

LOCAL LAW NO. 2 OF 2024
A LOCAL LAW TO REPEAL CHAPTER 193, AND
REPLACE CHAPTER 205 OF THE TOWN CODE
OF THE TOWN OF GREENVILLE, ORANGE COUNTY, NEW YORK.

1. Intent:

The intent of this local law is to repeal Chapter 205 of the Town Code of the Town of Greenville and replace it with a new comprehensive Zoning Law.

2. Legislation:

Chapter 205 and the Schedule of District Regulations of the Town Code of the Town of Greenville shall be repealed in their entirety and replaced with the proposed new Chapter 205 and Schedule of District Regulations, attached hereto.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE TOWN LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE TOWN TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEWYORK, SECTION 10. THE TOWN HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.

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Article I General Provisions

§ 205-1 Short title.

This chapter shall be known and may be cited by the short title of the "Zoning Law of the Town of Greenville, New York."

§ 205-2 Establishment; purpose.

There is hereby established an amended comprehensive zoning plan for the Town of Greenville, which plan is set forth in the text, schedules and map that constitute this chapter and are in accord with the recommendations of the 2021 Town of Greenville Comprehensive Plan Update. Said article is adopted for the purposes set forth in §§ 261, 263 and 281 of Article 16 of the Town Law which, in the interest of the protection and promotion of the public health, safety, convenience, morals, amenities and general welfare, shall be deemed to include specifically the following, among others:

- A. The facilitation of the efficient and adequate provisions of public facilities and services.
- B. The provision of privacy for families.
- C. The prevention and reduction of traffic congestion so as to promote efficient and safe circulation of vehicles and pedestrians.
- D. The safeguarding of homes by preserving the attractive environment of residential areas.
- E. The provision of areas for commercial and industrial activities in locations appropriate therefor.
- F. The gradual elimination of nonconforming use.
- G. The enhancement of the appearance of the Town of Greenville as a whole.
- H. The conservation of property values.
- I. The limitation and prevention of congestion of population, customers and workers.

- J. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open land.
- K. The assurance of adequate sites for agriculture, residence, industry, commerce and recreation.
- L. The protection and preservation of the natural ecological structure, including protection of groundwater supplies, stream banks and water bodies, steep slopes and natural vegetative cover.

Article II Terminology

§ 205-3 Word usage.

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

§ 205-4 Definitions.

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

ACCESSORY USE

See "use, accessory."

ACREAGE

A. GROSS

The total acreage of a parcel or parcels of land proposed for subdivision and/or development, as determined by certified survey, by deed description or from real property tax assessment records, whichever is less.

B. NET

The gross acreage less the acreage of lands rated as severe with reference to flooding, ponding, erosion or slope by the Soil Conservation Service, United States Department of Agriculture; or are proposed to be occupied by public utility easements and/or central services, water and sewer facilities, in such a manner as to prevent their use and development; or lands that for any other reason are not suitable for building purposes; except that lakes with a mean depth of eight feet or more conducive to recreational usage shall not be discounted. It is this figure (net acreage) into which the lot area per dwelling unit, (derived from the lot size formula) is to be divided to determine maximum permissible dwelling units for a given site; (residential uses); or into which the lot areas per commercial, service or industrial development, derived from the lot size formula, is to be divided to determine sufficiency of lot size.

AGRICULTURAL STRUCTURES

Structures intended primarily or exclusively for support of an agricultural operation, and exemplified by, but not restricted to, barns, silos, water towers, windmills and greenhouses.

[Added 4-5-2012 by L.L. No. 2-2012]

AGRICULTURE, RETAIL SALE OF FARM, NURSERY AND RELATED PRODUCTS

An establishment whose primary purpose is the retail sale of farm, nursery and related products, including but not limited to fruits, vegetables and plants (includes farmers' markets, farm stands, and seasonal roadside stands not in conjunction with a working farm).

AGRICULTURAL TOURISM

Activities, including the production of maple, sap and pure maple products therefrom, farm and winery tours, equine activities both outdoors and indoors but excluding equine therapy, U-pick farm operations, including Christmas trees, hiking, hunting and other forms of outdoor recreation offered to farm visitors, conducted by a farmer on an active farm for the enjoyment and/or education of the public which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

AGRICULTURE

An operation in which activities include the cultivation of food, fiber or horticultural crops or the raising of livestock or poultry in accordance with the New York State Agriculture and Markets Law.

<https://www.nysenate.gov/legislation/laws/AGM/A25-AA>

[Added 4-5-2012 by L.L. No. 2-2012]

ALTERATIONS

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities; or an enlargement, whether by extending on a side or by increasing in height or in moving from one location or position to another in accordance with the New York State Uniform Fire Prevention and Building Code.

ALTERATIONS, STRUCTURAL

Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

ANIMALS

A. FUR-BEARING ANIMALS

Animals raised primarily for their skins or pelts, including but not limited to mink and rabbit.

B. LABORATORY ANIMALS

Animals raised primarily for scientific experimentation, including but not limited to mice, rats and guinea pigs.

APARTMENT HOUSE

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

AREA

- A. **BUILDING:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.
- B. **NET SITE:** The total area within the property lines, excluding external streets.

AUTO COURT

See "motel."

BASEMENT

A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical difference between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

BED-AND-BREAKFAST

A tourist accommodation. Bed-and-breakfast residences shall be permitted accessories only to single-family detached dwellings. The operator of the bed-and-breakfast establishment shall be an owner of the property and an occupant of the single-family residential dwelling to which the guest rooms are accessory. Not more than three bedrooms of the single-family detached dwelling shall be permitted to be used for rental purposes. Room rental shall be for transient usage only. There shall be a limit of not more than 21 consecutive days for the length of stay by any guest.

[Added 12-11-1996 by L.L. No. 5-1996]

BEDROOM

All rooms in multifamily, row or group dwellings beyond one kitchen, living room and dining room or area per dwelling unit. For purposes of determining the number of bedrooms in a proposed multifamily, row or group dwelling, all dwelling units shall be rated as having at least one bedroom, e.g., studio apartment.

BILLBOARD

An outdoor advertising sign available for lease for the display of a commercial or public service messages and which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidental upon such lot.

BOARDINGHOUSE, ROOMING HOUSE and LODGING HOUSE

[Amended 12-11-1996 by L.L. No. 5-1996]

- A. Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire, and used for single room occupancy; or
- B. Any dwelling that provides sleeping accommodations in three or more individual rooms on either a transient or permanent basis, without cooking and toilet facilities, as defined below, for each individual occupant or family; however, excepting those locations as defined in the New York State Fire Prevention and Building Code as an adult residential care facility.

BUILDING

Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

1. BUILDING, ACCESSORY

A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

2. BUILDING, DETACHED

A building surrounded by open space on the same lot.

3. BUILDING, FRONT LINE OF

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

4. BUILDING, HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs to three stories maximum.

5. BUILDING, MAIN OR PRINCIPAL

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

CAMPER

Includes any person who registers his party for the occupancy of a campsite or who otherwise assumes charge of or is placed in charge of a campsite.

CAMPGROUND

A plot of ground upon which two or more campsites are located, established, or maintained and occupied by camping units as temporary living quarters for a total of 15 days or more in any calendar year.

CAMPING VEHICLE

Includes any camp trailer, travel trailer or other unit built or mounted on a vehicle or chassis designed without permanent foundation which is used for temporary dwelling or sleeping purposes.

CAMPSITE

Includes any plot of ground within a campground intended for occupancy by a camp unit or units.

CAMP UNIT

Includes any tent, camping vehicle, or similar non-fixed structure, temporarily located on a campsite as temporary living quarters, but shall not include any camping unit kept at a campground for storage purposes only.

CAMP OWNER

Includes the owner, lessee, tenant or other person who permits, having authorization to, the occupancy of a campground by campers or overnight occupants.

CAPITAL CONTRIBUTIONS

A. TO FIRE DISTRICT

An amount equal to 1% of the 100% valuation insured against loss by fire of the improvements proposed or existing, as estimated by the Town Assessor.

B. TO TOWN PARK FUND

An amount per newly created lot, or dwelling unit, as determined by the Town Board at its annual reorganization meeting.

C. TO SEWER DISTRICT

For a development where such central facilities is not mandatory, an amount equal to the cost of providing an individual septic system for each principal use; and for a development where such central facilities are mandatory, an amount equal to the cost of a servicing central sewage treatment plant conforming to Town specifications, plus the cost of all laterals and connections; said costs to be estimated by the Town Engineer.

D. TO WATER DISTRICT

For a development where such central facilities are not mandatory, an amount equal to the cost of providing an individual well with submersible pump for each principal use; and for a development where such central facilities are mandatory, an amount equal to the cost of a servicing central well or wells, pump or pumps, water storage tank, plus the cost of all lateral and connections; said cost to be estimated by the Town Engineer.

CAR WASH

See "motor vehicle laundry."

CELLAR

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories nor account toward livable floor area.

CLUB, MEMBERSHIP

An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership of such club.

CLUSTER DEVELOPMENT

A residential subdivision in which the permissible number of dwelling units that would result in a given district under conventional application of this chapter is allowed to be concentrated on a smaller portion of the land in detached, semidetached, attached or multistory structures, such flexibility of design and development of land enabled and encouraged in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities and to preserve the natural and scenic qualities of open lands, under the authority of § 278 of the Town Law and the resolution of the Town Board adopting this chapter.

COMMERCIAL

Having financial gain as the object.

COMMERCIAL PARKING LOT

An area operated for gain, available to the public, for short- or long-term storage of motor vehicles. A "commercial vehicle" shall be defined as any vehicle registered or required to be registered as a commercial vehicle under the New York State Vehicle and Traffic Law, with the exception of vehicles commonly referred to as a "pickup truck" and "van."

[Added 12-11-1996 by L.L. No. 5-1996]

COMMERCIAL TIMBER HARVESTING

An operation in which a landowner is paid for trees to be cut down and taken away on more than one acre. A permit is required.

CONDOMINIUM

A mode of ownership wherein each dwelling unit may be owned in fee simple individually and separately from all others but where all such owners have an indivisible interest in the common areas. Thus, they share ownership and attendant responsibility for the provision, maintenance and/or repair of common internal facilities, utilities, services, exterior building surfaces, land, landscaping and other outdoor facilities.

CONVENIENCE STORE, MINI-MART

A retail store, less than 5,000 square feet, that is designed and stocked primarily to sell food, beverages and household supplies, having no more than 12 customer seats, to customers who purchase only a relatively few items.

CONVERSION

A change in use or occupancy of a dwelling by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

COOKING FACILITIES

A kitchen sink, stove/oven combination and refrigerator.

[Added 12-11-1996 by L.L. No. 5-1996]

COOPERATIVE

A mode of ownership in which title is held jointly by a group of cooperators, each member owning a given number of shares in the corporation, in proportion to the value of his individual dwelling unit, which he owns under an occupancy agreement. Each cooperator is assessed, according to the number of shares owned, for maintenance of common areas.

COURT

An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by walls of such buildings.

A. COURT, INNER

A court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.

B. COURT, OUTER:

1. A court extending to a street line or opening upon any front, side or rear yard.
2. A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

COVERAGE

That percentage of the plot or lot area covered by the building area.

CURB LEVEL

The elevation of the curb opposite the center of the front of the building. If a building faces on more than one street, the curb level shall be the average of the elevations of the curbs at the center of each side or front of the building. Where no curb level or equivalent has been established by the municipal authority, the average elevation of the finished grade immediately adjacent to the front of the building shall be considered as the curb level. If a building faces on more than one street where no curb level has been established, the average of the elevations of the finished grade on each street side of the building shall be considered the curb level.

DAY CAMP

See "Day-care center."

DAY-CARE CENTER

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

DESIGNATED PROTECTION AREA

- A. Areas within which the changing of land contours and/or the removal of the natural vegetative cover and/or the erection of structures is automatically subject to site plan review by the Planning Board (according to Article XII, Site Plan Review) for purposes of protecting ecologically sensitive areas and scenic assets of the community. Those areas so adjacent are:
 - 1. The Rutgers Creek from source to the Minisink Turnpike.
 - 2. The Indigot Creek.
 - 3. The Shawangunk Kill.
 - 4. Kagan Lake.
 - 5. Binnewater Pond.
 - 6. Elm Lake
 - 7. Indigot Branch Creek County Reservoir (in process of acquisition).
 - 8. Rutgers Creek County Reservoir (proposed).
- B. The designated protection areas shall be interpreted to mean those areas 100 feet in measurement from the contour of streams or shore line of lakes and reservoirs.

DESIGNATED TOWN CENTER

Midpoint in the triangular-shaped parcel formed by the intersections of Greenville Turnpike West, the Minisink Turnpike and County Route 55.

DOG KENNEL

A structure used for the harboring of more than three dogs that are more than six months old or more than 12 dogs that are under six months of age. Any dog owner whose dog(s) bear(s) more than one litter of puppies that are of registered pedigree and offered for sale shall, for the purpose of this chapter, be considered as maintaining a "dog kennel" and must adhere to all regulations governing the same.

DUMP

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

DWELLING

A building designed for use as the living quarters for one or more families. The term "dwelling," "one-family dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include automobile court, rooming house or tourist home.

A. DWELLING, ONE-FAMILY DETACHED

A house accommodating but one single family and having two side yards with at least 750 square feet of living area, the shortest mean longitudinal dimension of which dwelling must be 24 feet, erected on permanent foundation with/without basement and equipped for year-round occupancy.

B. DWELLING, TWO-FAMILY

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

C. DWELLING, MULTIFAMILY

A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or joint facilities, or both.

D. DWELLING, GROUP

A group of two or more one-family, two-family or multiple-family dwelling units occupying a lot in one ownership and having any yard in common.

E. DWELLING, ROW OR GROUP

A building consisting of a series of non-communicating one-family dwelling units having a common wall between each two adjacent units. (Also known as "townhouses.")

F. DWELLING, UNIT

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

EARTH COLORS

Tones of colors such as browns, grays and greens to which roofing and siding materials will be limited by deed restriction, furthermore restricting the use of white and pastel colors, so as to be harmonious and congruous with the natural setting.

FAMILY

[Amended 12-11-1996 L.L. No. 5-1996]:

- A. One, two or three persons occupying a dwelling unit; or
- B. Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

- 1) It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
- 2) In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
 - a) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;
 - b) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;
 - c) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;
 - d) The group is permanent and stable. Evidence of such permanency and stability may include:
 - i. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
 - ii. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;
 - iii. Members of the household are employed in the area;
 - iv. The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units;
 - v. There is common ownership of furniture and appliances among the members of the household; and
 - vi. The group is not transitory or temporary in nature.
 - e) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FARM, COMMERCIAL AGRICULTURAL

Any parcel of land containing at least 10 acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FLOOR AREA

A. FLOOR AREA, LIVABLE

All spaces within the exterior walls of a dwelling unit, exclusive of garages, cellars, heater rooms, basement rooms having a window area of less than 20% of the square foot area of the room, unheated porches and breezeways, but shall include all spaces not otherwise excluded, such as principal rooms, utility rooms, bathrooms and all closets and hallways opening directly into and appurtenant to any room within the dwelling unit; and all attic space having a clear height of six feet from finished floor level to the pitch of the roof rafter and a clear height of seven feet six inches from finished floor level to the

pitch of the roof rafter and a clear height of seven feet six inches from finished floor level to ceiling over 50% of the area of such attic space.

B. FLOOR AREA OF A BUILDING

The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

C. FLOOR AREA RATIO OF A BUILDING

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

FOWL

Includes but not limited to domesticated birds, such as chickens, ducks, geese, turkeys and pheasants, raised in confinement.

FUNDED COMMUNITY TRUST

The holding of title to all common open space and recreational facilities in an open space development upon deed from its builder/developer to a bank or other fiduciary which, for a fee, acts as trustee for the benefit of all owners and occupants; such arrangements as detailed in the Urban Land Institute Technical Bulletin #62.

GARAGE

A. GARAGE, PRIVATE

A garage used for storage purposes only and having a capacity of not more than four automobiles or not more than two automobiles per family housed in the building to which such garage is accessory, whichever is greater. Space therein may be used for not more than one commercial vehicle, and space may be rented for not more than two vehicles of other than occupants of the building to which such garage is accessory.

B. GARAGE, COMMERCIAL

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

GARDEN APARTMENT

An apartment house wherein the entrance of a dwelling unit is no more than one flight of stairs (one floor) above or below the ground (or main entrance) floor level.

GRADE

A. GRADE, ESTABLISHED

The elevation of the center line of the streets as officially established by the Town authorities.

B. GRADE, FINISHED

The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GUEST HOUSE / ACCESSORY DWELLING UNIT

A detached complete dwelling unit subordinate to a principal dwelling, sharing a common lot. Examples include a converted detached garage, an apartment above a detached garage, or a stand-alone dwelling. Bulk requirements must follow § 205-11 Accessory buildings.

HOME OCCUPATION

An activity carried on for gain by a resident and conducted as an accessory use in the resident's dwelling unit or on the site of the residence.

[Amended 12-11-1996 by L.L. No. 5-1996; 5-17-2007 by L.L. No. 3-2007]

HOSPITAL

Unless otherwise specified, includes sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

A. HOSPITAL, GENERAL MEDICAL AND SURGICAL ONLY

A hospital other than for mental patients, contagious or infectious diseases or liquor or drug addicts.

B. HOSPITAL, ANIMAL

An establishment for the medical and/or surgical care of sick or injured animals.

HOTEL

A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

HOUSE TRAILER

See "mobile home."

INDUSTRIAL

Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

INDUSTRIAL, LIGHT

See "Manufacturing, Light."

INDUSTRIAL PARK

A highly restricted type of planned industrial district in which special emphasis and attention are given to aesthetics and community compatibility. Subdivided and developed according to a comprehensive

plan which includes detailed provision for streets and all necessary utilities, the park provides serviced sites for a community of industrial and industry-oriented uses.

JUNKYARD

An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials, such as wastepaper, rags or scrap material; or used building materials, home furnishings, machinery and parts thereof, with or without dismantling, processing, salvage, sale or other use or disposition of the same. One cubic yard or more of refuse located on a property for more than 30 days shall also be deemed to be a junkyard.[1]

LAUNDERETTE

A business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LINE, STREET

The dividing line between the street and the lot.

LIVESTOCK

Animals, including but not limited to domestic animals, such as sheep, horses, cattle and goats. (Such definition shall not encompass fur-bearing animals or animals raised for laboratory purposes.)

LODGING HOUSE

A building in which three or more rooms are rented and in which no table board is furnished.

LOT

Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of this chapter to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT, DEPTH OF

A mean horizontal distance between the front and the rear lot lines, measured in the general direction of its side lot lines.

LOT, INTERIOR

A lot other than a corner lot.

LOT LINE

Any line dividing one lot from another.

LOT LINE, REAR

The lot line generally opposite from the street line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT, MOBILE HOME

The space which shall be assigned to or used and occupied by any one mobile home.

LOT, THROUGH

An interior lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH

[Amended 10-20-2005 by L.L. No. 3-2005; 4-2-2009 by L.L. No. 2-2009]

- A. Shall be determined to be the distance between the side lot lines measured at the line separating the lot from the street or road which will provide access to the property; accordingly, the minimum lot width set forth in each of the i in the Town must be met at the street line on each lot proposed and approved.
- B. On new cul-de-sac approved by the Planning Board, lot width must be a minimum of 50 feet at the street line and must expand to the minimum 150 feet at the front yard setback line. The front yard setback line is set forth in § 205-80A(1). The dimensions of a cul-de-sac are set forth in § 181-24J of the subdivision regulations of the Town.[2] These regulations set forth a minimum diameter and outside diameter. The dimensions of the cul-de-sac and the dimensions of the potential lots created around the cul-de-sac must conform to the attached diagram.[3] Lots around the cul-de-sac shall be limited to four lots.

MAIN FLOOR

The largest area formed by the projection of a horizontal plane through the livable floor area which is enclosed by the exterior walls of the building.

MANUFACTURING

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

MANUFACTURING, LIGHT

Manufacturing or industrial uses of processing, fabrication or assembly that are of a nonpolluting nature, particularly in regard to reservoir and groundwater resources, and in regard to ambient air quality, noise and light pollution. This use category includes printing, technology manufacturing, research and development laboratories, testing, repair and packaging of components, devices and equipment systems.

MINING

The extraction or removal of minerals from the ground for sale or exchange or for commercial, industrial or municipal use. This definition shall not apply to:

- A. The excavation or grading of an area necessary to prepare a site for construction in accordance with an approved building permit, site plan or subdivision plan, provided that the excavation takes place within the project site, does not involve the sale or exchange of mineral resources to off-site locations, and is an integral part of the involved project activities.
- B. Excavations or grading undertaken to enhance the agricultural use of lands or to provide for structures or other improvements that benefit an area necessary for ongoing or imminent agricultural activities. This exemption applies only to excavations where the mineral removal and subsequent reclamation enhances the agricultural usability or productivity of the land.

MOBILE HOME

A transportable, one-family dwelling equipped for year-round occupancy and containing the same water supply, waste disposal, heating and electrical conveniences as immobile housing and which must conform to the New York State Uniform Fire Prevention and Building Code to such structures. The term "mobile home" shall include vehicles mounted on temporary or permanent foundation with or without the wheels, rollers or skids in place.

MOBILE HOME COURT

An area of land under single ownership which has been planned and improved for the placement of two or more mobile homes for non-transient dwelling purposes and approved as such by the Planning Board subsequent to the introduction of a zoning law in the Town of Greenville. The selling or servicing of trailers or mobile homes in a mobile home court is prohibited.

MODULAR HOUSING

Two or more prefinished or semi-prefinished units, built at a plant or factory and transported to a building site and there assembled, united and installed on a permanent foundation comprising one or more dwelling units.

MOTEL

A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for necessary off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor lodges, auto courts and by similar appellations.

MOTOR VEHICLE LAUNDRY

A building, portion of a building and/or area arranged, intended or designed to be used for the washing, spraying, waxing, polishing and/or drying of motor vehicles and/or the vacuum or dry cleaning of the same.

MOTOR VEHICLE REPAIR SHOP

A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles, their mechanical systems and their body structure (including painting).

MOTOR VEHICLE SALES

A building and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used.

MOTOR VEHICLE SERVICE STATION

Any area of land, including structures thereon, that is used primarily for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle minor accessories, and which may or may not include facilities for lubricating or otherwise servicing motor vehicles, but not including the painting thereof by any means.

NATURAL FEATURES, PRESERVATION AND/OR ENHANCEMENT OF

The safeguarding and improvement of ease of access and enjoyment of natural beauty, such as scenic outlooks, well-constructed stone walls, groves of sizable trees, lakes and ponds, beaches, wetlands, watercourses and waterfalls and historic sites to the residents of a development through the provision of foot and cycle paths, landscaping, selective culling, dredging, stocking with fish and such other means as may be appropriate to intensify the natural beauty of a site, at a development cost equal (at least) to 1% of the estimated full assessed valuation of the land and intended improvements, as determined by the Town Assessor.

NATURAL MATERIALS

Any physical matter which is part of the earth.

NEIGHBORHOOD COMMERCIAL CENTER

A shopping center that provides for the sale of convenience goods (foods, drugs and sundries) and personal services (laundry and dry cleaning, barbering, shoe repairing, etc.) for day-to-day living needs of the immediate development, with a maximum gross leasable area of 10,000 square feet for the first 500 units and 1,000 square feet of gross leasable area allowed for each additional 100 units (but not part thereof).

