whichever is lower, to the elevation of the highest point of the sign, including supporting structures.
- d) No free standing sign shall extend over or into the public right-of-way or shall it overhang property lines.
- e) Free standing signs under which a pedestrian walkway or driveway passes must have minimum ten (10) foot vertical clearance.
- f) Masonry wall-type signs shall not exceed four (4) feet in height and shall not be placed so as to interfere with driver vision of other traffic.

**02.** Within other commercial districts;

- a) Individual commercial parcels consisting of a single business which have their front façade located eighty (80) feet or further from the edge of the public road are permitted a single monument sign, in addition to any other permitted signs. Such sign shall be no larger than five (5) feet tall, eight (8) feet long (measured perpendicular to the road) and one (1) feet wide (measured parallel to the road). Copy or sign information may only appear on the long sides. Monument signs must be located at or near the primary vehicle entrance to the property no closer than fifteen (15) feet from the edge of the road, or otherwise placed so as not to obstruct vehicular sight-lines. Such sign shall consist of the business name, brief description or motto and a street address only.
- b) **Multiple Tenant Building / Plaza Sign.** Signs designed to identify shopping plazas or similar multi-tenant developments which consist of two or more tenants which are located eighty (80) feet or further from the edge of the public road are permitted one freestanding "Plaza Sign" in addition to any other permitted signs. Such sign shall be no larger than five (5) feet tall, eight (8) feet long (measured perpendicular to the road) and one (1) feet wide (measured parallel to the road). Copy or sign information may only appear on the long sides. Such signs shall be located according to monument signs, and shall consist of the official name of the development and a street address of the development only. The name of the individual businesses or other information is not permitted.

**C. Other Signs** - Within any zoning district, the following signs may be erected subsequent to satisfaction of the permit requirements.

- 01.Home Occupation Sign.** Home occupations in residential structures are permitted a single façade mounted plaque sign as specified above, or a small freestanding pole sign which does not exceed 3 s.f. in area each side and 6 feet in height, no closer than 15 feet from the road.
- 02.Temporary Announcement Sign.** A single temporary promotional, special event or similar sign advertising an announcement is permitted no more than four times a calendar year for any commercial

business, provided they are limited to a maximum of six square feet (each side), are located on the business premises and are displayed for no more than five consecutive days.

- 03. Awning Sign.** Text on pedestrian awnings is permitted in addition to other allowed signs provided that the text is limited to the business name, slogan and street address only. The text height must be located on the vertical front edge of the awning only, and must not exceed 6 inches in height.
- 04. Menu Sign.** A wall mounted menu sign is permitted adjacent to the main entry for restaurants and similar establishments in addition to other allowed signs, but in lieu of a plaque sign, provided that the total sign area does not exceed 4 square feet.
- 05. Off-premises directional signs** for the convenience of the general public and for the purpose of directing persons to a business, activity, service or community facility may be erected in any zone, providing such sign does not exceed ten (10) square feet, in area, per establishment, nor total more than two (2) such signs within the Town of East Greenbush per establishment. Text shall be limited to name or identification, arrow or direction, and distance. Advertising messages shall be prohibited. Such signs shall be limited to major and collector streets.
- 06. A temporary, non-illuminated real estate development or construction sign**, for either commercial enterprises or residential subdivisions, denoting the architect, engineer and/or contractor, may be erected on property being sold, leased, or developed. Such sign shall not exceed thirty-two (32) square feet in business and industrial districts nor twenty (20) square feet in residential districts and shall be set back a minimum of fifteen (15) feet from the front property line. Such sign shall be permitted to be displayed during construction only for a period not to exceed 12 months, and must be removed immediately upon completion of the project.
- 07. Signs or bulletin boards** customarily incident to places of worship, libraries, museums, social clubs or societies, may be erected on the premises of such institutions. One (1) such sign or bulletin board not exceeding forty (40) square feet in total sign area may be erected for each entrance on a different street or highway.
- 08. For multiple dwellings or apartment development**, one (1) sign not exceeding thirty-two (32) square feet in total sign area may be erected for each entrance on a different street or highway.
- 09. Recreational areas, day camps, golf clubs, ski areas, and other substantial facilities** permitted in this Local Law shall be permitted one (1) sign, not exceeding fifty (50) square feet in area.
- 10. Signs necessary for the identification, operation or production of a public utility**, not exceeding thirty-two (32) square feet in total sign area, may be erected on the premises of such public utility.

**3.3.4 Exempt Signs** - The following signs may be erected and maintained without a permit or fee, providing such signs comply with the general requirements of this Section and 3.3.5 Temporary Signs.

- A.** Signs erected and maintained pursuant to and in the discharge of any government function, or required by any law, ordinance, or governmental regulation.
- B.** Signs incidental to the legal process, such as property tax sales, quarantines, building permits, and the like.
- C.** Historical markers, tablets and statues; memorial signs and plaques; names of buildings and dates or erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or recognized non-profit organizations.
- D.** Flags and insignia of any government, provided the total number of flags on the premises is limited to three (3) different flags and the size of any one flag does not exceed 6' x 10'.
- E.** On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs internally illuminated or non-illuminated, not to exceed four (4) square feet per face. Business names and personal names shall be allowed, not to include advertising messages. Location and number of such signs shall be subject to review by the Planning Board.

- F. Non-illuminated warning, private drive, posted or no trespassing signs, intended to prohibit trespassing or for the protection of public safety, not to exceed two (2) square feet per face.
- G. Signs which are an integral part of, and advertise only the contents of, vending machines and which are located within the profile of such vending machines, such as gasoline pumps and soft drink machines.
- H. One sign, either free standing or attached, in connection with any residential building in any district, for professional offices and other permitted home occupations, not to exceed two (2) square feet for each home occupation or professional office and set back at least ten (10) feet from the highway right-of-way. Such sign shall state name and vocation only. Illumination shall not produce a direct glare beyond limits of the property line.
- I. Name and number plates, identifying residents, mounted on house, apartment, or mail box.
- J. Lawn signs identifying residents, with no advertising message thereon.
- K. Private-owner merchandise sale signs for garage sales and auctions, such signs in place for a period not to exceed ten (10) days.
- L. Temporary non-illuminated "For Sale" real estate signs and signs of a similar nature, concerning the premises upon which the sign is located. In a residential district two such signs are permitted, each sign not to exceed five (5) square feet per side in area. In a business or industrial district, one sign not to exceed fifty (50) square feet and set back at least fifteen (15) feet from all property lines permitted.
- M. One temporary sign for a roadside stand selling agricultural produce in season, not exceeding twenty-four (24) square feet in area and set back at least fifteen (15) feet from the public right-of-way, providing that the sign is only erected for a period of 3 months a year.
- N. One temporary sign advertising a new commercial development under construction, not exceeding thirty-two (32) square feet in area set and back at least fifteen (15) feet from the public right-of-way, providing that the sign is only erected for a period during construction not to exceed 12 months.
- O. Non-illuminated window signs and posters.
- P. All other temporary signs, such as political posters, banners, promotional devices and other signs of a similar nature, including church, school, civic or other non-profit functions, shall be permitted for a period of not longer than six (6) weeks prior to the event nor longer than seven (7) days after the event, except as otherwise provided by this section. No permit is required for these signs. Such signs shall not exceed thirty-two (32) square feet, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety, and welfare of the general public.

### 3.3.5 Temporary Signs

- A. No person shall place or erect any temporary sign on any public property owned by the Federal Government, State of New York, the Town of East Greenbush, New York, or any other municipality, special town water or sewer district or school district, including the paved and unpaved rights-of-way of roadways, located in the Town of East Greenbush, New York.
- B. No person shall place or erect any temporary signs on any private property located within the Town of East Greenbush without the express permission of the owner of the property.
- C. No signs shall be placed on the sides of overpass or underpass vehicular bridges, on poles carrying utility lines, traffic signals, street lights or telephone lines, and on direction or traffic signs.
- D. No sign shall be erected or placed as to obstruct or impair vision at any road intersection, or the entrance to and exit from private driveways.
- E. It shall be the responsibility of the person erecting or placing any temporary sign to cause its removal.

### 3.3.6 Prohibited Signs

- A. Cabinet, "box" or otherwise hollow signs and letters are prohibited unless they are internally illuminated in accordance with the lighting standards of this section.
- B. Laser-light, pulsing, flashing or LED (light emitting diode), changing or moving signs are prohibited.
- C. Portable signs, vehicle signs, sign trailers, signs on wheels or similar signs placed on vehicles are prohibited. Sign normally appearing on commercial vehicles owned by the advertised business are exempt from this provision, except such vehicles may not be parked on lands not related to the business for extended periods of time for the sole purposes of acting as off-premise advertising. Any moveable sign with wheels, such as signs mounted on trailers, advertisements painted on the side of a parked tractor trailer, or similar advertising devices are prohibited.
  - 01.No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as provided in this section.
  - 02.A new business, or a business in a new location awaiting installation of a permanent sign, may utilize an otherwise conforming portable sign for a period of not more than ninety (90) days or until installation of a permanent sign, whichever shall first occur. A permit for such portable sign shall be required. Such portable sign must meet all requirements of the building, electrical and other appropriate codes of the Town. If delay occurs that is clearly beyond the control of the applicant, such period may be extended at the discretion of the Building Inspector.
- D. Sandwich board signs or similar non-anchored, freestanding designs.
- E. No sign or part thereof, used for a period in excess of fourteen (14) days, shall contain or consist of banners, posters, pennants, ribbons, streamers, balloons, inflatables, dirigibles, spinners, or similar moving, fluttering, or revolving devices. Banners designed as an integral part of street lamp posts or other public amenities may be permitted by special permit to announce special events. Banners, pennants, streamers, balloons, blimps and similar advertising devices are otherwise prohibited. Strings of lights and colored neon tubes shall, under no circumstances, be used for the purpose of advertising or attracting attention when not part of a sign. Christmas and other holiday decorations and lights, when displayed in season, shall not be considered signs or part of the sign.
- F. Neon or neon-like signs.
- G. Animated, moving, oscillating, electronic reader board, such as "time and temperature" signs or otherwise changing signs are prohibited, excluding traditional barber shop poles used for said business. Rotation or other movement of any sign is prohibited with the exception of barber poles.
- H. Non-accessory advertising signs, including but not limited to billboards, shall be strictly prohibited, except as temporary and off-site directional signs are provided for in this section.
- I. Any advertising which uses a series of two (2) or more signs placed along a street or highway, carrying a single advertising message, part of which is contained on each sign, shall be prohibited.
- J. No sign, other than a Town sign or other sign of a public nature, shall be erected or maintained in or on any public property.

### 3.3.7 Sign Design, Sizing, Color and Placement

- A. Commercial properties with multiple tenants are required to coordinate the size, placement, color, and design theme of signs and street numbers so as to present a relatively consistent and neat appearance. A sign package for the entire site shall be approved in context of the design of the building or plaza and shall be coordinated so as to present a more uniform size, color and lettering style for a building or multiple tenant development. All applicants shall be required to submit plans for the signage package so that the colors and design may be discussed in context with the design of the elevation of the building (s).
- B. Signs are encouraged to be designed as individual channel lettering or solid wall signs (not hollow or cabinet) which are constructed of metal or carved from wood whenever possible.

- C. Commercial sign text or applied channel lettering must be limited to the name of the business and an optional brief description of the nature of the business, business slogan or logo only.
- D. Sign colors should be muted shades which complement the building colors as approved by the Planning Board. The colors for signs are uniform throughout a property with multiple tenants.
- E. All signs should be clear and legible. The lettering used should contrast well with the background color and have a width-to-height ratio, which is roughly square. Overly stretched fonts and multicolored text are prohibited unless expressly part of the business logo design.
- F. Items placed in window and door areas, such as temporary or permanent posters, permitted signs, advertisements, neon or other illuminated window advertisements and notices (not including hours of operation, street address and similar information) should not exceed 15% of the total window area of a given façade.
- G. Continuous, uninterrupted fascia designs, awnings, canopies or similar elements meant only as a backdrop to sign placements are not permitted.
- H. Signs or lettering which are mounted on the vertical, horizontal or sloped surfaces of the building roof or extend beyond the roofline or sides of the building are not permitted.
- I. No wall sign shall project more than fifteen (15) inches from the face of a building.
- J. No sign shall be attached or placed against a building in such manner as to prevent or impair ingress or egress through any door or window required or designed for access to any building, nor shall any sign obstruct any fire escape or similar emergency exit.
- K. Installing new signs which cover or obscure architectural features of existing structures is prohibited. Installing new signs which are incompatible with the architectural style, scale, location, materials or color of an existing facade is prohibited.
- L. Other. Signs cannot be placed any nearer than 15 feet from the edge of any roadway, 10 feet from the edge of a driveway or otherwise obstruct and/or impede the view of motor vehicles.
  - 01. If for any reason the property line is changed at some future date, a free standing sign shall be relocated within one hundred eighty (180) days to conform with the minimum setback requirements.
- M. No sign employing red, yellow or green lights, in such a way as to resemble a traffic control signal shall be placed within fifteen (15) feet of a public right-of-way or one hundred (100) feet of a traffic control light, whichever distance is greater. No sign shall use wording such as "stop," "look," "danger," or words of a similar nature which may tend to confuse, mislead or resemble any governmental or duly-authorized sign.

### 3.3.8 Gasoline Service Station Signs

- A. In lieu of a permitted façade mounted wall sign or channel lettering, gasoline service stations are permitted a canopy sign not to exceed 16 square feet in area, inclusive of any colored striping or banding effects along the canopy.
- B. In addition to other permitted signs in this chapter, gasoline service stations are permitted 1 monument sign. Such sign shall be no larger than 8 feet tall, 5 feet long (measured perpendicular to the road) and 1 feet wide (measured parallel to the road). Copy or sign information may only appear on the long sides. Monument signs must be located at or near the primary vehicle entrance to the property no closer than 15 feet from the edge of the road, or otherwise placed so as not to obstruct vehicular sight-lines. Such signs shall consist of the business name, brief description or motto, street address, and may include pricing information.

- 3.3.9 Sign Lighting** - Any illuminated sign or related lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain rotating, alternating, or moving light or lights. Signs which are mechanically animated are prohibited as constituting a traffic hazard or nuisance. Lighting of signs is encouraged to be by means of external lighting mounted above or below the sign. All lighting must be generally white or of a muted color with a diffused, non-intermittent light source as

approved by the Planning Board. All lighting shall not interfere with the comfort and safety of the general traffic and nearby residences.

- A. Internally lit cabinet signs and/or internally illuminated channel lettering is permitted only when:
  - 01. Approved by super majority vote (majority plus one) of the Planning Board;
  - 02. The lettering or logo itself is the only portion of the sign which is translucent or illuminated while any remaining background or sign area is opaque and does not emit light.
  - 03. The color of the lettering is soft or muted, complimenting or matching building colors and uniform throughout a property with multiple tenants.
- B. Surface applied channel lettering which is opaque, yet illuminated by silhouette or backlight methods is permitted; provided the source of lighting and associated wiring is fully concealed.
- C. Externally illuminated sign lighting must be provided from shielded, downward or upward facing lamps which direct light only around the immediate sign surface. Bare bulbs must not be readily visible from the public way. Externally illuminated signs are encouraged to utilize light-colored lettering on a darker background to reduce glare.
- D. Gasoline Service Station canopy signs may be internally or externally illuminated; however, the canopy roof or its perimeter edge may not be translucent or otherwise illuminated outside of the allowable sign area. See section 3.3.8 on gas station signs.
- E. Illumination levels of internal, external and silhouette lighting measured on or at the surface of the sign face should not exceed two footcandles.
- F. All internally illuminated signs shall be constructed in conformance with the "Standards for Electric Signs (U.L. 48) of the Underwriters Laboratories, Inc." and bear the seal of Underwriters Laboratories, Inc.
- G. If such sign does not bear the Underwriters laboratory Label, the sign shall be inspected and certified by the New York Board of Fire Underwriters. All transformers, wires, and similar items shall be concealed. All wiring to free standing signs shall be underground, wherever feasible and practicable.
- H. Sign lighting must be turned off by 11 p.m., or at the close of business, whichever is later.

### 3.3.10 Permit Requirements

- A. Except as otherwise provided in this Section, no person shall erect any sign without first obtaining a permit therefore from the Building Inspector. No permit shall be required for a sign to be repainted or repaired in exact duplication of the original, nor shall any permit be required for a change of copy on an existing sign.
- B. Application for a sign permit shall be made in writing to the Building Inspector on forms prescribed and provided by the Building Inspector.
- C. A fee shall be charged the applicant for issuance of a sign permit except as otherwise provided for temporary signs. The fee schedule shall be approved by the Town Board.
- D. Upon the filing of a complete application for a sign permit and payment of the required fee, the Building Inspector shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the proposed sign is in conformance with all the requirements and provisions of this Local Law and other laws and ordinances of the Town, the building Inspector shall within seven (7) days issue a sign permit or return the application with reasons for refusal noted thereon.
- E. If the authorized sign has not been installed within six (6) months from the date of issuance of the sign permit then said permit shall become null and void but may be renewed within thirty (30) days of the expiration thereof for good as use shown for an additional six (6) months upon payment of an additional fee.
- F. Design, construction, and placement of the sign shall not deviate in any substantial manner from the plans approved for issuance of the permit.

**3.3.11 Construction and Maintenance**

- A.** All signs shall meet the following minimum construction and maintenance standards:
- 01.** All free standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area.
  - 02.** All signs, including wall mounted and projecting signs, shall be securely anchored and shall not swing or move in any manner.
  - 03.** All signs, finishes, supports, and electric work shall be maintained clean, neatly painted, and free from all hazards such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.

**3.3.12 Removal of Certain Signs**

- A.** Any sign existing on or after the effective date of this Section which advertises a business no longer conducted, or service no longer provided on the premises shall be removed by the owner of the premises upon which the sign is located within thirty (30) days after receiving written notice from the Building Inspector to remove said obsolete sign.
- B.** If the Building Inspector shall find that any sign regulated by this Section is unsafe or insecure, or is a menace to the public, he shall give written notice citing the specific problem to the named owner of the land upon which the sign is erected, who shall remove or repair said sign within fifteen (15) days from the date of said notice.

**Section 3.4 Design Standards**

[Reserved for Future Use]

## Section 3.5 Recommended Design Practices

### 3.5.0 – Intent

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The intent of this section is to help guide and encourage future development proposals within the Town of East Greenbush to adopt design practices which reduce impacts to the local environment. The concepts included here are examples of practices which can be discussed with local planning officials during the various stages of the design review process.

- A. Denser, More Compact Development** – The creation of development proposals which use up less ground area by clustering buildings together and conserving other areas for green space or undisturbed land buffers. This is often accomplished through the use of smaller setback sizes, campus-style planning and multi-story building heights.
- B. Reduced Sidewalk Widths and Parking Areas** – Design considerations to reduce the amounts of impervious surface area which in turn limit storm water accumulation and runoff.
- C. Reduced Road and Cul-de-Sac Sizes** – Design modifications to shorten the lengths and/or widths of roadway surface area required to service a development. Reduction in road lengths or areas decreases the amount and maintenance of utilities required to reach all areas of a development, creates less roads which have to be paved, repaired and plowed in the winter, reducing maintenance costs.
- D. Pervious Concrete or Asphalt** – The use or replacement of typical impervious surfaces such as concrete or asphalt with pervious aggregate mixtures which allow rainwater to pass through without accumulation. This in turn helps to limit storm water accumulation and runoff.
- E. Structured Parking** – The use of multi-story parking decks or parking areas included within the footprint of the building. This helps to reduce the amount of land area consumed by development, and in turn helps to limit storm water accumulation and runoff.
- F. Reduction of Disturbed Areas** – Design considerations to work with the existing topography of the site as best as possible to limit the amount of site area which must be disturbed. This includes limited tree and brush clearing as well as limited site grading.
- G. Protection of Waterways** – Design considerations to leave natural buffer areas between development and any existing waterbodies or watercourses which could potentially be contaminated by pollutants from storm water runoff and other nearby human development activities.
- H. Open Space Design** – The creation of open green space areas which are designed as part of a development to provide active or passive recreation areas, courts, gardens or parks.
- I. Vegetated Filter Strips** - Naturally vegetated strips or depressed areas designed to provide small and very localized storm water storage and filtering from an adjacent developed area.
- J. Open Vegetated Channels** - Natural drainage paths of a site which can be used instead of constructing underground storm sewers or concrete open channels. Where density, topography, soils, slope, and safety issues permit, vegetated open channels can be used in the street right-of-way to convey and treat storm water runoff from roadways in lieu of curbing and storm gutters.
- K. Bioretention or Green Roofs**- Provide storm water treatment for runoff from impervious surfaces or reduction in impervious roof areas. Localized bioretention areas can be integrated into landscaping areas and traffic islands, and may include rain gardens, rain barrels, storm water planters or similar localized retention methods.
- L. Additional Info** – Additional suggestions and explanations of many of these design concepts can be found through various sources including the NYS Department of Environmental Conservation and the publication “Better Site Design” from the Center for Watershed Protection.