NONCOMMERCIAL FOREST STAND IMPROVEMENT OPERATION

An operation which involves the removal of undesirable trees, for which there is no value, from the stand to improve growth and vigor of remaining trees on more than one acre.

NONCONFORMING USE

A building, structure or use of land existing at the time of enactment of this chapter and which does not conform to the regulations of the district or zone in which it is situated.

NURSERY

A place where trees, shrubs, vines and/or other plants are propagated or grown for a period of at least six months before being offered for sale and transplanting. Such definition shall not encompass those

retail establishments that buy the majority of their horticultural stock wholesale, not propagating it themselves.

NURSERY SCHOOL

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

NURSING, REST OR CONVALESCENT HOME

Any dwelling where persons are housed or lodged and furnished with meals and nursing care for hire.

OPEN DEVELOPMENT AREA

A district where lots filed as minor subdivisions may have access via a right-of-way or easement (in place of a public road), upon special application to, and review and approved by, the Planning Board, subject to such limitations and conditions as may be prescribed by general or special rule of the Planning Board, under the authority of § 280-a of the Town Law and the resolution of the Town Board adopting this chapter.

OPEN SPACE

An unoccupied space open to the sky on the same lot with the building.

OPEN SPACE, USABLE

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet, and which is available and accessible to all occupants of the building or buildings on said lot for purposes of active or passive outdoor recreation. Accessory building roof space may be substituted for ground space, provided that such space is available and accessible to all the said occupants by means of access other than stairs.

OVERCOMING THE SEVERE LIMITATIONS OF SOILS

A plan prepared by a licensed engineer detailing means by which the severe limitations assigned to the specific soils mapped on the site by the Soil Conservation Service of the United States Department of Agriculture will be satisfactorily overcome for the buildable portion (see § 181-29 of Chapter 181, Subdivision of Land) of single-family lots, or for the development area of attached houses and multifamily dwellings and commercial service and industrial uses; such plans to respect and protect the ecology of the larger area in the judgment of the Soil Conservation Service. Any dwelling unit requiring the use of a fill septic system or an aboveground septic system shall not be permitted on a lot area of less than three acres. Such lot shall meet all other zoning requirements.

PARKING SPACE

An off-street parking space available for the parking of one motor vehicle and having an area of not less than 300 square feet, exclusive of passageways and driveways appurtenant thereto, and having direct access to a street or alley.

PHILANTHROPIC AND ELEEMOSYNARY

A private, nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of such organization or individual, and provides all or any of the following: religious, social, physical, recreational and benevolent services.

PLACES OF WORSHIP

A building or place where persons regularly assemble for religious worship, which building or place is controlled and maintained by a religious body organized to sustain public worship, and which is the principal use of the property.

PRESCHOOL

See “Nursery School.”

PRIVATE LANDING STRIP

Land devoted to the storage, servicing, takeoff and landing of private, low-altitude aircraft and the storage of fuel for the same.

PROFESSIONAL FORESTER

One who has a minimum of a Bachelor of Science degree in forestry from a four-year college accredited by the Society of American Foresters.

PROPERTY

Any lot or parcel of land.

PUBLIC SEWER; PUBLIC WATER

Sewage disposal and water supply systems accepted by the Town Board as meeting the standards required for municipal operations.

QUARRY, SAND PIT OR GRAVEL BANK

A lot or land or part thereof used for the purposes of extracting stone, sand or gravel, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

RECREATION, INDOOR

An indoor facility involving courts, arenas or halls designed to accommodate sports and recreational activities, such as but not limited to billiards, bowling, theaters, dance and concert halls, gymnasiums, health spas, skating rinks, indoor shooting ranges, tennis courts, swimming pools, and team sports.

RECREATION, OUTDOOR

An outdoor facility involving courts, playing fields, tracks, or arenas designed to accommodate sports and recreational activities, such as but not limited to gymnasiums, health spas, skating rinks, down-hill or cross-country ski trails, outdoor shooting ranges, tennis courts, swimming pools, team sports, or golf

courses; and motorized vehicles less than 50 H.P. This use category includes annual membership clubs, riding academies, and resorts.

RESEARCH, DESIGN AND DEVELOPMENT LABORATORY

A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed, and wherein there is no outside display of any materials or products.

RESIDENTIAL HOTEL

A dwelling occupied by permanent guests only and not transients. It may include restaurants, newsstands and other accessory services primarily for servicing its occupants and only incidentally the public.

RESTAURANT, FAST-FOOD

A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items such as hamburgers, chicken, pizza, tacos, ice cream and hot dogs, for takeout and/or on-premises consumption (in the latter case, where orders are placed at a counter as opposed to table service via a waiter/waitress, in a facility where the floor area available for dining is less than 1/2 of the gross floor area, and a major portion of the sales to the public is at a drive-in or stand-up-type counter). The term "fast-food restaurant" shall not include bakeries, delicatessens or similar types of retail establishments.

RESTAURANT OR BAR, NON-FAST-FOOD

Any premises where food and/or beverages are commercially sold for on-premises consumption to patrons seated at tables or counters, indoors or outdoors, and where table service is provided. Entertainment may also be provided. Any facility without table service providing parking lot service to cars where the food is to be eaten outside of the structure and/or off the premises shall not be considered a restaurant for the purposes of this chapter and shall be deemed to be a drive-in or fast-food restaurant.

RETAIL, GENERAL

Stores and shops where goods are sold primarily at retail. Such sales are primarily made directly to the consumer and include, but are not limited to, goods such as food and beverages; florists; shoes and clothing; hardware; paint and wallpaper; carpeting; hobby and crafts; books; furniture; antiques; art supplies; music; pharmacies; jewelry; photographic supplies; pets; gifts; stationery; sporting goods; fabrics; optical goods; launderette/laundromat and appliances, but excluding lumberyards, restaurants and fast-food restaurants. Outside storage or display of goods for such is permitted only with site plan approval by the Planning Board. "General retail" in the over 30,000 square feet category also includes shopping centers.

RETAIL, LARGE-PRODUCT

Establishments where goods are sold primarily at retail but are large-scale, where the display of such merchandise cannot necessarily be displayed within a structure, and which requires a large amount of

floor space. This includes equipment/heavy equipment, boats, machinery and farm machinery, and motor vehicle sales.

RIDING ACADEMY

Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

ROW HOUSE

See "dwelling, row or group."

SANITARIUM, SANATORIUM

A private hospital, whether or not such facility is operated for profit.

SEASONAL ROADSIDE STAND

See agriculture, retail sale of farm, nursery and related products.

SERVICES, PERSONAL

Establishments primarily engaged in providing services involving the care of a person or personal apparel, such as a beauty parlor, barbershop, health and fitness center, tailor or custom cleaning services. This use category includes funeral homes and studios (art, music, dance, etc.).

SENIOR HOUSING/LIFE CARE

A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens, ages 55 or older. Such facilities may include a congregate meals program in a common dining area or nursing homes, rest homes, and convalescent houses that include individual dwelling units for the elderly as an integral part of the facility.

SHOPPING CENTER

A group of commercial establishments, planned, developed, owned and managed as a unit related in location, size and type of shops to the trade areas that this unit serves; it provides on-site parking in definite relationship to the type and sizes of stores.

SIGN

Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letters, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement which can be clearly read or interpreted from the front lot line. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or group of nations or of any state, City or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

SIGN, ADVERTISING

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises or only incidentally on the premises if at all.

SIGN AREA

Includes all faces of a sign measured as follows:

- A. When such sign is on a plate or framed or outlined, all of the area enclosed by such frame or outline shall be included.
- B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within all of the matter of which such sign consists may be inscribed.

SIGN, BUSINESS

A sign which directs attention to a business or profession conducted on the premises. A "for sale" or a "to let" sign relating to the property on which it is displayed shall be deemed a business sign.

SIGN, ILLUMINATED

Any sign designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection. A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SIGN, TEMPORARY

A sign designed to display either commercial or noncommercial messages of a transitory or temporary nature. Temporary signs include, but are not limited to, posters, banners, promotional devices, changeable copy signs, portable signs, any sign not permanently embedded in the ground or not permanently affixed to a building or sign structure that is permanently embedded in the ground, or other sign of similar nature.

[Added 4-5-2012 by L.L. No. 1-2012]

SITING OF BUILDINGS

Determination of the orientation and placement on the site of all development, as well as determination of the elevation of the first floor of all structures in relation to the natural and finished grades of the surrounding area.

SLOPE OF THE SITE, MEANS OF MEASURING

The horizontal distance in feet between the highest elevation of a lot (or development) and the lowest elevation of a lot (or development) divided by the vertical difference between these two elevations in feet; said horizontal distance ordinarily shall be the natural course of stormwater drainage. Should the site be sufficiently large (in the judgment of the Planning Board) and heterogeneous in character (difference in slope factors greater than 10%), this site should be divided into different measurement units, with a gradient defined for each.

STABLE

A. STABLE, PRIVATE

An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

B. STABLE, PUBLIC

A building in which any horses are kept for remuneration, hire or sale.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if such building has no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF

Any space partially within the roof framing, where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

STORY, HEIGHT OF

The vertical distance from the top of the floor to the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the first floor to the top surface of the ceiling joists.

STREET

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

STREET GRADE

The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STRUCTURAL CHANGE

See "alterations, structural."

STRUCTURE

Anything constructed or erected, the use of which requires location on, in or under the ground or attachment to something having location on the ground.

SUITABLE FILL

Any mineral, soil, blasted and/or broken rock or similar materials of natural or recycled origin, including mixtures thereof. Determination of whether a specific natural material is suitable shall be made by the Town Engineer.

[Added 4-19-2018 by L.L. No. 4-2018]

SUMMER COLONIES

A group of buildings which may be cabins or cottages, containing separate living accommodations for non-transient vacation or recreation purposes for families or adults, for hire on a seasonal basis during the non-Winter months.

THEATER, MOVING-PICTURE

A building or part of a building devoted to the showing of moving pictures on a paid admission basis. See "indoor recreation."

TOILET FACILITIES

A lavatory, water closet and tub and/or shower.

[Added 12-11-1996 by L.L. No. 5-1996]

TOPSOIL

The outer layer of the earth in which vegetable matter may take root and grow.

TOURIST ACCOMMODATIONS

A group of buildings, including either separate cabins or a row of cabins, which:

- A. Contain living and sleeping accommodations for transient occupancy; and
- B. Have individual occupancy.

TOURIST HOME

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

TOWNHOUSE

See "dwelling, row or group."

TOWN ROAD IMPROVEMENT DISTRICT

A special taxation district created upon petition to the Town Board, formed to underwrite the capital costs of widening and/or improving the right-of-way and surfacing of a Town road to the extent of connecting a new development to the nearest road of adequate quality to sustain the vehicular impact of that new development, said district to include all parts of the newly created development that benefit from the improved road access and said district to be dissolved upon the satisfaction of its bonded indebtedness.

TRAILER, CAMPING

A folding structure, mounted on wheels and designed for travel, recreation and vacation use.

TRAILER, OFFICE

A vehicular, portable structure built on a chassis, designed as a temporary facility for such uses as banking, on-site construction supervision, etc.

TRAILER, STORAGE

Any removable container used for storage which is not constructed or erected on the property where it is used. Storage trailers include, but are not limited to, temporary or rented storage pods, truck bodies, bulk containers, shipping containers, and railroad cars.

[Added 4-5-2012 by L.L. No. 2-2012]

TRAILER, TRAVEL

A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation, having a body length not exceeding 26 feet.

TREE PLANTING

The planting of shade and ornamental trees, both deciduous and evergreen, of nursery stock guaranteed to survive one planting season, the caliper of all such trees to be at least 1 1/2 inches in diameter as measured at a point 4 1/2 feet above finished grade level, such planting to take place at a developer cost equal (at least) to 1% of the estimated full-assessed valuation of the land and intended improvements, as determined by the Town Assessor.

USE

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

USE, ACCESSORY

A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal building. The footprint of the accessory building shall occupy an area not to exceed 1,500 square feet maximum, but in no event shall the accessory building be larger than the footprint of the principal building. The sum total of all accessory uses on a site shall not exceed the above area requirements.

[Amended 12-11-1996 by L.L. No. 5-1996; 6-3-2004 by L.L. No. 3-2004]

WAREHOUSE, STORAGE AND DISTRIBUTION FACILITIES

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

WAY

A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

YARD

An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT

An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

YARD, REAR

An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center line of the alley, if there be an alley, and the rear line of the building.

YARD, SIDE

An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required the rear boundary of the side yard shall be the rear line of the lot.

[1] Editor's Note: Former Subsection (b), Motor Vehicle, which immediately followed this subsection, was deleted 12-11-1996 by L.L. No. 5-1996.

[2] Editor's Note: See Ch. 181, Subdivision of Land, § 181-24J.

[3] Editor's Note: Said diagram is included at the end of this chapter.

Article III Establishment of Districts

§ 205-5 Enumeration.

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Greenville, the Town is hereby divided into the following types of districts:

- A. Commercial Mixed-Use District (CMU District), This district is intended to provide small-scale commercial uses along designated transportation and commercial corridors in the Town, along with compatible residential development. The district is intended to encourage agricultural areas where appropriate by permitting uses related directly to and in support of agricultural activities.
- B. Rural Residential District (RR District), This district is intended to accommodate residential development that is compatible with the rural qualities of the Town and that may coexist with existing agricultural activities throughout this district.
- C. Conservation District (CS District), This district is intended to protect environmentally sensitive areas by restricting commercial activity and permitting low density residential development. The district will preserve the scenic assets of the Town.

§ 205-6 Zoning Map.

- A. The above-cited districts are bounded as shown on a map entitled "Zoning Map" of the Town of Greenville, adopted and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.[1]

[1] Editor's Note: The Zoning Map is included in a pocket at the end of this Code.

- B. Said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Building Inspector for the use and benefit of the public.

§ 205-7 Interpretation of district boundaries.

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

- A. Following center lines. Where district boundaries are indicated as approximately following the center lines of streets, parkways, waterways or railroad rights-of-way lines, the district boundaries shall be construed to coincide with the center lines of streets, parkways, waterways, railroad rights-of-way or such lines extended.
- B. Following lot lines. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Parallel to center lines. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Water bodies. Where the boundary of a district follows a stream, lake or other body of water, said boundary lines shall be deemed to be at the limit of jurisdiction of the Town of Greenville, unless otherwise indicated.

Article IV District Regulations

§ 205-8 Compliance required.

Following the effective date of this chapter:

- A. Building requirements. No building shall be erected, moved, altered, rebuilt nor enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or land is located. Unless permitted upon special application to the Planning Board, a use is prohibited.
- B. Yard requirements. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. Lot requirements. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit

shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all provisions of this chapter.

- D. Previously issued permits. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with existing law, a permit for which shall have been duly issued prior to the date of the first publication of notice of the public hearing on this chapter, and the ground story framework of which, including the second tier of beams, shall have been completed, in accordance with such plans as have been filed, within one year from the date of passage of this chapter.
- E. Referral to County. Should any proposed zoning amendment, site plan approval, specific permit or variance consist of or include any of the following conditions, the appropriate agency (Planning Board, Town Board or Board of Appeals) shall refer the proposal to the Orange County Planning Department (in accordance with §§ 239-l and 239-m of Article 12B of the General Municipal Law) on the form entitled "County Zoning Referral." These conditions include any change in the district classification of or the regulations applying to real property lying within a distance of 500 feet from:
 - (1) The boundary of any Village or Town.
 - (2) The boundary of any state park or other recreational area.
 - (3) The right-of-way of any County or state parkway, thruway, expressway or other controlled-access highway.
 - (4) The right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
 - (5) The boundary of any County- or state-owned land on which a public institution is located.
- F. Applicants shall actively pursue applications before the Planning Board. In the event that an applicant has not appeared before the Board for a period of 12 consecutive months, upon resolution of the Planning Board, the matter will be removed from consideration by the Board and the file will be closed. A new application will thereafter need to be filed by the applicant when the applicant is prepared to proceed and actively pursue the application. Once the file is closed, any unexpended escrow sums will be returned to the applicant with a letter stating that the application has been deemed abandoned and that the file has been closed pursuant to a resolution adopted by the Planning Board. It shall also state that when the applicant is prepared to proceed and actively pursue the application, a new application must be filed with the Board. [Added 6-17-2010 by L.L. No. 1-2010]
- G. Design Standards in the Commercial Mixed-Use District
 - (1) For all parcels three acres or greater in area, excluding agricultural structures, churches and schools shall be limited to two stories in height and shall individually have no more than 7,500 square feet of gross floor space.
 - (2) In order to minimize their visual impacts on the predominantly rural corridors, nonagricultural uses shall be housed in residential or farm-style buildings.
 - (3) Nonagricultural-use buildings should echo the character of the district's residences or farmhouses in terms of shape, roofline, and massing. The exteriors of buildings shall utilize natural cladding materials such as wood, brick, stucco, stone or a combination of such materials. The use of synthetic, metallic, and reflective materials should be avoided.

- (4) Agricultural-use buildings should harmonize with the agricultural character of the area through appropriate use of materials, paint colors, and landscaping.
- (5) Signage shall be provided in accordance with Article XLVIII, Signs, of this chapter.

H.

§ 205-9 Use and Bulk Tables

- A. To facilitate application and public understanding of this chapter and for the better administration thereof, the regulations limiting the use of buildings and land are set forth in the annexed Use and Bulk Tables for each of the districts established by § 205-5 of this chapter.[1] At no time shall a building lot be less than two acres. [Amended 12-11-1996 by L.L. No. 5-1996] [1] *Editor's Note: Said Use and Bulk Tables are included at the end of this chapter.*
- B. Part of chapter. Such Use and Bulk Tables are hereby adopted and declared to be a part of this chapter and may be amended in the same manner as any other part of this chapter.

Article V Supplementary Regulations for Residential Uses

§ 205-10 Provisions subject to regulations.

The provisions of this chapter regulating residential uses shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations:

§ 205-11 Accessory buildings.

- A. Location. An accessory building may be located in any required side or rear yard, provided that:
 - (1) Such building or garage shall not exceed 22 feet from the finished floor to its ridge. [Amended 6-3-2004 by L.L. No. 3-2004]
 - (2) Such building or garage shall be set back 20 feet from any lot line and, if separated, shall not be located less than 10 feet from the principal building. However, in those cases where the edge of a lake forms a side yard lot line or rear yard lot line, accessory buildings located in such yards need not conform to the required five-foot setback. [Amended 12-11-1996 by L.L. No. 5-1996]
 - (3) All such buildings or garages in the aggregate shall not occupy more than 30% of the area of the required rear or side yard.
 - (4) The footprint of the accessory building shall occupy an area not to exceed 1,500 square feet, but in no event shall the accessory building be larger than the footprint of the principal building. The sum total area of all accessory buildings on a lot shall not exceed the area requirements established in this chapter. [Added 12-21-2017 by L.L. No. 6-2017]
- B. Pairing. Accessory buildings constructed at the same time may be located in pairs or groups in the required rear or side yard along the common side lot line or rear lot line of contiguous lots.
- C. Front yard. [Amended 12-21-2017 by L.L. No. 6-2017]
 - (1) No accessory building shall project nearer to the street on which the principal building fronts than such principal building. Should topographic conditions be such that practical difficulties would be caused by this requirement with respect to the location of garages, the Board of Appeals may authorize the erection of such garages within not less than 10 feet of the lot line where that natural slope of ground within 25 feet of such line is

between 12% and 20% and within not less than five feet of the lot line where such slope within 25 feet of such line exceeds 20%.

- (2) Corner lots. Wherever a side or rear yard is adjacent to a street, the front yard setback shall apply to such side or rear yard. Corner lots shall be deemed to have two front yards, one side yard, and one rear yard.
- D. Temporary sales office. For each subdivision receiving final plat approval by the Planning Board, there may be located a temporary office restricted to the sales of the dwellings within said approved subdivision plat. Said office may be situated within a model home or within a separate temporary office meeting the bulk regulations specified for the dwelling in said subdivision. Said office shall be permitted only during the period of active sales, but in no case longer than one year following the date of final plat approval. The Planning Board may extend this period up to one additional year whenever it deem that the circumstances warrant such extension.
- E. Storage trailers, pods, travel trailers, camping trailers, mobile homes, school buses, or buses of any other type, with or without a chassis, shall not be used for purposes of accessory structures.[Added 4-5-2012 by L.L. No. 2-2012; amended 12-21-2017 by L.L. No. 6-2017]
- F. Storage trailers may be used as agricultural structures, provided that they are used in the storage of products directly manufactured by the ongoing agricultural operation.[Added 4-5-2012 by L.L. No. 2-2012]
- G. A building used for storage on a residential lot shall not be built prior to the construction of the principal structure.

[Added 12-21-2017 by L.L. No. 6-2017]

§ 205-12 Clear-sight triangle.

At all street intersections in all residential areas no obstructions to vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.

§ 205-13 Bulk exception for fences and walls; projections.

- A. Fences or walls placed in rear and side yard areas, as defined in this chapter, shall not exceed six feet in height. Fences or walls placed in front yard areas, as defined in this chapter, shall not exceed four feet in height, except as set forth in § 205-12. [Amended 4-4-2019 by L.L. No. 1-2019]
- B. Paved terraces, steps and walks (other than such as are needed for access to the buildings on the lot) shall not project within five feet of a street line or four feet of a property line.

§ 205-14 Previously filed plats.

Lots shown on a subdivision plat, filed with the County prior to the approval of plats by the Town Planning Board, may be used for one-family dwellings, provided that:

- A. Said plat shall be submitted to the Town Planning Board for re-subdivision approval in accord with Chapter 181, Subdivision of Land.
- B. At the time said plat is reviewed by the Planning Board it shall contain within its boundaries at least 10 dwellings, each having a lot area of less than 15,000 square feet, or said plat shall be

adjacent to a built-up area containing, within 500 feet, 10 dwellings, each having a lot area of less than 15,000 square feet.

- C. Each lot in said plat shall comply with the following conditions to all other applicable requirements:
 - (1) The minimum lot area shall be 12,500 square feet.
 - (2) The minimum lot width shall be 90 feet, the minimum lot depth shall be 110 feet.
 - (3) The minimum front and rear yards shall be 30 feet, the minimum side yard shall be 20 feet.
 - (4) The minimum livable floor area shall be 600 feet.
 - (5) There shall be a minimum of two off-street parking spaces per dwelling unit.
 - (6) The maximum coverage shall be 35%, maximum height shall be 2 1/2 stories or 35 feet.

§ 205-15 Cluster developments; conservation subdivisions.

[Amended 5-17-007 by L.L. No. 2-2007[1]]

- A. Purposes. The purpose of conservation subdivision is to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands.
- B. Applicability; location.
 - (1) Conservation subdivisions are applicable in all zoning districts of the Town.
 - (2) An applicant for subdivision approval may propose or the Planning Board, in its discretion, may require the submission of a conservation subdivision plat where the Planning Board finds that a conservation subdivision is appropriate. The Planning Board may require a conservation subdivision only on subdivision applications that propose more than five lots. The parcel to be subdivided must consist of at least 30 acres.
 - (3) In order for the Planning Board to require a conservation subdivision without the applicant's consent, the Planning Board must find that a conservation subdivision is appropriate for the particular parcel of land in question and its location based upon the following criteria:
 - a) The purpose for conservation subdivisions as set forth in Subsection A above will be furthered;
 - b) The open space to be preserved via a conservation subdivision will not be as effectively preserved by any other method;
 - c) The open space to be preserved via a conservation subdivision is of value to the community and will preserve or enhance the rural character of the Town;
 - d) The site features and constraints will allow for a feasible clustered or conservation lot layout; and
 - e) The soils and water supply are sufficient to service each lot in the conservation subdivision lot layout.
- C. Density standards.
 - (1) Overall density. The maximum number of lots permissible in a conservation subdivision shall in no case exceed the maximum number of lots permissible in a conventional subdivision for the same parcel of land if the parcel was subdivided via a conventional subdivision where the lots conform to the minimum lot size, density, and other

requirements otherwise applicable to the district or districts in which such parcel of land is located.

- (2) Density calculation. The applicant shall submit a sketch plan for a conventional subdivision conforming to the minimum lot size, requirements and standards otherwise applicable to the district or districts in which the subdivision is located in order to establish the number of dwelling units permitted in a conservation subdivision. Said sketch plan must show that each lot meets the minimum lot size and area requirements for the zoning district in which it is located and that each lot shown can be developed as a viable single-family residential lot. Except as specified herein, all development standards and controls normally applicable to conventional subdivisions shall also be applicable to conservation subdivisions. Thus, areas of land needed for roads and infrastructure as well as site constraints that limit the number of lots in a conventional subdivision shall be taken into account in determining the number of lots allowable in a Conservation Subdivision. The area of lands which may be required for parks, playgrounds or recreation areas in a Conservation Subdivision, if any, or a fee in lieu of such parks, playground or recreation areas, shall in no case exceed the area of such lands that may be required in a conventional subdivision. However, the area of lands which would be required in a conventional subdivision for parks, playgrounds or recreation lands pursuant to the Town's Subdivision Regulations shall be excluded in determining the number of lots permitted in a Conservation Subdivision.

[2] Editor's Note: See Ch. 181, Subdivision of land.

- (3) The maximum number of single-family lots that may be approved in a cluster development shall be computed by subtracting the areas of all lands which are defined as follows from the gross area and then dividing the resultant developable land area by the allowable lot area as defined in this section. Areas to be subtracted from the gross area are:
- (a) All areas with slopes of 15% and greater.
 - (b) All wetland areas as designated by the N.Y.S. Department of Environmental Conservation, those for which a positive jurisdictional determination is or would be received from the U.S. Army Corp of Engineers as well as areas identified by the Planning Board (via consultants) to be a continuously wet area unsuitable for development or areas subject to flooding as identified by regulatory agencies.
 - (c) All areas which will be required for stormwater management facilities, including conveyances, storage, treatment, discharge and disposal facilities.
 - (d) All areas that are indicated to be comprised of soils deemed unsatisfactory for subsurface sanitary sewer development as delineated in the Soil Survey of Orange County, New York, year of latest revision.
 - (e) In the event that the total in Subsection C(3)(a) through (d) above does not equal 20% of the gross area or greater, an area of 20% of the gross area shall be subtracted for purposes of determining the maximum number of lots which may be created.

D. Development standards.

(1) Lot sizes and layout. The intent of this section is to allow flexibility of design that allows for enhancement of rural character and conservation of open space. Lots should vary in size and shape and should utilize existing land features in configuration of the lots.

(a) Minimum lot size. The minimum lot size allowed in a conservation subdivision shall be no less than one acre.

E. Open space requirements.

(1) Amount of open space required. The size of the open space shall be determined on a case-by-case basis with the final determination to be made by the Planning Board in its discretion upon review of the subdivision application. The portion of the subdivision tract to be set aside for open space conservation shall be of such minimum dimensions and size as to be functional for its intended purpose, taking into consideration environmental, density and other site-specific factors. Fifty percent of the parcel shall be preserved as open space, if practical.

(2) Location. Open space areas shall be convenient to the dwelling units they are intended to serve and shall be sited with sensitivity to surrounding land features and development. Open space areas shall be integrated wherever possible into a connected open space system within the development as well as outside the development. Open space areas should form a contiguous system with other open space areas in the vicinity of the subdivision development to the maximum extent practicable.

(3) Use of open space areas. Open space areas may include features and improvements for active and/or passive recreation, provided that such features do not materially detract from the purpose for preservation of the open space. As a general principle, open space areas should be left in their natural state. Accepted conservation management techniques may be employed to maintain its natural state and allow for passive recreational opportunities such as, but not limited to, hiking trails, cross-country skiing or snowshoeing trails, picnic areas, etc. Where appropriate, active recreational facilities may be included in the open space areas. In addition, farming activities are allowed to continue on open space areas pursuant to an agricultural easement or other suitable arrangements. Where active agricultural lands are set aside in a Conservation Subdivision, such lands may remain in active agricultural use.

(4) Deed restrictions. Any lands set aside for open space purposes shall contain appropriate easement, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town Attorney, ensuring that:

(a) The open space area or areas will not be further subdivided or developed in the future;

(b) The designation of the open space will continue in perpetuity for the purposes specified;

(c) Appropriate provisions are made for the continual maintenance management and use of the open space with the purpose in preserving the open space;

(d) The delegation of authority for management of the open space area is appropriately placed in the owner or owners of the open space area;

(e) The open space area will not be able to be converted or used for a for-profit commercial enterprise except for agricultural uses;

- (f) The easements, deed covenants, conditions and restrictions shall be recorded against the parcel with reference to such recording made in each deed of conveyance of each lot and shall be enforceable by the Town.
- (5) Open space ownership. The type of ownership of the land set aside for open space shall be selected by the applicant subject to the approval of the Planning Board. An acceptable type of ownership may include, but is not necessarily limited to, the following:
- (a) Land preservation or conservation organizations or trusts;
 - (b) Public agencies or governmental bodies;
 - (c) The Town, subject to acceptance by the Town Board;
 - (d) The owner or owners of an individual lot or lots in the subdivision;
 - (e) Homeowners' associations with the following requirements:
 - [1] The homeowners' association must be established prior to the conveyance of any lot or parcel within the proposed subdivision;
 - [2] Membership must be mandatory for each lot owner, and each lot owner must have an equal voting right within the association;
 - [3] The association's organizational documents must be submitted to and approved by the Planning Board and/or its attorney, as part of the subdivision approval process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations;
 - [4] An estimate of the association's annual budget must take into account insurance, property taxes, and maintenance of the open space areas as well as other shared common areas or facilities such as access roads and recreational areas;
 - [5] The association must be able to adjust the homeowners' fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments;
 - [6] The association cannot be dissolved without a vote of the association's membership and without the conveyance of the open space and common facilities to an entity acceptable by the Planning Board; and
 - [7] The deed conveying title to each individual lot in the subdivision must include reference to the fact that the conveyance is subject to and includes membership in a homeowners' association pursuant to deed covenants either set forth in each deed or recorded against the entire subdivision. Both grantors and grantees should sign deeds of conveyance to ensure purchasers or grantees are aware of the homeowners' association requirements, obligations and fees, if any.
- (6) Process in determining design. In order to effectively create a conservation subdivision, the applicant, in consultation with the Planning Board should:
- (a) Identify the area or areas of the parcel to be subdivided which are to be conserved as open space and the area or areas which are to be utilized for development;
 - (b) Locate the house sites;

- (c) Align streets, trails and infrastructure; and
 - (d) Draw in lot lines.
- (7) Exception to or waiver of requirements or standards. The Planning Board may permit minor deviations to, or waive, certain open space requirements or standards when it determines that:
- (a) The objectives underlying the open space standards and requirements can still be met with such deviations or waivers; and/or
 - (b) Because of peculiarities in the tract of land proposed for subdivision or the development proposed, it would be unreasonable to require strict adherence to such requirements or standards.
- (8) The setting aside of open space, forested land, or active agricultural land in a conservation subdivision shall in no case preclude the Planning Board from requiring the dedication of an area or areas for parks, playgrounds or recreation lands within the subdivision pursuant to the Town of Greenville Subdivision Regulations or other provisions of the Town Code.
- F. Procedure. Notwithstanding any requirements established in this section, the proposed plat of a conservation subdivision shall be subject to the application procedures established in the Town of Greenville Subdivision Regulations and shall be subject to public review at the public hearing or hearings held pursuant to those regulations.
- G. Provision of water and sewer or septic systems. Central water and sewer systems are encouraged for conservation subdivisions.
- H. Applicability. This section shall apply to all new and/or pending subdivision applications which have not received a preliminary plat approval prior to the effective date of this law.

[1] Editor's Note: See also Ch. 181, Subdivision of Land, Art. IV, Cluster Developments.

§ 205-16 Uniformity of design.

In order to avoid monotony of architectural design, no building permit shall be issued for the erection of a home located within an approved subdivision plat if it is substantially like any neighboring building which is existing or for which a building permit has been issued or is being concurrently considered.

- A. A building shall be considered neighboring if it fronts on the same street as the building being considered and which is the first or second house along the street in either direction or which faces or is adjacent to the building that faces the building site being considered from across the street.
- B. In considering those items listed in Subsection C below, a building shall be considered substantially alike in any dimension for which they differ by less than two feet, except 20 feet for setback difference, in relative location of elements, and end-to-end or side-by-side reversal of elements shall be deemed to be alike in related location of such elements.
- C. Buildings shall be considered substantially alike unless they differ in at least three of the following respects or dimensions:
 - (1) Set back from street.
 - (2) Relation of a garage visible from the street to the principal building.
 - (3) Gables extended from the main roof visible from the street.

- (4) A major difference in facing or finishing for the front elevation, such as brick, stone, cedar shakes, aluminum siding, etc.
- (5) The addition of dormer windows all visible from the street.

Article VI Supplementary Regulations for Nonresidential Uses

§ 205-17 Provisions subject to regulations.

The provisions of this chapter regulating nonresidential uses shall be subject to such exceptions or modifications as herein provided by the following supplementary regulations.

§ 205-18 Courts.

- A. Inner court. No inner court shall have a minimum dimension less than 1/2 of the average height of all surrounding walls.
- B. Outer courts. The minimum width of outer courts shall be 20 feet, and its shall not exceed its width.

§ 205-19 Garage entrances.

No public or private garage for more than five motor vehicles shall have an entrance or exit for motor vehicles within 50 feet of a residential district.

§ 205-20 Business entrance on residential streets.

Where a residential district is bounded by a portion of a business district, any side street extending through such residential district into such business district shall not be used for any business purpose, except as herein set forth. The business structure erected in said business district shall face and open upon the street set aside for business purposes, except that show windows in such business structure may be built and exposed upon said side street within the area set aside as a part of such business district, and an entrance may be made at the corner of such business and residential streets, and all other entrances thereto must face on the business street, except that entrances may be made from such residential street to the upper stories of such business structure.

Article VII Supplementary Regulations for All Uses

§ 205-21 Provisions subject to regulations.

The provisions of this chapter regulating all uses shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

§ 205-22 Rights-of-way not part of lot.

In calculating the required lot area, lot width, depth or yards, rights-of-way shown on the Official Map, if any, shall not be considered as part of the required area.

§ 205-23 Signs.

- A. Effect. No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except as expressly permitted in this chapter. Review of signing is part of site plan review.
- B. Rural Residential and Conservation Districts

- (1) One indirectly illuminated name plate or professional sign with an area not to exceed two square feet.
- (2) One temporary nonilluminated sign per frontage road advertising the sale or rental of the premises on which such sign is located with an area not to exceed four square feet.
- (3) One directly illuminated identification sign or bulletin board for school, churches, and other public and semipublic institutions with an area not to exceed 32 square feet and located not closer than 15 feet to any street line.
- (4) One nonilluminated sign advertising the sale of agricultural products grown on premises shall be permitted, provided:
 - (a) The area of the sign shall not exceed 12 square feet.
 - (b) Such sign shall be removed one month following the end of the growing season.

C. CMU District

- (1) Nonflashing business signs related to an establishment located on the same lot, provided:
 - (a) Illumination shall be diffused or indirect and shall be arranged so as to not reflect direct rays of light into adjacent residential districts or the public way.
 - (b) The number of square feet of the gross surface area of all signs on a lot shall not exceed two times the number of lineal feet in the frontage of the lot. Each side of a building which abuts upon more than one street shall be considered as separate frontage.
 - (c) No sign shall project more than 18 inches from the wall to which it is applied.
 - (d) There may be not more than one freestanding sign, located not less than 40 feet from the public right-of-way, fronting each abutting street.
- (2) One directly illuminated identification sign or bulletin board for school, churches, and other public and semipublic institutions with an area not to exceed 32 square feet and located not closer than 15 feet to any street line.
- (3) Temporary seasonal holiday lighting, political or election posters, or special event signs are permitted and not otherwise regulated, provided that they are:
 - (a) Not erected in such a way as to become a hazard; and
 - (b) Removed within two weeks after the date of said election or special event.
- (4) One nonilluminated sign advertising the sale of agricultural products grown on premises shall be permitted, provided:
 - (a) The area of the sign shall not exceed 12 square feet.
 - (b) Such sign shall be removed one month following the end of the growing season.

D. Prohibition. The following types of signs or artificial lighting are prohibited:

- (1) Billboards.
- (2) Flashing signs, including any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (3) Signs which project over a public street.
- (4) Signs which compete for attention with or may be mistaken for a traffic signal.
- (5) The outlining by direct illumination of all or any part of a building, such as a gable, roof, side, wall or corner.
- (6) Rotating signs, including all signs and devices which are not permanent in their orientation.

- E. Temporary real estate signs. Temporary real estate signs are permitted for each subdivision receiving preliminary plat approval by the Town Board.
- (1) One such sign may be located on each existing Town, County, state highway or street on which the subdivision fronts. Said sign(s) shall be permitted only during the period of active sales, and in no case longer than one year from the date of preliminary approval. The Planning Board may extend this period up to one additional year whenever it deems that the circumstances warrant such extension.
 - (2) Each such sign shall not exceed 10 feet in height (measured from the ground level to the top of the sign) and shall not be located nearer than 10 feet to any street or lot line or any building (unless attached directly to the building). The total area of each sign shall not exceed 20 square feet.
 - (3) For the purpose of selling land or buildings for which subdivision approval is not required, one sign may be permitted on the subject lot, such sign not to exceed four square feet. Said sign shall be removed promptly upon the conclusion of the sale.

§ 205-24 Off-street parking; storage of vehicles.

- A. Permitted accessory use. Off-street parking spaces, open or enclosed, are permitted accessory to any use, subject to the provision of this section.
- B. Schedule of requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any lot as specified in the schedule of requirements in Subsection L below for each use in any district. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these regulations.
- C. Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than on a corner lot as provided in § 205-12.
- D. Size of space. Three hundred square feet shall be considered one parking space (to provide room for standing area and aisles for maneuvering). Entrance and exit roadways shall not be computed as parking space except for one-family and two-family residences as in Subsection C above. The minimum stall width shall be 10 feet, and the minimum length shall be 20 feet.
- E. Access. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with fewer than 20 spaces, and at least two ten-foot lanes for parking areas with 20 spaces or more.
- F. Drainage and surfacing. All open parking areas shall be properly drained, and all such areas of over 10 spaces shall be provided with a suitable surface as specified by the Town Engineer, except for parking accessory to a one-family or two-family residence.
- G. Landscaping. In parking lots of one acre or more, at least 5% of the area of parking lot shall be devoted to landscaping within the interior of the parking area. In all parking lots providing eight or more off-street parking spaces, one shade tree shall be planted for each eight parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers, islands or such other locations as may be determined by the Planning Board.
- H. Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments, whether or not located on the same lot, provided

that the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

I. Screening from residential uses.

- (1) Whenever a parking lot of five stalls or more abuts the side or rear lot line of a lot in a residence district, or any lot in residential use, said parking lot shall be screened from such adjoining lot by a substantial wall or fence or thick hedge with a height of not less than three feet at the time of planting and pruned to a height of not less than 6 1/2 feet.
- (2) Wherever a parking lot is located across the street from land in any residence district or any land in residential use, it shall be screened from the view of such land by a thick hedge located along a line drawn parallel to the street and a distance of five feet therefrom, such hedge to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street.
- (3) Identification and directional signs indicated on the street side, if such screening as provided in Subsection I(2), shall not exceed an area of three square feet each and shall be limited to such as are essential for the particular use.

J. Trailers (camping or travel), motor homes and boats.

- (1) The storage, parking or use of camping or travel trailers is hereby prohibited in all districts except that:
 - (a) One camping or travel trailer may be stored, but not used for any purpose on an occupied lot (or an adjacent unoccupied lot, if both lots are under common ownership).
 - (b) Said camping or travel trailer shall not exceed 38 feet in length.
 - (c) Said camping or travel trailer shall not be located between the street line and the principal building and shall conform to side and rear yard requirements governing accessory uses.
 - (d) For the purpose of these regulations, motor homes shall be considered as travel trailers.
 - (e) No commercial vehicles in excess of 18,000 pounds gross vehicle weight (GVW) owned or operated by a resident shall be located in Conservation or Rural Residential Zones. [Amended 12-11-1996 by L.L. No. 5-1996]
- (2) Not more than one boat may be stored in the open on an occupied lot (or on an adjacent unoccupied lot, if both lots are under common ownership) in a residential area, provided that such boat is not stored between the street line and the principal building, and that such boat shall conform to side and rear yard requirements governing accessory use.

K. Driveways. No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited in the district in which such driveway is located.

L. Schedule of requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any lot as specified below for each use in any district. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of those regulations:

Use	Minimum Parking Spaces Required
Places of worship, libraries, annual membership clubs, lodges and other public buildings	1 for each 200 square feet of floor area, but not less than 1 space for each 5 seats where provided
Golf courses and other country clubs	1 for each 2 members or accommodations (such as lockers), whichever is greater
Hospitals, sanitarium, philanthropic or eleemosynary institutions	2 for 3 beds
Boardinghouses	1 for each guest room
Eating and drinking	1 for 50 square feet of area available to patrons
Funeral homes	1 for every 2 employees, plus 3 persons accommodated at capacity
Hotels, motels, residential resorts	1 for each guest room plus 1 per 2 employees on site at any 1 time
Bowling alleys	4 for each alley
Home occupation or accessory professional office, except physicians and dentists	1 per 100 square feet of floor area devoted to use
Professional office of physicians and dentists	5 for each physician or dentist
All other residences	2 per dwelling unit
Light industry, research laboratory, office building or warehouses	1 for every 400 square feet of floor area or 1 1/2 employees (whichever is greater)
Travel trailer camp	1 per trailer space
Nursery school	1 for 10 students plus 1 per staff member
Golf driving range	1 per golf driving tee
Retail stores; produce stands	1 per 150 square feet of retail floor space
Auditorium, convention hall, gymnasium, theater, studio or other place public assembly not otherwise classified	1 for each 3 seats or 40 square feet of seating floor area where fixed seating is not provided
School, elementary	1 for each 1/2 classroom, plus one space for each 5 seats in any auditorium or other place of assembly
School, secondary	1 for each 1/4 classroom, plus one space for each 5 seats in any auditorium or other place of assembly

M. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed above shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each use.

§ 205-25 Off-street loading berths.

A. Permitted accessory use. Off-street loading berths, open or enclosed, are permitted accessory to any use, except residences for one or two families. However, no off-street loading berth shall be located in a front yard.

- B. Uses for which required. Accessory open or enclosed off-street loading berths shall be provided for any lot or any other use specified in the Use and Bulk Tables.[1] Any land which is developed as a unit under a single ownership and control shall be considered a single lot for the purposes of such requirements.

[1] Editor's Note: The Use and Bulk Tables are included at the end of this chapter.

- C. Size, location and access. Each required loading berth shall be at least 12 feet wide, 33 feet long (48 feet long for industrial purposes) and 14 feet high. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. A berth may be located either within a building or in the open, but not within required yards. If such berths are not enclosed they shall be located not fewer than 300 feet from any residential use and effectively screened therefrom as in the case of parking areas (§ 205-24I). All permitted or required loading berths shall be on the same lot as the use to which they are necessary, except as provided in Subsection D below.
- D. Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be less than the total required for all such requirements.
- E. Uses for which required. Accessory off-street loading berths shall be provided for any use specified below. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these loading requirements. The following spaces shall be required:
- (1) For a public library, museum, art gallery or similar quasi-public institution or governmental building, community center, hospital or sanitarium, nursing or convalescent home, institution for children or the aged or school, with floor area of 10,000 square feet: one berth; for each additional 25,000 square feet or fraction thereof: one additional berth.
 - (2) For buildings with professional, governmental or business offices or laboratory establishments, with a first floor of 10,000 to 25,000 square feet: one berth; for each additional 25,000 square feet or fraction thereof, up to 100,000 square feet: one additional berth; and for each additional 50,000 square feet or fraction thereof: one additional berth.
 - (3) For buildings with offices and retail sales and service establishments: one berth for 8,000 to 25,000 square feet of floor area; and one additional berth for each additional 25,000 square feet of floor area or fraction thereof.
 - (4) For undertakers: one berth for each chapel. (Such berths shall be at least 10 feet wide, 20 feet long and 7 1/2 feet high).
 - (5) For manufacturing, wholesale and storage uses, and for dry-cleaning and rug cleaning establishments and laundries: one berth for 5,000 to 10,000 square feet of floor area in each use; and one additional berth for each additional 20,000 square feet of floor area or fraction thereof.
 - (6) For component uses within an industrial park: for buildings with floor area of 10,000 to 25,000 square feet: one berth; for each additional 25,000 square feet or major fraction thereof up to 100,000 square feet: one berth; and for each additional 50,000 square feet or major fraction thereof above 100,000 square feet: one berth.

§ 205-26 Parking and loading access near street corners.

No entrance or exit for any accessory off-street parking area with over 10 parking spaces nor any loading berth shall be located within 50 feet of the intersection of any two streets.

§ 205-27 Required parking and loading for lots in more than one district.

When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces or loading berths shall apply to all of the lot. Parking spaces or loading berths on such a lot may be located without regard to district lines, provided that no such parking spaces or loading berths shall be located in any residential area, unless the use to which they are accessory is permitted in such district.

§ 205-28 Keeping of domestic animals.

[Added 12-11-1996 by L.L. No. 5-1996]

No owner or lessee shall permit any dog, cat or domestic animal as defined in § 108, Subdivision 7, of the Agriculture and Markets Law to be kept on any parcel of land upon which there is a vacant dwelling unit, garage, barn or shed, unless there is also an inhabited dwelling unit on such parcel.

§ 205-29 Commercial purposes.

[Amended 4-19-2018 by L.L. No. 4-2018; 9-5-2019 by L.L. No. 2-2019]

The regrading, dumping of suitable fill, removal or excavation of topsoil or other natural materials for commercial purposes shall be deemed, for the purpose of this chapter, to be the regrading, dumping of suitable fill, removal or excavation of topsoil or other natural materials other than the uses permitted under § 79-25 of the Town Code of the Town of Greenville. No commercial excavation shall be permitted until it has been found by the Planning Board that such excavation or other operation accessory thereto will not be detrimental to the appropriate and orderly development of any district in which it is situated nor impair the value thereto, and such excavation or accessory operation shall be permitted only after approval by the Planning Board.

§ 205-30 Commercial excavation standards.

- A. Buffering. No excavation for commercial purposes (as defined herein) shall be closer than 50 feet to any street line or other property line.
- B. Lateral support. The proposed operation shall not adversely affect the lateral support of abutting land and other properties. The slope of material in any excavation, excepting rock quarries, shall not exceed the normal angle of repose or 45°, whichever is less. The final slope of any excavated materials shall not exceed the normal angle of repose of such material, except where a suitable retaining wall, as shown on approved plans, is built to provide lateral support.
- C. Processing of excavated materials. No rock crusher or similar apparatus or equipment, used for the processing of excavated materials, shall be operated within 1,000 feet of the boundaries of a site located in any residential area nor within 200 feet of any street or property line of a site located in any nonresidential area.
- D. Truck access drives. Truck access drives to the excavation site shall be located so as to minimize the danger to traffic and nuisance to surrounding properties. In order to prevent dust, such drives within 500 feet of any lot line or excavation operation shall be kept wet, oiled, treated with chemical dust deterrents or paved.