## Section 3.6 Performance Standards

3.6.1 The following performance standards shall apply in all districts:

- A. Vibration - No vibration shall be discernible at the lot lines or beyond.
- B. Smoke - No emission of visible grey smoke of a shade equal to or darker than number two on the Ringelmann Chart, measured at the point of emission.
- C. Odors - No offensive odor shall be noticeable at the lot line or beyond.
- D. Fly Ash, Dust - No emission which can cause any damage to health, animals, or vegetables or other forms of property or any excessive soiling.
- E. Glare - No direct or sky reflected glare shall be visible at the lot line or beyond.
- F. Liquid or Solid Wastes - No discharge into any present or future disposal system, public or private, or streams, or into the ground, of any materials of such nature or temperature as to contaminate ground water supply.
- G. Radioactivity - No activities which emit dangerous radioactivity at any point, as covered by Federal Government standards.
- H. Noise - No continuous or intermittent noises, including hum, music or noise with any noticeable shrillness of a volume or more than the allowable decibel levels listed below is permitted, not including emergency notification horns or sirens which are intended for public safety. All noise levels should be measured at lot lines. In cases where a noise source may be audible from within a different district which has a lower allowable decibel level, the noise must not exceed the allowable level for that district.

| Zoning District                          | Maximum Allowable Decibel Level Measured at Lot Line |
|--|--|
| All Residential Districts, PPB, PDD, B-1 | 50 db  |
| B-2                                      | 60 db  |
| O, OC                                    | 65 db  |
| OI                                       | 70 db  |
| CI                                       | 75 db  |

- I. Fire and Explosion Hazard - No process or storage of material in such manner as to create undue hazard by reason of fire or explosion.
- J. Breeding of Vermin - No material shall be stored either indoors or outdoors in a manner that facilitates the breeding of vermin.
- K. Electrical Operations - Electrical operations shall not create disturbances to radio and television reception in the vicinity.

## Section 3.7 Standards for Individual Uses

### 3.7.1 Gasoline Filling Stations

In any district where permitted, a gasoline filling station shall be subject to the following regulations:

- A. The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.
- B. No fuel pump shall be located closer than twenty (20) feet from any side lot line nor closer than twenty-five (25) feet from any street line, measured from the outside edge of the fuel island.
- C. No gasoline filling station property shall be within 200 feet of a school, public library, theater, church or other public gathering place, park, playground or fire station, ingress or egress ramps to limited access highways as measured in any direction, nor within 200 feet of an abutting residential zone as measured lineally along the fronting street or streets.
- D. All major repair work and servicing shall be done within a complete-enclosed building. Such repair work shall not include any body repair work or spray painting.
- E. No structure containing automobiles shall have an opening in the roof, side or rear walls less than fifteen feet from any lot line.
- F. No gasoline filling station property line shall be located within 1200 feet of an existing or authorized gasoline filling station as measured in any direction.
- G. A gasoline filling station which has ceased to operate as such for a period of six months shall have its permit revoked.

### 3.7.2 Public Garages

- A. The requirements and limitations of Section 3.71 a, b, c, d and e shall apply.

### 3.7.3 Vehicle Sales, Leasing, Rental, Service, Storage & Repair

- A. In any district where permitted vehicle sales agencies, used vehicle lots, vehicle rental, parking lots, garages, vehicle laundries, vehicle storage and service establishments and similar uses shall be subject to the following regulations:
  - 01. The requirements and limitations of Section 3.71 a, b, c, d and e shall apply.
  - 02. Outdoor storage or display of vehicles or boats shall be permitted only in the side or rear yards.
  - 03. Service facilities may be accessory to a primary sales/rental use if approved by the Planning Board during Special Permit review.
  - 04. Two gasoline pumps may be permitted with Planning Board approval incidental to the primary use of the premises, but the sale of gasoline to the general public shall not be permitted. Such pumps shall be located at the side or rear of the premises.

### 3.7.4 Self Storage

- A. There shall be no outdoor storage of materials or goods.
- B. All mini-warehouse structures which face or are visible from along a public right-of-way or residential property must have those exterior facades clad in brick, stone or similar decorative masonry.
- C. All other exterior cladding material, including metal siding and roofing, must be of a natural, muted shade or other color as approved by the Planning Board.
- D. Any perimeter fencing which is visible from along a public right-of-way or residential property must be accompanied by landscaping screening as directed by the Planning Board.

### 3.7.5 Excavations and Soil Mining

Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited. Excavations shall not create objectionable dust or noise, contribute to soil erosion nor create any kind of noxious or injurious substance or condition or cause public hazard. No topsoil shall be stripped, excavated or removed, for sale or for any use, other than in connection with excavation and grading incidental to construction on the premises from which it is removed. This section shall not apply to any sand and gravel operation.

#### A. Excavation for Construction of Buildings

01. Excavations in connection with the construction of the same lot of a building for which the building permit has been issued, shall be permitted in any district.
02. In the event that building construction operation is arrested prior to completion of the building and the building permit thereof is allowed to expire, the premises shall be cleared of any rubbish, building materials, or other unsightly accumulations, and any excavation for a building basement, foundation, utility or otherwise, of a depth greater than two feet below grade, shall be filled and the topsoil replaced, or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area. Where necessary, suitable gates will be installed and provided with locks. Such clearing, filling, and/or fencing shall be completed not later than the expiration date of the building permit.

#### B. Excavation for Soil Mining

01. No rock crusher, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating the product of soil mining shall be permitted except in a Coastal Industrial (CI) district and governed by the performance standards of Section III-6.

### 3.7.6 House Trailers and Mobile Homes

- A. House trailer and mobile home parks are specifically prohibited in all districts. House trailer and mobile home parks existing in the Town on March 6, 1961, the date of initial adoption of the Town's Zoning Ordinance, may be continued indefinitely but shall not be expanded.
- B. Individual house trailers and mobile homes are also specifically prohibited in all districts. Individual house trailers and mobile homes legally existing in the Town as of the date of passage of this amendment, June 4, 1986, may be continued in strict accordance with the provisions of Section 8.26 of this Local Law.

### 3.7.7 Drive-In Movies

- A. Projection screens and parking areas shall be no closer than 50 feet to any street right-of-way line and no closer than 100 feet to any residential property line. Movies shall not be visible to moving traffic on adjacent major streets.
- B. Vehicular surfaces shall be paved with dustless material.
- C. Loud-speakers shall be of the individual in-car type.
- D. Entrance car reservoir space shall be equal to a minimum of five percent of the total parking capacity.

### 3.7.8 Salvage Yards

- A. Salvage yards are specifically prohibited in all districts.
- B. Waste tires are not allowed to be stored in any substantial quantity without an appropriate current permit from the New York State Department of Environmental Conservation.

### 3.7.9 Cemeteries and Crematories

- A. No burial or memorial plats or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or fence at least six feet in height, providing complete visual screening from all adjacent residential property is provided, burial or memorial plats of less than six feet in height may be located no closer than 20 feet from any residential lot line.
- B. Crematories shall be located only in cemeteries.

### 3.7.10 Accessory Dwelling Units

- A. A dwelling unit accessory to a private residence may be temporarily permitted upon application for special permits provided that:
  - 01. Such dwelling unit may only be intended for non-commercial use, for use by
    - a) No more than two (2) family members directly related to the owners of the principal residence, or;
    - b) an on-premise care taker to a family member living on the premises, such as a live-in nurse.
  - 02. The residents of the principal residence must be the owners of the home, and not renting.
  - 03. The maximum size of such accessory dwelling unit cannot exceed 1000 square feet.
  - 04. The temporary duration of the special permit expires when;
    - a) The person(s) who were approved for living in the accessory dwelling unit leave or are no longer living there, or;
    - b) The principal residence is sold to new owners.
- B. A dwelling unit accessory to a premises principally used for office, retail, tourist accommodation, warehouse, or personal service activity may be permitted upon application for special permits provided that:
  - 01. The explicit written approval of the Town Fire Inspector shall be obtained for the design, location, access and other safety-related elements of such dwelling unit.
  - 02. No such dwelling unit shall be permitted over filling stations, stores retailing flammable or fume-producing goods, restaurants or other businesses with kitchens or other facilities producing intense heat, or any other establishment or type of establishment which the Fire Inspector determines to pose a greater-than-average built-in risk.
  - 03. The habitable floor area of such dwelling unit shall be at least 500 square feet. The dwelling unit shall not be located on the first floor of the building and the dwelling unit shall contain all services for safe and convenient habitation meeting the New York State Uniform Fire Prevention and Building Code and the Sanitary Code.
  - 04. There shall be no more than one (1) such dwelling unit created or maintained in any single building or on any single premises.
  - 05. The dwelling unit shall have a separate access to the outside of the building, which must be distinct from the access to uses on the first floor.
  - 06. Each apartment shall have two (2) designated off-street parking spaces meeting the standards of this Local Law, conveniently located for access to the dwelling unit.
  - 07. Suitably landscaped, outdoor open space shall be maintained for the use and beneficial enjoyment of the residents of the dwelling unit.
  - 08. The dwelling unit, or any proprietary or other interest therein, will not be sold to the tenant or any other party, except as part of a sale of the entire building in which the dwelling unit is located.
  - 09. The apartment is properly constructed, maintained and used, and unapproved uses are excluded therefrom.

**3.7.11 Waste Recycling & Disposal**

- A. Recycling and materials reuse operations such as transfer stations are permitted provided that:
01. The operation will be contained within a fully enclosed building, will not preclude the orderly and reasonable use of adjacent property and the site is particularly suitable for the location of such use in the community.
  02. Adequate buffer yards and screening shall be provided to protect adjacent properties and land uses from possible detrimental impacts of the proposed use.
  03. Adequate provisions shall be made for the collection and control of stormwater runoff, sewage, refuse and other liquid, solid or gaseous waste which the proposed use will generate.
  04. No solid waste will be maintained permanently on site.
  05. The applicant shall provide a description of all material to be transferred and processed on the site, in addition to providing a general operating plan as part of the site plan review.
- B. Landfills – Landfills constitute a prohibited use in all zoning districts.

**3.7.12 Marinas**

- A. Marinas and related uses such as sale of marine supplies, services, fuel, equipment or annual membership clubs which are water dependent. The following standards shall apply to all new marina project proposals as well as projects for expansion of existing marinas:
- B. All new marina proposals or expansion of existing marinas shall, as appropriate, include sufficient parklike surroundings, toilet facilities, and marine pumpout facilities.
- C. In evaluating proposals for new marina construction, the Town will favor those proposals which involve alternative ways of providing for the needs of boaters. In order of preference, these alternatives are:
01. Dry stack facilities with the minimum number of wet slips needed to provide efficient operation;
  02. Rehabilitation and alteration of existing marinas;
  03. Open water facilities;
  04. Upland basin marinas through excavation, provided that water quality and other environmental considerations can be maintained; or
  05. Any combination of the above four approaches.
- D. The Planning Board shall require a secured bond or money in escrow that will be sufficient to hire an independent contractor to complete any conditions imposed or to effect any limitations or to restore the project area to its original condition in the event of a failure by the applicant to comply with the conditions or limitations of the special permit. The amount of bonds or escrow posted shall be as approved by the Planning Board.
- E. To the extent feasible, marina basins shall be designed for maximum tidal flushing and circulation due to both river/creek currents and the action of wind while maintaining safe levels of wave action within the protected basin. Minimum design criteria to promote a flushing include:
01. Basin and channel depths shall not be deeper than the prevailing depths in the water body to which they connect.
  02. Basin and channel depths shall gradually increase toward open water or basin entrances.
  03. Openings shall be provided at the opposite ends of enclosed basins to establish flow-through circulation. Only one opening must be navigable. The other opening or openings shall be as large as practicable to promote circulation. Culverts or other enclosed conduits may be used in place of open channels.
  04. The configuration chosen shall minimize or prevent the formation of stagnant water zones that tend to collect debris or cause shoaling or flushing problems.

- F.** Marinas shall be located in areas where minimal physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding minimal navigable depths, low rates of sediment transport and sufficient tidal action to promote flushing. Dredging shall be limited to the minimum dimensions necessary for the project. Marinas shall not be permitted in areas that would require frequent maintenance dredging that would harm aquatic life or would prevent the relocation of benthic organisms. Such areas would include those which would require maintenance dredging more often than once every five years.
- G.** Applicants must demonstrate that there is an adequate water supply to serve all of the projects needs.
- H. Waste Discharge**
- 01.** Sewage pumpout facilities shall be provided at new marinas and expansion of existing marinas at a minimum rate of one pumpout station for every 100 wet slips, or fraction thereof.
  - 02.** Adequate rest room facilities for the exclusive use of marina patrons will be required to discourage any overboard discharge of sewerage from boats and to protect water quality. The number of toilets required for any given marina shall be determined by the nature and size of the marina and by its specific site locations.
  - 03.** The applicant must demonstrate adequate capacity to properly dispose of or treat all sanitary wastes generated by the project.
  - 04.** An ample number of signs must be provided to identify the location of public rest rooms and of pumpout facilities. Signs must also fully explain the procedures and rules governing the use of the pumpout facilities. Pumpout facilities shall be available to all boaters, regardless of whether they are patrons of the marina.
- I. Stormwater Runoff Reduction**
- 01.** New parking areas shall utilize porous pavements or other approved measures to reduce rainfall runoff. New marina projects must incorporate best management practices in their design, including, but not limited to, the following:
    - a)** [1] Maximize pervious land surface and vegetative cover to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands. Direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.
    - b)** [2] Runoff from parking lot maintenance, fueling and washdown areas must be provided and treated in a manner that prevents oils, grease and detergents from reaching adjacent waters and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.
- J.** Trash receptacles shall be plentiful and convenient to encourage the proper disposal of trash and waste. A maximum spacing of 100 feet between receptacles shall be maintained on all piers and docks.
- K.** The underwater positions of piers and docks, including piles, shall not be constructed using creosote-treated lumber.
- L.** All marinas shall institute spill prevention emergency response plans. Automatic cutoffs for hoses in the event of an accident are mandatory.

### 3.7.13 Airports and Heliports

- A.** The hours of operation shall be limited by the Planning Board to prevent disturbance to nearby residences
- B.** 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.
- C.** Access to areas used by aircraft in motion shall be controlled by fences and gates

- D. Vending machines, newsstands, governmental installations, airlines and express offices and aircraft repair facilities may be permitted within completely enclosed buildings, except in private operations.
- E. The storage and sale of aviation gasoline may also be permitted, except in private operations.

#### **3.7.14 Day-Care Centers and Nursery Schools**

- A. 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; multi-family residences; health-related facilities; and churches and religious institutions.
- B. The required outdoor play space shall be adequate in size and location as determined by the Planning Board, and shall be fenced and suitably landscaped and buffered. No play area shall be located in a required front yard or landscaped buffer strips.
- C. 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.
- D. Day-care centers shall be licensed by the New York State Department of Social Services prior to operating such facilities.

#### **3.7.15 Dog Kennels (Private, Commercial and Veterinary)**

- A. All animal housing, kennels or runs and related structures shall be placed a minimum of 50 feet from any lot line, 200 feet from any residential lot line, shall be fenced and permanently screened from all surrounding properties with landscaping and other buffers as directed by the Planning Board.
- B. All animals shall be confined in suitably enclosed and ventilated buildings between the hours of sunset and 7:00 a.m.

#### **3.7.16 Swimming Pools**

- A. No swimming pool shall be installed, constructed or maintained within ten (10) feet of any side or rear property line or above ground structure as measured from edge of water. No swimming pools shall be constructed within the front yard.
- B. Construction of swimming pools shall comply with the New York State Building Code.

## Section 3.8 Residential Cluster Development

**3.8.1 Residential Cluster Development** - The Planning Board is authorized to modify applicable provisions of this Local Law as authorized in Section 4.3 of the Town Law in order to enable and encourage flexibility of design and development of land in such a manner as to promote the preservation of the natural and scenic qualities of open lands and to facilitate the adequate and economic use of streets and utilities.

- A. Cluster development may be considered with a minimum site area of ten (10) adjacent acres within the A-R, B-1, R-OS, R-B, R-1, R-1A, R-2, R-3, PD, and PPB Districts.
- B. The maximum number of dwelling units that may be permitted and approved within a cluster development shall not exceed the number of lots shown on an approvable sketch plat for lot-by-lot development. Lots shown on the sketch plat shall be fully consistent with both the lot area and bulk requirements of the zoning district in which the cluster development is proposed and provide access roads in accordance with the Town's Subdivision Regulations and roadway standards. Platting shall be restricted to those portions of the site considered by the Planning Board to be suitable for residential building development, based upon an analysis of the site's topographic, geologic, and hydrological characteristics. Areas unsuitable for residential building development include constrained land as well as existing easements, rights-of-way, pre-existing development areas and structures, and other limiting factors as determined by the Planning Board.
- C. Where public sewer and water facilities are not provided, the Rensselaer County Department of Health shall review and approve or deny well and septic layouts in cluster developments.
- D. While attached, semi-detached or detached dwelling units are permissible within a cluster development, the following standards apply:

| Maximum number of attached units per individual structure |  |
|---|--|
| R-OS, A-R, and R-B district                               | 2                                      |
| R-1, R-1A   | 4                                      |
| R-2,  | 6                                      |
| R-3 and all other districts                               | 6 (or as determined by Planning Board) |

- E. In order to meet the objectives and intent of this section, there are no formalized lot area, width, or yard dimensions or setback requirements for residential units within cluster developments except for buffer requirements. In no way shall this be interpreted as a density bonus for the siting of additional units beyond the lot-by-lot sketch plat as described in (B) above. Furthermore, the Planning Board may establish minimum separation distances between structures in order to maintain the character of the area and consistency with nearby development patterns.
- F. Maximum structure height shall be restricted to that permitted in each district.
- G. An open space area totaling not less than twenty-five percent (25%) of the total cluster development site shall be provided in perpetuity for the use and beneficial enjoyment of all residents within the cluster development. At least ten percent (10%) of the site's buildable land must be included within this area.
- H. If, in the opinion of the Planning Board, little would be gained from the cluster development open space due to the particular aspects of the proposal or characteristics of the site compared to other opportunities for conservation in the vicinity, the Planning Board may mandate other amenities and/or cash a equivalent to improve the area, tie into a local trail system and/or conservation rights to nearby lands. The Town may mandate a fee schedule for payments to be regularly updated, or the Planning Board is authorized to negotiate on a case-by-case basis.
- I. A reduction in the number of units below the maximum allowable density would not reduce or eliminate any need requirements for open space or fees.
- J. A homeowner's association, deed restriction or similar mechanism, for the long-term ownership and maintenance of open space areas as required in section (g) above shall be provided, subject to the

approval of the Town Planning Board. Similar provision, satisfactory to the Town of East Greenbush, shall be made for the long-term ownership and maintenance of roadways, drainage ways, utilities and other improvement features within the cluster development.

- K.** The Planning Board shall require all cluster developments to provide a suitable buffer area to adjacent properties on a case-by-case basis. Buffer areas shall include existing natural vegetation and/or enhanced landscaping for the purposes of screening and be maintained as undisturbed open space per (H) above. To assist the Planning Board in this regard, development plans must include aerial photos or mapping for the property, all lands within 1000 feet of the property lines and the extents of proposed tree removal or land disturbance.

## Section 3.9 Home Occupations

**3.9.1** In any district, home occupations, as defined in this Local Law, shall additionally conform to the following use limitations:

- A.** A home occupation may only be conducted within a dwelling which is the place of domicile of the principal practitioner of the occupation.
- B.** Not more than two (2) such home occupations may occur on a single residential premises, with paragraphs (C), (E), (G) and (H) below applying to either the single home occupation, or aggregate of the two home occupations occurring on the premises.
- C.** The home occupation activity shall occupy no more than five hundred (500) square feet of gross floor area or twenty-five percent (25%) of the gross floor area of the dwelling to which the home occupation use is accessory, whichever is smaller.
- D.** Except for articles produced on the premises, no stock in trade shall be displayed or sold on the premises.
- E.** No alteration to the exterior of the principal residential building shall be made which changes the character thereof as a dwelling, except that a single sign, not exceeding two (2) square feet per side in area, shall be permitted per home.
- F.** No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted.
- G.** Not more than one (1) person other than members of the household occupying such dwelling shall be employed in the conduct of the home occupation.
- H.** There shall be permitted no sharing, letting or subletting of space, for use by others in the conduct of their profession, trade, or business.
- I.** Sufficient off-street parking shall be provided as required within Section 3.1 of this Local Law.

## Section 3.10 Sexually Oriented Businesses

### 3.10.0 Intent

It is the intent of this chapter to regulate sexually oriented businesses, to promote the health, safety morals and general welfare of the citizens of the Town of East Greenbush and to establish reasonable and uniform regulations to prevent the continues deleterious location and concentration of sexually oriented businesses within the Town of East Greenbush. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect for this chapter to condone or legitimize the distribution of obscene materials.