- E. Fences or barricades. Fences or barricades shall be erected to protect pedestrians and vehicles. Where any open excavation will have a depth of 10 feet or more and a slope of more than 30°, there shall be a substantial fence, as approved by the Planning Board, with suitable gates where necessary, effectively blocking access to the area in which such excavation is located. Such fence shall be located 50 feet or more from the edge of the excavation. All operations shall be screened from nearby residential uses, as may be required by the Planning Board.
- F. Interference or endangerment. No excavation shall be permitted which would interfere with public utility systems or which would create or aggravate any condition detrimental to the public health and safety.
- G. Natural drainage. No excavation shall be permitted which would interfere with the natural drainage of the general area surrounding the excavation site. All existing watercourses shall be preserved, except that such watercourses may be relocated in accordance with the approved plans, provided that satisfactory provisions are made for the maintenance of the flow. Any lakes or ponds that are created shall have sufficient depth and inflow of water to prevent their becoming stagnant in dry periods.
- H. Refilling. All pits, quarries, holes or any other excavated areas shall be refilled with clean fill containing no garbage refuse or harmful matter to the natural grade of the property. The Planning Board may specifically waive the provisions of this subsection for excavations made into the side of a hill, provided that it shall find that refilling is not necessary to satisfy all the provisions of this section.
- I. Storage piles of materials. Storage piles of materials, including waste materials, shall be located only at approved places and in no case any closer to property lines than is permitted for excavations. After completion of excavation operations, waste materials shall be used in filling all open pits, quarries, etc. Piles of excess waste materials shall be leveled.
- J. Soil erosion. Every precaution shall be taken to prevent soil erosion by water or wind during operations. After any such operations, the site shall be made reusable for a use permitted in the district. Where topsoil is removed, sufficient arable soil shall be set aside for retention on the premises and shall be re-spread over the premises after the operation. The area shall be brought to final grade by a layer of earth of two feet or original thickness, whichever is less, capable of supporting vegetation. Upon completion of replacement of topsoil, it shall be harrowed or raked to establish a seed bed and shall be seeded with grass, permanent pasture mixture or other approved fast-growing vegetation and repeated as necessary until the area is established.
- K. Hours of operation. No excavating operations or processing of excavated materials shall take place between the hours of 7:00 p.m. and 7:00 a.m., nor at any time on legal holidays.
- L. Accessory uses. Excavated materials from one property shall not be processed on another property.
- M. Soil fertility. The proposed operations shall not adversely affect soil fertility.
- N. Administration and enforcement.
 - (1) Application and fee. This section of this chapter is to be enforced by the Building Inspector. On all applications for a permit, the office of the Building Inspector shall charge and collect for a commercial excavation a fee as set from time to time by resolution of the Town Board in Chapter A212, Fees. Any fees beyond the base fee may be waived depending on the extent and complexity of the operation.

[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

- (2) Coverage. The provisions of this chapter shall be made applicable to all excavations or excavated areas which are being worked at the time this chapter shall become effective. No excavation shall be continued or extended in area after the effective date of this chapter without first securing a permit therefor.
- (3) Other jurisdictions. The foregoing provisions providing for the enforcement of the regulations in this chapter contained are not exclusive but are in addition to any and all other laws applicable thereof.
- (4) Inspection. Any person applying for an excavation permit or any person or persons authorizing or consenting to such application shall be deemed to have authorized the Building Inspector to go upon the premises at any reasonable time for the purpose of inspecting the same in order to determine that the provisions of this chapter are being or have been complied with.

§ 205-31 Commercial and noncommercial forest improvement operations.

- A. A permit shall be required for all commercial timber harvesting and for all noncommercial operations (as defined) on forest land in the Town of Greenville, New York.
- B. Commercial timber harvesting permit procedures. The Building Inspector shall receive the following information from the landowner before granting a permit for forest land improvement:
 - (1) Summary. A summary of cutting operations to include:
 - (a) The total land area involved in cutting operations.
 - (b) The number of trees of each species to be cut.
 - (c) The range in inches, of diameter, measured at the standard breast height (4 1/2 feet above the ground) of the trees to be cut.
 - (d) The total board foot volume for each species to be cut.
 - (e) The total volume to be removed from the cutting area.
 - (2) Map. A sketch map to show:
 - (a) The boundaries of property.
 - (b) Access roads into property.
 - (c) The area within the property where harvesting or improvement cutting will occur.
 - (d) The location of product loading areas.
 - (3) Statement. A statement from the landowner that each tree to be removed has been designated by a professional forester, with paint or other distinctive means, at two points so as to be readily visible by the buyer. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed. Trees being removed for other than saw timber need not be marked on the stump.
- C. Noncommercial forest stand improvement operations; thinning and culling. Thinning and cull removal are forestry operations in noncommercial stands of trees and are designed to provide more growing room for better trees. Involved is the removal of poor quality, low vigor, and injured, diseased or excessively crowded trees. The material involved is rarely usable, and the operation, therefore, is not one from which the landowner receives an income. However, the

benefits to the total environment, the forest, the wildlife habitat, the owner and the Town itself are such that people should be encouraged to undertake these activities.

- D. Commercial and noncommercial forest stand improvement standards.
 - (1) Conservation practices. The proposed operation shall not adversely affect drainage, possible growth of vegetation and the general appearance of the landscape; nor shall it contribute to soil erosion by water or wind.
 - (2) Adjacent property. Trees falling on adjacent properties as a result of an improvement operation shall immediately be returned to the permittee's property.
 - (3) Management practices. Loading areas shall be smoothed to remove all ruts and debris. Waste materials shall be buried or removed to a point out of sight of any Town road.
 - (4) Hours of operation. No harvesting, cutting or sawmill operations or removal of products shall take place between the hours of 7:00 p.m. to 7:00 a.m. nor at any time on legal holidays.
 - (5) Expiration and extension. The term of this permit shall be for one year. However, since forest stands improvement operations may be adversely affected or delayed by unusual circumstances of weather or other occurrences, an extension of one year shall be available on the recommendation of the Building Inspector upon request of the landowner.
 - (6) Standards.
 - (a) The Building Inspector shall recommend the following standards be invoked where necessary:
 - [1] Top lopping or removal of debris within 100 feet of any Town road or leaving an uncut screen along such roads.
 - [2] Construction of water bars and the seeding of logging skid roads to prevent or reduce erosion.
 - (b) To insure the compliance of the permittee to the standards of this chapter, a performance bond (in a suitable amount), may be required.
 - (7) Additional requisites. The Planning Board, with the advice of the Regional Forester on approved forestry practices, may make additional rules regarding the periods of operation, size of trees cut, incidental earth removal, access roads, reforestation and prevention of forest fires.

§ 205-32 Performance standards.

- A. No land or building in the Commercial Mixed-Use District shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness, electromagnetic or other disturbance; glare, liquid or solid refuse or wastes; or other substance, condition or element in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining premises (referred to herein as "dangerous or objectionable elements"), provided that any use permitted or not expressly prohibited by this chapter may be undertaken and maintained if it conforms to the regulations of this section limiting dangerous and objectionable elements at the point of the determination of their existence.
- B. Uses requiring performance standards procedure. Only manufacturing uses and uses necessary thereto shall be subject to performance standards procedure as specified in Subsection E below

in obtaining a zoning permit, unless the Building Inspector has reasonable grounds to believe that another proposed use is likely to violate performance standards, in which event the applicant shall comply with performance standards procedure.

- C. Enforcement provisions applicable to other uses. Even though compliance with the performance standards procedure in obtaining a building permit is not required for some particular uses, initial and continued compliance with the performance standards themselves is required of every use; the provisions for enforcement of continued compliance with performance standards shall be invoked by the Building Inspector against any use if there are reasonable grounds to believe that performance standards are being violated by such use.
- D. Performance standard regulations.
 - (1) Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste material in open fires is prohibited at any point. The relevant provision of state and local laws and regulations shall also apply.
 - (2) Radioactivity and electromagnetic disturbances. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line, or electromagnetic disturbances adversely affecting the operation at any point of the equipment, other than that of the creator of such disturbances.
 - (3) Noise.
 - (a) The maximum sound-pressure level radiated by any use or facility (other than transportation facilities) at the property line shall not exceed the values in the designated octave bands given in Table I, after applying the corrections shown in Table II, below. The sound-pressure level shall be measured with a sound-level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association. American Standard sound-level meters for measurement of noise and other sounds, z24, 3-1944, American Standard Specification for an octave-band filter set for the analysis of noise and other sounds, z24, 10-1953, American Standard Association, Inc., New York, New York shall be used.

TABLE I	
Octave Band Range in Cycles Per Second	Sound-Pressure Level in Decibels re 0.002 dyne/cm²
20 to 300	60
300 to 2,400	40
Above 2,400	30

- (b) If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table II shall be applied to the decibel levels given in Table I.

TABLE II	
Type or Location of Operation or Character of Noise	Correction in Decibels
Daytime operation only	5
Noise source operates less than:	
20% of any 1-hour period	5
5% of any 1-hour period	10
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech, etc.)	-5
Property is not within 500 feet of any residential area	5

- (4) Vibration. No vibration shall be permitted which is discernible without instruments at the property line.
- (5) Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Poer's Micro-Ringelmann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954, (being a direct facsimile reduction of the standard Ringelmann Chart as issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 2 on said Chart may be emitted for four minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of different color but with apparently equivalent opacity.
- (6) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, Odor Thresholds, in Chapter 5, Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists' Association, Inc., Washington, D.C., and said manual and/or table as subsequently amended.
- (7) Fly ash, dust, fumes, vapors, gases, other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property or which can cause any excessive soiling, at any point on the property of others, and in no event shall any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas be permitted. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500° F. and 50% excess air.
- (8) Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion or welding or otherwise, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this

chapter, nor to security lighting, lighting of a road system or parking lot lighting not otherwise prohibited.

- (9) Liquid or solid wastes. No discharge shall be permitted of any point into any public sewer, private sewage disposal system or stream or into the ground, except in accordance with standards approved by the County Department of Health or similarly empowered agency of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.
- E. Performance standards procedure. An application for a building permit or certificate of occupancy for a use subject to the performance standards procedure shall include a plan of the proposed construction and a description of the proposed machinery, operations and products and specifications for the mechanisms and techniques to be used in restricting the emission of any dangerous and objectionable elements listed under Subsection D above. The applicant shall also file with such plans and specifications an affidavit acknowledging his understanding of the applicable performance standards and stating his agreement to conform to the same at all times. No applicant will be required to reveal any secret processes, and any information submitted will be treated as confidential. Upon the satisfactory filing of the required plans, specifications and affidavit, the Building Inspector shall proceed to issue a building permit and certificate of occupancy in accordance with the procedures set forth in §§ 205-85 and 205-86.

§ 205-33 Mobile homes; temporary certificate of occupancy; fees.

- A. Except as provided herein and in the Use and Bulk Table,[1] the storage or use of mobile homes in the Town of Greenville is prohibited.
[1] Editor's Note: The Use and Bulk Tables are included at the end of this chapter.
- B. Use as temporary residence.
 - (1) Temporary certificate of occupancy. Where a building permit has been issued for the alteration or extension of a single-family residential building, the Building Inspector may issue a temporary certificate of occupancy for one mobile home for a period not to exceed six months. Said temporary certificate of occupancy may be extended for one additional period of six months if the Building Inspector finds that construction has been diligently pursued, and that justifiable circumstances require such an extension. Said mobile home may be occupied during the term of the temporary certificate of occupancy and must be situated upon the lot for which the building permit has been issued. Prior to the issuance of temporary certificate of occupancy by the Building Inspector and the location of said mobile home on the lot, the matter shall be subject to Planning Board approval. Said Board may attach to the approval whatever conditions it deems necessary to carry out the intent of this chapter.
 - (2) Fee. The fee for a temporary certificate of occupancy for a mobile home shall be set from time to time by resolution of the Town Board in Chapter A212, Fees. Cash in the amount of \$1,000 shall be deposited with the Town in an escrow account to assure removal of the mobile home upon expiration of the permit.
[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 205-34 Mobile home courts; permits; fees; development standards.

- A. Requirement. No person, firm or corporation shall own or operate a mobile home court without a permit, obtained as herein provided, and failure to have such a permit shall constitute a violation of this chapter.
- B. Authorization and approval of plans by the Planning Board. A mobile home court shall be allowed only upon authorization and approval of the plans by the Planning Board, and only in those zoning districts where such use is permitted.
- C. Nontransferability. Mobile home court permits shall not be transferable or assignable.
- D. Procedure. Application for a mobile home court permit shall be filed with the Building Inspector who shall submit the same to the Planning Board for appropriate action. After proper review under the terms of Article XII and Subsection G below, the Planning Board may grant authorization and approval of the plans. Following such authorization, the Building Inspector shall issue a permit for a mobile home court upon receipt of the required fee.
- E. Application. Application for a mobile home court permit shall be made in triplicate on forms to be provided by the Building Inspector, shall be signed by the applicant and shall state:
 - (1) The name and address of the applicant or applicants (if a partnership).
 - (2) The names and addresses of each officer and director (if a corporation).
 - (3) The interest of the applicant in the property (if not the owner of record).
 - (4) The name and address of the property owner.
- F. Site plan. Each application shall be accompanied by a site plan drawn to scale by a qualified engineer or land planner, said plan to include the following information:
 - (1) The location of the proposed mobile home court, showing the boundaries and measurements of the premises.
 - (2) The location and number of mobile homes to be situated therein.
 - (3) The means of egress and ingress to all public roads.
 - (4) Watercourses and drainage ditches.
 - (5) Internal roads and off-street parking facilities.
 - (6) Water supply and sewage disposal facilities.
 - (7) Location of fire extinguishers.
 - (8) The location, nature and extent of fences and screening.
 - (9) The location of outdoor lights, signs and other structures.
 - (10) The names and addresses of the owners of adjoining properties.
- G. Mobile home court development standards. Notwithstanding the applicable provisions of Town codes or other ordinances, each mobile home court shall comply with the following conditions:
 - (1) No mobile home court shall adjoin or be closer than 1,000 feet to any existing mobile home court.
 - (2) The site shall be well drained and have such grades and soil as to make it suitable for the purpose intended.
 - (3) Central sewage disposal and water supply systems shall have the approval of the Orange County Department of Health and/or similar municipal approval, whichever is the more restrictive, and each mobile home site shall be suitably connected to these systems.
 - (4) Garbage shall be collected once every day, and a waste collection station shall be provided for every 20 mobile home sites. No such collection station shall be farther than

300 feet from the site so served. Waste collection stations shall be emptied at least three times each week.

- (5) The outside burning of garbage, trash or rubbish is prohibited.
 - (6) A mobile home court shall have at least 100 feet frontage on an improved public (state or County) road. No individual mobile home lot shall have frontage or direct access to a public road.
 - (7) The mobile home court site shall be designed according to the provisions of § 205-15A, Cluster Developments, with all mobile home lots fronting on loop or cul-de-sac streets, with no more than 10 lots fronting on each non-through-traffic street.
 - (8) Access to a mobile home court and circulation within shall be by roads paved with tar and stone or blacktop (as approved by the Town Highway Superintendent), and shall be kept in good repair. Roadways shall be at least 30 feet wide. Two exits to each mobile home court shall be provided, at least 125 feet apart. The Planning Board shall require a bond for the construction of said roads.
 - (9) Of the two off-street parking spaces required for each mobile home site, one such space shall be adjacent to or within each mobile home lot; the second may be contained within one or more group parking areas.
 - (10) All means of ingress and egress, drives, lanes and public spaces shall be adequately lighted. Exits, entrances, drives and lanes shall have at least one shielded fifty-watt bulb for each 50 feet of drive.
 - (11) Each mobile home site without a basement shall be provided with a four-inch concrete slab at least 10 feet by 18 feet in size, placed on a stable surface, for the use as a terrace and so located as to be adjacent and parallel to the mobile home. The base of each mobile home shall be enclosed. Each mobile home lot shall contain an underground electrical outlet and weatherproof service connection to which the electrical system of the mobile home can be connected.
 - (12) All mobile home courts shall be screened from the view of adjacent properties and public streets by peripheral landscaping containing hedges, evergreens, shrubbery, fencing or other suitable screening as approved by the Planning Board and deemed appropriate for the purpose.
 - (13) All open portions of the site shall have adequate grading and drainage and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs or planted ground cover or by paving with asphaltic, concrete rock or by other suitable material as shall be approved by the Planning Board.
 - (14) Required front yard areas shall be planted and maintained in such a manner as to provide a parklike setting for all buildings.
- H. Inspection. The Building Inspector or any other duly authorized agent of the Town of Greenville shall have the right at any reasonable time to enter any mobile home court to inspect all parts of said premises and to inspect the records required to be kept in any mobile home court.
- I. Register. The operator of a mobile home court shall keep a register wherein there shall be noted the name and permanent address of the occupants of every mobile home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the mobile home or the person bringing the same into the court.

- J. Revocation of permit.
 - (1) If the Building Inspector or any other authorized agent of the Town of Greenville finds any mobile home court is not being conducted in accordance with the provisions of this chapter, such person shall serve an order, in writing, upon the holder of the mobile home court permit or the person in charge of said court, directing that the conditions therein specified be remedied within 10 days after the date of service of such order.
 - (2) If such conditions are not corrected by the close of said ten-day period, said conditions shall constitute a violation of this chapter.
- K. Fees.
 - (1) The applicant for a mobile home court permit shall at the time of issuance pay a fee set from time to time by the Town Board in Chapter A212, Fees, based upon the maximum number of proposed mobile home lots as approved by the Planning Board.
[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - (2) There shall be no apportionment of the fee for a permit of less than twelve-month duration.
- L. Renewal applications.
 - (1) Renewal applications shall be filed with the Building Inspector before the first day of December next preceding the expiration of the original permit.
 - (2) Prior to the issuance of a renewal permit, the Building Inspector shall inspect the mobile home court premises for compliance with these regulations. Any deviation from the application as originally approved by the Planning Board shall require a new application before the Planning Board and shall be in conformance with these regulations.
 - (3) Upon approval of the Building Inspector or Planning Board, as the case may be, and payment of the required annual fee, a renewal permit shall be issued.
 - (4) After issuance of the permit, the same shall be valid until the end of the calendar year and shall be renewable annually.
- M. Application to existing mobile home courts. This chapter (except for Subsections G(5), (8) and (12) and H of this section) shall not apply to mobile homes existing in mobile home courts on the effective date of this chapter, and such existing mobile homes shall be considered nonconforming uses. Any enlargement, extension or alteration of an existing mobile home court may be made only in compliance with all the terms of this chapter.

Article VIII Multiple Residences; Tourist Accommodations

§ 205-35 Applicability; construal of provisions.

- A. Scope. This article in this chapter shall apply to all boardinghouses, rooming houses and lodging houses, multifamily dwellings, group dwellings, mobile home courts, tourist accommodations, bed-and-breakfasts, and tourist homes, as defined, located within the Town of Greenville.
- B. Applicability. The provisions of this article in this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes or regulations, and nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this chapter and any applicable state

or local laws, ordinances, codes or regulations, the more restrictive or stringent provision or requirement shall prevail.

§ 205-36 Permit required.

All boardinghouses, rooming houses and lodging houses, multifamily dwellings, group dwellings, mobile home courts, tourist accommodations, bed-and-breakfasts, and tourist homes in the Town must have a permit issued by the Town Building Inspector.

§ 205-37 Application for permit.

- A. Application for a permit for a boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home shall be made, in writing, to the Town Building Inspector on a form provided by the Inspector for that purpose.
- B. Such application shall be filed in duplicate and shall contain:
 - (1) The name, address and telephone number, if any, of the owner of the boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home.
 - (2) The street address and Tax Map description (section, block, lot or lots) of the boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home.
 - (3) The number of dwelling units/rooms in the boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home, the dimensions of each dwelling unit/room, the number of persons intended to be accommodated by and to reside in each such dwelling unit/room and a description of the present use or uses thereof, if any.
 - (4) The name, address and telephone number of the managing agent or operator of each such boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home who is authorized to act on behalf of the owner, along with his or her phone number. The name and phone number of an on-premises person who can grant access to the building and its occupants shall also be furnished. The Town Building Inspector shall be notified within 10 working days of any change in this information.
 - (5) The name and address of the insurance company, if any, providing the fire and other hazard and public liability insurance for the owner of the boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home, with a description of the type of insurance provided, the policy limits for each coverage and the policy number and expiration date of such policy.
- C. Such application shall be signed by the owner of the boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home, and the statements of such owners therein contained shall be verified under oath.

§ 205-38 Fees.

A nonrefundable permit application fee set from time to time by the Town Board in Chapter A212, Fees, shall be paid upon filing an application for a permit. A nonrefundable permit renewal fee also set by the Town Board shall be paid upon filing an application for renewal.

§ 205-39 Review of permit application; registry; posting.

- A. Review. The Town Building Inspector shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, and bed-and-breakfast or tourist house. If satisfied that the proposed use and premises comply fully with all applicable laws, rules and regulations of the state, county and Town, including local laws and ordinances, and that such proposed use would not create an unsafe or dangerous condition or create an unsafe or substandard structure or create a nuisance to adjoining or nearby properties, the Town Building Inspector shall issue the permit or permits applied for.
- B. Registry. It shall be the duty of the Town Building Inspector to maintain a register of permits issued pursuant to this chapter. Such register shall be kept by street address, showing the name and address of the permittee, the number of dwelling units/rooms at such street address and the date of expiration of permit for such unit. Such registry shall be kept available for public inspection during regular business hours at the office of the Inspector.
- C. Posting. The permit containing the number of dwelling units/rooms and the names and addresses and phone numbers of the owner and premises manager shall be conspicuously posted at or near the principal entrance.

§ 205-40 Term of permit; renewal; enlargement.

- A. Term. All permits issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and may be renewed for additional one-year periods as provided in Subsection B of this section.
- B. Renewal.
 - (1) A renewal application must contain the same information required for the initial application by § 205-37, must be accompanied by the fee required under § 205-38 and must be submitted to the Town Building Inspector.
 - (2) A renewal permit shall be granted unless the Town Building Inspector finds there is a reasonable cause not to renew. The Inspector shall notify the applicant of there being reasonable cause not to renew. Within 10 days the applicant may request a hearing before the Zoning Board of Appeals. During this hearing process, the applicant will be issued a temporary permit which shall expire 60 days after the final determination from the Zoning Board of Appeals regarding the interpretation of the Building Inspector as to not renew said permit. [Amended 4-4-2019 by L.L. No. 1-2019]
 - (3) The aforesaid hearing shall be public, and the applicant may be represented by counsel and shall be able to call witnesses on his or her behalf. The Zoning Board of Appeals shall act as Hearing Officers and, in their discretion, may decide not to renew the permit if, upon substantial evidence, the Zoning Board of Appeals determines that the subject boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home is

either a nuisance to neighboring or adjoining properties or is not in compliance with all required state, county and Town laws, ordinances, rules and regulations. [Amended 4-4-2019 by L.L. No. 1-2019]

- C. Enlargement. Any enlargement of an existing boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home shall require a full review under this section.

§ 205-41 Inspections; search warrants.

- A. Inspections. The Town Building Inspector or his or her designee is authorized to make or cause to be made inspections, from time to time, to determine the condition of any boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home and to safeguard the health, safety and welfare of the public. The Town Building Inspector or his or her designee is authorized to enter, upon consent of the owner or occupant, any rental unit and the premises in which the same is located at any reasonable time. Unconsented entries and entries at unreasonable hours may be made upon warrant duly issued by a justice of the Town Court of the Town of Greenville. All applications and renewals shall be granted only after an inspection.
- B. Search warrants. The Town Building Inspector or his or her designee is authorized to make application to the Town Court of the Town of Greenville for the issuance of a search warrant to be executed by a Town constable, state trooper or other law enforcement officer where there exists reasonable justification for an inspection to be conducted pursuant to this chapter or where there is reasonable cause to believe that there has occurred or is occurring a violation of this chapter, of the Multiple Residence Law, of the New York State Uniform Fire Prevention and Building Code or of the Town of Greenville Zoning Law. The application for a search warrant shall, in all respects, comply with applicable laws of the State of New York.

§ 205-42 Notification of permit violations.

The Town Building Inspector shall notify a permit holder of reasonable cause to believe the permit has been violated in any of the following ways:

- A. The permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued for a period of 10 days or more after written notice has been given to the permit holder or the managing agent of such rental unit a violation of the Multiple Residence Law, the New York State Uniform Fire Prevention and Building Code or of the Town of Greenville Zoning Law.

§ 205-43 Unlawful acts.

- A. It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any person to:
 - (1) Operate a boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home without a permit.
 - (2) List, solicit, advertise or offer, exhibit or show to any person a dwelling unit/room in a boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast or tourist home located within the Town of Greenville for the purpose of bringing about the rental thereof

where no currently effective permit has been issued in respect of such dwelling unit/room as herein required. No violation of this section shall occur if the person is licensed by New York State as a real estate broker or real estate salesman and is acting solely in that capacity.

- (3) Accept a deposit of rent or security or a commission in connection with the rental of a rental unit in a boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home located within the Town of Greenville where no currently effective permit has been issued in respect of such rental unit as herein required. No violation of this section shall occur if the person is licensed by New York State as a real estate broker or real estate salesman and is acting only in that capacity.
 - (4) Sell a boardinghouse, rooming house, lodging house, multifamily dwelling, group dwelling, mobile home court, tourist accommodation, bed-and-breakfast, or tourist home which does not have a permit under this chapter.
- B. In the event that a person convicted of a violation of Subsection A(4) of this section shall have been a real estate broker or sales person licensed by the State of New York at the time such violation was committed, it shall be the duty of the Town Clerk to transmit a record of such conviction to the Division of Licensing Services of the Department of State and to make complaint thereto against such licensee on behalf of the Town pursuant to the provisions of Article XIA of the Real Property Law.

§ 205-44 Penalties for offenses.

A violation of any provision of this article of this chapter shall constitute an offense within the meaning of the Penal Law of the State of New York, punishable as provided for in this chapter. A fine of no less than \$250 and no greater than \$500 for a first offense and/or up to 15 days in jail shall be imposed upon conviction, and a fine of no less than \$500 and no greater than \$1,000 and/or up to 30 days in jail shall be imposed for conviction of a second or subsequent offense.

Article IX Solar Energy Facilities

§ 205-45 Purpose and findings.

Solar energy is an abundant and renewable energy resource and its conversion to electricity will reduce dependence on nonrenewable energy resources and decrease the greenhouse gas emissions that result from the use of conventional energy sources. The Town of Greenville is a rural and primarily residential community with an abundance of natural resources and scenic beauty. It is the purpose of this article to promote the efficient use of solar energy systems; set provisions for the sensible placement, design, construction and operation of such systems in such a way to be consistent with the Town of Greenville Comprehensive Plan; to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment or on the aesthetic qualities and character of the Town.

§ 205-46 Definitions.

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

BUILDING-INTEGRATED SOLAR PV SYSTEM

A solar PV system that is designed and constructed as an integral part of a principal or accessory building. Components of a building-integrated system are designed to replace or substitute for architectural or structural elements of a building and generally complement, blend with or form part of a building's architectural appearance. Such components will generally maintain a uniform plane with, and/or form a part of the walls, window openings, roofing and/or other building elements into which they are integrated. Such a system is used in lieu of a separate solar PV system where components of the system are designed and attached to a building independent of building architecture. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other facade material; within semitransparent skylight systems; within roofing systems, replacing traditional roofing materials; or within other building envelope systems.

BUILDING-MOUNTED SOLAR PV SYSTEM

A solar PV system that is attached to the roof of a building.

GLARE

The effect by reflections of light with an intensity sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GROUND-MOUNTED SOLAR PV SYSTEM

A solar PV system, including its specialized solar racking or other mounting system, which is installed on the ground and not attached to any other structure.

GROUND-MOUNTED SOLAR PV SYSTEM, SMALL-SCALE

A ground-mounted solar PV system that is limited to a system capacity of 12 kW and generates no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by the land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

GROUND-MOUNTED SOLAR PV SYSTEM, LARGE-SCALE

A ground-mounted solar PV system that has a system capacity greater than 12 kW or generates more than 110% of the kWh's of electricity consumed over the previous twelve-month period by the land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

KILOWATT (kW)

A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. 1.000 kW is equal to 1 megawatt (MW).

KILOWATT-HOUR (kWh)

A unit of energy equivalent to one kilowatt (1 kW) of power expended for one hour of time.

LOT COVERAGE

Notwithstanding the definition of "lot coverage" found elsewhere in this chapter, for the purpose of this article, "lot coverage" shall also include the area covered by a solar panel (or physically connected group of panels) as measured on a horizontal plane projected from the perimeter of said panel (or group of panels) vertically to the ground. For panels where the tilt angle is adjusted by week, month, season or other time period, lot coverage shall be determined by the tilt angle producing the greatest lot coverage.

NET METER

A meter used to measure the flow of electricity from the solar PV system to the electric utility grid for the purposes of net metering.

QUALIFIED SOLAR INSTALLER

A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP). shall be deemed to be qualified solar installers for purposes of this chapter.

REMOTE NET METERING

An arrangement with the electric utility that allows for the kilowatt hours (kWh) generated from a solar PV system located at a specific site to be credited towards kWh of consumption at a different location.

SOLAR ARRAY

Any number of electrically connected solar photovoltaic (PV) panels that are connected to the same inverter.

SOLAR PANEL

A large, flat piece of equipment containing photovoltaic cells that use the sun's light or heat to create electricity.

SOLAR PHOTOVOLTAIC (PV) SYSTEM

A solar energy collection system consisting of solar photovoltaic cells, panels and/or arrays and solar-related equipment which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation. A solar PV system may be building-mounted, ground-mounted or building-integrated .

§ 205-47 Facilities permitted by right.

- A. By-right solar PV systems. In order to encourage use of solar PV systems in the Town, the following systems shall be permitted by right in any zoning district in the Town, provided the system is generating a minimum of 80% of the electricity for the land use(s) located on the same lot as the system, and further provided that the system meets the standards for by-right systems identified in this section. By-right systems require a building permit.

- (1) Building-integrated solar PV systems. Building-integrated solar PV stems are permitted to face any rear, side and front yard area.
 - (2) Building-mounted solar PV systems. Building-mounted solar PV systems are permitted to face any rear, side and front yard area.
- B. Standards for by-right systems.
- (1) Accessory use. By-right solar PV systems shall be considered an accessory use.
 - (2) Maximum system size. By-right solar PV systems shall be limited to a system capacity of 12 kW and generate no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by the land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over such twelve-month period.
 - (3) By-right facilities shall comply with all applicable New York State Building Codes.
 - (4) Building-mounted solar PV systems.
 - (a) For a building-mounted system installed on a sloped roof:
 - [1] The highest point of the system shall not exceed the highest point of the roof to which it is attached.
 - [2] Solar panels shall be parallel to the roof surface or tilted with no more than an eighteen-inch gap between the module frame and the roof surface.
 - (b) For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.
 - (c) For a building-mounted system, solar panels shall be set back no less than three feet from the edge of the roof to allow for fire access and ventilation. On sloped roofs, this requirement does not apply along that portion of the bottom edge located more than three feet from a side edge. In the event New York State shall adopt regulations that govern the placement of roof-mounted solar panels for fire prevention purposes, said regulations shall supersede this setback provision.

§ 205-48 Facilities requiring special use permit.

- A. Solar PV systems requiring a special use permit. Except as provided in § 205-47, entitled Facilities permitted by right, no solar PV system shall be constructed or installed without first obtaining a special use permit and site plan approval from the Planning Board. In addition, all solar PV systems shall require a building permit. Solar PV systems requiring a special use permit and site plan approval shall include, but not be limited to:
- (1) Ground-mounted solar PV systems.
 - (2) Building-mounted and building-integrated solar PV systems that have a system capacity greater than 12 kW or generate more than 110% of the kWh's of electricity consumed over the previous twelve-month period by the land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.
 - (3) Except as provided in § 205-47, regarding facilities permitted by right, solar PV systems, regardless of size, that generate and provide electricity, through a remote net metering agreement or other arrangement, to an off-site user or users located on a lot(s) other than the lot on which the system is located.

- (4) Solar PV systems, regardless of size, mounted on carports or canopy structures covering parking facilities.
- B. Classification. Solar PV systems requiring a special use permit may be classified as either an accessory use or a principal use as set forth below.
- (1) Principal use. A solar PV system constructed on a lot and providing electricity to an off-site user or users through a remote net metering agreement or other arrangement shall be considered a principal use. All ground-mounted solar PV systems that are classified as a principal use shall adhere to the area, yard and bulk requirements of the zoning district in which the system is located, unless such regulations are modified by other provisions of this article.
 - (2) Accessory use/accessory structure. A solar PV system shall be considered an accessory use/accessory structure when generating electricity for the sole consumption of a principal use(s) or building(s) located on the same lot as the system. Notwithstanding the location and maximum coverage provisions for accessory uses/accessory structures found elsewhere in this chapter, all large-scale ground-mounted solar PV systems that are classified as an accessory use/accessory structure shall adhere to § 205-48 C (2).
- C. Standards for facilities requiring a special use permit.
- (1) Small-scale ground-mounted solar PV systems as accessory use. Notwithstanding the location and height standards for accessory structures and accessory uses found elsewhere in this chapter, the following height, location and minimum yard/setback standards shall apply to small-scale ground-mounted solar PV systems that are classified as an accessory use:
 - (a) Location. Small-scale ground-mounted solar PV systems may be located within the side or rear yard. Location in a front yard is prohibited, including location in any front yard of a corner lot.
 - (b) Rear and side yard. Small-scale ground-mounted solar PV systems shall be permitted in a required minimum side yard or rear yard setback, provided that such system shall be set back not less than 50 feet from any rear or side lot line.
 - (c) Height. Small-scale ground-mounted solar PV systems shall not exceed a height of 12 feet.
 - (d) Lot coverage. Small-scale ground-mounted solar PV systems shall comply with the lot coverage requirements as defined in this article.
 - (2) Large-scale ground-mounted solar PV systems and ground-mounted systems classified as a principal use or accessory use.
 - (a) All large-scale ground-mounted solar PV systems are permitted in the Rural Residential District upon obtaining a special use permit and site plan approval from the Planning Board
 - (b) Setbacks. Large-scale ground-mounted solar PV systems are subject to the following setbacks: 100 feet front, 150 feet sides, 50 feet rear. No part of a ground-mounted system shall extend into the required yards and/or setbacks due to a tracking system or a short-term or seasonal adjustment in the location, position or orientation of solar-PV-related equipment or parts.
 - [1] If a large-scale ground-mounted solar PV system is located on a lot that adjoins a residential lot, the minimum setback area, shall be planted

with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the ground-mounted system from residential uses. The species type, location and planted height of such landscaping shall be subject to the approval of the Planning Board.

[a]

- (c) Utility connections. Utility lines and connections from a large-scale ground-mounted solar PV system shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (d) Fences. Notwithstanding the provisions found in this chapter, fences not exceeding eight feet in height, including open-weave chain-link fences and solid fences, shall be permitted for the purpose of screening or enclosing a large-scale ground-mounted solar PV system, provided said system is classified as a principal use for the property on which it is located.
- (e) Height. Large-scale ground-mounted solar PV systems may not exceed 12 feet in height.
- (f) The minimum lot size for large-scale ground-mounted solar PV systems shall be 20 acres and the maximum lot size shall be 150 acres.
- (g) Lot coverage requirements for large-scale ground-mounted solar PV systems shall be 20% and no more than 30 acres on any lot.
- (h) Location in front yard prohibited. Notwithstanding the requirements regulating location of accessory structures found elsewhere in this chapter, large-scale ground-mounted solar PV systems classified as an accessory use shall be prohibited in a front yard, including location in any front yard of a corner lot.
- (i) Signs. Large-scale ground-mounted solar PV systems classified as a principal use shall adhere to the sign requirements for the Rural Residential district in.
- (j) Prohibition. No large-scale ground-mounted solar PV systems shall be permitted in the Conservation or Commercial Mixed-Use Zoning District.
- (k) The clearing of additional lands to accommodate large scale solar may be permitted, provided the percentage of newly cleared land on any solar lot does not exceed 10% of existing woodlands on that solar lot in total. Removal of existing trees larger than 6 inches dbh should be minimized.
- (l) The Planning Board may request a visual assessment report at the applicant's expense.

D. Building-mounted solar PV systems.

- (1) For a building-mounted system installed on a sloped roof:
 - (a) The highest point of the system shall not exceed the highest point of the roof to which it is attached.
 - (b) Solar panels shall be parallel to the roof surface, or tilted with no more than an eighteen-inch gap between the module frame and the roof surface.

- (2) For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.
 - (3) For a building-mounted system, solar panels shall be set back no less than three feet from the edge of the roof to allow for fire access and ventilation. On sloped roofs, this requirement does not apply along that portion of the bottom edge located more than three feet from a side edge. In the event New York State shall adopt regulations that govern the placement of roof-mounted solar panels for fire prevention purposes, said regulations shall supersede this setback provision.
 - (4) Placement on nonconforming buildings. Notwithstanding the area, lot and bulk requirements of this chapter, building-mounted and building-integrated solar PV system may be installed:
 - (a) On the roof of a nonconforming building that exceeds the maximum height restriction, provided the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted.
 - (b) On a building that does not meet the minimum setback or yard requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.
 - (c) On a building that exceeds the maximum lot coverage requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.
- E. Reimbursement for costs of review by Town-designated Engineer.
- (1) The applicant for a special use permit shall be responsible for reimbursing the Town for the cost of the engineering review by the Town-designated engineer. The amount of the escrow shall be commensurate with the scale of the project.
 - (2) The Planning Board may use the Town-designated engineer (TDE) and retain consultants and/or experts necessary to assist the Town in reviewing and evaluating the application.
 - (3) An applicant shall deposit with the Planning Board funds sufficient to reimburse the Town for all reasonable costs of TDE and consultant evaluation and consultation in connection with the review of any application. An initial deposit of \$5,000 (the "initial deposit") shall be filed with the application. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for their services in reviewing the application. If at any time during the process the escrow account has a balance of less than \$1,500, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$1,500. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
 - (4) The total amount of the funds needed as set forth in Subsection E(3) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. In the event the Planning Board determines that the initial deposit will be insufficient for review of the application, the

Planning Board shall notify the applicant, and the applicant shall supplement the escrow fund within 30 days of notice from the Building Inspector of the estimated amount of the review fees necessary to process the application.

- (5) Notwithstanding anything to the contrary in this section, the Planning Board may waive, or decrease, the amount of the initial deposit for small-scale projects.

§ 205-49 Abandonment and decommissioning.

- A. Applicability and purpose. This section governing abandonment and decommissioning shall apply to large-scale ground-mounted solar PV systems with a rated capacity of 200 kW or more, hereinafter referred to as commercial solar PV systems. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Greenville by requiring abandoned commercial solar PV systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired, creates an environment for systems to be abandoned, thereby creating a negative visual impact on the Town. Abandoned commercial systems may become unsafe by reason of their energy producing capabilities and serve as an attractive nuisance.
- B. Abandonment. A commercial solar PV system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A commercial solar PV system also shall be deemed abandoned if, following site plan approval, initial construction of the system has commenced and is not completed within 18 months of issuance of the first building permit for the project.
- (1) Extension of time. The time at which a commercial solar PV system shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at no less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the commercial solar PV system has not been operating or why construction has not been completed may be considered by the Board in determining whether to grant an extension.
- (2) Removal required. A commercial solar PV system which has been abandoned shall be decommissioned and removed. The commercial solar PV system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one year of abandonment. Removal of the commercial solar PV system shall be in accordance with a decommissioning plan approved by the Planning Board.
- C. Decommissioning and removal. Decommissioning and removal of a commercial solar PV system shall consist of:
- (1) Physical removal of all above- and below-ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site;

- (2) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;
 - (3) Restoration of the ground surface and soil;
 - (4) Stabilization and revegetation of the site with native seed mixes and /or plant species (excluding invasive species) to minimize erosion.
- D. Upon petition to the Planning Board, the Board may permit the system owner and/or landowner to leave certain underground or aboveground improvements in place, provided the owner can show that such improvements are part of a plan to redevelop the site, are not detrimental to such redevelopment and do not adversely affect community character or the environment.
- E. Special use permit conditions. The following conditions shall apply to all special use permits issued for a commercial solar PV system. No special use permit shall be issued unless the Planning Board finds that the conditions have been or will be met.
- (1) Decommissioning plan. All applications for a commercial solar PV system shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in this section and shall include:
 - (a) An estimate of the anticipated operational life of the system;
 - (b) Identification of the party responsible for decommissioning;
 - (c) Description of any agreement with the landowner regarding decommissioning;
 - (d) A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work;
 - (e) A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar PV system;
 - (f) A financial plan to ensure that financial resources will be available to fully decommission the site.
 - (2) Financial surety. Prior to the issuance of a building permit and every three years thereafter, the commercial solar PV system owner and/or landowner shall file with the Town evidence of financial security to provide for the full cost of decommissioning and removal of the solar PV system in the event the system is not removed by the system owner and/or landowner.
 - (a) Evidence of financial security shall be in effect throughout the life of the system and shall be in the form of an irrevocable letter of credit or other security acceptable to the Planning Board. The irrevocable letter of credit shall include an auto extension provision, to be issued by an A-rated institution solely for the benefit of the Town. The Town shall be entitled to draw on the letter of credit in the event that the commercial solar PV system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner, shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the Town to terminate the letter of credit.
 - (b) In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial security with the Town at the time of transfer, and every three years thereafter, as provided herein.

(c) Amount. The amount of the surety shall be determined by the Town Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

(3) Annual report. The commercial solar PV system owner shall, on a yearly basis, provide the Town Building Inspector a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the solar PV system and/or the land upon which the system is located, and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the commercial solar PV system. The Town may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation subject to the penalties of this article and chapter.

F. Decommissioning and removal by Town. If the commercial solar PV system owner and/or landowner fails to decommission and remove an abandoned facility in accordance with the requirements of this section, the Town may enter upon the property to decommission and remove the system.

(1) Procedure. Upon a determination by the Building Inspector that a commercial solar PV system has been abandoned, the Building Inspector shall notify the system owner, landowner and permittee, by certified mail: a) in the case of a facility under construction, to complete construction and installation of the facility within 180 days; or b) in the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit and require removal of the system. Being so notified, if the system owner, landowner and/or permittee fails to perform as directed by the Building Inspector within the one-hundred-eighty-day period, the Building Inspector shall notify the system owner, landowner and permittee, by certified mail, that the solar PV system has been deemed abandoned and the Town intends to revoke the special use permit within 60 days of mailing said notice. The notice shall also state that the permittee may appeal the Building Inspector's determination of abandonment to the Planning Board and request a hearing on the matter. Said appeal and request for hearing must be made and received by the Town within 20 days of mailing notice. Failure by the permittee to submit an appeal and request for hearing within the twenty-day period will result in the special use permit being deemed revoked as stated herein. In the event the permittee appeals the determination of the Building Inspector and requests a hearing, the Planning Board shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a hearing is held, the Planning

Board shall determine whether the solar PV system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Board. or whether to revoke the permit and order removal of the solar PV system. Upon a determination by the Building Inspector or Planning Board that a special use permit has been revoked, the decommissioning plan must be implemented and the system removed within one year of having been deemed abandoned or the Town may cause the removal at the owner and/or landowner's expense. If the owner and/or landowner fail to fully implement the decommissioning plan within one year of abandonment, the Town may collect the required surety and use said funds to implement the decommissioning plan.

- (2) Removal by Town and reimbursement of Town expenses. Any costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a commercial solar PV system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner or landowner as provided in this section. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

§ 205-50 Guidelines for future solar access.

- A. New structures shall be sited to take advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off the site, and the impact of solar access to adjacent uses and properties.
- B. The impact of street trees on the solar access of the surrounding property shall be minimized to the greatest possible extent in selecting and locating shade trees. Every effort shall be made to avoid shading possible locations of solar collectors.
- C. When the Planning Board reviews and acts upon applications for subdivision approval or site plan approval, it shall take into consideration whether the proposed construction would block access to sunlight between the hours of 9:00 a.m. and 3:00 p.m. Eastern standard time for existing approved solar energy collectors or for solar energy collectors for which a permit has been issued.
- D. The potential impacts of glare shall be a part of consideration of all new solar facilities.
- E. The Planning Board may require subdivisions to be platted so as to preserve or enhance solar access for either passive or active systems, consistent with the other requirements of the Town Code.
- F. The plan for development of any site within cluster subdivisions shall be designed and arranged in such a way as to promote solar access for all dwelling units. Considerations may include the following:
 - (1) In order to maximize solar access, the higher-density dwelling units should be placed on a south-facing slope and lower-density dwelling units sited on a north-facing slope.

- (2) Subject to the Town's setback requirements, structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure.
- (3) A tall structure should be sited to the north of a short structure.

§ 205-51 Payment in lieu of taxes.

A. General requirements.

- (1) Any owner or developer of a solar energy system as defined in this article and that meets the requirements of § 487, Subdivision 4, of the Real Property Tax Law of the State of New York shall provide written notice, via certified mail, return receipt requested, to the Town Board of the Town of Greenville of its intent to construct a solar energy system.
- (2) The Town Board of the Town of Greenville shall have 60 days from the receipt of the written notification to notify the owner or developer of its intent to require a contract for payments in lieu of taxes (PILOT).
- (3) Each PILOT shall be negotiated on a case-by-case basis between the owner or developer and the Town Board.
- (4) All PILOT agreements between an owner or developer and the Town of Greenville shall adhere to the requirements and restrictions of § 487 of the Real Property Tax Law of the State of New York.

B. Exemptions. The following solar PV systems shall be exempt from the PILOT requirement:

- (1) Solar PV systems on residential properties where the energy produced is used exclusively by the residence and accessory structures on the property.
- (2) Solar PV systems on commercial properties where the energy produced is used exclusively for the structures on the property.

§ 205-52 Conflict with other laws.

Where this article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective law of the Town and the public shall apply.

§ 205-53 Legislative authority.

This article is enacted pursuant to the Municipal Home Rule Law. This article shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Article X Distributed Wind Turbines

§ 205-54 Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of Small Wind Energy Systems that are installed to reduce the on-site consumption of utility-supplied electricity.