### 3.10.1 Permitted Locations

- A. Adult uses shall be a permitted use in a Coastal Industrial District (CI) only, provided that;
01. An adult use may not be operated within five hundred (500) feet of:
    - a) A church, synagogue or regular place of worship
    - b) A public or private elementary or secondary school or licensed child day-care center
    - c) A public park
    - d) Nursery school
  02. An adult use may not be operated within two hundred fifty (250) feet of a residence.
  03. An adult use may not be operated within five hundred (500) feet of another adult use or on the same lot or parcel of land.
  04. An adult use may not be operated in the same building, structure or portion thereof containing another adult use,
- B. For the purposes of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school or licensed child day-care center or to the nearest boundary of an affected public park or residential lot.
- C. All adult uses shall be conducted in an enclosed building, regardless of location or shall not be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.
- D. No description in words, phrases, characters, or other form of any specified anatomical area or any specified sexual activity shall be permitted on any display, decoration, sign, window, or other opening.

### 3.10.2 Compliance required; inspections

- A. A person may operate an adult use business only within the Coastal Industrial District (CI) in the Town of East Greenbush in accordance with the provisions of this chapter and other applicable laws.
- B. Prior to the commencement of any adult use business or upon any transfer or ownership or control, the premises must be inspected and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for any adult use business and compliance with this chapter.

- C. All code enforcement officials shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of the inspection of the premises by such officials.
- D. Any owner and/or operator, employee of the owner and/or operator or agent of the owner and/or operator shall permit any representative of the Town Police Department, the Rensselaer County Sheriff's Office, the New York State Police, County or State Health Department, Town Code Enforcement officials, or other town, county or state departments or agencies that have permitting authority regarding the site and/or premises to inspect the premises of an adult use business for the purpose of ensuring compliance with this chapter at any time it is occupied or open for business.

### 3.10.3 Non-conforming adult uses

- A. Any adult use business lawfully operating on the effective date of this chapter that is in violation of the location or structural configuration requirements of this chapter shall be deemed a non-conforming use. The continuation of the same use of substantially the same character and intensity shall be allowed. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually orientated businesses are within five hundred (500) feet of one another and otherwise in a permissible location, the adult use business, which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.
- B. An adult use business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the operation of the adult use business, of a church, public or private elementary or secondary school, public park, within five hundred (500) feet of the adult use business, or a residence within two-hundred fifty (250) feet of the adult use business

### 3.10.4 Registration

- A. No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment, any part thereof which contains an adult use, without first complying with the provision of this section as set forth below.
- B. In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate nor allowed to continue to operate, until a certificate of registration is filed with the Town Clerk containing:
  - 01. The address of the premises
  - 02. The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) if the property is in a land trust.
  - 03. The name of the business or the establishment subject to the provisions of this ordinance.
  - 04. The name, business and home address, business or home phone numbers of all owners of the business or establishment subject to the provisions of this ordinance.
  - 05. The names, business and home addresses, business or home phone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this ordinance. A substantial connection shall be defined as: In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building, or location upon, which any adult use takes place; In a partnership, limited or general, an individual who shares in any profits or losses of the business or who shares in the ownership of any of the assets of the partnership business; The establishment of a trust, gift or other similar legal device which transfers the ownership or control of a sexually orientated business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
  - 06. The date of the initiation of the adult use.
  - 07. The exact nature of the adult use.

08. If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.
- C. If there occurs any change in the information required for the certificate of registration, the Town Clerk shall be notified of such change, and a new or amended certificate filed within thirty (30) days of such change.
  - D. The processing fee for each certificate of registration or amendment thereto shall be one hundred dollars (\$100.00). Such certificate of registration shall be renewed annually and the processing fee provided in this section shall be an annual charge.
  - E. No certificate of registration issued under the provisions of this section shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferable for use at any premises, building or location other than that stated in the certificate of registration.
  - F. The Owner, manager or agent of any adult use shall cause a copy of the certificate or registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.
  - G. Any knowingly false statement, or any statement which the registrant or applicant should reasonably have know to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration.
  - H. It shall be deemed a violation of this chapter for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without having in force a certificate of registration complying with this section.

### 3.10.5 Violations

It shall be deemed a violation if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator has:

- A. Violated or is not in compliance with any section of this chapter.
- B. Refused to allow an inspection of the adult use business premises as authorized by this chapter.
- C. Had gambling occur on the adult use business premises.
- D. Had the possession, use or sale of a controlled substance occur on the premises.
- E. Had prostitution occur on the premises
- F. Had any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct occur on the premises.
- G. Had any physical contact between a person in a state of nudity (employee, patron or other person), and any other person or person(s) (employee, patron or other person), whether such other person or person(s) are in a state of nudity, seminude, or clothed on the premises of any adult arcade, adult bookstore or video store, adult cabaret, adult motion-picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

## Section 3.11 Special Permits

### 3.11.1 Review of Applications for Special Permits

All special permit uses stated in the "Schedule of use Regulations" in Section 2.4 of this Local Law shall be subject to review and approval by the Board of Appeals in accordance with the standards and procedures included herein. In all cases where this Local Law requires such special use permit authorization by the Board of Appeals, no Building Permit or Certificate of Occupancy or use shall be issued by the Building Inspector except upon authorization of and in full conformity with any conditions imposed by the Board of Appeals.

**A. General Standards.** In authorizing any special permit use, the Board of Appeals shall take into consideration the public health safety, and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. In addition to any specific requirements of this code, the Board of Appeals shall also take into account the following general objectives for any use requiring Board of Appeals authorization:

01. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to the existing or future streets providing access, shall be in harmony with the orderly development of the district.
02. The location, nature, and height of the buildings, walls and fences, and the nature and intensity of intended operations, will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
03. All proposed traffic access ways shall be adequate but not excessive in number; adequate in width, grade, alignment and visibility; be located not less than twenty-five (25) feet from street corners or other places of public assembly; and meet similar safety considerations.
04. Adequate provision for safe and accessible off-street parking and loading spaces shall be made.
05. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees over eight (8) inches in diameter to the maximum extent possible.
06. The character and appearance of the proposed use, buildings, structures, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reasons of noise, fumes, vibration, or principal lights, than would be the operations of any permitted use and shall not adversely affect the general welfare of the inhabitants of the Town of East Greenbush.
07. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.

**B. Special Permit Application Procedure.** The Board of Appeals shall review and act on all special permit uses in accordance with the procedure specified herein:

01. **Application and Fee.** All applications for special permits made to the Board of Appeals shall be in writing, on forms prescribed by the Board, and shall be accompanied by the following:
  - a) A sketch site and/or building plan as applicable, providing sufficient information to permit the Board of Appeals to review compliance with the general standards discussed in Part (a) of this Article; and
  - b) Payment of the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.

**02.Public Notice and Hearing.** The Board of Appeals shall fix reasonable time and place for a public hearing on any such application, of which hearing date the applicant shall be given notice at which hearing he shall appear in person or by agent. The Board shall additionally provide notice as follows:

- a) By publishing at least ten (10) calendar days prior to the date thereof a legal notice in the official newspaper of the Town.
- b) By requiring the Secretary of the Board of Appeals to provide notice of the public hearing and data regarding the substance of the application to the owners of all property within two hundred (200) feet of the land involved in such application. Notice shall be provided by either certified or registered mail at least seven (7) calendar days prior to the hearing, with compliance with this notification procedure certified to by the Secretary.
  - i) The names of owners notified shall be taken as such appear on the last completed tax roll of the Town.
  - ii) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board in connection with granting or denying a special permit application.
- c) If the land involved in the application lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Board shall also submit at least five (5) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

### **03.Required Referrals**

- a) At least thirty (30) calendar days prior to the hearing, the Board of Appeals shall transmit to the Planning Board a copy of the special permit application and request an advisory opinion thereon from the Planning Board. The failure of the Planning Board to submit an advisory opinion shall be interpreted as a recommendation that the special permit be granted.
- b) A full statement of any application that meets the referral requirements of Section 239 (1) and (m) of the General Municipal Law shall also be referred prior to the public hearing to the Rensselaer County Bureau of Economic Development and Planning.

No action shall be taken by the Board on such application until an advisory recommendation has been received from said Bureau and thirty (30) calendar days have elapsed since the Bureau received such full statement.

**04.Decisions.** Every decision of the Board with respect to a special use permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the Office of the Town Clerk within ten (10) calendar days thereof.

**C. Reimbursable Costs.** Reasonable costs incurred by the Board for private consultation fees or other extraordinary expense in connection with review of an application for special use permit approval shall be charged to the applicant. Such reimbursable costs shall be in addition of the fee required in Part (b) herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.

### **D. Effect of Special Use Permit Approval.**

**01.**No building permit shall be issued for any structure covered by this Section until such special use permit has received approval by the Board of Appeals and a copy of a resolution to that effect has been presented to the Building Inspector.

- 02.** No Certificate of Occupancy or Use shall be issued for any structure or use of and covered by this Section until the structure is completed or the land developed in strict accordance with the Board of Appeals resolution of special permit approval and other applicable requirements of this Local Law.
- 03.** Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.
- 04.** The Board of Appeals may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the applicant prior to revocation of the special use permit.
- E. Expiration of Special Use Permit.** A special use permit shall be deemed to authorize only one particular special use, and shall expire if the special permit use is not commenced and diligently pursued within six (6) months of the date of special use permit issuance or if the use authorized ceases for more than six (6) months for any reason.
- F. Relief from Decisions.** Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals under this Section may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the civil Practice laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the Office of the Town Clerk.

## Section 3.12 Non-Conforming Structures and Uses

### 3.12.1 Non-Conforming Structures and Uses

Except as provided herein, the lawful use or bulk of any structure or land in existence on the effective date of this Local Law may be continued although not in conformity with this Local Law, except as otherwise provided in this Local Law.

- A. Pre-existing uses, which were lawfully conforming at the time of adoption of this local law, shall be considered pre-existing conforming uses.
- B. Normal maintenance and repair of a non-conforming building, including the restoration of a structure declared unsafe by proper authority to a safe condition and the repair of a building damaged by fire or other cause, is permitted as long as the degree or extent of non-conformity is not increased or exceeded or no new non-conformity is created.
- C. A non-conforming structure or use may be changed to a conforming use but shall not thereafter revert to a non-conforming use.
- D. A non-conforming use may not be changed to another non-conforming use.
- E. Non-conforming uses shall not be enlarged, and the buildings or premises or portion thereof which such non-conforming uses occupy shall not be altered, unless such enlarged or altered portion shall be changed to accommodate a conforming use and in conformity with the bulk regulations of this Local Law, and once so changed shall not revert to the non-conforming use or condition from which it was changed.
- F. No non-conforming structure or use damaged by fire or other cause to the extent of more than 50% of the fair market value of the structures shall be repaired or rebuilt or restored to use except as a conforming building or use.
- G. A non-conforming structure or use which has been abandoned or discontinued for a consecutive period of one year shall not thereafter be used or occupied as a non-conforming building or use.
- H. Certain non-conforming uses which are considered sufficiently objectionable, undesirable, out of character with the district in which located, and degrading to the value of other buildings and uses permitted in the district, so as to deter the proper and orderly development and general welfare of such district and of the town and which are inconsistent with the purposes and intent of this Local Law and the comprehensive master plan, shall be terminated in accordance with the provisions of Section 4.2 of this Local Law.

### 3.12.2 Existing Prior Permits, Certificates, and Variances

- A. If by any reason of an amendment or supplementary provision of this Local Law a non-conforming property is created for which a building permit, certificate of occupancy, variance, or special permit was issued prior to the effective date of such amended or supplementary provision, then the aforementioned permit, certificate, variance, or special permit shall become null and void unless one of the following conditions is met:
  - 01.all footings have been installed, or
  - 02.substantial construction or progress in accordance with required conditions has been made and is continuing as of the effective date of such amended or supplementary provisions.

## Section 3.13 Erosion, Sediment Control and Stormwater Management

### 3.13.1 Findings of Fact.

A. It is hereby determined that:

01. Uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety and welfare of the community.
02. Eroded soil endangers water resources by reducing water quality and causing the silting of streams, lakes and other water bodies adversely affecting aquatic life.
03. Stormwater runoff and sediment transports pollutants such as heavy metals, hydrocarbons, nutrients and bacteria to water resources, degrading water quality.
04. Eroded soil necessitates repair and accelerates the maintenance needs of stormwater management facilities.
05. Clearing, grading and altering natural topography during construction tends to increase erosion.
06. Improper design and construction of drainage facilities can increase the velocity of runoff, thereby increasing stream bank erosion and sedimentation.
07. Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
08. Improperly managed stormwater runoff can increase the incidence of flooding and the severity of floods that occur, endangering property and human life.
09. Substantial economic losses can result from these adverse impacts.
10. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of land development activities.

### 3.13.2 Purpose

- A. The purpose of this local law is to safeguard persons, protect property, and prevent damage to the environment in the Town of East Greenbush, New York. This local law will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any land development activity as it relates to erosion and sedimentation control and stormwater management. This local law seeks to meet these purposes by achieving the following objectives:
01. Meet the requirements of minimum control measures four (construction site stormwater runoff control) and five (post-construction stormwater management) of the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit GP-02-02 or as amended or revised.
  02. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
  03. Minimize soil erosion and sedimentation impacts on streams, water bodies, and neighboring properties.
  04. Avoid excessive and/or unnecessary tree and vegetation removal.
  05. Minimize windblown soil associated with properties being cleared and graded for development.
  06. Maintain the integrity of watercourses and sustain their hydrologic functions.
  07. Minimize increases in the magnitude and frequency of stormwater runoff to prevent an increase in flood flows and the hazards and costs associated with flooding.
  08. Minimize decreases in groundwater recharge and stream base flow to maintain aquatic life, assimilative capacity, and water supplies.

09. Facilitate the removal of pollutants in stormwater runoff to perpetuate the natural biological function of water bodies.

### 3.13.3 Statutory Authority

- A. In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the governing Board of the Town of East Greenbush has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of East Greenbush and for the protection and enhancement of its physical environment. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

### 3.13.4 Applicability

- A. Except as otherwise provided herein, no person shall commence or perform any land development activity, as defined herein, without the approval of a Stormwater Pollution Prevention Plan (SWPPP).
- B. Applicants shall also obtain all other permits required by state, federal, and local laws. Whenever the particular circumstances of proposed land development activity require compliance with special use, site plan, or subdivision procedures of the Town of East Greenbush, the responsible board shall integrate the requirements prescribed herein as appropriate and determine the adequacy of the SWPPP.
- C. Redevelopment Projects - Redevelopment projects as defined herein provide an opportunity to reduce pollutant discharges and the rate, the amount and quality of stormwater runoff leaving the redevelopment site. However, the nature of the site, particularly in an urban location, may impose constraints that prevent implementation of full post construction compliance. Chapter 9 of the New York State Stormwater Management Design Manual sets forth the standards for compliance with water quality and quality standards and specifications. Consideration shall be given to using alternative stormwater management practices such as rain gardens, pervious pavers, green roofs and other low impact development techniques to reduce stormwater impacts.
- D. No SWPPP is required for the following exempt activities:
01. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  02. Agricultural operations conducted as a permitted principal or accessory use, including the construction of structures where the land disturbance is less than one acre.
  03. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity, or original purpose of a stormwater management facility.
  04. Mining as defined herein.
  05. The renovation/replacement of a septic system serving an existing dwelling or structure.
  06. Normal lawn and landscaping activities/maintenance.
  07. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
  08. Selective cutting of trees as defined herein, except log haul roads and landing areas are subject to this law. (Landing areas are cleared areas to which trees are hauled for their storage before being transferred offsite).
  09. Repairs and maintenance of any stormwater management practice or facility.

### 3.13.5 Definitions

**Agriculture** – The use of land for sound agricultural purposes, including farming, dairy, horse boarding, pasturing, grazing, horticulture, floriculture, viticulture, timber harvesting, animal and poultry husbandry, and those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Agriculture does not include dude ranches or similar operations.

**Certified Professional in Erosion & Sediment Control (CPESC)** - A person who has received training and is certified by CPESC Inc, to review, inspect and/or maintain erosion and sediment control practices.

**Commencement of Construction** – The initial disturbance of soils associated with clearing, grading, or excavating activities, or other construction activities.

**Clearing** - Any activity that removes the vegetative surface cover.

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

**Erosion** – The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

**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”.

**Erosion and Sediment Control Plan** - A set of plans prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

**Grading** - Excavation of fill, rock, gravel, sand, soil or other natural material, including the resulting conditions therefrom.

**Land Development Activity** – Construction activity including clearing, grading, excavating, soil disturbance, or placement of fill resulting in land disturbance of equal to or greater than one acre. Also includes activities disturbing less than one acre of total land area that are 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.

**Licensed/Certified Professional** – A person currently licensed to practice engineering, or Landscape Architecture in New York State or is a Certified Professional in Erosion and Sediment Control (CPESC).

**Mining** – Any excavation subject to permitting requirements of the State Department of Environmental Conservation under the Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).

**Notice of Intent (NOI)** – A permit application prepared and filed by an owner or operator with the Department of Environmental Conservation as an affirmation that a stormwater pollution prevention plan (SWPPP) has been prepared and will be implemented in compliance with the State Pollution Discharge Elimination System General Permit for Stormwater Runoff for Construction Activity (GP-02-01).

**Operator** – The person, persons, or legal entity which owns or leases the property on which the construction activity is occurring.

**Perimeter Control** - A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

**Phasing** - Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

**Project (Major)** – Any land development activity that disturbs one (1) acre or more, including all commercial, industrial, or mixed use development, as well as any residential development consisting of buildings that contain two or more dwelling units, or any land development activity not classified as a minor project. (The operator of a major project must submit a SWPPP that addresses water quality and quantity controls in addition to erosion and sedimentation controls.)

**Project (Minor)** – Any land development activity associated with a permitted agricultural use or single family residential construction/subdivision that disturbs between one (1) and five (5) acres and is not discharging stormwater directly to a water body listed on New York State 2002 Section 303(d) list of impaired water bodies.

(At present in Rensselaer County, Snyders Lake is the only water body on the list due to phosphorous levels associated with urban runoff). (The operator of a minor project must submit a SWPPP that addresses, erosion and sedimentation controls.)

**Redevelopment** – refers to the reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional, or road or highway which involves soil disturbance.

**Selective Cutting** - The cutting of more than one –half of the existing living trees measuring 6 inch diameter at breast height (DBH) in an area of one acre or more, over a period of two (2) consecutive years.

**Sediment** – Solid material, both mineral and organic, which is in suspension, is being transported, has been deposited, or has been removed from its site of origin.

**Site** - A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

**Site Development Permit** - A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

**Slopes (steep)** – Ground areas with a slope greater than fifteen percent (15 %) covering a minimum horizontal area of ¼ acre or 10,890 square feet and a minimum horizontal dimension of ten (10) feet.

**Slopes (severe)** – Ground areas with a slope greater than twenty-five percent (25 %) covering a minimum horizontal area of ¼ acre or 10,890 square feet and a minimum horizontal dimension of ten (10) feet.

**SPDES General Permit for Stormwater Discharges from Construction Activity, 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.

**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.

**Stabilization** – Means covering or maintaining an existing cover or soil. Cover can be vegetative (e.g. grass, trees, seed and mulch, shrubs, or turf) or non-vegetative (e.g. geotextiles, riprap, or gabions).

**Stabilization (Final)** – Means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 80 percent has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

**Start of Construction** - The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling.

**Stormwater Pollution Prevention Plan** – A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**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 manmade 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.

**Watercourse** - Any body of water, including but not limited to lakes, ponds, rivers, streams, and intermittent streams.

**Watercourse Buffer** – A horizontal distance 50 feet away from and parallel to the high water level of a watercourse.

**Wetlands** –Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include those areas determined to be wetlands by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation.

### 3.13.6 Review and Approval

- A. No application for a land development activity shall be approved until the responsible board and/or department has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications contained herein.
- B. For land development activity not subject to special permit, site plan, or subdivision requirements, the Town Engineer, or designated agent, shall review the SWPPP to determine its completeness and conformance with the provisions herein. Within thirty (30) days of receipt of a SWPPP, or sixty (60) business days if the SWPP identifies practices or designs that deviate from the proscribed standards established by Section 11 of this code, the Town Engineer, or designated agent, shall make a determination as to whether it is complete. If it is deemed incomplete, the applicant shall be notified in writing as to the deficiencies in the plan and the requirements for completeness. Within 30 days after receiving a complete plan, the Town Engineer, or designated agent shall, in writing:
  - 01. Approve the permit application;
  - 02. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  - 03. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
  - 04. Failure of the Town Engineer, or designated agent, to act on a complete original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the Town. Pending preparation and approval of a revised plan, land development activities shall not be allowed to proceed. Nothing herein shall relieve an applicant's need to obtain a building permit as required by Town Code or file an NOI with the NYS Department of Environmental Conservation.
- C. For land development activity subject to special permit, site plan, or subdivision requirements, the responsible board shall incorporate the required SWPPP into the review process, allowing for public review and comment on the SWPPP. The responsible board, in consultation with the Town Engineer, or designated agent, shall determine the adequacy of the SWPPP. For projects subject to subdivision requirements, preliminary plat approval shall not be granted until the Planning Board has received a SWPPP prepared in accordance with the specifications contained herein.
- D. In its review of the plan, the responsible board or municipal official may consult with the Town Engineer, the Rensselaer County Soil and Water Conservation District, the New York State Department of Environmental Conservation, or retain any other licensed/certified professionals qualified in the review and/or design of stormwater management and erosion control plans as are determined to be necessary to carry out the review of an SWPPP. Payment for the services of such professionals shall comply with Section 17 herein.