§ 205-55 Findings

The Town of Greenville recognizes the common good of distributed wind systems and finds that wind energy is an abundant, renewable, and nonpolluting energy resource. Its conversion to electricity will

reduce our dependence on nonrenewable energy resources, encourage stewardship and conservation of our non-renewable energy resources for future generations and decrease the air and water pollution that results from the use of conventional energy sources. Distributed wind energy systems enhance the reliability and power quality of the electrical grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Distributed wind energy systems also make the electricity supply market more competitive by promoting customer choice, as well as fostering economic stability through job creation which encourages the growth of local, small businesses.

The State of New York has enacted a number of laws and programs to encourage the use of distributed renewable energy systems including rebates, net metering, property tax exemptions, feed-in-tariffs, and solar easements [as appropriate]. However, many existing zoning ordinances contain restrictions that discourage the installation of distributed wind turbines and substantially increase the time and costs required to obtain necessary zoning and/or construction permits.

Therefore, we find it necessary to standardize and streamline the proper issuance of zoning and building permits for Distributed Wind Energy Systems so that this clean, renewable energy resource can be utilized in a cost-effective, responsible and timely manner.

§ 205-56 Definitions

Wind Energy System: A wind energy conversion system consisting of a wind turbine, tower and associated control or conversion electronics.

- A. Distributed Wind Energy System: A Wind Energy System serving a local electric load.
- B. Distributed Wind Energy System Up to and Including 100 kW: A Distributed Wind Energy System which has a Rated Power Output of 100 kW or less.
- C. Distributed Wind Energy System Larger than 100 kW: A Distributed Wind Energy System which has a Rated Power Output greater than 100 kW.
NOTE: The above definitions are for the specific purpose of creating useful definitions in this Model Zoning Ordinance. Industry consensus is that all projects are simply defined as Distributed Wind.
- D. Total System Height: The height above grade of the fixed portion of the Tower, plus the wind turbine and extending to the uppermost reach of the rotor.
- E. Rated Power Output: The power output of a Distributed Wind Energy System at a constant Hub Height wind speed of 11 m/s (25 mph).
- F. Tower: A guyed or freestanding structure, anchors and foundation that is specifically engineered to support a wind turbine.
- G. Hub Height: For horizontal axis wind turbines, Hub Height is the height of the center of the wind turbine rotor above the terrain surface. For vertical axis wind turbines, the Hub Height is the height of the horizontal centerline of the rotor above the terrain.
- H. Obstruction: Anything that interferes with the laminar (straight, smooth) flow of wind, causing a level of turbulence that could interfere with the proper function and/or productivity of a wind turbine.
- I. Swept Area: projected area perpendicular to the wind direction that a rotor will describe during one complete rotation.

§ 205-57 Permitted Use

Distributed Wind Energy System Up to and Including 100 kW and Distributed Wind Energy System Larger than 100 kW shall be a permitted in the Rural Residential Zoning District upon Site Plan Review and Planning Board Approval; subject to certain requirements as set forth below:

- A. All Distributed Wind Energy Systems are subject to certain requirements as set forth below.
 - (1) System Height: Wind turbine systems shall be allowed to be tall enough to facilitate proper function. Specifically, they shall adhere to the industry standard that the entire wind turbine should be at least 30' above both (a) any Obstruction within a 500' radius, and (b) the surrounding tree height.
 - (2) Minimum System Height: In no case shall the Hub Height be less than 60'. In cases where the manufacturer's minimum Hub Height recommendation is higher than 60', that recommendation shall be used as the minimum allowable Hub Height.
 - (3) Maximum System Height: 190' and in compliance with FAA regulations and the required setbacks.
 - (4) Building Mounted Systems: Wind turbines mounted on buildings are still required to follow the industry standard that the entire wind turbine should be 30' above all Obstructions within a 500' radius of the turbine, including the structure to which it is mounted, and the surrounding tree height.
- B. Setback: Local building and zoning ordinances for structures shall be followed with the express provision that that no part of the wind system structure, including guy wire anchors or any other appurtenance may extend closer than the Total System Height to any property boundary line. No setback requirement shall exceed 1.5 times the Total System Height as measured to the center of the base of the Tower.
 - (1) Neighboring property line: A Distributed Wind Energy System shall follow all setbacks, unless written permission is obtained from the existing owner of the affected adjoining property at the time of application.
 - (2) Overhead power lines and other setbacks: Wind turbines shall follow existing ordinances for structures in regard to setback from overhead utility lines, roads, easements public buildings and other utilities, provided the setback requirement shall not exceed the Total System Height.
 - (3) Multiple wind turbines: Applications for multiple wind turbines on a single property shall follow manufacturer or installer recommendations regarding minimum separation between turbines.
 - (4) Access: To prevent unauthorized climbing, climbing pegs shall be removed from the lower ten (10) feet of the Tower, or ladder access shall be restricted. Fences shall not be required as they deny critical access to the Tower base.
- C. Signage: A "Danger, High Voltage" sign shall be installed where it is clearly visible by persons standing near the tower base.
- D. Sound: During normal operation, Distributed Wind Energy Systems shall not exceed five (5) dBA over ambient sound as measured at the closest neighboring inhabited dwelling that exists or is permitted for construction at the time of permit application for the wind energy system. This sound level may be exceeded during short-term events, such as utility outages and storms. Complainant shall bear the burden of proof until and unless the wind turbine system has been proven to be out of compliance with the ordinance.

E. Turbine Standards

- (1) Distributed wind turbines with a rotor Swept Area of up to 200m² shall be certified to the most current version of AWEA 9.1 Small Wind Turbine Performance and Safety Standard by the Small Wind Certification Council or an accredited certification agency. Applications for provisionally certified or non-certified turbines with Swept Areas up to 200m² may be considered on a case-by-case basis, but shall, in all cases, include a description of the safety features, a power curve complying with IEC 61400-12-1 or AWEA 9.1. and an acoustic test report complying with IEC61400-11 or AWEA 9.1.
 - (2) Distributed wind turbines with rotor Swept Areas greater than 200m² shall comply with the following:
 - (a) Carry up-to-date certifications to IEC 61400-12 (2005 or future versions) and IEC 61400-11 (2006 or future versions), by an accredited certification agency; and
 - (b) Either [1] or [2] below:
 - [1] Carry an up-to-date Design Evaluation certification to IEC 61400-1 (2005 or future version), by an accredited certification agency,
 - [2] Evidence of extensive operational history (all of the requirements below)
 - [3] At least 2 years of operation from 5 wind turbine
- F. Compliance with FAA Regulations: Distributed Wind Energy Systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- G. Compliance with National Electrical Code (NEC): The installation of a Distributed Wind Energy System shall comply with section 694 (or the most-current applicable section, if updated) of the NEC. Applications must be accompanied by a single-line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NEC. Wet-stamped drawings shall not be required for Distributed Wind Energy System Up to and Including 100 kW.
- H. Utility Notification: No grid-tied Distributed Wind Energy System shall be installed until evidence has been submitted that the applicant's utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
- I. Antennas: Wind turbine Towers installed under this ordinance may also be used to host antennas, so long as the structure is shown to meet the state and local structural code requirements.
- J. Fee: The building permit fee for a Distributed Wind Energy System shall follow the existing fee structure for permits required of other structures in the appropriate district. In the absence of such fee structure, the permit fee for a Distributed Wind Energy System shall not exceed \$20 per kW of Rated Power Output or a maximum of \$1500. Additional charges for inspections shall apply at the standard rate used for other structures.
- K. Decommissioning: A Distributed Wind System that has reached the end of its useful life shall be removed within 6 months of such determination. A Distributed Wind Energy System is considered to have reached the end of its useful life when it has been inoperable for 12 consecutive months. Time extensions are allowed when good faith efforts to repair the turbine can be demonstrated. Foundations need not be removed.
- (1) Financial surety. Prior to the issuance of a building permit and every three years thereafter, the commercial solar PV system owner and/or landowner shall file with the

Town evidence of financial security to provide for the full cost of decommissioning and removal of the solar PV system in the event the system is not removed by the system owner and/or landowner.

- (a) Evidence of financial security shall be in effect throughout the life of the system and shall be in the form of an irrevocable letter of credit or other security acceptable to the Planning Board. The irrevocable letter of credit shall include an auto extension provision, to be issued by an A-rated institution solely for the benefit of the Town. The Town shall be entitled to draw on the letter of credit in the event that the wind energy system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner, shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the Town to terminate the letter of credit.
- (b) In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial security with the Town at the time of transfer, and every three years thereafter, as provided herein.

Amount. The amount of the surety shall be determined by the Town Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

Article XI Special Conditions

§ 205-58 Conditions enumerated.

- A. When cited in the Use and Bulk Tables,[1] any one or more of the following special conditions will be requisite to the approval of that particular use:
 - (1) Agricultural and nursery produce must be grown primarily on the premises and sold in buildings.
 - (2) Aircraft uses.
 - (a) Any areas to be used by aircraft under its own power shall be provided with a dustless surface.
 - (b) The hours of operation shall be limited by the Planning Board to prevent disturbance to nearby residences.
 - (c) No area to be used by aircraft under its own power on the ground shall be less than 200 feet from any lot line. Evidence shall be presented to the Board that ample safeguards to minimize the hazards and disturbance from noise of aircraft affecting residents and properties in the vicinity will be assured at all times of operation.
 - (d) The application for a permit shall be accompanied by evidence that the proposed facility will meet the standards and requirements of the Federal Aviation Administration.

- (e) Access to areas used by aircraft in motion shall be controlled by fences and gates.
- (3) The principal use must not be carried on in enclosed buildings with a floor area greater than 1,500 square feet.
- (4) Race tracks for mechanized vehicles shall not be permitted.
- (5) Recreational uses. Any recreational use located within 100 feet of a lot line shall be effectively screened along lot lines. Screening shall consist of a type of fencing or a hedge of such type and spacing as may be required by the Planning Board, of an initial height of not less than five feet and adequate ultimately to screen all operations on the lot from the view of neighboring properties.
- (6) Amusement parks and circuses require a temporary special permit of the Town Board for a period not to exceed six days.
- (7) Kennels and runs.
 - (a) No kennel, runway or exercise pen shall be located within 300 feet of any lot line.
 - (b) Not more than one bitch and two other dogs over six months old nor more than one litter under six months of age and not more than five horses nor more than 100 fowl shall be permitted, and no animals (except dogs) or fowl shall be penned or housed within 50 feet of any lot line.
- (8) There shall be no stable or similar animal housing or the storage of manure or other odor- or dust-producing substance or use, except spraying or dusting to protect vegetation, within 150 feet of any lot line.
- (9) No greenhouse heating plant shall be operated within 50 feet of any lot line.
- (10) Membership clubs.
 - (a) Any membership club must be incorporated pursuant to the provisions of the Membership Corporation or the Benevolent Order Laws of the State of New York and cater exclusively to members and their guests.
 - (b) The dining room must be incidental to the activities of said club or fraternal lodge and be conducted for the benefit of the members thereof only.
 - (c) The chief activity of such clubs and fraternal lodges shall not be a service customarily carried on as a business or primarily for gain.
- (11) The use of outdoor public address systems for any purpose shall be prohibited.
- (12) Exterior lighting, other than that essential for the safety and convenience of the users of the premises, shall be prohibited.
- (13) Any inner court shall have a minimum dimension of 60 feet, and every outer court shall have a minimum dimension of 20 feet and its depth shall not exceed its width.
- (14) There shall be provided on the same lot or site as a multiple dwelling building a suitably fenced children's play area containing not fewer than 100 square feet of ground area for each dwelling unit therein.
- (15) Professional offices. In a garden apartment or townhouse development, not more than one professional office or studio, other than accessory to a use otherwise permitted, may be permitted according to the following ratio:
 - (a) Zero to 12 dwelling units: no nonaccessory professional office or studio.
 - (b) Thirteen to 25 dwelling units: one nonaccessory professional office or studio.

- (c) Twenty-six to 50 dwelling units: two nonaccessory professional offices or studios.
 - (d) Fifty-one to 75 dwelling units: three nonaccessory professional offices or studios with such uses in larger developments to be determined at the same ratio. Such office or studio shall be only on the street floor of any building or on the floor immediately above the street floor only if there be direct access to such office or studio from outside the building.
- (16) Home occupations: [Amended 5-17-2007 by L.L. No. 3-2007]
- (a) Home occupations shall be approved as special permits by the Planning Board of the Town of Greenville after appropriate application and public hearing.
 - (b) A special permit for a customary home occupation shall be valid for the balance of the calendar year in which it is granted. It shall be subject to renewal prior to January 1 of each year, upon application to the Planning Board, payment of an annual fee set from time to time by the Town Board in Chapter A212, payment of any other additional fees as may be required by the Town, and an investigation by the Planning Board indicating that all conditions imposed upon the original granting of the special permit by the Planning Board continue to be adhered to.
 - (c) Customary home occupations shall be permitted as follows:
 - [1] An occupation or profession which:
 - [a] Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
 - [b] Is carried on by a member of the family residing in the dwelling unit; and
 - [c] Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - [2] In particular, a home occupation includes, but is not limited to the following:
 - [a] Art studio.
 - [b] Dressmaking.
 - [c] Professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same.
 - [d] Teaching, with musical instruction limited to a single pupil at a time.
 - [e] Retail sale and/or repair of antiques, curios and handmade articles, provided that exterior exhibition space shall not exceed 20% of interior exhibition space.
 - [f] Sales, advertising or management activities strictly limited to telephone contacts.
 - [g] Barbershops and beauty parlors.
 - [h] Real estate office.
 - (d) However, a home occupation shall not be interpreted to include the following:
 - [1] Commercial stables and kennels or animal hospitals.
 - [2] Convalescent home or clinics.

- [3] Dancing instruction.
- [4] Mortuary establishments.
- [5] Restaurants, tearooms.
- [6] Tourist homes.
- [7] Bed-and-breakfast use that is owner-occupied and in compliance with the definition thereof.

(e) Customary home occupations.

- [1] The customary home occupation shall be carried on wholly within the principal building or within a building or other structure accessory thereto and shall be carried on in an area not exceeding 30% of the area of the ground floor of the principal building.
- [2] Not more than one person outside the resident family shall be employed in the home occupation.
- [3] There shall be no exterior display (except as permitted pursuant to the definition of "sign, illuminated"), no exterior sign [except as permitted in § 205-58A(48)(a) and (b)], no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- [4] Only customary household appliances and equipment shall be used.
- [5] No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- [6] All buildings and land must be under unified ownership and/or control.

(17) (Reserved)

[2] Editor's Note: Former § 205-58A(17), which required each principal use to be on a fire-acre site, was repealed 5-17-2007 by L.L. No. 3-2007.

(18) Accessory agricultural buildings shall conform to the yard requirements for principal buildings.

(19) Accessory uses shall be effectively screened along lot lines, as required by the Planning Board.

(20) Outside storage.

- (a) Outside storage areas must be screened by an eight-foot high solid wall or fence uniform in finish and appearance or by an effective living screen of evergreen-type. In no case shall materials be stored so as to exceed the height of the wall or fence or be visible from the public right-of-way or boundaries of the lot.
- (b) Bulk storage of any kind, including lumberyards, warehouses, oil and gas storage, junkyards or similar uses are prohibited in the Commercial Mixed-Use District (except gasoline as accessory to a motor vehicle station).
- (c) All such storage must be enclosed or underground.
- (d) Storage of vehicles shall not be located nearer than 200 feet to a lot line.

(21) Shipping and receiving docks shall have adequate access to and from a public street without using said street for maneuvering purposes and shall not be located nearer than 200 feet to a lot line.

(22) Commercial activities in residential areas.

- (a) No repair of motor vehicles, or shipping and receiving, shall be permitted within 600 feet of a residential area, or between the hours of 8:00 p.m. and 6:00 a.m.
- (b) If floodlighting is used, it shall be arranged so as to eliminate the glare of lights toward nearby residential areas.
- (c) No public address system for outdoor use shall be permitted. The Planning Board may impose additional regulations to minimize noise disturbance affecting nearby residential areas.
- (d) All structures and uses shall be effectively screened along lot lines, as required by the Planning Board.

(23) Summer Camps / Campgrounds

(a) Regulations

- [1] Each campground shall be provided with safe and convenient access for the ingress and egress of traffic from the public highway.
- [2] All service roads shall be constructed at a minimum 10 feet on one-way and 20 feet on two-way to permit safe and convenient movement of traffic, and shall be maintained in a proper state of repair.
- [3] All campsites shall be at least 200 feet from any public road and 50 feet from an adjoining property line.
- [4] Suitable parking for campers shall be provided which does not interfere with access and service road traffic.
- [5] Campsites in a campground shall not exceed an average of 10 campsites per acre inclusive of service roads, toilet buildings, other buildings, etc.
- [6] Each campsite, including parking space, shall provide a minimum of 900 square feet of space.
- [7] Each campsite shall be well-drained and laid out in such a manner as to provide sufficient open and graded space for the accommodation of camping units and shall provide parking space for an automobile which will not interfere with the convenient and safe movement of traffic.
- [8] Consistent with these requirements trees for the provision of shade should be distributed as little as possible and, wherever practicable, trees, underbrush, large rocks and other natural features should be left intact at the edges of adjoining campsites to insure privacy. Natural vegetative cover shall also be retained, protected and maintained within the campground wherever possible so as to facilitate drainage, prevent erosion or gullying and preserve the scenic attributes of the area.
- [9] Occupancy of any campsite in a particular campground by the same person or persons shall not be permitted for more than 15 consecutive days in any month from November 1 to April 1.
- [10] Except during May, June, July, August, September and October, unoccupied camping units and equipment shall not be permitted to remain on any campsite. During the months of November through April said camping units or equipment may be stored at a designated storage area on the campground.

- [11] Fireplaces, if provided, shall be located in a safe and convenient location where they will not constitute a fire hazard to vegetation, undergrowth, trees and camping units.
- [12] An adequate supply of potable water capable of supplying a total capacity of at least 50 gallons per campsite per day and at least 100 gallons per campsite per day if water-flushed toilets are used, shall be provided at one or more locations in every campground.
- [13] Only water from a source approved by the local Board of Health shall be provided at a campground. Individual point or driven wells, dug wells, springs, and other sources of supply may be used if approved by the local Board of Health. Such sources of supply shall be properly located, constructed and maintained to avoid contamination of the water therefrom.
- [14] Toilets and urinals shall be provided at one or more locations in every campground and shall be convenient of access. Separate toilet facilities shall be provided for males and females, and shall be clearly marked. Each toilet shall be in a separate compartment and be provided with a door to insure privacy. Toilet paper shall be provided in each toilet. Toilets and urinals shall be maintained in a clean condition.
- [15] The owner of a campground shall provide for the collection of refuse and garbage daily and shall also conveniently locate refuse containers on each campsite. Refuse containers shall be cleaned, covered and maintained as often as may be necessary to promote a wholesome and non-odorous condition to prevent the breeding of insects therein.
- [16] The owner of a campground shall adopt control measures for insect, rodent and weed control and shall keep the campgrounds free of refuse, stagnant water areas, and other articles which may provide temporary breeding places for insects and rodents.
- [17] No owner of a campground shall cause or permit any discontinuance or unnecessary interruption of any services, facilities, equipment or utilities on the campgrounds.
- [18] Every campground shall be under the supervision of the owner or a caretaker to maintain order and to insure compliance with the regulations herein.
- [19] Every camper during the period of their occupancy of any campsite shall be responsible for the conduct of the members of their party and shall be responsible for the maintenance of their campsite in a clean and wholesome condition, shall see that the campsite is not littered with debris and refuse, shall maintain all pets under control so as not to create a public health or noise menace. They shall not leave a dog unleashed and unattended at a campsite, shall not leave fires unattended at a campsite, and shall not permit undue noise at any time.
- [20] Whenever a camper has terminated their stay at a campground they shall not leave the campsite without clearing the same of litter and

debris and leaving it in a clean and wholesome condition. All fires shall be extinguished and all possessions of the camper and their party removed.

- [21] Each camper, upon arriving at a campground, shall register, leaving their name, address, car registration, and number of persons in their party with the owner or caretaker of said campground.
- [22] Every campground shall have a minimum of three toilets for male persons, and a minimum of three toilets for female persons. If there be over 12 campsites in a campground there shall be an additional toilet for both male and female persons for every four campsites.
- [23] If drinking fountains are provided, they shall be constructed of impervious material and have an angle jet with a nozzle above the overflow rim of the bowl. The nozzle shall be protected by a non-oxidizing guard. The bowl shall be of easily cleanable design and be equipped with a strainer.
- [24] If showers are provided, there shall be separate showers for males and females clearly marked. Shower stalls shall be of an individual type and dressing compartments shall be provided which are screened from view and equipped with a stool or bench and clothes hooks. Shower stalls and dressing compartments shall be maintained in clean condition.
- [25] If a holding tank emptying station for camping vehicles is provided, each station shall be convenient of access, shall be at least 50 feet from any campsite, and shall be equipped with means for flushing the camping vehicle holding tank. Such station shall be constructed in conformity with health regulations and shall be posted to warn against unreasonable access

(b) Permits

- [1] No person shall construct, expand and/or operate a campground without a permit.
- [2] Any person desiring to construct, expand and/or operate a campground shall make application therefor in writing to the Town Board. Such application shall include the applicant's full name, residence, post office address and whether the applicant is an individual, firm or corporation. If a partnership, the names and addresses of all partners shall be included. If a corporation, the names and addresses of the officers of the corporation shall be included. A diagrammatic sketch plan of the proposed campground or expansion showing the location, dimensions of the area, proposed service roads, campsites, water supplies, sanitary conveniences, sewage disposal facilities, storage areas and auxiliary buildings. Distances from adjoining public highways and adjoining owners shall be shown. Approval of the Board of Health shall be attached in relation to sanitary and sewage disposal facilities.

- [3] The Town Board, upon approval of such application, shall authorize the Town Clerk to issue a permit, and such permit shall be conspicuously posted on the campground premises.
- [4] A fee for an initial permit is hereby fixed in the sum of \$25, and shall be valid from the date of its issuance until the last day of the year of issuance, and shall be renewed annually. The renewal fee shall be \$5 per annum.

(c) Inspections

- [1] The Town police, the Town Clerk or the Town Board, or any of its representatives or designated agents, shall be granted access to the area of such campground at all reasonable hours to inspect the same for compliance herewith.

(d) Revocation and suspension of permits

- [1] A permit may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard.
- [2] Upon a complaint filed with the Town Board in writing or upon the Town Board's own initiative, a permit may be suspended or revoked for a violation of this chapter or for failure to conform to any rules and regulations of the Board of Health, or any other state or local agency.
- [3] While a permit is suspended or if a permit is revoked, no owner of any campground shall permit the same to be used or occupied by any camper.

(e) Penalties for offenses

- [1] The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter, and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- [2] For every violation of any provision of this chapter the person violating the same shall be subject to a fine of not more than \$100 or imprisonment not exceeding 30 days, or both such fine and imprisonment.
- [3] Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.
- [4] Any person violating this chapter shall be subject to a civil penalty enforceable and collectable by the Town in the amount of \$100 for each such offense. Such penalty shall be collectable by and in the name of the Town for each day that such violation shall continue.
- [5] In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

(24) Cemeteries shall be subject to approval of the Town Board.

(25) Multiple dwellings.

- (a) All requirements for multiple dwellings shall be complied with.
- (b) Such structures shall have contained on the effective date of this chapter, 1,000 square feet of livable floor area for each additional dwelling unit created.
- (c) Multifamily dwellings, group dwellings, and multiple dwellings, specifically including but not limited to townhouses, condominiums, garden apartment complexes, cooperative apartment complexes and high-density apartment complexes, shall only be permitted in the Commercial Mixed-Use Zoning District. [Added 2-6-2014 by L.L. No. 1-2014]

(26) Prohibited uses.

- (a) Any use which is noxious or offensive by reason of emission of odor, dust, noise, glare, smoke, gas, fumes or radiation or which presents a hazard to public health or safety shall be prohibited.
- (b) Manufacturing uses involving primary production of the following products from raw materials are prohibited:
 - [1] Alcohol, industrial.
 - [2] Ammonia.
 - [3] Aniline dye.
 - [4] Animal size.
 - [5] Asphalt.
 - [6] Bone black.
 - [7] Carbides.
 - [8] Carbon black.
 - [9] Caustic soda.
 - [10] Cellulose.
 - [11] Cement.
 - [12] Charcoal.
 - [13] Chlorine.
 - [14] Coal.
 - [15] Coke.
 - [16] Creosote.
 - [17] Explosives.
 - [18] Fat rendering.
 - [19] Fertilizers.
 - [20] Gas manufacturing.
 - [21] Gelatin.
 - [22] Glue.
 - [23] Hydrochloric acid.
 - [24] Hydrogen.
 - [25] Linoleum.
 - [26] Matches.
 - [27] Nitrates (manufactured and natural) of an explosive nature.
 - [28] Nitric acid.
 - [29] Oil cloth.

- [30]Oxygen.
- [31]Paint.
- [32]Phosphoric acid.
- [33]Picric acid.
- [34]Plastic materials.
- [35]Potash.
- [36]Pyroxylin.
- [37]Rayon yarn.
- [38]Rubber (natural and synthetic).
- [39]Soaps.
- [40]Starch.
- [41]Sulfuric acid.
- [42]Synthetic rosins.
- [43]Tar products.
- [44]Turpentine.
- [45]Varnish.

(c) Manufacturing uses involving the following processes are prohibited:

- [1] Alloying of metal or metal ore.
- [2] Distillation of wood or bones.
- [3] Magnesium foundry.
- [4] Milling or processing of flour or grain.
- [5] Nitrating of cotton or other materials.
- [6] Reduction and processing of wood pulp and fiber, including paper mill operations.
- [7] Refining petroleum products, such as gasoline, kerosene, naphtha and lubricating oils.
- [8] Refining secondary aluminum

(d) Operations involving slag piles, stockyards and slaughterhouses and grain elevators are prohibited in the Industrial Park District.

(27)Driveways.

- (a) Entrance and exit driveways shall be located not nearer than 10 feet to any side property line nor less than 50 feet from the nearest intersection of a public right-of-way and shall be laid out so as to avoid the necessity of any vehicle backing out across any public right-of-way.
- (b) Entrance and exit driveways shall have an unrestricted width of not less than 12 feet and not more than 24 feet, and shall be located not nearer than 10 feet from any property line, and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way.

(28)All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides.

(29)Any use located on a lot within 25 feet of a lot line shall be screened along such lot line. Screening shall consist of a type of fencing or a hedge of such type and spacing as may be required by the Planning Board, of an initial height of not less than 5 feet and

adequate ultimately to screen all operations on the lot from the view of adjacent properties.

(30) Dumps, except those owned and operated by the Town, are prohibited.

(31) Swimming pools.

(a) Any swimming pool shall be incidental to the residential use of the premises and not operated for gain. For purposes of this chapter, swimming pools shall be considered as structures and a building permit is required.

(b) Swimming pools with an area of 150 square feet or more and a depth in excess of two feet shall conform to the following requirements:

[1] The edge of the pool shall be kept a distance of not less than 20 feet from all property lines.

[2] If located within 50 feet of any property line, such pool shall be screened from the view of abutting properties.

[3] The pool shall be provided with an adequate permanent fence. Said fence shall be not less than four feet in height and erected, maintained and provided with a self-locking gate to prevent accidents and unauthorized use of the pool.

(32) One accessory residence may be located on a lot, not to exceed the size of the principal residential structure and not to be erected within the required front, side or rear yards of the principal building. Together, the principal residential structure and the accessory residence must occupy an area that could be legally subdivided, resulting in two conforming lots each with a principal residential structure.

(33) Any building used for a residence on the first floor shall have a lot area and lot width, side and rear yards as specified by the Planning Board and shall not cover more than 40% of the area of the lot. If such building is for residence use above the first floor only, there shall be a rear yard at least 30 feet in depth.

(34) No sawmill operation will be permitted within 1,000 feet of any residence nor within 200 feet of any designated protection area.

(35) An area fully concealed from any street and equal to not more than 20% of the area devoted to retail sales shall be so used.

(36) Not more than three employees may be engaged in such production or processing.

(37) No development shall take place within 200 feet of the periphery of the entire mobile home court, nor within 200 feet of any public road frontage on which the mobile home court abounds, except that properly landscaped public parking areas and recreational areas may intrude into such undeveloped area by 100 feet.

(38) Motor vehicle sales and service.

(a) No motor vehicle shall be stored or parked in any required front yard.

(b) No motor vehicle sales, service, repair and storage and sale of motor vehicle fuel shall take place.

(c) The most restrictive requirements for all uses shall prevail.

(d) Motor vehicle lifts or pits, dismantled automobiles and all parts or supplies shall be located within a building.

(e) All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted in a building.

- (f) No motor vehicle sales, or storage and sale of motor vehicle fuel shall take place.
 - (g) Not more than 10 motor vehicles requiring servicing or repairs shall be stored or parked outdoors for more than 48 hours, and these shall be effectively screened from all property lines as prescribed in Subsection A(20)(a) above.
 - (h) No motor vehicle servicing, major repairing or wrecking and dismantling operations or storage and sale of motor vehicle fuel shall take place.
 - (i) The storage of gasoline or flammable oils in bulk shall be located fully underground and not nearer than 35 feet from any property other than the street line.
 - (j) No gasoline pumps shall be located nearer than 20 feet to any street line or right-of-way.
 - (k) No building permit for any such establishment shall be issued within a distance of 200 feet of any school, church, hospital or other place of public assembly designed for occupancy by more than 50 persons; or within 500 feet of another motor vehicle sales, service station or repair garage; the said distance to be measured in a straight line between the nearest points of each of the lots or premises, regardless of the district where either premises is located.
 - (l) No motor vehicle sales, major body repairing or wrecking or dismantling operations shall take place.
 - (m) Not more than five motor vehicles shall be stored or parked outdoors for more than 48 hours.
- (39) Any such school shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such thereunder.
- (40) Such public utility uses shall be subject to such conditions as the Planning Board may impose in order to protect and promote the health, safety and general welfare of the community and the character of the neighborhood in which the proposed structure is to be constructed.
- (41) A building permit will not be issued for a neighborhood commercial center until 500 dwelling units have been constructed and occupied.
- (42) Professional office and studio.
- (a) A professional office and studio shall be incidental to the residential use of the premises and shall be carried on by the resident thereon.
 - (b) Such professional office or studio shall occupy not more than 33 1/3% of the area of the ground floor of the main building.
- [3] Editor's Note: Former §§ 583, 584 and 585, regarding open-development areas, which sections immediately followed this section, were repealed 8-11-1993 by L.L. No. 2-1993.*
- (43) No parking or display of merchandise may take place within required yards.
- (44) Outdoor storage in an orderly manner is permitted in any area other than required front, rear or side yards, provided that such outdoor storage does not exceed 15 feet in height or occupy more than 10% of the area of the lot and is effectively screened from any adjacent uses, as specified in § 205-24I.
- (45) Such use shall have frontage on a state or County road.

(46) No burning or incineration of materials shall take place.

(47) The site shall be kept in such condition as not to attract or harbor pests, rodents or other vermin.

(48) Signage. [Amended 4-5-2012 by L.L. No. 2-2012]

(a) General regulations.

[1] One non-illuminated name plate with an area of not over two square feet shall be permitted.

[2] On-site signs, off-site directional signs and bulletin boards shall be permitted, provided that:

[a] Permanent signs shall not exceed 20 square feet for each of two faces.

[b] Signs advertising the sale of agricultural produce available seasonally and seasonal rural outdoor recreational facilities, e.g., skiing, equestrian and aquatic activities, shall meet the standards for permanent signs.

[c] A standard size as determined by the Town of Greenville shall be permitted off-site at each major intersection for businesses located within the Town and permitted under the zoning. The cost of such signs and/or replacement cost, if damaged, shall be borne by the owner of the business. The post shall be erected and maintained by the Town. Application for such signs shall be approved by the Planning Board and forwarded to the Town Board for execution. All existing off-site directional signs shall conform to this regulation by removal within one year from the effective date of this chapter.

[d] No sign shall exceed 10 feet in height, measured from ground level to the top of the sign.

[e] No sign shall be illuminated except indirectly.

[f] No sign shall be located nearer than 15 feet of any street or property line.

[g] One sign is permitted on each side of an official street on which the property has frontage.

[3] No sign shall be displayed advertising such activity.

[4] One non-flashing, illuminated sign containing an area not more than 24 square feet (on each of two surfaces) and located not more than 10 feet above ground level at its highest point may be displayed. Such sign shall be set back at least 20 feet from any public road and at least 50 feet from all other property lines.

[5] Not more than one sign shall be permitted for each tenant on the premises on each wall fronting on a street or public parking lot.

[6] The aggregate area, in square feet, of all signs on any wall shall not be greater than two times the length in feet of such wall.

[7] Such sign or signs shall be parallel to the face of the building and no part thereof, including any illuminating devices, shall project more than 12

inches, nor any distance beyond or above the building in any other direction.

- [8] Where the building is set back from the front lot line a distance of 40 feet or more, not more than one freestanding sign, with a total area on all faces of not more than 40 square feet, may be erected not nearer than six feet to any building. In a motor vehicle service station, not more than one standard sign may be erected in a required front yard for purposes of identification.
- [9] Signs shall not advertise by brand name or insignia any particular brands or products, except those establishments which deal exclusively in one brand or make.
- [10] Exterior spot lighting of buildings or grounds is permitted, provided that such lighting is from shaded sources and located so that the beams are not directed toward any lot line or toward a public highway.
- [11] One freestanding sign necessary to identify the shopping center in the Town district area, or a drive-in theater, with a total area on all faces of not more than 200 square feet, may be located within the first 50 feet of required front yard.
- [12] Not more than one sign shall be permitted facing each street from which access to the lot is provided, announcing the name or insignia, or both, of the company or companies housed in the development on the lot.
- [13] Such sign shall be applied to the wall of the building, shall not exceed an area of 40 square feet and shall not extend beyond the said wall in any direction.
- [14] If illuminated at night, such illumination shall be indirect, with all light sources shielded from the view of adjacent lots and streets.
- [15] One identification sign at each point of access to the lot with an area of not more than three square feet on each of two sides and internal direction signs, each with an area of not more than two square feet on each of two sides, shall be permitted.

(b) Temporary signs.

- [1] No temporary sign shall be permitted within the Town except as permitted in the exceptions contained herein.
- [2] Exceptions. The following temporary signs shall be permitted within the Town:
 - [a] Advertising special municipal, charitable, or nonprofit events. Upon permission by the Building Inspector for the Town, temporary signs may be permitted to advertise special municipal, charitable, or nonprofit events. Such advertisements shall not be permissible earlier than 15 days prior to the special event and must be removed immediately following the special event.

- [b] Announcements of anticipated occupancy of a site or building. Upon permission from the Building Inspector for the Town, one temporary sign to announce the anticipated occupancy of a commercial building is permitted. Such sign shall not exceed 24 square feet if it is freestanding and shall not exceed the maximum size permitted for a permanent sign if it is affixed to a building. If such sign shall be freestanding, it shall not be nearer than 15 feet to any street line or property line.
- [c] Real estate signs. One temporary non-illuminated sign shall be permitted advertising the sale or rental of an individual premises on which a sign is situated, with an area of not over four square feet, provided that such sign is located on the front wall of a building or, if freestanding, then not nearer than 15 feet to any street line or property line.
- [d] Political signs. All political support signs shall conform to the applicable laws of New York State. All political signs shall be removed within seven days after the applicable election.

[3] Additional regulations.

- [a] No temporary sign permitted herein shall be placed, painted or drawn upon trees, rocks or natural features on the site.
- [b] No temporary sign permitted herein shall be placed on utility poles, bridges, culverts, towers or similar structures except for "Posted" and "No Trespassing" signs.
- [c] No temporary sign permitted herein shall be placed in rights-of-way or public places. Placement of a temporary sign in a right-of-way or public place shall constitute forfeiture of such sign and the Town may remove such sign at any time.
- [d] No temporary sign permitted herein shall be located within 15 feet from the closest property line.

[4] Penalties.

- [a] Any person, corporation, business, agency or entity who shall be found to have violated a provision of this subsection shall be guilty of a violation and shall be subject to a fine not less than \$250 nor more than \$500 for each offense.
- [b] Each day a person, corporation, business, agency or entity is in violation of this subsection shall constitute a separate offense.

(49)The minimum livable floor area per dwelling unit shall be: [Amended 12-11-1996 by L.L. No. 5-1996]

- (a) Apartment in multiple dwelling or commercial building: 700 square feet.
- (b) Mobile home: 720 square feet.
- (c) Single-family residence or two-family residence, per unit: 1,000 square feet. For the purposes of this chapter, a "mother-daughter" will be considered a two-family residence.

- (50) Tenant farmers must be employed on said farm and receive such housing as partial remuneration.
- (51) The use of mobile homes on farms to house tenant farmers shall be permitted upon application to the Planning Board and shall expire at the end of 12 months; thereafter they must be renewed. There shall be a fee set from time to time by the Town Board in Chapter A212, Fees, for each such permit to cover each such mobile home so located. [Amended 4-8-1998 by L.L. No. 1-1998]
- (52) Mobile homes shall be located no closer than 100 feet from any public road and shall be located only on land that is considered a part of the same farming operation in which the tenant farmer is employed.
- (53) The total ground or floor area used for wholesale purposes by any establishment shall not exceed 10,000 square feet, unless located within an industrial park.
- (54) The minimum usable open space per dwelling unit in townhouses and multifamily dwellings shall be: [Amended 12-11-1996 by L.L. No. 5-1996]
- (a) One bedroom: 750 square feet.
 - (b) Two bedrooms: 950 square feet.
 - (c) Three or more bedrooms: 1,000 square feet.
- (55) No extractive operation will be permitted within 1,000 feet of any residence.
- (56) Clinics, cafeterias and recreational facilities shall be for the exclusive use of company employees.
- (57) Not more than one accessory motor vehicle service station will be permitted when under the same management as the principal use.
- (58) Direct access from an individual lot to a limited access highway or to a residential street is prohibited.
- (59) Only oil, gas or electricity may be used for fuel.
- (60) Such use must not create any dangerous, injurious, noxious or otherwise objectionable fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; electromagnetic or other forms of disturbance to radio and television reception; glare; harmful discharge, storage or dispersal of liquid or solid wastes in a manner or amount as to adversely affect the surrounding area.
- (61) The minimum floor area per principal building shall be 10,000 square feet per first floor.
- (62) The minimum initial commercial rental space per major designed shopping center within closed buildings, including all component parts, shall be 65,000 square feet. The minimum initial commercial rental space per minor designed shopping center within enclosed buildings, including all component parts, shall be 40,000 square feet. With such a revision, Chart F of the formula will apply,[4] but its various elements may be modified or deleted to allow a minor designed shopping center to be constructed on a lot size considerably smaller than the existing law allows. Mandatory items in the formula may not be modified or deleted. [Amended 6-27-1990 by L.L. No. 1-1990] [4]
- Editor's Note: Chart F is included at the end of this chapter.*
- (63) Hotel and motel rooms will be permitted at the rate of 50 rooms for the first five acres, and 15 rooms for each additional acre.
- (64) All accessory uses shall be within completely enclosed buildings.

- (65) Storage of gasoline for residential use, but not for resale, is permitted in an aboveground tank not to exceed a capacity of 300 gallons, at least 100 feet from any lot line and at least 50 feet from any residence.
- (66) Except for previously approved and filed subdivision plats, subdivisions on private roads within the Town shall not be permitted or approved. On preexisting approved private roads or private access drives, no more than four one-family dwellings shall be constructed. Access on or over preexisting private roads or private access drives shall meet minimum grade standards of Chapter 181, Subdivision of Land, and shall be so constructed as to support use by fire and other emergency equipment. On preexisting private roads or private access drives, only one-family residences may be constructed. Lots fronting upon a preexisting private road or private access drive, right-of-way or easement shall, therefore, abut a private road that shall not be maintained by the Town as a public street. [Added 8-11-1993 by L.L. No. 2-1993]
- (67) Not more than one unregistered motor vehicle shall be permitted on any lot at one time in all zoning districts and uses, unless specifically permitted in the Use and Bulk Tables (see Nos. 57, 58, 72, 73, 74 and 75). [5] [Added 12-11-1996 by L.L. No. 5-1996]
[5] Editor's Note: The Use and Bulk Tables are included at the end of this chapter.
- (68) No establishment located in any zone of the Town shall permit any individual, whether an entertainer, employee, guest, patron or otherwise to appear or perform in the presence of patrons with the upper or lower torso uncovered or so thinly covered or draped as to appear uncovered or to permit any person to appear in any scene, act, dance, performance, sketch or in any form of entertainment with the upper or lower part of the torso uncovered or so thinly covered or draped as to appear uncovered. This prohibition shall include any exotic dance or lewd or indecent act or performance to be conducted in any establishment within the Town. [Added 8-11-1993 by L.L. No. 2-1993]
- (69) Adult bookstores or adult novelty stores are prohibited within all zones of the Town of Greenville. [Added 8-11-1993 by L.L. No. 2-1993]
- (a) An "adult bookstore" is defined as an establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section exclusively devoted to the sale or display of such material.
 - (b) An "adult novelty store" is defined as an establishment having as a substantial or significant portion of its stock-in-trade materials including but not limited to articles of clothing, mechanical devices and accessories which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section exclusively devoted to the sale or display of such material.
- (70) Self-service storage facilities. [Added 5-15-2008 by L.L. No. 1-2008[6]]
- (a) Districts. Self-service storage facilities shall be permitted in the Commercial Mixed-Use District as defined and set forth in the Town of Greenville Zoning Law.

(b) Site and design requirements. The following site and design requirements shall apply to all self-service storage facilities to be constructed and maintained within the Town of Greenville:

- [1] Circulation and access. If the site is fenced, the site access drive shall have the fence and its gate set back a minimum of 40 feet from the access road. Internal site circulation lanes shall be adequate in dimensional cross-section, width and turning radii where applicable to provide for the maneuverability of fire trucks. Aisle width shall be a minimum of 23 feet for either one- or two-way traffic flows.
- [2] Security. Provision shall be made for adequate site security and access control. If the facility is gated, adequate provision shall be made for access by emergency service providers when the facility is closed. If fencing is provided for access control, in no case shall barbed wire or razor wire fence components be incorporated into the same. Such fence shall not exceed eight feet in height. Notwithstanding the foregoing, the solid rear and/or side walls) of a storage building or buildings may be incorporated into a fence line for purposes of access control subject to Planning Board approval of the exterior finish of the same and other elements in Subsection A(70)(b)[3] below. Solid or decorative brick, stone, architectural tile, masonry or wood walls may be used for fencing and screening purposes. If provided, fences or their equivalent shall meet the minimum setback requirement for the district. The placement of or incorporation of signs or other advertising media on such fences or walls is not permitted unless expressly so approved by the Planning Board pursuant to Subsection A(70)(b)[3] below.
- [3] Aesthetic, screening, landscaping and lighting. Care shall be taken to provide an aesthetically pleasing, well-landscaped and maintained facility and to avoid a monotonous or fortress-like appearance to the extent that the facility may be visible off site. Required yards shall be landscaped with a mix of trees, shrubs of varying sizes and vegetative ground cover as appropriate to the site and as approved by the Planning Board. The color, material and design of structures, including their roof pitch, shall be reviewed by the Planning Board as to their conformity with surrounding structures and community character to the degree said structures are visible to other properties. Security lighting shall be provided on the site, but in no case shall lighting be directed so as to cause a nuisance or hazard to other properties.
- [4] Limits on building length and height.
 - [a] Limit on building length: 220 feet.
 - [b] Limit on building height: 15 feet for buildings with flat roofs or up to 23 feet for buildings with pitched roofs.
- [5] Limits on storage and use. In no case shall self-service storage facilities permit the storage or maintenance of radioactive, hazardous materials, explosive or controlled substances. The servicing or repair of

automotive equipment, tools or machinery and the construction or fabrication of goods or materials shall not take place on the site, either inside or outside the bounds of an individual storage unit. The operation of power tools, spray equipment, compressors and other equipment shall not be permitted as an adjunct to the use or lease of any storage unit. Auctions, garage or tag sales or an other commercial or private sales shall not take place on the site either- by, lessees of storage units or by the owners or operators of the site. Parking spaces required pursuant to Subsection A(70)(b)[10] below may not be rented as nor used for vehicular storage spaces. No additional parking spaces other than those required pursuant to Subsection A(70)(b)[10] below may be provided for the unenclosed storage of vehicles or items, including but not limited to automobiles, motorcycles, trucks, trailers, vans, recreational vehicles, campers, boats or watercraft except that, in the event that the applicant can demonstrate that under no circumstances would the above-listed vehicles or items be visible to any other off-site location either by virtue of existing conditions such as topography or other permanent screening or by virtue of proposed permanent screening, such open storage shall be permitted subject to Planning Board approval. Notwithstanding the foregoing, nothing in this subsection shall be construed as permitting the unenclosed storage of wrecked, inoperable or dismantled vehicles at a self-service storage facility.

- [6] Limits on unit size. The maximum size of a storage unit permitted in a self-service storage facility is 600 square feet. In no case shall a single tenant be permitted to rent or lease more than 1,800 square feet in a single self-service storage facility.
- [7] Drainage. Adequate drainage control measures shall be provided on the site so as to avoid increasing the existing rates of flow off the site. Provision shall be made for protecting the quality of the surface water runoff from the site both during the operation of the site as well as during its construction.
- [8] Signs. Signs shall be permitted as follows: a ground-mounted or pole-mounted sign shall be permitted at the entry of the site. If ground-mounted, such sign shall not be located so as to interfere with the visibility of traffic entering or exiting the site. Such sign shall not be higher than 10 feet, as measured from the top of said sign, and shall not exceed 36 square feet in area. In no case shall any signage or other attention-getting devices be mounted to the roofs, doors or sides of any structures on the site nor to the site fence. On-site circulation signs shall be provided as needed with the review and approval of the Planning Board.
- [9] Accessory uses. A leasing office for the purpose of leasing the units within the self-service storage facility may be provided on the site. A

manager's apartment may be provided for the use of a resident, on-site manager in addition to an accessory leasing office. The combined total size of the managers apartment and the leasing office may not exceed 1,200 square feet.

[10] Parking requirements. Self-service storage facilities shall provide a minimum of one parking space per 100 storage units, in addition to one parking space per 200 square feet of gross office space for the leasing office. Such parking spaces shall be located adjacent to the leasing office. If an on-site manager's apartment is provided, two parking spaces adjacent to said apartment shall be provided for such use in addition to that required for adjacent remainder of the facility.

[11] Separation requirements. A self-service storage facility shall be separated from another self service storage facility by a straight line distance of 1,500 feet.