### 3.13.7 Stormwater Pollution Prevention Plan Contents

- A. All designs and procedures to prevent stormwater pollution as set forth within the SWPPP shall be designed in compliance with the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual as stipulated in Section 11 of this code.
- B. The SWPPP shall include the following:
  - 01. A written narrative identifying the project's scope including the location, type, and size of the project.

- 02.**A 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; all improvements; areas of disturbance; areas that will not be disturbed; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of stormwater discharge(s). The specific location(s), size(s), and length(s) of each erosion and sediment control practice shall also be shown. Site maps/construction drawings shall be at a scale no smaller than 1 inch equal 100 feet.
- 03.**A natural resources map identifying existing vegetation; on-site and adjacent off-site surface water(s), wetlands, and drainage patterns that could be affected by the construction activity; and existing and final slopes.
- 04.**A description of soil(s) present at the site along with any existing data that describes the stormwater runoff characteristics at the site.
- 05.**A 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. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation. Consistent with the New York Standards and Specifications for Erosion and Sediment Control, there shall not be more than five (5) acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation.
- 06.**A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges and runoff.
- 07.**A 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.
- 08.**A description of the 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. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- 09.**The dimensions, material specifications (e.g. seeding mixtures and rates, types of sod, kind and quantity of mulching) and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins. Temporary practices that will be converted to permanent control measures shall be shown.
- 10.**An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
- 11.**A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices including estimates of the cost of maintenance.
- 12.**Name(s) of the receiving water(s) and any existing data that describes the stormwater runoff at the site.
- 13.**Identification of the person or entities responsible for implementation of the SWPPP for each part of the site.
- 14.**A description of structural practices 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.
- 15.**A site map/construction drawing(s) of each post-construction stormwater practice including a description of each post-construction stormwater control practice including, specific location(s) and size(s), dimensions, material specifications and installation details. The New York State Stormwater Management Design Manual shall serve as the technical design standard. Deviations from this Design Manual are permitted subject to review and approval by the New York State Department of Environmental Conservation within 60 business days of receipt of a completed Notice of Intent (NOI).

C. For major projects, the following shall also be provided:

- 01.A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.
- 02.A comparison of post-development stormwater runoff conditions with pre-development conditions.
- 03.Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater control practice.
- 04.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.
- 05.Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.

### 3.13.8 Plan Certification

A. The SWPPP shall be prepared by a licensed/certified professional. The SWPPP must be signed by the professional preparing the plan and shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that false statements made herein are punishable as a class A misdemeanor pursuant to Section 210.45 of the Penal Law."

### 3.13.9 Contractor Certification

A. The SWPPP must clearly identify each contractor(s) and subcontractor(s) involved in soil disturbance that will implement each stormwater and erosion control measure. Each contractor and subcontractor identified in the SWPPP shall sign 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 (SWPPP) as a condition of authorization to discharge stormwater. I also understand that the operator must comply with the terms and conditions of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from construction activities and 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.

### 3.13.10 SWPPP Review and Amendment

A. The permittee shall amend the SWPPP whenever there is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP; or

B. The SWPPP proves to be ineffective in:

- 01.Eliminating or significantly minimizing pollutants from sources identified in the SWPPP, or

- 02.** Achieving the general objectives of controlling pollutants in stormwater discharges from permitted construction activity.
- C.** Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP.
- D.** Significant amendments or changes to the SWPPP as outlined above in 10.1 and 10.2 may be subject to review and approval in the same manner as Section 6 herein.

### 3.13.11 Design and Performance Standards

- A.** Grading, erosion, and sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" published by the Empire State Chapter of the Soil and Water Conservation Society. For the design of post-construction structures, the technical standards are currently detailed in the publication "New York State Stormwater Management Design Manual" published by the Department of Environmental Conservation.

Where stormwater management practices are not in accordance with above design and technical standards, the applicant or developer must demonstrate equivalence to the design and technical standards set forth in this Section and the equivalence shall be documented and certified by a licensed/certified professional as part of the SWPPP.

- B.** Cut and fill slopes shall be no greater than 2:1, except where retaining walls, structural stabilization or other methods acceptable to the Town Designated Licensed/Certified Professional are used. Disturbed areas shall be restored as natural appearing landforms, and shall blend in with the terrain of adjacent undisturbed land. Abrupt, angular transitions shall be avoided.
- C.** Clearing and grading shall be substantially confined to designated building envelopes, utility easements, driveways, and parking footprint. Clearing and grading techniques that retain natural vegetation and drainage patterns, as described in the most recent version of "Standards and Specifications for Erosion and Sediment Control" referenced above shall be used to the satisfaction of the responsible board. No clearing or grading shall take place within the established 50 foot watercourse buffer area except to provide road crossings where permitted.
- D.** Clearing, except that necessary to establish sediment control devices shall not begin until all sediment control devices have been installed and have been stabilized.
- E.** Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the responsible board. There shall not be more than five (5) acres of disturbed soil at any one time without prior written approval from the NYS Department of Environmental Conservation.
- F.** The permittee shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:
- 01.** Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;
- 02.** Where construction activity on a portion of the site is temporarily ceased, and earth-disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures need not be initiated on that portion of the site.
- G.** The mere parking and moving of construction vehicles around the site does not constitute construction or earth disturbing activity. If the permittee is not diligently pursuing the project toward completion as determined by the Town Zoning Enforcement Officer or designated agent, he/she may issue a notice of violation (see Section 19.1) and stipulate that the stabilization measures as outlined above shall be undertaken to prevent site erosion.

- H. If seeding or another vegetative erosion control method is used, it shall become established within 14 days or the applicant may be required to re-seed the site or use a non-vegetative option.
- I. Special techniques that meet the design criteria outlined in the most recent version of "Standards and Specifications for Erosion and Sediment Control" shall be used to ensure stabilization on steep slopes or in drainage ways.
- J. Soil stockpiles must be stabilized or covered at the end of each workday.
- K. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
- L. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- M. Techniques that divert upland runoff past disturbed slopes shall be employed.
- N. Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with perimeter controls.
- O. In general, wetlands and watercourses should not be filled, graded or altered. The crossing of watercourses should be avoided to the maximum extent practicable. When protection of wetlands, watercourses, trees, steep slopes or other environmentally sensitive area is required, the location shall be shown on the erosion control plan and the method of protection during construction identified (e.g., silt fence, construction fence, stakes, etc.). [A vegetative buffer (25' minimum) shall be maintained between disturbed areas and protected federal wetlands that are not proposed to be filled as part of an Army Corps of Engineers wetlands permit. In the case of state designated wetlands, the 100' adjacent area shall not be disturbed without a NYS Department of Environmental Conservation permit.
- P. Stabilization shall be adequate to prevent erosion located at the outlets of all pipes and paved/rip-rap channels.
- Q. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- R. Development should relate to site conditions and disturbance of steep slopes avoided. Grading should be minimized by utilizing existing topography whenever possible. Roads and driveways shall follow the natural topography to the greatest extent possible.
- S. In areas of severe slopes (exceed 25 percent), land-disturbing activities are not permitted. A 25-foot buffer must be maintained between any disturbed area and the top of slopes 25 percent and greater.
- T. 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 East Greenbush to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of East Greenbush.
- U. Maintenance Agreements - The Town of East Greenbush shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the 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 of this local law entitled Sample Stormwater Management System Maintenance Agreement. The Town of East Greenbush, 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 local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**3.13.12 Water Quality Standard**

- A. Any land development activity shall not result in:
01. An increase in turbidity that will cause a substantial visible contrast to natural conditions in surface waters of New York State;
  02. An increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses; or
  03. Residue from oil and floating substances, nor visible oil film, or globules of grease.

**3.13.13 Maintenance During Construction**

- A. The applicant or developer of the land development activity or their representative 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 local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

**3.13.14 Erosion and Sediment Control Inspection**

- A. The Town Zoning Enforcement Officer or designated agent may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP as approved. To obtain inspections, the applicant shall notify the Zoning Enforcement Officer or designated agent at least 48 hours before the following as required by the SWPPP:

01. Start of construction and initial installation of sediment and erosion controls
02. Installation of sediment and erosion measures as site clearing and grading progresses
03. Completion of site clearing
04. Completion of rough grading
05. Completion of final grading
06. Close of the seasonal land development activity
07. Completion of final landscaping
08. Successful establishment of landscaping in public areas

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. Corrective actions may include the repair/restoration of offsite impacts. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Town Zoning Enforcement Officer or designated agent.

- B. For land development activities, the applicant shall have a qualified professional conduct an assessment of the site prior to the commencement of construction and certify in an inspection report that the appropriate erosion and sediment controls described in the SWPPP have been adequately installed or implemented to ensure overall preparedness of the site. Following the commencement of construction, site inspections shall be conducted by a qualified professional at least every seven (7) calendar days and within 24 hours of the end of a storm event 0.5 inches or greater. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. During each inspection, the licensed/certified professional shall record the following information:

01. On a site map, indicate the extent of all disturbed site areas and drainage pathways. Indicate site areas that are expected to undergo initial disturbance or significant site work within the next 14-day period;
02. Indicate on a site map all areas of the site that have undergone temporary or permanent stabilization;

- 03.** Indicate all disturbed site areas that have not undergone active site work during the previous 14-day period;
  - 04.** Inspect all sediment control practices and record the approximate degree of sediment accumulation as a percentage of the sediment storage volume;
  - 05.** Inspect all erosion and sediment control practices and record all maintenance requirements such as verifying the integrity of barrier or diversion systems and containment systems. Identify any evidence of rill or gully erosion occurring on slopes and any loss of stabilizing vegetation or seeding/mulching. Document any excessive deposition of sediment or ponding water along barrier or diversion systems. Record the depth of sediment within containment structures, any erosion near outlet and overflow structures, and verify the ability of rock filters around perforated riser pipes to pass water; and
  - 06.** All deficiencies that are identified with the implementation of the SWPPP.
- C.** A copy of the NOI and a brief description of the project shall be posted at the construction site in a prominent place for public viewing. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the beginning of construction activities to the date of final stabilization. The SWPPP and inspection reports are public documents that the operator must make available for inspection, review and copying by any person within five (5) business days of the operator receiving a written request by such person to review the SWPPP and/or the inspection reports. Copying of documents will be done at the requester's expense.
  - D.** The operator shall maintain a record of all inspection reports in a site logbook. The site log book shall be maintained on site and be made available to the Town upon request. The operator shall post at the site, in a publicly accessible location, a summary of the site inspection activities on a monthly basis.
  - E.** The applicant or developer or their 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.
  - F.** The Zoning Enforcement Officer, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under subsection 14.3 above.

### 3.13.15 Project Completion

#### A. Inspections of Stormwater Management Practices (SMP's)

- 01.** The Town Zoning Enforcement Officer or designated agent is responsible for conducting inspections of stormwater management practices (permanent water quantity/ quality improvement structures). All operators are required to submit "as built" plans certified by a professional engineer for any permanent stormwater management practices located on site after final stabilization.\* The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. Operators shall also provide the owner(s) of such structure(s) with a manual describing the operation and maintenance practices that will be necessary in order for the structure to function as designed. The operator must also certify that the permanent structure(s) have been constructed as described in the SWPPP. This certification can be accomplished by providing to the Town a copy of the Notice of Termination (NOT) filed with the NYS DEC.
- 02.** All certified "as built" plans, lands, structures, and/or appurtenances, to be dedicated to the Town shall be reviewed, inspected and approved by the Town Engineer or designated agent prior to Town acceptance.

#### B. Notice of Termination (NOT)

- 01.** Upon certification by the operators licensed/certified professional that a final site inspection has been conducted and that "final stabilization" has been accomplished and all Stormwater Management Practices have been constructed as described in the SWPPP the Operator shall complete and file an NOT as proscribed by the NYSDEC and file a copy with the Town to notify them that they have complied with Section 14.1 and that the project is complete.

**3.13.16 Post Construction Activities****A. Maintenance after Construction**

**01.**The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes, at a minimum, the following:

- a) 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 law.
- b) Written procedures for operation and maintenance and training new maintenance personnel.
- c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 12.

**B. Inspection of Stormwater Facilities after Project Completion**

**01.**Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

**C. Submission of Reports**

**01.**The Town of East Greenbush Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

**D. Right-of-Entry for Inspection**

**01.**When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of East Greenbush the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 16.2.

**3.13.17 Performance Guarantee****A. Construction Completion Guarantee**

**01.**The applicant or developer may be required to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit, from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of East Greenbush as the beneficiary. The security shall be in an amount determined by the Town of East Greenbush based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of East Greenbush, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facilities have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

**B. Maintenance Guarantee**

**01.** Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of East Greenbush with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion control facilities, the Town may, upon notification, draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

**C. Record Keeping**

**01.** The Town of East Greenbush may require entities subject to this law to maintain records demonstrating compliance with this law.

**3.13.18 Retention of Licensed/Certified Professional; Payment**

- A.** The responsible board or municipal official is hereby authorized to retain Licensed/Certified Professionals as are determined to be necessary to carry out the review of a SWPPP or to make regular or final inspections of all control measures, lands, structures, and/or appurtenances, to be dedicated to the Town in accordance with the approved plan.
- B.** Payment for the services of such professionals is to be made from funds deposited by the applicant with the Town in escrow accounts for such purposes.
- C.** It shall be the responsibility of the applicant to submit to the Town certified check(s) in amounts equal to the estimate of the Licensed/Certified Professional for the cost of services to be rendered. Estimates shall reflect reasonable costs at prevailing rates. The Town shall make payments to said professional for services rendered to it upon acceptance by the Town of said service.

**3.13.19 Enforcement and Penalties****A. Notice of Violation.**

**01.** The operator and all contractors and subcontractors must comply with all conditions of a SWPPP submitted pursuant to this local law. In the event that the Town determines that a land development activity is not being carried out in accordance with the requirements of this local law, the Zoning Officer may issue a written notice of violation to the operator/landowner, applicant and all contractors/subcontractors subject to the provisions of this local law. The notice of violation shall contain:

- a)** The name and address of the operator/landowner, developer, or applicant;
- b)** The address of the site or a description of the building, structure or land upon which the violation is occurring;
- c)** A statement specifying the nature of the violation;
- d)** A description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- e)** A statement of the penalty or penalties that can be assessed against the person to whom the notice of violation is directed;

**02.** Within fifteen (15) days of notification of violation (or as otherwise provided by the Town) the violator shall take the remedial measures necessary to bring the land development activity into compliance with this local law.

**B. Stop Work Order.**

- 01.**The Town Zoning Enforcement Officer may issue a stop work order for violation of this local law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violation(s) identified in the stop work order. The stop work order shall be in effect until the Town confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, and/or monetary penalties in accordance with this local law.

**C. Violations**

- 01.**The Town of East Greenbush may require entities subject to this law to maintain records demonstrating compliance with this law.

**D. Penalties.**

- 01.**Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$250 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this local law shall be required to bear the expense of such restoration. To the extent that the noncompliance with this local law constitutes a violation of the Clean Water Act and the Environmental Conservation Law, there may be substantial criminal, civil, and administrative penalties depending upon the nature and degree of the offense.

**E. Withholding Certificate of Occupancy.**

- 01.**If any building or land development activity is installed or conducted in violation of this local law the Town Zoning Enforcement Officer may prevent the occupancy of said building or land.

**F. Restoration of Lands**

- 01.**Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of East Greenbush may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**3.13.20 Separability**

- A.** The provisions and sections of this local law shall be deemed to be separable, and the invalidity of any portion of this local law shall not affect the validity of the remainder.

## Section 4 - General Administration

### Section 4.1 – Enforcement

#### 4.1.0 ENFORCEMENT OFFICE

This Local Law shall be enforced by the Building Inspector who shall be appointed by the Town Board of East Greenbush. The Town Board may fix the salary or remuneration of such Building Inspector and provide for the payment thereof.

#### 4.1.1 Rules, Regulations, and Forms

The Enforcement Officer shall have the authority to make, adopt, and promulgate such written rules, regulations, and forms as they may deem necessary for the proper enforcement and administration of this Local Law and to secure the intent thereof. Such rules, regulations, and forms shall not be in conflict with the provisions of this Local Law or any ordinance of the Town of East Greenbush nor shall they have the effect of waiving any provisions of this Local Law or any law, ordinance, or regulation. Such rules, regulations, and forms shall have the same force and effect as the provisions of this Local Law and be subject to the same penalties for violations thereof. Such rules, regulations, and forms shall be submitted to the Town Board by the Enforcement Officer, which shall move to approve, reject, or modify such rules, regulations, or forms within 30 days after submission. Failure to so move shall be construed to constitute approval thereof. Said rules, regulations and forms as approved by the Town Board shall be on file and available to public view.

#### 4.1.2 Entry and Inspection

The Enforcement Officer shall have the right to enter upon, examine, and inspect -- or to cause to be entered, examined and inspected -- any building or property at any time for the purpose of carrying out his duties and to determine compliance with the provisions of this Local Law. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Enforcement Officer.

#### 4.1.3 Violations

Whenever in the opinion of the Enforcement Officer, after proper examination and inspection, there appears to exist a violation of any provision of this Local Law, or of any rule written notice of violation upon the appropriate person responsible for such alleged violation.

##### A. Notice of Violation

01. Such notice of violation shall inform the recipient of:

- a) the nature and details of such violation;
- b) recommended remedial action which if taken will effect compliance with the provisions of this Local law and with rules and regulations adopted thereto;
- c) the date of compliance by which the violation must be remedied or removed; and
- d) the right to a hearing before the Enforcement Officer in accordance with Section 4.1.3-D.

**B. Extension** - The Enforcement Officer may extend the date of compliance specified in a notice of violation after written application, if in their opinion there is reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.

**C. Emergency Action** - If in the opinion of the Enforcement Officer a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, morals or welfare of occupants of a building or to other persons, they may take direct action on their own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant, or person responsible for the violation. The Enforcement Officer shall keep on file an affidavit stating with fairness

and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses, or place a lien against the property, in order to recover the costs.

- D. Request for Hearing** - Any person served with a notice of violation in accordance with Section 4.1.3 and who denies the violation or is allegedly aggrieved by the required action necessary for compliance, may within ten days after service of notice made a request in writing for a hearing before the Enforcement Officer stating the reasons why such hearing is requested.
- E. Abeyance** - Compliance with a notice of violation shall not be required while a hearing is pending.
- F. Hearing** - Within ten days after receipt of a request for a hearing, the Enforcement Officer shall acknowledge receipt in writing and set a time and place for such hearing not later than 30 days after date request was received. Hearings may be postponed beyond 30 days by the Enforcement Officer for just cause, and notice of postponement shall be served. The person requesting the hearing shall be required to show cause or give evidence why he should be required to remedy the violation or why he is unable to comply with the remedial action outlined in the notice of violation.
- G. Findings** - After consideration of all testimony given at the hearing held in accordance with Section 4.1.3-F, the Enforcement Officer shall sustain, withdraw, or modify the notice of violation as originally served. If such notice is sustained or modified, the Enforcement Officer shall set a new compliance date by which the violation shall be remedied or removed in accordance with the original notice of violation or modified remedial action specified at the hearing.
- H. Certificate of Zoning Compliance** - On reinspection following the expiration of the date of compliance as specified in the notice of violation, if the violation has been remedied or removed in accordance with the specified remedial actions and there is no longer a violation of any provision of this Local Law, then a Certificate of Zoning Compliance shall be issued by the Enforcement Officer.
- I. Legal Action by the Town for Non-Compliance** - On reinspection following the expiration of the date of compliance as specified in the notice of violation or as extended in accordance with Section 4.1.3-B, if the remedial action specified has not been carried out and there is still in existence in the opinion of the Enforcement Officer a violation or a provision of this Local Law, then the Enforcement Officer shall immediately refer the matter to the Town Attorney who shall thereupon institute appropriate legal action to restrain, prevent, enjoin, abate, remedy, or remove such violation and to take whatever other legal action is necessary to compel compliance with this Local Law.
- J. Legal Action by Taxpayers for Non-Compliance** - If the Enforcement Officer fails or refuses to refer a violation of this Local Law to the Town Attorney for legal action in accordance with Section 4.1.3-I within a ten-day period following written request by any taxpayer so to proceed, then any three or more taxpayers of the Town of East Greenbush may institute appropriate legal action in a proper court to restrain, prevent, enjoin, abate, remedy, or remove such violation.
- K. Failure to Apply for Building Permit or Certificate of Occupancy** - Any person who fails to apply for a building permit or Certificate of Occupancy as required by, and in accordance with, this Local Law and who proceeds to construct, erect, relocate, alter, extend, or structurally change a building or part thereof or who subsequently proceeds to occupy or use or change the use of land shall be required to file application and plans and pay the fee as provided in this Local Law and in addition shall be required to pay an inspection fee for alterations and a fee in accordance with 4.1.4-F for new construction. The Building Inspector shall inspect or cause to be inspected such building or land and shall issue either a notice of violation in accordance with Section 4.1.3 or a Certificate of Occupancy in accordance with Section 4.1.5.
- L. Penalties** - Any person who shall violate, or cause to be violated, or assist in the violation of any provisions of this Local Law shall be subject to conviction for an offense and be subject to a fine or imprisonment for not more than ten days, or both, for each and every violation.
- 01.** Each week that such violation continues shall constitute a separate offense. The term "person" as used in this section shall include an owner, occupant, mortgagee, tenant, vendee in possession, assignee of rents, receiver executor, trustee, lessee, agent, or any other person, firm, or corporation directly or indirectly in control of a building, property, or part thereof.

#### 4.1.4 Building Permits - Zoning Requirements

All persons proposing to construct, erect, or relocate, alter, repair, extend, remove, demolish, or structurally change any building, structure, or portion thereof, shall apply to the Building Inspector for a building permit on an appropriate form.

- A. Building Permit Requirements** – Any construction or structural renovation work larger than 576 square feet, or which has a construction cost greater than \$10,000 must provide construction drawings of the proposed work stamped by an architect or structural engineer licensed to practice in New York State by the Department of Education in order to be eligible for a Building Permit.
- B. Application for Building Permit** - Any such application for a building permit shall be made in duplicate, shall state the use and occupancy proposed, and shall be accompanied by two copies of all plans drawn to scale showing the dimensions and location on the lot or in the building of the proposed construction, erection, relocation, alteration, repair, extension, removal, demolition, or structural change, and showing its relation to any existing building or other structures; and the proposed grading around such building.
- C. Approval** - The Building Inspector, after determining that such proposed work, use and occupancy are in compliance with all provisions of this Local Law and the rules and regulations adopted thereunder, may approve any such application and issue a building permit in connection therewith. An order from the Board of Appeals excepting the applicant from any provisions of this Local Law shall be acceptable in lieu of compliance with said provisions. The Building Inspector shall return to the applicant one copy of such application and plans, endorsed as approved.
- D. Disapproval** - The Building Inspector, after determining that such proposed work, use and occupancy are not in compliance with all provisions of this Local Law and the rules and regulations adopted thereunder, shall disapprove such application and shall return to the applicant one copy of such application and plans endorsed as disapproved with the reasons stated in writing and submitted along with the application for a building permit.
- E. Prior Approval** - If approval is required by the Board of Appeals, Planning Board, Rensselaer County Department of Health or other agency for any such proposed work, such approval shall be obtained in writing and submitted along with the application for a building permit.
- F. Fees** - An application for preliminary site plan review and approval shall be accompanied by payment of a fee in accordance with the fee schedule established and annually reviewed by the Town Board. For a listing of fees for different permits, contact the Town Hall.
- G. Expiration** - Every building permit issued shall become void after the expiration of one calendar year immediately following the date of issuance, and any further work on any premises after the expiration date or extension period of such building permit has passed shall constitute a violation of this Local Law. Prior to such expiration date, the applicant may either apply to the Building Inspector for a new building permit or for an extension of the expiration date of the original building permit.
- H. Extension** - The Building Inspector may for just cause extend the expiration date of any building permit for a reasonable time period and may attach reasonable conditions to such extension relating to the work involved or situations that exist as a result of the work.
- I. Rescission** - The Building Inspector may for just cause rescind a building permit which he has issued.
- J. Stop Orders** - Whenever the Building Inspector has reasonable ground to believe that work on any building or structure is being conducted in violation of the provisions of the applicable building laws, 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, they 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 order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon the person to whom it is directed either by delivering it personally to them, or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail.
- K. Inspection** - The Building Inspector shall inspect or cause to be inspected any building, structure, or portion thereof after completion of any work for which a building permit was issued and be assured that all

plans as approved are complied with before issuing a Certificate of Occupancy in accordance with Section 4.1.5.

- L. **Appeals** - Any person allegedly aggrieved as a result of an action or failure to act by the Building Inspector in regard to a building permit under this Local Law shall have recourse to the Board of Appeals or may seek relief in accordance with Section 4.2.6.

#### 4.1.5 Certificate of Occupancy - Zoning Requirements

- A. All persons desiring permission to do any of the following shall apply to the Building Inspector for a Certificate of Occupancy on the appropriate form:
  - 01. to occupy and use a building or structure or part thereof following construction, erection, relocation, alteration, repair, extension, removal, demolition, or structural changes, wholly or in part; or
  - 02. to change the use of an existing building or a part thereof; or
  - 03. to occupy and use vacant land, or to change the use of land, for any uses other than those consisting principally of tilling the soil;
- B. **Application for Certificate of Occupancy** - Any such application for a Certificate of Occupancy shall be made in duplicate in accordance with rules established by the Building Inspector.
- C. **Approval** - The Building Inspector may issue a Certificate of Occupancy for any of the reasons stated in Section 4.1.5 after determining by inspection that (1) such reason complies with this Local Law and other applicable laws, ordinances, and regulations, or (2) the premises comply with the plans, specifications, and conditions for which a building permit was issued.
- D. **Additional Data and Documents** - Every applicant for a Certificate of Occupancy shall list the data and documents submitted with his application for a building permit, or in case none was required he shall submit such additional data and documents as is required by rules established by the Building Inspector.
- E. **Entitlement** - The issuance of a Certificate of Occupancy by the Building Inspector shall entitle and authorize the applicant to occupy and use, initially and continuously, or to change the use of, building and land in accordance with Section 4.1.5.
- F. **Validity** - A Certificate of Occupancy shall remain valid only for those specific conditions of use and occupancy in effect at the time of issuance or for which said certificate was issued, subject to the requirements for non-conforming uses.
- G. **Disapproval** - In case the Building Inspector shall refuse to issue a Certificate of Occupancy, their reasons shall be stated in writing on the applications and one copy shall be returned to the applicant.
- H. **Rescission** - The Building Inspector may rescind for just cause a Certificate of Occupancy which they have issued.
- I. **Fees** - Every application for a Certificate of Occupancy shall be accompanied by the required fee.
- J. **Appeal** - Any person allegedly aggrieved as a result of an action or failure to act by the Building Inspector under this Local Law in regard to a Certificate of Occupancy shall have recourse to the Board of Appeals or may seek relief in accordance with Section 4.2.6.

## Section 4.2 Zoning Board of Appeals

### 4.2.1 General Provisions

**A. Establishment** - There is hereby established a Board of Appeals pursuant to Town Law which shall consist of five members appointed by the Town Board who shall designate one member as Chairman. A member of the Board of Appeals shall not at the same time be a member of the Town Board. The Town Board may fix the compensation of such members and provide for the payment thereof. The Town Board may by resolution increase the Board of Appeals to seven members (Editor's Note: Town Board acted accordingly on January 24, 1964). The Town Board shall have the power to remove any member of the Board of Appeals for cause and after public hearing.

**B. Term of Appointment** - The term of five members shall expire as follows:

One member.....5 years, succeeded by a 5 year term.

One member.....4 years, succeeded by a 5 year term.

One member..... 3 years, succeeded by a 5 year term.

One member.....2 years, succeeded by a 5 year term.

One member.....1 year, succeeded by a 5 year term.

If two additional member seats are appointed, they shall be appointed for two and four years respectively at the expiration of which their successors shall be appointed for terms of five years. A vacancy occurring otherwise than by expiration of term shall be filled by the Town Board by appointment for the unexpired term.

**C. Rules of Procedure, By-laws, Forms** - The Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Local Law. Such rules, by-laws and forms shall not be in conflict with, nor have the effect of waiving, any provisions of this Local Law or any other ordinances, laws or regulations of the Town of East Greenbush. Such rules, by-laws, and forms, and any subsequent amendments or supplements thereto, shall be submitted to the Town Board by the Board of Appeals for approval and filing for public view. The Town Board shall move to approve, reject, or modify such rules, by-laws, and forms within 30 days after submission. Failure of the Town Board to so move shall be construed to constitute approval thereof.

**D. Staff** - The Board of Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided it shall not at any time incur expenses beyond the amount of the appropriation made and then available for that purpose.

### 4.2.2 Authority

**A.** The Board of Appeals is governed by and shall act in strict accordance with procedures specified by Town Law, this Local Law, and its own duly-adopted rules, by-laws, and forms, and shall perform the following functions:

**01.** Decide any question properly brought before it involving the interpretation of any provision of this Local Law;

**02.** Hear and decide appeals from any decision, determination, act, or failure to act of the Enforcement Officer, and all matters properly referred to it by the Enforcement Officer;

**03.** Grant variances to provisions of this Local Law in accordance with Section 4.2.4.

**04.** Issue permits for special use in accordance with Section 3.11 and other applicable provisions of this Local Law.

The Chairman of the Board of Appeals, and in their absence the acting chairman, may administer oaths and compel the attendance of witnesses at meetings and hearings.

- B. Public Hearing** - The Board of Appeals shall after due notice hold a public hearing on every appeal or application for a variance or for a special permit referred or taken to said Board or upon which it is required to pass, in accordance with this Local Law and the Town Law. The Board of Appeals shall have published a notice of each such hearing in a newspaper of general circulation in the Town of East Greenbush at least ten days prior to such hearing. In addition, at least seven days prior to such public hearing, the Board of Appeals shall have sent by registered mail the notice of such hearing, and an explanation of the variance or special permit sought, to all property owners within 200 feet of the subject property. Such notices shall be sent to the last known address as shown by the most recent Town tax records.
- C. Findings and Conclusions** - After such public hearing and after considering the application, the Board of Appeals shall either grant or deny the variance or special permit and shall make written findings of fact and conclusions concerning the subject matter of such hearing, including the reasons for the granting or denial of the relief sought. As to any proposed use, such findings of fact and conclusions shall be made concerning such use as described and represented by the applicant.
- D. Reporting and Filing and Decisions, Permits, and Variances** - Every official and final decision of the Board of Appeals shall be by written resolution, each of which shall contain a full record of its findings in the particular case, and each of which shall be filed in the Office of the Town Clerk together with all pertinent documents. The Board of Appeals shall notify the Town Board and the Planning Board in writing of each special permit and variance issued or granted under provisions of this Local Law.
- E. Re-Hearing and Reversal** - Upon motion initiated by any member and adopted by majority vote of members present, but not less than a majority of all members, the Board of Appeals may vote to give notice and hold one re-hearing to review any order, decision, or determination previously made. After such re-hearing, the Board upon the concurring vote of all members present, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision, or determination reviewed will not be subject to prejudice thereby, may reverse, modify, or annul its original order, decision, or determination.

#### 4.2.3 Interpretation

- A.** The Board of Appeals shall upon proper request interpret any provision of this Local Law about which there is uncertainty, lack of understanding or misunderstanding, ambiguity, or disagreement and shall determine the exact location of any zoning district boundary about which there may be uncertainty or disagreement.
- B.** Every request for an interpretation shall be made in the form and manner prescribed by rules of procedure adopted by the Board of Appeals and shall set forth exactly the interpretation which is claimed or sought.

#### 4.2.4 Variances

- A.** The Board of Appeals shall receive applications for and have the power to grant a variance in the applications of any of the provisions of this Local Law to a particular property, relating to the area, bulk, construction, or alteration of buildings, or any part thereof, in such a way that the spirit of this Local Law shall be observed and maintained; public health, safety, and welfare secured; and substantial justice done.

##### 01. Application

Application for such variance may be made on an appropriate form by any property owner in the Town of East Greenbush allegedly aggrieved by the strict application of any of the provisions or requirements of this Local Law or who may desire to deviate therefrom.

## 02. Statement by Applicant

Such application shall clearly state the specific provisions of this Local Law from which variance is sought, the special circumstances which allegedly justify such variance, and the interpretation or ruling which is desired.

## 03. Criteria for Granting Variance

### a) Use variances

- i) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.
- ii) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
  - the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - that the alleged hardship has not been self-created.
- iii) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### b) Area variances.

- i) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
- ii) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
  - whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - whether the requested area variance is substantial;
  - whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- iii) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**04. Financial Gain Not a Criterion**

In no case shall a variance be granted solely for reasons of additional financial gain on the part of the owner of the land or building involved.

**05. Conditions**

In granting any variance, the Board of Appeals may prescribe any conditions that it deems necessary or desirable.

**06. Compliance with Rest of Local Law**

The granting of a variance to any provisions of this Local law shall not obviate the necessity of complying in every other respect with the other provisions of this Local Law.

**07. Fee**

Each application to the Board of Appeals for variance shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.

**4.2.5 Review of Applications for Special Permits**

See section 3.11.

**4.2.6 Appeals**

- A. Any persons allegedly aggrieved by a decision, determination, act, or refusal to act the Enforcement Officer may file an appeal with the Board of Appeals.
- B. All appeals shall be made in the form and manner prescribed by rules of procedure adopted by the Board of Appeals and shall state the decision, determination, act, or failure to act of the Enforcement Officer from which the appeal is taken.
- C. The Board of Appeals may reverse, affirm, wholly or partly, or may modify any order requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in any case referred to it, and to that end shall have all the powers of the Enforcement Officer from who the appeal is taken.
- D. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Enforcement Officer or to decide in favor of the applicant any matter upon which such Board is required to pass.
- E. Any appeal from a decision of the Enforcement Officer properly filed with the Board of Appeals, shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Board of Appeals that by reason of facts stated in the certification, a stay would, in their opinion, cause imminent peril to life and property.
- F. The Board of Appeals shall have the power to grant a restraining order to stay all proceedings in furtherance of the action appealed from, over any action by the Enforcement Officer from whom the appeal is taken, upon notice to the Enforcement Officer and on due cause shown.

## Section 4.3 Planning Board

### 4.3 Planning Board

#### 4.3.0 Authority

- A.** Pursuant to §271 of the New York State Town Law, the Town of East Greenbush Town Board is authorized by local law, and hereby creates a planning board consisting of seven members and has, by resolution, appointed the members of such board and designated the chairperson thereof. In the absence of a chairperson the planning board may designate a member to serve as chairperson. The town board may, as part of the local law or ordinance creating said planning board, provide for the compensation of planning board members. In making such appointments, the town board may require planning board members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
- B. Appropriation for planning board.** The town board is hereby authorized and empowered to make such appropriation as it may see fit for planning board expenses. In a town containing one or more villages, or parts thereof, such charges and expenses less fees, if any collected, shall be a charge upon the taxable property of that part of the town outside of said villages and shall be assessed, levied and collected therefrom in the same manner as other town charges. The planning board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the town board for such planning board.
- C. Rules and regulations.** The planning board may recommend to the town board regulations relating to any subject matter over which the planning board has jurisdiction under this article or any other statute, or under any local law or ordinance of the town. Adoption of any such recommendations by the town board shall be by local law or ordinance.
- D. Report on referred matters; general reports.** The town board may by resolution provide for the reference of any matter or class of matters, other than those referred to in subdivision thirteen of this section, to the planning board before final action is taken thereon by the town board or other office or officer of said town having final authority over said matter. The town board may further stipulate that final action thereon shall not be taken until the planning board has submitted its report thereon, or has had a reasonable time, to be fixed by the town board in said resolution, to submit the report.
- 01.** The planning board may review and make recommendations on a proposed town comprehensive plan or amendment thereto. In addition, the planning board shall have full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the town as it seems desirable, providing the total expenditures of said board shall not exceed the appropriation provided therefore.
- E. Membership**
- 01. Town board members ineligible.** No person who is a member of the town board shall be eligible for membership on such planning board.
- 02. Terms of members first appointed.** The terms of members of the board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the board.

|                 |                                      |
|-----------------|--------------------------------------|
| One member..... | 7 years, succeeded by a 7 year term. |
| One member..... | 6 years, succeeded by a 7 year term. |
| One member..... | 5 years, succeeded by a 7 year term. |
| One member..... | 4 years, succeeded by a 7 year term. |
| One member..... | 3 years, succeeded by a 7 year term. |
| One member..... | 2 years, succeeded by a 7 year term. |
| One member..... | 1 year, succeeded by a 7 year term.  |

**03. Terms of members now in office.** Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the board.

**04. Increasing membership.** The town board may, by local law or ordinance, increase a five member planning board to seven members. Additional members shall be first appointed for single terms as provided by resolution of the town board in order that the terms of members shall expire in each of seven successive years and their successors shall thereafter be appointed for full terms of seven years. No such additional member shall take part in the consideration of any matter for which an application was on file with the planning board at the time of his or her appointment.

**05. Decreasing membership.** A town board which has seven members on the planning board may by local law or ordinance, decrease the membership to five, to take effect upon the next two expirations of terms. However, no incumbent shall be removed from office except upon the expiration of his or her term, except as hereinafter provided.

**06. Vacancy in office.** If a vacancy shall occur otherwise than by expiration of term, the town board shall appoint the new member for the unexpired term.

**07. Removal of members.** The town board shall have the power to remove, after public hearing, any member of the planning board for cause. Any planning board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the town board by local law or ordinance.

**08. Chairperson duties.** All meetings of the planning board shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

**09. Service on other planning boards.** No person shall be disqualified from serving as a member of the town planning board by reason of serving as a member of a village or county planning board.

#### F. Alternate members.

**01.** The town board hereby establishes alternate planning board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the planning board are appointed by resolution of the town board, for terms established by the town board.

**02.** The chairperson of the planning board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial planning board meeting at which the substitution is made.

**03.** All provisions of this section relating to planning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

#### 4.3.1 Site Plan Review and Approval Procedures

Prior to the issuance of a Building Permit or Certificate of Occupancy or Use in any district, except for a one- or two-family dwelling, and related accessory uses or a general farming or nursery use permitted by right in its District, the Building Inspector shall require the preparation of a site plan. The Building Inspector shall refer the site plan to the Planning Board for its review and recommendations to the Town Board in accordance with the standards and procedures set forth in this Section and shall advise the Town Board of the date of said referral.

**A. Preservation of Existing Sites** - No earthwork, clearing, site grading, tree or shrub removal or building demolition shall take place prior to obtaining site plan approval.

**B. Sketch Plan.** A sketch plan conference between the Planning Board and applicant shall be held to review the basic site design concept and generally determine the information to be required on the Preliminary Site Plan. At the Sketch Plan conference the applicant should provide, to the extent applicable, the following:

**01.**A statement or rough sketch describing what is proposed.

**02.**An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof. Such area map shall be oriented to the nearest street or road intersection and indicate some existing features nearby for orientation purposes, such as intersections, signs or other visual landmarks.

**03.**A map of site topography at no more than five (5) feet contour intervals. If general site grades exceed five (5) percent or portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should additionally be provided.

At the sketch plan conference, the Planning Board may take one of the following actions:

- a) Determine that the project is limited in scope, with compatible land use, site and building design characteristics, thus requiring no further review under this Article, with such determination restricted to applications including the establishment of permitted uses within existing complying structures or the limited modifications of existing conforming uses and complying structures, wherein no substantial site improvements and no substantial building additions are either required or proposed;
- b) Determine that the project does require full review under this Article, based upon its scope and/or land use, site and building design characteristics, and advise the applicant of preliminary site plan requirements in accordance with Part (b) of this Article; or
- c) Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.

**C. Application for Preliminary Site Plan Approval.** An application for preliminary site plan approval shall be made to the Planning Board and shall be accompanied by information drawn from the following checklist in Table 4.3-A, as determined necessary by the Planning Board at the sketch plan conference.

**D. Planning Board Review of Preliminary Site Plan.** The Planning Board's review of a preliminary site plan shall include, as appropriate, but is not limited to, the following:

**01. General Considerations.**

- a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls;
- b) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience;
- c) Location, arrangement, appearance and sufficiency of off-street parking and loading;
- d) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;
- e) Adequacy of stormwater and drainage facilities;
- f) Adequacy of water supply and sewage drainage facilities;

- g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's adjoining lands, including the maximum retention of existing vegetation;
- h) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
- i) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features;
- j) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants; and
- k) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

**Table 4.3 A - Preliminary Site Plan Checklist**

|  |
|--|
| 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;   |
| 2. North arrow, scale, and date;   |
| 3. Boundaries of the property plotted to scale;  |
| 4. Existing watercourses, including any classified by the New York State Department of Environmental Conservation (NYSDEC) as designated water classes "AA" through "D" and their corresponding overlay boundary as required by §2.8.1 Watercourse Management Overlay District;        |
| 5. A Stormwater Pollution Prevention Plan (SWPPP) consistent with §3.13 Erosion, Sediment Control and Stormwater Management shall be required for Site Plan approval. The SWPPP and approved Site Plan shall meet the performance, design criteria and standards set forth in §3.13;   |
| 6. Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board;   |
| 7. All existing trees in the areas scheduled for development which have a caliper of 8" or greater. Such trees and associated groundcover should attempt to be preserved and designed as part of the site plan whenever possible in lieu of removal or replacement with new plantings; |
| 8. Location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto;  |
| 9. Provision for pedestrian access;  |
| 10. Location of outdoor storage, if any;   |
| 11. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;   |
| 12. Description of the method of sewage disposal and location, design and construction materials of such facilities;   |
| 13. Description of the method of securing public water and location, design and construction materials of such facilities;   |
| 14. Location of fire and other emergency zones, including the location of fire hydrants;   |
| 15. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;   |
| 16. Location, size and design and construction materials of all proposed signs;  |
| 17. Location and proposed development in all buffer areas, including indication of existing vegetative cover;  |

|   |
|---|
| 18. Location and design of outdoor lighting facilities;   |
| 19. Designation of the amount of building area proposed for retail sales and similar commercial activity;   |
| 20. General landscaping plan and planting schedule;   |
| 21. Other elements integral to the proposed development, as considered necessary by the Planning Board, including identification of any State or County permits required for the project's execution; and               |
| 22. <b>Required Fee.</b> An application for preliminary site plan review and approval shall be accompanied by payment of a fee in accordance with the fee schedule established and annually reviewed by the Town Board. |

**02.Consultant Review.** The Planning Board may consult with the Town Building Inspector, Fire Commissioners, Commissioner of Public Works, other local and county officials, and its designated private consultants, in addition to representatives of Federal and State agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.

**03.Public Hearing.** The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application for preliminary site plan review and shall be advertised in a newspaper of general circulation in the Town at least five (5) days before the public hearing.

**04.Required Referral.** Prior to taking action on the preliminary site plan, the Planning Board shall refer the site plan, where applicable, to the County Bureau of Planning for advisory review and a report in accordance with Section 239-M of the General Municipal Law.

**E. Planning Board Action on Preliminary Site Plan.** Within sixty (60) days of the receipt of an application for preliminary site plan review the Planning Board shall act on it. If no decision is made within said sixty (60) day period, the Preliminary Site Plan shall be considered to have the approval of the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is recommended for approval, disapproval or approval with modifications.

**01.**The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition for a recommendation of approval. If the Preliminary Site Plan is recommended for disapproval, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

**F. Procedure for Final Detailed Site Plan Review.** After receiving a recommendation for approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit final detailed site plan to the Planning Board for a recommendation of approval. If more than six (6) months has elapsed since the time of the Planning Board's action on the Preliminary Site Plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the Preliminary Site Plan for further review and possible revision prior to accepting the proposed final site plan for review.

**01.**The final detailed site plan shall conform substantially to the preliminary site plan originally recommended for approval. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

**02.**The following additional information shall accompany an application for final detailed site plan review:

- a) Record of application for and approval status of all necessary permits from State and County officials;
- b) Detailed sizing and final material specification of all required improvements; and

- c) An estimated project construction schedule.
- 03.**The Planning Board shall immediately notify the Town Board and the Building Inspector of the submission to it of the application for final site plan review indicating the date of receipt thereof.
- G. Planning Board Action of Final Detailed Site Plan.** Within forty-five (45) days of receipt of the application for final site plan review, the Planning Board shall make its recommendations to the Town Board as to whether to approve or disapprove said site plan. If no decision is made within the forty-five (45) day period, the final site plan shall be considered recommended for approval.
- 01.**Upon recommending approval of the final site plan the Planning Board shall endorse its recommendation for approval on a copy of the final site plan and shall forward such copy to the Town Board.
- 02.**Upon recommending disapproval of a final site plan, the Planning Board shall so inform the Town Board. The Planning Board shall also notify the applicant in writing of its decision and its reason for recommending disapproval.
- H. Action by Town Board.** Within forty-five (45) days of receipt of the Planning Board's recommendation, the Town Board shall advise the Building Inspector in writing as to whether or not a building permit or certificate of occupancy or use may be issued to the applicant upon stamping of the final site plan by the Planning Board and satisfaction of all applicable codes, laws, rules, regulations, and payment by the applicant of all fees and reimbursable costs due to the Town.
- I. Reimbursable Costs.** Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, as provided by the fee schedule established and annually reviewed by the Town Board. Such reimbursable costs shall be in addition to the fee required in part Table 4.3-A herein.
- J. Performance Guarantee.**
- 01.**As a condition to the approval of any site plan the applicant may be required to post a performance bond, or in lieu thereof sufficient monies, to insure the completion and the proper performance of the improvements with the Town Clerk. The Planning Board may recommend to the Town Board the amount of said performance bond or the monies to be posted with the Town Clerk. The Town Board shall thereafter determine the adequacy of the amount sufficient to cover the cost of the required improvements.
- 02.**Such performance bond shall be issued by a bonding or surety company approved by the Town Board, or by the applicant with security acceptable to the Town Board.
- 03.**Such a performance bond shall be approved by the Town Attorney as to form, sufficiency, surety and manner of execution.
- 04.**Such performance bonds shall run for a term to be fixed by the Town Board, but in no case for a longer term than three (3) years.
- 05.**If the Town Board shall decide at any time during the term of the performance bond that certain improvements are no longer warranted, or that some improvements have been installed, or that additional improvements are necessary, the bond may be reduced or increased by an appropriate amount to cover the estimated cost of the incomplete improvements or the additional improvements required by the Board.
- 06.**In the event that any improvements have not been installed as required by the Town Board within the term of such performance bond, the Town Board may thereupon declare such bond to be in default and collect the sum remaining payable thereunder; and upon receipt of the proceeds thereof, the Town shall install the improvements covered by such bond which are commensurate with the extent of the development of the subject site plan that has taken place, but not exceeding in cost the amount of such proceeds.
- 07.**If the Town Board, or an appropriate Town officer appointed by it, shall find upon inspection that any of the required improvements have not been constructed in accordance with the site plan and conditions approved and specified by the Town Board, then the applicant and the bonding company (if any) shall

be severally and jointly liable for the costs of completing said improvements as originally specified by the Town Board.

**08.** Such performance bonds shall be released to the applicant only upon certification to the Town Board that all required improvements have been satisfactorily completed.

**K. Inspection of Improvements.** The Planning Board's designated engineer, or as otherwise determined by the Planning Board, shall be responsible for the overall inspection of site improvements, including coordination with the Commissioner of Public Works and other officials and agencies, as appropriate.

**L. Integration of Procedures.** Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this Local Law or the requirements of the Town Land Subdivision Regulations, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this Section with the procedural and submission requirements for such other compliance.

**01. Waiver.** Where because of unusual circumstances of shape, topography, or other physical features of the area or because of the nature of adjacent property, extraordinary hardship may result from strict compliance with these regulations, the Planning Board may waive certain requirements of these regulations in connection with the site plan review so that substantial justice may be done and the public interest secured, provided, however, that the Planning Board in its recommendations to the Town Board shall so advise the Town Board of said waiver or waivers.

#### 4.3.2 Exemptions from Existing Site Plan Review and Approval Procedures

**A.** Repairs and alterations within an existing footprint which does not change and/or impact any of the following as determined by the Building Inspector:

**01.** The State Code Classification for Occupancy Use as defined by the NYS Uniform Fire Prevention and Building Construction Code.

**02.** Classification of Use as defined by the Town of East Greenbush Zoning Ordinance.

**03.** Site features, as determined by the Town Building Inspector, including, but not limited to traffic flow and volume, parking requirements, site lighting and site safety, removal and/or reduction of site landscaping and green areas, etc.

**B.** Alterations and repairs as intended above shall include, but not be limited to, work of the following type and nature:

**01.** Window and door replacements which do not require structural modifications of any type or nature.

**02.** Roof repairs and replacements.

**03.** Maintenance, repair, and replacement of exterior finishes and/or veneers, including siding, painting, new veneer, etc.

**04.** Minor renovation of buildings to install curtain walls, counters, cabinets, work stations, service or process equipment, etc., when such renovations do not require structural modifications of any type or nature.

**05.** Renovation and/or retrofit of building systems and utilities, including, but not limited to, lighting, replacement of heating and air conditioning equipment, etc.

**06.** Repair or replacement of underground gasoline and petroleum tanks, except where such replacement also includes additional site modifications, including, but not limited to, relocation and/or replacement of dispensing pumps and islands, installation of canopies, changes in location of underground tanks, etc.

**07.** Other alterations and repairs not specifically listed above may be exempted upon the written approval of both the Building Inspector and the Town Engineer.

**C.** The Building Inspector, at their discretion, may require the preparation of a Site Plan for any change in occupancy and/or use of any site where there are existing violation(s) and/or non-conformance to a previously approved site plan.

- D. The Building Inspector, at their discretion, may require the preparation of a Site Plan for any change in occupancy and/or use on a site which does not have an approved site plan.
- E. Repairs and alterations within an existing shopping center which renovate or change the interior layout of the building(s) shall be prepared, signed and stamped by a Licensed Architect or Engineer.
- F. Replacement of existing underground gasoline and petroleum tanks shall be prepared, signed, stamped and supervised by a Licensed Engineer.

#### **4.3.3 Review of Applications for Special Permit and Appeals for Variances**

The Planning Board shall review applications for special permits and appeals for variances transmitted to it by the Board of Appeals and shall submit its advisory opinion to said Board of Appeals prior to the date of public hearing set for such applications and appeals. Upon failure to submit its advisory opinion within 45 days the Planning Board shall be deemed to have approved the application or appeal.

#### **4.3.4 Changes in Streets, Highways, and Public Areas**

- A. The Planning Board shall have the authority to recommend to the Town Board approval or disapproval of:
  - 01. changes in the lines of existing streets, highways, or public areas shown on subdivision plats or maps filed in the County Clerk's office, and
  - 02. the laying out, closing off, or abandonment of streets, highways, or public areas in accordance with Town or highway laws.
- B. The Planning Board shall submit its recommendation on such changes within 30 days following referral. Failure of the Planning Board to so act shall be construed as approval.

#### **4.3.5 General Reports**

The Planning Board shall have full power and authority to make such investigations, maps, and reports, and recommendations in connection therewith as relate to the planning, zoning, and development of the Town, provided the Planning Board shall not exceed the appropriation for its expenses.

## Section 4.4 Amendments

### 4.4.1 General Provisions

#### A. Amendments by Town Board

The Town Board from time to time on its own motion or on petition by taxpayers -- or on recommendation of the Planning Board, after public notice and hearing as prescribed by Town Law -- may amend, supplement, modify, or repeal in whole or in part this Local law or the boundary of any district established by this Local Law. Zoning law and map changes must be referred to the Rensselaer County Bureau of Economic Development and Planning as required under Section 239 m of the New York State General Municipal Law.

#### B. Advisory Report by Planning Board

Any such proposed change in text or zoning district boundary shall first be referred to the Planning Board which shall submit a written report tot he Town Board prior to the public hearing thereon by the Town Board. The Planning Board shall submit its advisory report in writing to the Town Board and shall favorably recommend adoption of an amendment or change in this Local law or in a district boundary only if:

01. such change does not conflict with the general purposes, goals, and intent of this Local Law; and
02. such change is consistent with the Comprehensive Master Plan.

The Planning Board shall submit to the Town Board its advisory report within 30 days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within 30 days shall be deemed to be a favorable recommendation.

#### C. Amendments by Planning Board

In accordance with Section 278 of the Town Law, the Planning Board is empowered to make reasonable changes in this Local Law simultaneously with the approval of a subdivision plat. Such changes shall not create a greater average density of coverage of the land than is permitted in the district or each of the districts wherein the plat lies. Furthermore, such changes shall safeguard the appropriate use of adjoining land and protect the public welfare. Upon approval of such plat and filing with the County Clerk or Registrar, such changes shall amend and become part of this Local Law, shall be similarly subject to change and subject to review by court in accordance with Section 4.4.2 and the Town Law.

#### D. Changes in Zoning District Boundaries

An amendment to this Local Law involving a change in zoning district boundaries shall become effective only when such change has been duly adopted, drawn on the Official Zoning Map, and the proper entry recorded thereon in accordance with Section 2.2.

#### E. Effective Date

An amendment or change in this Local Law shall take effect upon filing as prescribed by law.

### 4.4.2 Public Notice and Hearing

#### A. Public Hearing

No such change in text or zoning district boundary of this Local Law shall become effective until after a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.

#### B. Newspaper Notice of Hearing

At least ten (10) days prior to the date of such public hearing, a notice of the time and place shall appear in a newspaper of general circulation in the Town. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.

### **C. Written Notice of Change or Amendment**

At least ten (10) days prior to the date of said public hearing written notice of such change or amendment affecting property within 500 feet of the boundaries of any city, village, town, county, or state park or parkway shall be given in the case of a city, village, or town to the respective clerk, and in the case of a county to the clerk of the board of supervisors or other person performing like duties, and in the case of any state park or parkway to the regional state park commission having jurisdiction. Such city, village, town, county, state park, or parkway shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as provided in Article 78 of the Civil Practice Act. Written notice of a proposed change or amendment affecting property shown on the official zoning map as a protectively zoned area of a housing project authorized under the Public Housing Law shall be given to the Housing Authority erecting or owning the project and to the government providing financial aid for assistance thereto, at least ten (10) days prior to the date of public hearing.

#### **4.4.3 Protest**

A. A protest against a proposed change or amendment to this Local Law must be signed by:

- 01.the owners of 20% or more of the area of the land included within such proposed change; or
- 02.the owners of 20% or more of the land immediately adjacent to but within 100 feet of the proposed change; or
- 03.the owners of 20% or more of the land directly opposite the street from the proposed change, extending 100 feet from the street frontage.

Such change or amendment thus protested shall require the favorable vote of three-fourths of the members of the Town Board to become effective.

#### **4.4.4 Fee**

Every petition for a change or amendment to this Local Law shall be accompanied by a fee in accordance with the fee scheduled established and annually reviewed by the Town Board. This fee is to help defray the cost of advertising, technical studies or professional assistance which the Town may incur as part of the process.

## Section 4.5 Terminology & Index

**Accessory; Dwelling Unit** -- An independent living facility with provisions for cooking, eating, sanitation and sleeping and not less than 500 square feet of livable floor area located within an existing owner-occupied, one-family dwelling (attached) or in a separate accessory structure on the same lot as the main dwelling (detached). Such dwelling unit may only be intended for non-commercial use, for use by related family members or an on-premise care taker. {7, 12 - 14, 16 - 19, 21, 23 - 27, 29, 31, 33, 68}

**Accessory Building or Structure** -- A structure, the use of which is customarily incidental and subordinate to that of the principal building and which is not attached thereto, and is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include such buildings as garages, garden or tool sheds, barns, and playhouses and such elements as dish antennae and solar collectors. {2, 9 - 10, 13, 15 - 18, 20, 40}

**Accessory; Retail or Services** -- Customary supportive uses such as day care centers, eating and drinking establishments, located within or attached to, and accessory to, a permitted use. {7, 27, 29, 30, 31, 33}

**Accessory Sign** -- See "Sign". {54}

**Accessory Use** -- A use or occupancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises, whether such accessory use is conducted in a principal or accessory building. {7, 12 - 14, 16 - 19, 21, 23, 25, 27, 29, 31, 33, 38, 39, 71, 83, 106}

**Adult Arcade** -- Any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically; electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show wages images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. {77}

**Adult Bookstore** -- A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following: {77}

A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations, which depict or describe specified anatomical areas.

B. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one (1) of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

**Adult Cabaret** -- A nightclub, bar, restaurant or similar commercial establishment which regularly features: {77}

A. Persons who appear in a state of nudity.

B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, videocassettes, slide or other photographic reproductions, which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

**Adult Motion Picture Theater** -- A commercial establishment where for any form of consideration films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. {77}

**Adult Theater** -- A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities. {77}

**Adult Uses** -- Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, adult video stores, escort agencies, nude model studios and sexual encounter centers. {75 - 76}

**Adult Video Store** -- See "Adult Bookstore"

**Agriculture; horticulture and farming, general** -- General farming operations including the cultivation of crops, a garden, orchard, or nursery; the cultivation of flowers, fruits, vegetables, or ornamental plants. {6, 12 - 14, 16, 17, 29, 33}

**Agriculture; livestock or dairy** -- The raising, feeding or breeding of livestock or poultry, including dairy farming. {6, 12, 13, 29, 31, 33}

**Agriculture; farm stand or market** -- A structure or outdoor market not exceeding 100 square feet, where products grown or produced on the premises by the operator of the market may be sold and purchased. {6, 12, 13, 14, 33}

**Alteration** -- As applied to a building or structure, a change or rearrangement in the structural parts, or in the exit facilities or in building equipment, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another. Normal repair and maintenance are not considered to be alterations. {1, 3, 36, 54, 69, 74, 85, 97 - 99, 101, 110 - 111}

**Animal; Boarding, Commercial Kennel** -- Any premises on which any number of dogs are kept for the purpose of sale or for boarding, training, normal care or breeding, and for which a fee is charged or other compensation provided. {6, 12, 13, 14, 25}

**Animal; Boarding, Horse Farm or Stables** -- Premises on which two or more horses not the property of the proprietor are boarded, or on which horses are maintained commercially for hire, exhibition or sale. Any establishment where horses are kept for riding, training, driving or stable for compensation or incidental to the operation of any club, ranch or similar establishment. {6, 12 - 14, 29}

**Animal; Boarding, Private Stable** -- Premises on which two or more horses not the property of the proprietor are boarded, and including horses of the proprietor not maintained for commercial purposes; is accessory to a farm or dwelling. {7, 12 - 14, 31, 33,}

**Animal; Boarding, Private Kennel** -- Any premises on which there are kept four (4) or more dogs more than six (6) months old, not including the keeping of animals in a veterinarian clinic. {7, 12 - 14}

**Animal; Boarding, Veterinary Services** -- An establishment for the care of dogs and other domestic animals by practitioners of the sciences of veterinary medicine, including on-site boarding. {6, 12 - 14, 25, 31}

**Apartment** -- A multiple dwelling in which dwelling units are leased or rented to tenants. {43, 57, 58, 68, 107}

**Applicant** -- The landowner or the agent, optionee, contract purchaser, attorney or other person authorized to act for the landowner in submitting an application under the Local Law. {15, 35, 39, 40, 45, 47, 50, 53, 59, 61, 69, 70, 77, 79 - 80, 83, 86, 89 - 94, 98 - 99, 101 - 103, 106 - 110}

**Area and Bulk (Regulations or Standards)** -- The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot. {8 - 14, 16 - 19, 21, 23, 25, 27, 30, 31, 33, 38, 72}

**Assisted Living Home** -- A non-institutionalized facility that is used by people who are generally not able to live on their own, but do not yet need the level of continuous nursing care that a nursing home offers. Also known as a Skilled Nursing Facility, Independent Living, Continuing Care Facility, Residential Care Facility or Lifecare. Separate and distinct from "Nursing Home" or "Senior Housing". {6, 14, 16 - 19, 21, 23}

**Automotive; sales, new or used** -- Sales, rental or leasing of new or used cars, trucks, boats or other large motorized equipment or vehicles such as tractors or construction vehicles. {6, 25}

**Automotive; service, wash or storage** -- General automotive services including oil, brake, muffler or tire replacement, engine or body work, car washing, inspections, etc. Storage of automobiles does not include salvage or junk yard operations. {6, 25, 33}

**Automotive; gas station** -- The supplying or selling of gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks. May include accessory facilities for limited motor vehicle service such as lubrication, washing and minor repairs and/or a convenience retail store of up to 1,000 square feet. Does not include a liquefied petroleum filling station. {6, 25, 44, 61}

**Basement** -- The space of a building which is partly below grade, which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building. {67}

**Boarding; bed & breakfast** -- A dwelling having a resident host on premises in a private single-family or two-

family home in which at least three (3) and not more than ten (10) rooms are provided for overnight accommodations, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. {6, 12 - 14, 16 - 19, 21, 23}

**Boarding; dormitory** – A multiple dwelling which provides sleeping accommodations and domestic facilities and services for a group of college, university or secondary school students. {7, 12 - 14, 16 - 19, 21, 23, 27, 29}

**Boarding; motel** -- A multiple dwelling or any part thereof which contains living and sleeping accommodations for transient occupancy, in which no public restaurant is maintained and no other commercial services are offered and typically provides access to individual sleeping rooms from an external corridor from an outside parking area. {6, 25, 71, 114}

**Boarding; inn or hotel** -- A multiple dwelling or any part thereof which contains living and sleeping accommodations for transient occupancy, which include one (1) or more accessory dining rooms or restaurants and typically provide access to individual sleeping rooms from an internal corridor. Includes Inns, hotel resorts or hotel camp complexes. {6, 23, 25, 29, 30, 71}

**Building** -- A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to person, animals, property or business activity. See "Structure". {1, 2, 8 - 24, 27 - 31, 33 - 35, 39 - 41, 43 - 45, 47, 49, 50, 52, 55 - 61, 64, 67 - 69, 71, 72, 74 - 79, 81, 84, 86, 89, 94 - 99, 101, 103, 106, 108, 109, 110, 111}

**Building Coverage** -- The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area. Such coverage is to be measured on a horizontal plane at mean grade level and excludes uncovered porches, terraces, and steps. {2, 21, 23, 25, 27, 30, 31, 33}

**Building, Detached** -- A building entirely surrounded by open space on the same lot.

**Building Footprint** -- The amount of land area covered by a building or buildings, measured in terms of square feet. Such coverage is to be measured on a horizontal plane at mean grade level and excludes uncovered porches, terraces, and steps.

**Building, Principal** -- A building in which is conducted the main or principal use of the lot on which said building is located. {2, 9, 13 - 18}

**Building, Semi-Detached** -- A building attached by a party wall to another building of the same type on another lot, but having one side yard. {8, 72}

**Building Height** -- The vertical distance measured from the average elevation of the finished grade of the building to the highest point of the roof for flat and mansard roofs, and to the mean height between eave and ridge for other types of roofs. {2, 12 - 14, 16, 17, 18, 19, 21, 23, 25, 27, 30, 31, 33, 64}

**Building Inspector** -- A town employee appointed by the Town Board in accordance with Civil Service standards and charged with the responsibility of administering and enforcing this Local Law, as well as the New York State Uniform Fire Prevention and Building Code and related regulations. {23, 25, 46, 59, 61, 62, 78, 79, 96, 97, 98, 99, 106, 108, 109, 110, 111}

**Campground** -- Any parcel of land or water or both on which are located two or more cabins, tents, shelters, houseboats, yachts, or other accommodations of a design and character suitable for seasonal or other temporary living purposes, including a summer colony, resort, and day camp, but not including a trailer park, bed & breakfast, hotel or motel. {6, 12 - 14, 16 - 19, 21, 23, 27, 29, 31, 33}

**Central Water** -- For purposes of this Local law, a water supply system serving five (5) or more dwelling units and approved by the Town of East Greenbush and the Rensselaer County Health Department for either private or public operation.

**Cemetery** -- The land that is set apart or used as a place for the internment of the dead or in which human bodies have been buried, and may include facilities for storing ashes of human remains that have been cremated or the internment of the dead in sealed crypts or compartments, but may not include a structure for the purpose of the cremation of human remains. {6, 12 - 14, 16, 17, 29}

**Certificate of Occupancy** -- A document issued by the Town Building Inspector allowing the occupancy or use of a building and certifying that the structure or use has been constructed and can be used in compliance with all the applicable State and Town laws, ordinances and regulations. {42, 50, 78, 80 - 81, 95, 97, 99, 106, 109}

**Civic; religious facility** – A building wherein persons regularly assemble for religious worship, and which is

maintained and controlled by a religious body organized to sustain public worship. {6, 12 - 14, 16 -19, 21, 23, 27, 29}

**Civic; cultural facility** – Building and land used for the purposes of educational entertainment including museums, libraries, art galleries, performing art theatres, institutional philanthropic use and public meetings. {6, 12 - 14, 16 - 19, 21, 23, 27, 29, 31}

**Civic; public facility, bank or government office** – Building or lands used for common civic institutions such as municipal offices, public safety stations, banks and similar uses. {6, 23, 25, 27, 29, 31}

**Cluster Development** -- A development pattern in which uses are grouped or "clustered" through a density transfer within a particular development, rather than spread evenly throughout a parcel as in conventional lot-by-lot development. See Section 281 of the Town Law. {72 - 73}

**Commercial Vehicle, Light** -- A vehicle of less than one ton capacity carrying a permanently-affixed sign exceeding one square foot in area or lettering of a commercial nature. {46}

**Commercial Vehicle, Heavy** -- A vehicle of more than one ton capacity used for the transportation of persons or goods primarily for gain, or carrying a permanently-affixed sign exceeding one square foot in area or lettering of a commercial nature. {46}

**Party (Fire) Wall** -- A wall shared by two buildings or used to separate units within a building. {23, 25}

**Constrained Land** -- Generally used for the calculation of residential density. Includes wetlands, ponds, streams, flood plains or slopes in excess of fifteen percent (15%). {72}

**Court, Inner** -- An open, uncovered, unoccupied space surrounded on all sides by the exterior walls of a building or structure or by such walls and an interior lot line of the same premises. {9}

**Court, Outer** -- An open, uncovered, unoccupied space which has as least one side opening on a legal open space. {9}

**Crematorium** -- A structure for the purposes of the cremation of human remains. {6, 12 - 14, 16, 17}

**Density** -- The ration of lot area per family or dwelling unit on a lot. {2, 12 - 19, 21, 23, 25, 27, 30, 33, 37, 38, 41, 64, 72, 85, 112}

**Developable Area** -- The lot area less the area of lot containing streams, ponds, wetlands, or areas of slope greater than fifteen percent (15%). {37, 38, 50}

**Development** -- Any activity other than normal agricultural, conservation or forest management activity which materially affects the existing condition of land or improvements, including but not limited to: {1, 2, 3, 7, 10, 18, 23 - 25, 27 - 34, 37 - 43, 45, 50, 52, 56 - 59, 64, 72 - 73, 78 - 79, 81 - 86, 88, 90 - 92, 94 - 95, 104, 107 - 112}

- A. Removal of trees or other natural cover;
- B. Substantial excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water;
- C. Construction, reconstruction, alteration, or demolition of any improvement;
- D. Dumping or garbaging of any object or material whether mobile, liquid or solid;
- E. Commencement of any use of the land or improvements and any change in the type or intensity; and
- F. Commencement of any noise, light smoke, or other emission and any change in its type of intensity.

**District (or Zoning District)** -- An area, section, or zone of the Town described on the Zoning Map contained within this Local law, and within which uniform requirements regulate the use of land and the height, bulk, density, and setback of structures. {1 - 43, 46, 50 - 52, 55 - 58, 65 - 67, 69, 72, 74 - 75, 78, 80 - 81, 86, 101 - 102, 106, 107, 112}

**Double Frontage Lot** – A lot which fronts upon two streets which do not intersect at the boundaries of the lot. Also known as a "Through Lot". {8, 9}

**Dwelling** -- Building containing not more than two dwelling units occupied exclusively for residential uses. {7, 12, 13, 14, 16 - 27, 29 - 31, 33, 43, 50, 57, 68, 72, 74, 83 - 84, 106 - 107, 114}

**Dwelling, One-Family** -- A detached building containing, and arranged for, one dwelling unit only. A building containing and arranged for two (2) dwelling units shall not be deemed a one family dwelling on the basis that a doorway or pierced wall exists between the two units. {21}

**Dwelling, Two-Family** -- A detached or semi-detached building containing, and arranged for, two dwelling units only or a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. (Note that this definition includes the Duplex Dwellings.) {21, 47, 106}

**Dwelling, Multiple** -- (a) Building containing three or more dwelling units. (b) Building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either or both such families. (c) Building with one or more sleeping rooms, other than a one-or two-family dwelling, used or occupied by permanent or transient paying guests or tenants. (d) Building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses. (e) Building used or occupied as an old age home. (f) Community residence. {57, 107}

**Dwelling, Row or Attached** -- See "Townhouse". {43}

**Dwelling Unit** -- A building or entirely self-contained portion thereof containing complete housekeeping (living, cooking, sanitary and sleeping) 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) or cooking or sanitary facilities in common with any other "dwelling unit." A boarding house, dormitory, motel, inn, nursing home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit. {7, 12 - 14, 16, 17 - 27, 29, 30 - 31, 33, 43, 68, 72, 84}

**Dwelling Unit, Attached** -- A dwelling unit that shares common, or party, walls with at least one other dwelling unit. {72}

**Dwelling Unit, Detached** -- A dwelling unit that does not share a common wall, roof, floor or any other structural component with another dwelling unit. {72}

**Easement** -- A grant of the use of a strip of land by the public or by a corporation for specific purposes. {5, 11, 37, 38, 72, 88 - 90, 106}

**Enforcement Officer** -- See "Building Inspector". {2, 3, 41, 89, 91, 92, 95 - 97, 100, 103}

**Escort** -- A person who, for consideration, agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. {77}

**Escort Agency** - A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration. {77}

**Family** -- One or more persons occupying a dwelling unit as a single housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage, or adoption shall not be considered to constitute a "family." {6, 10, 12 - 14, 16 - 19, 21 - 27, 29, 43, 46 - 47, 50, 68, 71, 83 - 84, 106}

**Fence** -- A vertical enclosure, solid or partially open, to prevent straying from within or intrusion from without or intended to be used as a visual screen, and should be differentiated from a trellis or similar device. A fence is considered a structure for the purposes of this Local Law. {47, 49, 50, 52, 53, 67, 68, 70 - 71, 78, 90, 107}

**Flag Lot** -- A lot in a flag shape composed of a strip of land referred to as the flag access driveway, or flagpole that leads to leading to a larger, generally rectangular building area, or flag, to be used for development. {10 - 11}

**Floor Area** -- The sum of the gross horizontal areas of all floors of the building or buildings on a lot, having a clear height of not less than six feet measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings, including cellar and basement areas. The floor area shall not include: roof overhangs projecting less than three feet or any floors or portions thereof contained on terraces or balconies projecting beyond the exterior face of the building. {24, 30, 40 - 41, 68, 74}

**Floor Area Ratio** -- The total aggregate floor area of all buildings on a lot divided by the area of such lot. {40}

**Front or Façade** -- Of a building means the outer surface of the principal building most nearly parallel with the right-of-way from which a sign will be viewed. Façade includes the plane area between principal building corners from the ground to roof line. {24, 53, 55 - 56, 60, 66}

**Frontage, Lot** -- That side of the lot coincident with the street line. A corner lot shall be considered to have two (2) such frontages. {8 - 11, 24, 40, 51, 52, 53, 55}

**Garage, Public** – Any garage, other than a private garage, available to the public and operated for gain for the storage of motor vehicles. Includes the following uses: Parking; off street or garage, Parking; off street or garage, commercial vehicles and Structure; commercial garage or shed. {66}

**GFA** -- Gross Floor Area – the total amount of gross square footage of habitable space within the building. {44}

**Grade, Finished** -- The elevation at which the finished surface of the surrounding lot, either natural or upon completion of any change in contour, intersects the walls and supports of a structure. {56}

**Greenspace** -- An outdoor area of land which can be either Natural Open Space or Designed Open Space. See “Open Space”. {50}

**Habitable Space** -- Space occupied by one or more persons for living, sleeping, eating or cooking. {24}

**Health / Medical; Hospital or Clinic, Inpatient** -- A facility for the treatment and care of human ailments primarily designed with inpatient bed facilities, and shall include sanitariums, mental health facilities and community residences. {24}

**Health / Medical; Offices or Clinic, Outpatient** -- A facility for the treatment and care of minor human ailments primarily designed without any inpatient bed facilities, such as medical offices, dentists, lasik eye surgery. {6, 12 - 14, 16 - 17, 18, 21, 23, 29}

**Health / Medical; Nursing or Assisted Living Home** -- See “Nursing Home” or “Assisted Living Home”. {6, 14, 16 - 19, 21, 23}

**Home Occupation** -- Any limited personal, professional service or business use conducted within a dwelling which use is clearly incidental and secondary to the use of the premises for residential purposes and does not change the residential character thereof. Such use shall be fully consistent with the use limitations established within Section 3.4 of this Local Law. {7, 12 - 14, 16 - 19, 21, 23, 25, 27, 29, 56, 58, 74}

**Homeowner’s Association** -- A community association, including a condominium association, which is organized in a residential development in which individual owners have a shared interest in and responsibility for open space or facilities. {72}

**Resort** -- A building or group of buildings, whether detached or in connected units, containing individual guest units consisting of a room arranged or designed to be available for use as sleeping quarters for transients on a daily rental basis or for vacationers or other persons on a weekly rental basis, provided that one such unit may connect directly with not more than one other such unit. Each unit shall have a door opening on the exterior of the building or on a common hallway leading to the exterior. A "resort motel" may include such accessory uses as a beach cabana, private dock, dining room, restaurant or swimming pool, conference and meeting facilities, or an accessory convenience shop, office or personal service facility, provided that such facility or shop is located within the building without any external sign or display and off-street parking facilities. The term "resort motel" shall not be construed to include "transient motel" or "mobile home park."

**Household** -- The person or persons occupying a dwelling unit or a family living together in a single dwelling unit with common access to and use of all living and eating areas within the dwelling unit, distinguished from a boarding house, dormitory, or hotel. {74}

**House Trailer** -- See “Mobile Home”. {67}

**Industry; light, assembly and fabrication** -- An establishment or activity primarily engaged in manufacturing, production or assembly which does not involve, on the premises, the use of heat, noise, or odor generating/producing processes, which are detectable off-site. Includes the manufacture of clothing. {7, 31, 33}

**Industry; light, general non-nuisance** – Light, non-nuisance assembly and fabrication uses which include manufacturing of precision products such as optical goods, business machines, instruments, cameras, clocks, watches, musical instruments or any similar use otherwise not specifically listed which the Town finds to have a limited or negligible effect upon the character of the vicinity with regards to traffic, emission of noise, vibration, odor, smoke, dust, or glare. {7, 25, 29, 31, 33}

**Industry; light, research and development lab** – A use engaged in research and development, testing, assembly, repair and manufacturing in the following industries: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, high technology electronics, industrial or scientific products and instrumentation, and computer hardware and software which may include engineering and

product development. Office, warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use. {7, 27, 29, 31, 33}

**Industry; light, printing and publishing** – Printing and publishing offices with on-site printing operations greater than 2000 s.f. or which require regular truck deliveries or pick-ups of the printed materials. {7, 25, 29, 31, 33}

**Industry; retail, food product manufacturing** – Industry which includes the on-site manufacturing and retail sales of products produced on the premises. {7, 29, 31}

**Industry; machinery repair or storage garage** – Industry which primarily includes a garage for the repair or storage of large machinery such as a bus, railroad, truck or ship. {7, 31, 33}

**Industry; extractive operations or soil mining** – Commercial or municipal excavation, mining or earth, soil, gravel storage functions intended to be in operation longer than a six month period. {7, 33}

**Industry; recycling and materials reuse** -- A publicly or privately operated fully-enclosed facility that receives recyclable materials for the purpose of sorting, handling, batching and baling prior to transferring to another facility. {7, 31, 33}

**Impervious Surface** -- Any hard-surfaced, human-made area on a site, or the material itself which prevents, impedes or slows infiltration or absorption of storm water or rain water directly into the ground at the rate of absorption of vegetation-bearing soils, including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreation areas, asphalt, concrete, gravel, and other surfaces that cover naturally occurring terrain. {64, 82}

**Landfill** -- A disposal facility or part of one at which solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure and which is not a land spreading facility, a surface impoundment, or an injection well. {69}

**Laneway** -- A public or private road typically designed as a narrow service entrance or alleyway access to multiple adjacent properties for the purposes of shielding vehicles, garage doors, trash facilities and similar utilitarian functions at the rear of the site and out of view from the front. {9}

**Land-Disturbing Activity** -- Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, or in road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Any change of the land surface including removing vegetative cover, excavation, filling, grading and the construction of any structure, but not including the agricultural activities such as planting, growing, cultivating, and harvesting of crops; growing and tending of gardens; harvesting of trees using forestry best management practices. {85}

**Light, Full Cutoff** -- A light distribution where no light is permitted at or above a horizontal plane located at the bottom of a luminaire. There will be little to no light at the angles that are usually associated with glare. {53}

**Light, High Pressure Sodium (HPS)** -- A HID light source that typically provides high efficacy, but poor color. Color rendering is better with HPS than LPS, but the source is still considered to be yellow by most people. {53}

**Light, Low Pressure Sodium (LPS)** -- Considered a single-color light source (appears to be yellow in color and causes most other colors to be seen as gray or brown). {53}

**Light, Mercury Vapor** -- A High Intensity Discharge (HID) light source that typically provides long lamp life, but poor color and low efficacy compared to other HID sources. {53}

**Light, Metal Halide** -- A High Intensity Discharge (HID) light source that typically provides good color and high efficacy. {53}

**Lot** -- A parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including customary accessory structures, uses, open spaces and yards. {2, 5, 8 - 28, 30 - 35, 38, 40, 45, 47 - 51, 53, 55 - 56, 65 - 68, 70 - 72, 75, 78, 80, 98}

**Lot Area** -- The area of a lot taken at its perimeter, exclusive of any portion within a public or private street right-of-way. {8, 10, 72}

**Lot, Corner** -- A lot at the junction of and abutting on two or more intersecting streets where the interior angle of

intersection does not exceed 135 degrees. A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135 degrees. {8}

**Lot, Flag** – A lot so shaped and designed that it only has access to a public right-of-way by means of a narrow strip of land, while the majority of lot area is set back behind another lot. {10 - 11}

**Lot, Frontage** – The portion of a front lot line which directly abuts a street or public right-of-way, measured along the path, straight or curvilinear, of the property line. {8, 9, 10, 11, 24, 40, 51, 52, 53, 55}

**Lot Line** -- Line dividing one premises from another, or from a street or other public space. {2, 5, 8, 20, 65 - 66, 68, 70 - 71}

**Lot, Parent** – The original lot size and configuration prior to subdivision.

**Lot of Record** -- A legally-existing lot at the time of adoption of this Local Law duly filed and recorded in the Rensselaer County Clerk's Office as either an individual parcel of land or part of an approved subdivision. {10}

**Mixed Use** -- The development of a tract of land (one parcel or more than one combined parcels as a cohesive development project) with two or more different, compatible uses integrated into the design and layout such as but not limited to primary residential and primary non-residential uses (such as office, retail, public, or entertainment) on the same development site in a compact form. Such a development should be planned as a complementary whole, and functionally integrated to the use of shared vehicular and pedestrian movement, access and accessory uses. A mixed use development should be compatible and protective of any neighboring residential context. {2, 3, 6, 21, 23, 24, 38, 84}

**Mixed Use Occupancy** -- A building, structure or certain parcel premises that provides for a mix / combination of different but compatible uses. For example, a mixed-use building may contain a residential dwelling unit(s) above the ground floor of non-residential use such as an institutional, civic, office, commercial or retail use. A mixed-use structure that proposes to include a residential occupancy component must meet current New York State building and development codes for safe habitation.

**Mobile Home** -- A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Should be distinguished from "*Modular (Manufactured) Home*". {67}

**Mobile Home Park** -- Any parcel of land designated by the Town Zoning Map for the placement of mobile homes. {67}

**Modular (Manufactured) Home** – Any building comprised of two or more components, each of which substantially was assembled at a manufacturing facility off-site and are capable of being transported to the home site, which when combined on a foundation constitutes a *dwelling unit* which is indistinguishable in appearance from a conventionally built home, including but not limited to a sloped roof and permanent foundation. Should be distinguished from "*Mobile Home*".

**Non-Complying (Building or Structure)** -- A building or structure legally existing on the effective date of this Local Law or any applicable amendment thereto, but which fails by reason of such adoption, revision or amendment to conform to the present district regulations for any prescribed structure or building requirement, such as front, side or rear yards, building height, building areas or lot coverage, lot area per dwelling unit, dwelling units per building, number of parking and loading spaces, etc.

**Non-Conforming Lot** -- A lot the area, or dimension, of which was lawful prior to the adoption, revision or amendment of this Local Law, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

**Non Conforming Use** -- A use, whether of a building, sign or tract of land, or combination of these, legally existing on the effective date of this Local Law, which does not conform to the present use regulations of the district in which it is located, but which is continuously maintained after the effective date of these regulations. {76, 81}

**Nude Model Studio** -- Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. {77}

**Nudity** -- The appearance of a human bare buttocks, anus, genitals or full female breast. {77}

**Nursery** -- A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees or similar vegetation together with gardening tools and implements which are sold at retail on the premises to the general public. {7, 12 - 14, 16 - 19, 21, 23, 27, 50, 71, 75, 106}

**Nursing Home** -- A residential facility type of care for people who require constant nursing care and have significant deficiencies with activities of daily living. Also known as a Rest Home, Separate and distinct from "Senior Housing" and "Assisted Living Home".

**Occupancy** -- Use of a building, structure, or premises. {1, 2, 8, 42, 50, 75, 78, 80, 81, 95, 97, 98, 99, 106, 109, 110, 111}

**Open Area, Required** -- That area of a lot which shall be a properly maintained combination of natural (not artificial) lawn, trees, shrubs, and other plant material, and may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents, occupants and owners of the development. Required Open Area shall not include roadways, parking lots, buildings, retention basins and similar features. Also known as "minimum open space." {1, 2, 8, 42, 50, 75, 78, 80 - 81, 95, 97 - 99, 106, 109, 110, 111}

**Open Space, Designed** -- A professionally-designed, quality, useable outdoor amenity as part of a development project design that is available for unstructured, passive recreation, including pedestrian circulation patterns, and includes landscaping consisting at least of grassy areas and trees. Such a greens area should provide a distinctive design purpose that complements and is fully integral to the project's building and structure patterns and layout and overall character. Designed open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents, occupants and owners of the development, but shall not include roadways, parking lots, retention basins and similar features. {64}

**Open Space, Natural** -- Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land. {1}

**Owner** -- Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building or lands. {8, 10, 15, 37, 39, 42, 58, 62, 68, 72 - 73, 75 - 77, 79, 84, 88, 90, 92 - 94, 96, 97 - 98, 101, 103, 113}

**Parent Parcel** -- A land parcel, legally existing on the date of adoption of this ordinance, which is subdivided into smaller parcels. The smaller parcels created would all share the same parent, which was the original area of land. {10}

**Parking, Off Street or Garage** -- Land which is open or semi-enclosed by structures and which is used to provide four (4) or more off-street parking spaces, typically for privately owned vehicles. {6, 23, 25, 27, 29, 31}

**Parking, Commercial Vehicles** -- A parking area dedicated for the sole use of commercial owned vehicles, and not intended for private vehicles or general parking. {25, 27, 29, 31, 33, 46}

**Parking Space, Off Street** -- A space, not less than one hundred eighty (180) square feet excluding driveways or access drives, which is out of the public right-of-way and is available and adequate for the parking of one motor vehicle. {22, 43, 44, 45, 46, 49, 68}

**Performance Guarantee** -- Any security, in accordance with the requirements of this Local Law, which may be accepted by the Town as a guarantee that improvements required as part of an application for development are satisfactorily completed. {93, 109}

**Permitted Use** -- A specific use to which land, lots, buildings, or structures may be used, occupied, or maintained under this Local Law as a matter of right. {10, 12 - 14, 16 - 19, 21, 23, 25, 27, 29, 31, 33 - 34, 37, 39 - 40, 75, 78, 102, 106}

**Person** -- An individual, proprietorship, corporation, association or other legal entity. {37, 38, 47, 57, 58, 61, 68, 74 - 77, 79 - 80, 82 - 84, 87 - 88, 92, 94 - 99, 101, 103 - 105, 107, 113}

**Pervious** -- Permeable or porous surface which allows water to pass through it. {43, 45, 46, 64, 70, 83}

**Planned Development** -- A structure or group of structures and lands designed for either a single use or mixed-use occupancy, and intended to be maintained and operated as a unit in single ownership or controlled by an individual, partnership, corporation, cooperative or association, and which has certain facilities in common such as open space and recreation areas, utilities and parking facilities, which development has been created under and is

fully consistent with Article VI of this Local Law. {39 - 42}

**Pre-existing Conforming Use** – A use which was lawfully existing prior to the adoption of these regulations which is no longer a permitted use at that location, but which shall be permitted to continue as a conforming use by right of grandfather clause. {81}

**Premises** -- A lot, plot, or parcel of land, together with all structures and uses thereon. {24, 26, 46, 57 - 59, 61 - 62, 66 - 68, 74 - 77, 81, 98 - 99}

**Prohibited Use** -- Any use which is not listed as a special, or accessory use in the Schedule of Use Regulations shall be considered a prohibited use under this Local Law. {2, 69}

**Recreation; Commercial Amusements** -- Permanent or temporary structures or events for traveling carnivals, amusement parks, driving ranges, batting cages, mini-golf, bowling alleys, paintball courses, video arcades and similar recreational activities. {6}

**Recreation; Public, Outdoor Park or Campground** – Publicly accessible outdoor amenities such as a campground, nature trail, nature preserve, baseball or football field, basketball or tennis court, pool or swimming hole and similar outdoor recreational play areas or recreational club. {6, 12 - 14, 16 - 19, 21, 23, 27, 29, 31, 33}

**Recreation; Golf Course or Range** – Includes clubhouse, accessory restaurant, bar or retail pro shop. {6, 12 - 14, 16 - 17}

**Recreation; Marina** -- Any premises containing one or more piers, wharves, docks, moorings, bulkheads, buildings, slips or basins and used primarily for the docking, mooring, storage and servicing of boats for compensation. Such premises may include associated clubhouse, offices and incidental sale of marine supplies and food. {6, 33}

**Recreation; Outdoor Assembly or Amphitheatre** – An outdoor public area designed for the purposes of congregation for special events such as music or concert pavilions, theater performances, drive in theaters, music or similar activities. {6}

**Recreation; Indoor Assembly or Auditorium** – Places of indoor assembly such as movie theaters, concert halls, but not including religious facilities. {6, 13 - 14, 23, 25, 29, 31}

**Recreation; Private, Veteran/Fraternal or Social Club** – An organization of persons who meet periodically to promote some nonprofit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted except as required generally for the membership and purposes of the club. {6, 13 - 14, 16 - 19}

**Redevelopment** -- To demolish existing buildings or to increase the overall floor area existing on a property; or both, irrespective of whether a change occurs in land use. To expand, create an addition or create a major change in the exterior of the building, structure or parking facilities of a site. To restore and improve a site that has been substantially altered in a previous activity. {23, 45, 83, 85}

**Residential** -- Relating to a building, or any part of a building or group of residential buildings, which contain living and sleeping accommodations for permanent occupancy; "residences," therefore, include all one-family, two-family, boarding, fraternity and sorority houses. "Residences" shall not, however, include the following: {3, 6 - 25, 37, 38, 40, 43, 46, 49,}

- A. Transient accommodations, such as hotels, motels and hospitals;
- B. That part of a building containing both residences and other uses which is used for any non-residential uses, except those accessory uses customarily incidental to residences.

**Residential Recreation Facility** – Recreational land or facility designed as part of and integral to a residential development. {7, 12 - 14, 16, 17 - 19, 21, 23}

**Restaurant**; A business enterprise primarily engaged in the retail sale of food and beverages which are consumed by patrons largely on the premises, which may include a bar with drink service as secondary to the amount of floor area and sales generated by the food sales. {6, 21, 23, 25, 29, 30, 34, 44, 57, 68}

**Indoor, Fully Enclosed** – any restaurant fully enclosed within a building.

**With Drive-Thru or Curb Service** – any restaurant with drive thru, drive-up or curb service design.

**With Outdoor Seating** – any restaurant, bar or tavern with some, or all, of the customer seating is

provided outside of the building on a porch or patio. For the purposes of restricting outdoor seating as a use in certain areas, it is only intended to protect against neighborhood noise levels that would be generated by night-time establishments or where alcohol is served, and is not intended to apply to curb service or daytime establishments.

**Restaurant; Bar or Tavern** -- A business enterprise primarily engaged in the retail sale of alcoholic beverages for consumption on the premises, which may include food service as secondary to the amount of floor area and sales generated by the drink sales. {6, 23, 25}

**Retail** - A commercial activity characterized by direct, on-premises sale of goods or services to a private consumer, including on-premise manufacturing, processing and preparation customarily associated with department stores, food markets and similar establishments, wholesale sales on site such as retail discount clubs and mail order operations. {6, 7, 23 - 27, 29, 30, 31, 33, 44, 68, 71, 108}

**single tenant** -- A structure occupied by a single retail tenant, with no footprint size limitation.

**multi tenant shopping center** -- A group of two (2) or more retail establishments sharing a common site and having either common walls or a common roof structure, with no footprint size limitation.

**<15,000 s.f.** -- The footprint of any one retail tenant cannot exceed 15,000 square feet.

**with drive-thru** -- Retail structures such as fast food, pharmacy or similar businesses are permitted which include vehicle drive-thru service. Does not apply to banking institutions.

**landscaping/gardening with outdoor display** -- Retail structures are permitted with an outdoor display area for plants, trees and other landscape related items which require or are designed for outdoor exposure.

**with on-site manufacturing and sales** -- Small scale, non-nuisance on-site manufacturing is permitted provided all items produced are intended for sale on the premises.

**Row House** -- See "Townhouse".

**Industry; Salvage Yard** -- An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more wrecked or broken down vehicles or the major parts thereof for three months or more shall be deemed to make the lot a "salvage yard." {67}

**Schedule of Use Regulations** -- The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this Local Law. {78}

**Seminude** -- A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portion of the body covered by supporting straps or devices. {77}

**Senior Housing** -- Dwellings specifically designed to house people eligible for Senior Housing, defined as one of the following: a) A Single person 62 years of age or older; b) two or three persons, all of who are sixty-two years of age or older; c) a married couple in which one spouse is 62 years of age or alder; d) one child residing with a parent who is 62 years of age or older provided that the child is over the age of 18; e) the surviving spouse of a person 62 years of age or older, provided that the surviving spouse was duly registered as a resident of the development at the time of the elderly person's death, and f) if there is no child in residence, on adult 18 years of age or older residing with a person 62 years of age or older, provided that the adult is essential to the long-term care of the elderly person as certified by a physician duly licensed in New York State. Some senior housing may have communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents. Senior housing units should be differentiated from assisted living facilities and continuing care or retirement communities. {6, 14, 16 - 19, 21, 23, 43}

**Services; Personal Care** -- Business activities carried on directly between individuals within the following categories: (a) business functions auxiliary to production and distribution (e.g. real estate, insurance, bookkeeping), and (b) labor that does not produce a tangible commodity (e.g. beauty/barber shops, musical and dance instructions, repair and maintenance of personal property, not including vehicles, tools, household appliances and equipment). Personal service shall not include uses necessitating the harboring of animals. {7, 21, 23, 25, 29}

**Services; Professional Office** -- Offices for the practice of licensed professionals such as doctor, dentist, architect, engineer, lawyers, accountant, etc., as well as general business offices, newspaper offices, etc. {7, 21, 23, 25, 27 - 31, 58}

**Setback** -- The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways. {8 - 10, 13, 15 - 18, 20, 23, 25, 34, 35, 40, 46, 49, 60, 64, 72}

**Sexual Encounter Center** -- A business or commercial enterprise that, as one (1) of its primary business purposes, offers for any form of consideration: {77}

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- B. Activities between male and female persons of the same sex when one (1) or more of the persons is in a state of nudity or seminude.

**Sexually Orientated Business** -- An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center. {76}

**Sign** -- Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out of doors, or on the exterior of any building, including illuminated window signs, displaying an advertisement, announcement, notice of name, and shall include any declaration, display, representation, illustration of insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the actual public. Signs also include any architectural devices, design or treatment such as painting, striping, lighting or similar methods designed for the purposes of attracting the attention of the public in a manner similar to advertising, and the Planning Board has the authority to regulate in kind. {22, 24, 26, 28, 30, 32, 34, 35, 47, 53 - 63, 74, 75, 88, 106, 107}

**Sign, Accessory** -- Any sign related to a business or a profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located. {54}

**Sign, Canopy** -- A sign which is mounted on an overhanging projection or shelter which extends beyond the principal building. {60, 61}

**Sign, Cabinet** -- A sign box which is hollow, typically for the purposes of containing lighting sources so that the exterior face of the sign is illuminated from inside. {61}

**Sign; Channel Lettering** -- Sign text or graphics which are comprised of 3-dimensional letters or shapes which are individually applied to the surface of a façade to spell out the sign copy or message. Channel lettering may be hollow "cabinet lettering" to accommodate light sources inside to illuminate each letter from within. {55, 59, 60, 61}

**Sign, Double Faced** -- A sign designed to be viewed from two (2) directions and which at no point is thicker than twenty-four (24) inches measured from the exterior surface of each face and the two (2) faces of such sign are either parallel or the angle between the faces is thirty (30) degrees or less.

**Sign, Free Standing** -- Any sign not attached or part of any building but separate and permanently affixed by any other means in or upon the ground. Included are pole signs, pylon signs and masonry wall types. {56, 60, 61, 62}

**Sign, Externally Illuminated** -- Any sign illuminated by electricity, gas, or other artificial light from the exterior of the sign, and includes reflective and phosphorescent light. {61}

**Sign, Internally Illuminated** -- Any sign illuminated by electricity, gas, or other artificial light from the interior of the sign, and includes reflective and phosphorescent light. {61}

**Sign, Silhouette Illuminated** -- Any sign illuminated from behind individual opaque letters which are surface applied to the façade, so that the letters themselves are not illuminated, but the profile of the letters and/or the wall surface behind the letter glow. Also known as a backlit sign.

**Sign, LED** -- Light Emitting Diode {59}

**Sign, Non-Accessory** -- Any sign, including but not restricted to billboards, unrelated to a business or a profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located. {59}

**Sign, Portable** -- Any sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign. A frequent characteristic of a portable sign is that the space provided for advertising messages may be changed at will by the replacement of lettering or

symbols. {59}

**Sign, Projecting** -- A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of wall, and a sign which is perpendicular to the face of such wall. {55, 62}

**Sign, Representational** -- A three dimensional sign built so as to physically represent the object advertised.

**Sign, Sandwich** -- A movable, ground sign for advertising of a business, that is not secured or attached to the ground or surface upon which it is located. It is typically constructed in such a manner as to form an "A-frame" or tent-like shape, hinged or not hinged at the top, each angular face held at an appropriate distance by a supporting member.

**Sign, Surface Area** -- The entire area within a single, continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting a sign shall not be included unless the structure is designed in a way to form an integral background for the display. Only one side of a double-faced sign shall be included as surface or areas of such a sign. {62}

**Sign, Temporary** -- Any sign not intended for permanent installation, such as portable signs, emblems, banners, political, real estate and signs at construction sites. {57, 58, 59, 61}

**Sign, Wall** -- A sign which is attached to the wall of a building with the face in the plan parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall. {55, 59, 60}

**Sign, Wall** -- A sign maintained or painted upon a window or which is inside a structure, within three (3) feet of the window surface and intended to be visible from a parking lot or roadway. {55, 59, 60}

**Sign Setback** -- The minimum distance required between any property line or driveway and any portion of a sign or sign structure. {60}

**Sign Structure** -- The support, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any of the sides or the projection thereof exceeds thirty (30) degrees, each side shall be considered a separate sign structure.

**Single Ownership** -- Possession of land under single or unified control, whether by sole, joint, common or other ownership, or by a lease having a term of not less than thirty (30) years, regardless of any division of land into parcels for the purpose of financing. {10}

**Site Plan** -- The map or drawing and all related information submitted for review by the Planning Board in accordance with the requirements and procedures specified in Section 5.32 of this Local Law. {15, 22, 24, 26, 28, 30, 32, 34, 35, 41, 43, 45, 47- 50, 53, 69, 83, 86, 98, 105 - 111}

**Special Use / Special Use Permit** -- A use which is deemed desirable for the public welfare within a given district or districts, but which is potentially incompatible with other uses provided therein. The use shall be therefore subject to approval by the Zoning Board of Appeals and to conditions set forth for such use, as well as other applicable provisions of this Local Law. {79, 80, 83, 100, 110}

**Specified Anatomical Areas** -- The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

**Specified Sexual Activities** -- Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic legion, buttocks, anus or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A, B and C above.

**State of Nudity** -- See "Nudity" {77}

**Storage; outdoors, merchandise in stock** -- The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. {7, 25, 31, 33}

**Storage; indoors, merchandise in stock** -- The keeping, in an enclosed area, of any goods, junk, material,

merchandise, or vehicles in the same place for more than twenty-four (24) hours. {7, 23, 25, 29, 31, 33}

**Storage; self storage rental facility** -- A structure or structures in which materials, goods or equipment are stored within separate storage units having individual external access, for storage of personal property. Self-storage operations with several separate structures shall all be considered together to form one primary structure for the purpose of site plan review by the Planning Board. {7, 29, 33}

**Storage; wholesaling / warehousing, off site** – The commercial storage or retail or wholesale goods for the purposes of shipping or retail sales not on the premises. {7, 29, 31, 33}

**Storage; wholesale/distribution center, 3 truck bays** – A warehouse or distribution center with no more than 3 loading docks or truck bays. {7, 25}

**Storage; wholesale/distribution center, 3+ truck bays** -- A warehouse or distribution center with 3 or more loading docks or truck bays. {7}

**Storage; fuel or other hazardous materials** – The above ground storage or commercial quantities of fuel or other hazardous or explosive materials. {7, 33}

**Stormwater** -- The flow of water that is generated from a rainfall event or snowmelt. {69, 70, 82 - 83}

**Story** -- Portion of a building which is between one floor level and the next higher floor level or the roof. {23, 24, 64}

**Street** -- A street improved to the satisfaction of the Planning Board, which is one of the following: {1, 2, 5 - 19, 21 - 25, 27 - 34, 43 - 49, 51 - 52, 55 - 60, 64, 66 - 68, 72, 74, 78, 106, 111, 113}

- A. An existing Town, County, or State highway or street;
- B. A street shown on an approved subdivision final plat;
- C. A street shown on a map filed with the County Clerk (in accordance with Section 280-a of the Town Law) prior to Planning Board authorization to review subdivisions; or
- D. A street shown on the Town Official Map.

A street includes the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, pedestrian ways, parking areas and other areas.

**Street Line** -- The dividing line between a lot and a street right-of-way. {47, 66}

**Structure** -- A static construction, or assembly, or materials, the use of occupancy of which requires a fixed location on the ground or attachment to an object having such fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, signs, and mobile dwellings. {7, 8 - 10, 12 - 14, 16 - 19, 21, 22 - 36, 38 - 40, 42 - 43, 45, 46, 50, 56, 60, 64, 66, 71, 72, 75, 78 - 81, 83}

**Structure; commercial garage or shed** – Accessory building or structure used for the storage of commercial vehicles or equipment. {7, 23, 25, 27, 29, 31, 33}

**Structure; customary garage, shed or greenhouse** -- Customary residential storage shed, garage, greenhouse or similar structure – satellite dish, solar panels etc. {7, 12 - 14, 16 - 19, 21, 23, 27, 29, 31, 33}

**Structure; customary farm building** – Accessory building typically associated with regular farming operations for the storage or processing of foods, animals or farm equipment. {7, 12 - 14, 16 - 19, 21, 29, 31, 33}

**Swimming Pool** -- Any outdoor pool, tank, depression, or excavation for the specific purpose of swimming that causes the retaining of water to a greater depth than eighteen (18) inches and having a water surface area greater than one hundred (100) square feet. {20, 71}

**Townhouse** -- A dwelling unit in a building containing at least three connected dwelling units divided by common vertical party walls, with private entrances to each dwelling. A townhouse may include dwelling units owned in fee simple or in condominium or cooperative ownership or any combination thereof. {43}

**Transport; Public Transit Passenger Station** -- Establishment primarily engaged in providing local or regional transportation services to the public such as train station, taxi station, bus station, limousine or similar methods, but not including repair facilities. {7, 25, 31}

**Transport; Airport, Public** – The use of land, or building, or structure for facilitating the landing and handling of aircraft and their passengers and freight and without limiting the generality of the foregoing, accessory uses may include ticket offices, restaurants, bars confections, luggage checking and parcel shipping facilities. {7}

**Transport; Airport, Private Airstrip** – Airport for the uses of private aircraft, without any commercial facilities. {7, 12, 13, 29, 31}

**Use** -- The purpose for which land or a structure is arranged, designed, or intended, or for which either land or a structure is or may be used, occupied or maintained.

**Utility; public service** – A structure or right of way necessary to serve areas within the community, excluding business office, repair or storage of equipment, wastewater treatment plants, water storage and related accessory improvements. {7, 12, 13, 14, 16, 17, 18, 19, 25, 27, 29, 31, 33}

**Utility; small above ground structure** -- Water or sewer pump stations, electric or telephone distribution boxes, switching or relay stations, transformers and similar enclosed utility structures. {7, 12, 25, 27, 29, 31, 33}

**Utility; transmitting or communications tower** -- Television, radio, wireless or other transmitting towers. {7, 25, 27, 29, 31, 33}

**Utility; municipal works yard or structure** -- Municipal business office, equipment storage or repair, wastewater treatment plants, water storage or similar facility. {7, 25, 27, 29, 31, 33}

**Use, Principal** -- The main or primary purpose or purposes for which land and/or structure(s) is designed, arranged, or intended or for which such land or structure(s) may be occupied or maintained under this Local Law. {13, 15 - 18, 38, 71}

**Variance** -- A modification of the use and/or area and bulk regulations of this Local Law in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of reasonable use of the land or structures. Such unnecessary hardship or practical difficulty shall not be construed to include more inconvenience or a desire to make more money. {2, 8, 81, 100, 101, 102, 103, 111}

**Vehicle** -- New or used car, truck, boat, motorcycle, snowmobile, RV, tractor, construction or farm equipment or similar motorized equipment. {6, 7, 9, 11, 25, 27, 29, 31, 33, 44, 46, 49, 56, 59, 60, 66, 89}

**Wholesale** – Establishments engaged in the sale of commodities in quantity, usually for resale or business use, primarily to retailers, other businesses, industries and institutions. {7, 25, 31, 33}

**Yard** -- An open space on the same lot, plot or parcel of land, with a building or building group lying between the closest point of the front rear, or side wall of a building and the nearest lot line, which is, exclusive of trees, shrubs, and natural rock formations, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this Local Law. {2, 7 - 10, 12 - 14, 16 - 21, 23 - 25, 27, 29 - 31, 33, 35, 46, 47, 49, 51, 66, 67, 69, 71, 72}

**Yard, Front** – The area of ground extending across the full width of a parcel measured between the side yard lines, the depth of which is the minimum horizontal distance between the street line and the façade of the main building. {8 - 10, 24, 46, 47, 71}

**Yard, Rear** – The area of ground extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building. {8, 9, 46, 49, 66}

**Yard, Side** -- The area of ground extending between any property line other than the street line or the rear lot line and the nearest building facade, and between the required front and rear yard. {8, 9, 20, 46, 49}

**Zoning Map** -- The map delineating the boundaries of the zoning districts which, along with the zoning text, comprises this Local Law. {3 - 5, 40, 112, 113}