[12] Self-storage facilities shall be special uses as defined in the Zoning Law of the Town of Greenville, Orange County, New York, and applications before the Planning Board of the Town shall be reviewed under applicable provisions for the review of special uses and the granting of special use permits.

[6] Editor's Note: This local law provided that its purpose is to establish site and design requirements for self-storage facilities within the Town of Greenville, Orange County, New York.

[1] Editor's Note: The Use and Bulk Tables are included at the end of this chapter.

Article XII Nonconforming Buildings and Uses

§ 205-59 Applicability of provisions.

The following provisions shall apply to all buildings and uses existing on the effective date of this chapter which building and uses do not conform to the requirements set forth in this chapter, to all buildings and uses that become nonconforming by reasons of any subsequent amendment to this chapter and the Zoning Map which is a part thereof [1] and to all conforming buildings housing nonconforming uses.

[1] Editor's Note: The Zoning Map is on file in the Town offices.

§ 205-60 Continuance of uses.

A. Any nonconforming use may be continued indefinitely, but it:

- (1) Shall not be enlarged, extended, reconstructed, restored (except in accordance with § 205-61C nor placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever, except that the Planning Board may permit an expansion not to exceed 15% of the existing ground area of said nonconforming use, provided that the most restrictive bulk requirements specified in the district in which said nonconforming use is located shall apply to any such extension.
- (2) Shall not be extended to displace a conforming use.

- (3) Shall not be changed to another nonconforming use without a special permit from the Board of Appeals, and then only to a use which, in the opinion of the Board, is of the same or a more restricted nature.
 - (4) Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more or has been changed to, or replaced by, a conforming use. The intent to resume a nonconforming use shall not confer the right to do so.
- B. Whenever two boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 205-61 Continuance of buildings.

Except as provided in § 205-64 below, no nonconforming building or a building which houses a nonconforming use shall be:

- A. Altered: structurally altered or enlarged, except that the Planning Board may permit an expansion not to exceed 15% of the existing ground floor area of said nonconforming building, provided that the most restrictive bulk requirements specified in the district in which nonconforming use is located shall apply to any extension.
- B. Removed: moved to another location where such use would be nonconforming.
- C. Restored after damage: restored for other than a conforming use after damage from any change, unless the nonconforming use is reinstated within one year of such damage; if the restoration of such building is not completed within said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

§ 205-62 Maintenance and alterations permitted.

Normal maintenance and repair, structural alteration in and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, front yard, side yard, rear yard, maximum height, maximum lot coverage or minimum livable floor area per dwelling is permitted if the same does not increase the degrees of, or create any new, nonconformity.

§ 205-63 Restoration to comply.

No building damaged by fire or other causes shall be repaired or rebuilt except in conformity with the regulations of this chapter.

§ 205-64 Normal maintenance.

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of any building, or the carrying out upon the issuance of a building permit of major structural alterations or demolition necessary in the interest of public safety. In granting such a permit, the Building Inspector shall state the precise reason why such alterations were deemed necessary.

§ 205-65 Signs.

The nonconforming use specified below is deemed sufficiently objectionable, undesirable and out-of-character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and blight the proper and orderly development and general welfare of

such district and the Town to the point that such nonconforming use shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter; which period of time as specified for the purpose of permitting the amortization of the remaining value, if any, of such use: signs. In any district, any sign not of a type permitted or of a type permitted but greater than the maximum permitted size may be continued for one year following the effective date of this chapter, provided that after the expiration of that period such nonconforming use of it shall be terminated.

Article XIII Special Use Permits

§ 205-66 Definition.

As used in this article, the term "special use permit" shall mean an authorization of a particular land use which is permitted by this chapter, subject to the requirements of this chapter to assure that the proposed use is in harmony with the chapter and will not adversely affect the neighborhood if such requirements are met.

§ 205-67 Approval after application; objectives.

On application and after public notice and hearing, the Planning Board may authorize the issuance of special use permits for any of the uses subject to authorization and approval of the Planning Board, for which this chapter requires, in the district in which such use is proposed to be located. In approving any such use, the Planning Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

- A. That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
- B. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- C. That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
 - (1) The location, size and character of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential district or conflict with the normal traffic of the neighborhood.
 - (2) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (3) The location, size and character of the proposed use will not unreasonably and adversely affect the enjoyment or value of the adjacent residential properties.

§ 205-68 Conditions; enforcement thereof.

Upon the granting of any special use permit with conditions or restrictions, the Building Inspector shall ensure that no permit be issued without assurance that such conditions and/or restrictions have been met or implemented.

§ 205-69 Application for area variance.

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 267-b of the Town Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of this chapter.

§ 205-70 Public hearing and decision.

The Planning Board shall conduct a public hearing within 62 days from the day an application is received on any matter referred to it under this section.

- A. Each application for a special use permit shall be accompanied by a proposed site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives and parking areas, and all streets within 200 feet of the lot.
- B. Notice of the public hearing shall be printed in the official newspaper of the Town at least five days prior to the date thereof. In addition to such published notice, the Planning Board shall cause notice to be given of the substance of every application for a special use permit, together with notice of the hearing thereon, by causing notice thereof to be mailed by certified mail, return receipt requested, or other means at least 10 days before the date of said hearing, to the owners of all property abutting that held by the applicant in the immediate area (whether or not involved in such application) and all other owners within 300 feet, or such additional distance as the Planning Board may deem advisable, from the exterior boundaries of the land involved in such application, as the names of said owners appear on the last completed assessment roll of the Town. It shall be the applicant's responsibility to issue any or all of the notices required, and proof of the mailing of such notice, in accordance with this section, must be filed by the applicant with the Planning Board. Provided that due notice has been published as above-provided and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with the application for a special use permit.
- C. If the proposed special use permit involves any of the areas specified in § 239-m of the General Municipal Law, then the Planning Board, at least 10 days before the public hearing, shall mail notices thereof to the applicant and to the Orange County Planning Department as required by §§ 239-l and 239-m of the General Municipal Law.
- D. In considering any application for a special use permit, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- E. The Planning Board shall decide the special use permit application within 62 days after the public hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board

must be filed in the office of the Town Clerk within five business days after the decision is rendered, and a copy thereof must be mailed to the applicant.

§ 205-71 Special uses to be deemed conforming.

The granting of any special use permit application shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

§ 205-72 Renewal.

The Planning Board may require that special use permits be periodically renewed. Such renewal shall be granted following public notice and a hearing and may be withheld only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 62 days shall be granted the applicant for full compliance prior to the revocation of the said permit.

§ 205-73 Termination of approval in absence of building permit.

Special use permit approval shall be void after a one-year period from date of approval unless a building permit has been issued.

§ 205-74 Telecommunications facilities siting.

[Added 12-16-1998 by L.L. No. 5-1998]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY

All equipment, apparatus and devices used in the supplying of personal wireless telecommunications services.

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES

Commercial mobile services, unlicensed wireless services, cellular or digital telephone services and other common carrier wireless exchange access services as defined by the Federal Telecommunications Act.

TELECOMMUNICATIONS ACCESSORY STRUCTURE

Accessory buildings and structures, including base stations, designed and used to shelter telecommunications equipment and/or to support personal wireless telecommunications services. This term does not include offices, long-term storage of vehicles or other equipment storage or broadcast studios.

TELECOMMUNICATIONS ANTENNA

An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to whip, panel and dish telecommunications antennas.

TELECOMMUNICATIONS TOWER

Any ground- or roof-mounted pole, spire, structure or combination thereof taller than 15 feet in height, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting an antenna or similar telecommunications apparatus above grade.

- B. Special permit requirement. No personal wireless telecommunications service facility, including but not limited to telecommunications antennas and towers, shall hereafter be erected, altered or modified except after obtaining a special use permit from the Planning Board in conformity with this section and with Article XI of this zoning law. All telecommunications antennas and towers existing on the effective date of this section shall be allowed to continue their usage as they presently exist. New construction on or modification of an existing telecommunications antenna or tower, other than routine maintenance, shall comply with the requirements of this section. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed telecommunications antenna, tower or facility.
- C. Permitted siting.
 - (1) Personal wireless telecommunications service facilities, including but not limited to telecommunications antennas and towers, are prohibited in the Town of Greenville except at the following locations:
 - (a) The existing communications tower located in the median of United States Interstate Route 84 approximately 2,500 feet west of the intersection of Route 84 and Mountain Road.
 - (b) The existing tower owned and operated by Orange and Rockland Utilities located off Greenville Turnpike near Mud Pond.
 - (c) Property owned by the Town of Greenville located off Route 6 with Tax Map designation Section 7, Block 1, Lot 27.1; provided, however, that no facilities, antennas or towers shall be located in this parcel on the southeast side of Route 6 nor within 1,500 feet from Route 6 on the northwest side of Route 6.
 - (d) A corridor extending along United States Interstate Route 84 1,000 feet west of the Town of Wawayanda boundary line to one mile east of the intersection of Route 84 and Mountain Road, said corridor not to exceed a distance of 250 feet from each side of the Interstate Route 84 right-of-way.
 - (2) No personal wireless telecommunications service facilities, including but not limited to telecommunications antennas and towers, shall be erected within a distance of 1,000 feet from any residential dwelling in the Town of Greenville.
 - (3) All personal wireless telecommunications service facilities, including but not limited to telecommunications antennas and towers, shall comply with zoning setback regulations in the affected zoning district. Notwithstanding such setback regulations, all telecommunications antennas and towers shall be set back a distance at least equal to the height of such antenna or tower. Additional setbacks may be required by the Planning Board in order to provide for the public safety. A tower or antennas setback may be reduced in the discretion of the Planning Board to allow collocation upon an existing tower or other structure.
- D. Collocation requirements.
 - (1) A proposal for a telecommunications tower shall not be approved unless the Planning Board finds that the antenna planned for the proposed tower cannot be accommodated

on the presently existing tower located in the median of United States Interstate Route 84 approximately 2,500 feet west of the intersection of Route 84 and Mountain Road or at the presently existing tower owned and operated by Orange and Rockland Utilities located off Greenville Turnpike near Mud Pond or at an existing or approved telecommunications tower or structure due to one or more of the following reasons:

- (a) The antenna would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified professional engineer, and the existing or approved tower or structure cannot be reinforced, modified or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
 - (b) The antenna would cause interference materially impacting the usability of other existing or planned antennas at the tower or structure, as documented by a qualified professional engineer, and the interference cannot be prevented at a reasonable cost.
 - (c) Existing or approved towers or structures within or outside the Town of Greenville cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified professional engineer.
 - (d) Other foreseen reasons that make it infeasible to locate the antenna upon an existing or approved tower or structure.
- (2) Any proposed telecommunications tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying height.
- (3) The tower applicant shall submit to the Planning Board a letter of intent committing the applicant, and his/her/its successors in interest, to negotiate in good faith for shared use of the proposed tower by other providers of personal wireless telecommunications services in the future. Any special use permits issued under this section shall commit the new tower owner and his/her/its successors in interest to:
- (a) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith concerning future requests for shared use of the new tower by other providers of personal wireless telecommunications services.
 - (c) Allow shared use of the new tower if another provider of personal wireless telecommunications services agrees in writing to pay reasonable charges.
 - (d) Make no more than a reasonable charge for shared use based on generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, and depreciation and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

- (4) In order to keep neighboring municipalities informed and to facilitate the possibility of directing that an existing tall structure or existing tower in a neighboring municipality be considered for shared use, the Planning Board shall require that:
 - (a) An applicant who proposes a new tower shall notify, in writing, the legislative body of each municipality (within and without New York State) that borders the Town of Greenville. Such notification shall include the exact location of the proposed tower and a general description of the project, including but not limited to the height of the tower and its capacity for future shared use.
 - (b) Documentation of this notification shall be submitted to the Planning Board at the time of application.
- E. Content of applications. All applicants for a special use permit for the placement, construction or modification of a personal wireless telecommunications service facility, telecommunications antenna or telecommunications tower shall submit the following additional information to the Planning Board:
 - (1) A visual environmental assessment form, landscaping plan and visual assessment report, including appropriate modelling and photography assessing the visibility from key viewpoints identified in the visual environmental assessment form, existing tree-lines and proposed elevations.
 - (2) A preliminary report prepared by a licensed professional engineer describing:
 - (a) Feasibility of collocation on existing structures and telecommunications facilities and towers within and without the Town of Greenville.
 - (b) Applicant's full map and grid coverage in the Town of Greenville.
 - (c) Surrounding topography and relation to line of sight transmission.
 - (d) Available road access, electric power and land-based telephone lines and/or microwave link capability.
 - (e) Required improvements for construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Greenville.
 - (f) Identity of location, ownership and usage of currently existing telecommunications facilities within the Town of Greenville and all municipalities bordering the Town of Greenville (inside and outside New York State).
 - (g) Plans for construction of telecommunications accessory equipment, buildings or structures.
 - (h) Proposed mitigation measures for any identified visual impacts.
 - (i) Proposed safety measures.
 - (j) Compatibility with existing telecommunications networks, New York State Thruway Authority telecommunications network and public safety and emergency networks, such as fire, ambulance, police and 911.
 - (3) Applicants for telecommunications towers shall provide the following additional information:
 - (a) Tower height and design, including a cross section of the structure.
 - (b) The tower's compliance with applicable structural standards.
 - (c) The tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.

- (4) Applicants who wish to mount a telecommunications antenna on an existing structure shall provide the following additional information:
 - (a) The existing structure's suitability to accept the proposed antenna.
 - (b) The proposed method of affixing the new antenna to the structure.
 - (c) Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
 - (5) Demonstration of need for the proposed personal wireless telecommunications service facility, telecommunications antenna or telecommunications tower showing the impracticality of upgrading or expanding an existing site.
 - (6) Demonstration that the proposed site is the most appropriate site within the immediate area for the location of the proposed personal wireless telecommunications service facility, telecommunications antenna or telecommunications tower.
 - (7) An inventory of existing telecommunications facilities within the Town of Greenville and all bordering municipalities (inside and outside New York State) outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower, structure or facility.
 - (8) A description of the applicant's long-range plans which project market demand and long-range facility expansion needs within the Town of Greenville.
 - (9) Proof of certified mail announcements to all other telecommunications providers in the Town of Greenville and all bordering municipalities (inside and outside New York State) declaring the applicant's sharing capabilities and/or siting needs.
 - (10) A map showing the location of the premises for which the special use permit is sought and site plan showing all features of the proposed facility necessary for providing road access, electrical service, land-based telephone line connection and/or microwave link capability within the property boundaries of the proposed location.
 - (11) Such other information as may be required by the Planning Board or Town Engineer.
 - (12) The application must be accompanied by the fee prescribed in Article II of Chapter A212, Fees, of the Code of the Town of Greenville, together with any fees determined by the Planning Board to be reasonable and necessary for adequate review of the application by the Town Engineer.
- F. Performance standards governing issuance of special use permits.
- (1) Minimal visual impact. All telecommunications towers and telecommunications antennas shall be sited to have the least possible practical visual effect on the environment.
 - (2) Proof of noninterference from antenna. No application for a telecommunications antenna shall be approved by the Planning Board unless the applicant provides a statement, certified by a qualified licensed engineer and approved by the Town Engineer, that the installation of the proposed antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications.

- (3) Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the Federal Communications Commission's and Federal Aviation Administration's standards on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the antennas shall be made to comply with such standards or continued operations may be restricted by the Planning Board which shall retain continuing jurisdiction to oversee such compliance. The cost of verification of compliance shall be borne by the owner and operator of the antenna or tower.
- (4) Tower lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower in the discretion of the Planning Board.
- (5) Signs and advertisements on towers. The use of any portion of a telecommunications tower for signs or advertisements other than warning or equipment information signs is prohibited.
- (6) Tower height limitations. The height of telecommunications towers should be limited to the minimum required to provide the proposed telecommunications services. The maximum allowable height of a tower is limited to 150 feet above the ground upon which the antenna is placed. The Planning Board, in its discretion, may allow towers up to 200 feet high if the applicant can demonstrate, based upon the topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off-site views of the tower will be minimized. The height limitation may also be waived by the Planning Board when the antenna is mounted on an existing structure or to accommodate collocation.
- (7) Tower building requirements.
 - (a) The use of guyed towers is prohibited.
 - (b) Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize a monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited. The requirements of this subsection may be waived by the Planning Board, but only for good cause shown.
 - (c) The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no longer than the base. The requirement of this subsection may be waived by the Planning Board, but only for good cause shown.
- (8) Access to towers. A road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public and private, shall be made.
- (9) Design of antennas, towers and accessory structures.
 - (a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Every antenna and

tower shall be of neutral colors that are harmonious with and that blend with the natural features, buildings and structures surrounding such antenna and structure. Accessory structures shall be designed to be architecturally compatible with principal structures on the site.

(b) The Planning Board may require that telecommunications towers and antennas be of a galvanizing finish, or painted gray above the surrounding tree-line and gray or green below the tree-line. The Planning Board may require the mountings of antennas to be non-reflective and of the appropriate color to blend with their background.

- (10) Screening. The Planning Board may require vegetative and architectural screening of all personal wireless telecommunications service facilities, telecommunications antennas and telecommunications towers. Existing on-site vegetation should be preserved to the maximum extent possible. The Planning Board may require the planting of rows of evergreen or other trees to screen towers and antennas. The Planning Board may also require the use of creative design methods involving the use of walls, fences, earth berms, underground construction and other barriers for screening purposes.
- (11) Security provisions. All personal wireless telecommunications service facilities shall be provided with security measures, such as fencing, anticlimbing devices, electronic monitoring and other methods sufficient to prevent unauthorized entry and vandalism.
- (12) Safe zone. Telecommunications towers shall be designed so that, in the event of failure, they will fall within the setback area of the site and/or away from adjacent residential properties.
- (13) Annual inspection and report. Telecommunications towers over 100 feet in height shall be inspected annually by a licensed professional engineer, and a copy of the inspection report submitted to the Town of Greenville Building Inspector.
- (14) Post-installation field report. A post-installation field report identifying the personal wireless telecommunications service facility's coverage area, the telecommunications tower's maximum capacity, committed capacity and unused capacity, if any, and collocated users of the telecommunications tower shall be submitted within 60 days of installation to the Town of Greenville Building Inspector.
- (15) Compliance with other laws. The operator of every telecommunications antenna shall submit to the Town Building Inspector copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.
- (16) Assignment of special use permit. No special use permit issued under this section shall be assigned or transferred without the approval of the Planning Board upon application thereto.
- (17) Review.
- (a) Each special use permit issued under this section shall be subject to review by the Planning Board at five-year intervals to determine whether the technology in the provision of personal wireless telecommunications service facilities has changed such that the permit should be modified to require the permit holder to use the best available means or technology to mitigate visual and aesthetic

impacts within the Town of Greenville. The Planning Board shall have the authority to so modify or terminate any special use permit issued under this section if advanced technology warrants such action.

(b) It shall be the duty of the Town Building Inspector to enforce the requirements of this section. In the event that the Building Inspector determines that a violation has occurred or is occurring, the Inspector must report same to the Chairperson of the Planning Board. Upon notice to the permit holder with the opportunity for a hearing, the Planning Board may, for good cause shown, modify or revoke the permit.

(18) Abandoned or unused facilities. All personal wireless telecommunications service facilities, including but not limited to towers, antennas and accessory structures, shall be dismantled and removed from the site within one year of the cessation of their operation, unless an extension is approved by the Planning Board. In the event that any such facility, tower or antenna is not so removed, the Town of Greenville may remove same with the cost assessed against the owner. All special use permits issued under this section shall require the applicant to post a bond or other suitable undertaking to guarantee payment for removal of abandoned or unused facilities.

(19) Nonconforming uses. All telecommunications antennas and towers in existence which do not conform to or comply with this section are subject to the following provisions:

(a) Antennas and towers may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this section.

(b) If such antennas or towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the antenna or tower may be repaired and restored to its former use, location and physical dimensions without complying with this section; provided however, that if the cost of repairing the tower to the former, use, physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.

Article IX Site Plan Review

§ 205-75 Authorization required prior to issuance of building permit; definition.

- A. In all cases where this chapter requires site plan review by the Planning Board, no permit shall be issued by the Building Inspector except upon authorization of and in conformity with the plans approved by the Planning Board.
- B. As used in this article, the term "site plan" shall mean a rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in this chapter, which show the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. Plats showing lots, blocks or sites which are subject to review pursuant to authority provided for the review of subdivisions under § 276 of the Town Law or Chapter 181, Subdivision of Land, shall continue to be subject to such review and shall not be subject to review as site plans under this section.

§ 205-76 Application for area variance.

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 267-b of the Town Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of this chapter.

§ 205-77 Preparation of map required.

The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person.

§ 205-78 Conditions attached to approval.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Town Building Inspector.

§ 205-79 Submission requirements.

The following information must be submitted to the Planning Board for site plan approval:

A. General.

- (1) A map showing the parcel in relationship to adjacent parcels, streams, all drainage and watercourses, street rights-of-way and street intersections and all other structure uses.
- (2) A map of the entire parcel showing the location, dimensions and the proposed use of all buildings, parking and loading areas and access and egress thereto; all site improvements, including proposed grades, walkways, driveways, lights, fences, walls, signs, drainage facilities, benches and landscaped areas, including trees and other plantings; and all other structures and improvements other than the natural state of the land.

B. Particular.

- (1) An area map at a convenient scale, which shall include streams, street rights-of-way and street intersections; the location of the proposed development in relation to the nearest public roads on all four sides; and all public improvements, such as schools, firehouses, etc.
- (2) A map of applicant's entire holding at a convenient scale.
- (3) The names of all owners of record of adjacent properties.
- (4) Existing school, zoning and special district boundaries within 500 feet of the tract.
- (5) An accompanying statement setting forth the nature of all proposed modifications of existing zoning provisions.
- (6) Boundaries of the property and existing lot lines, Tax Map numbers, as shown on the existing Tax Map (by section, block and lot).
- (7) A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.
- (8) The location of all existing structures on the site, as well as those on adjacent properties within 100 feet of subject lot line.
- (9) The proposed location, height, spacing and use of all proposed and existing buildings and structures and outdoor signs.

- (10)The proposed location of any use not requiring a structure, including walkways, benches, fences and recreational facilities.
- (11)The location of existing and proposed usable open spaces and recreational areas and their landscaping.
- (12)Plans and plan elevations, except structural and mechanical plans, of all buildings or structures, or accessory structures, including all proposed freestanding signs, proposed to be altered.
- (13)All existing and proposed means of vehicular access and egress from the site.
- (14)The location and design of all driveways, off-street open and enclosed (if any) parking and loading areas, with the number of stalls provided therewith, and curbing provided or to be provided.
- (15)The location of all existing water lines, valves and hydrants and all sewer lines.
- (16)Existing and proposed storm drainage system.
- (17)Existing and proposed fencing, landscaping, buffer strips and screening, where required.
- (18)The proposed location, direction and type of outdoor lighting.
- (19)Existing and proposed contours with intervals of five feet or less extending 50 feet beyond the tract.
- (20)The location of existing watercourses, wooded areas, rock outcrop and single trees with a diameter of 12 inches or more measured four feet above ground level.
- (21)In the case of uses requiring approval of the Orange County Department of Health and/or the New York State Department of Environmental Conservation, the approval of said Departments.
- (22)Where the applicant wishes to develop the project in stages, a site plan indicating ultimate development.
- (23)Any additional data required by the Planning Board where it is warranted due to special conditions of the site or complexity of the proposed development.

§ 205-80 One-family and two-family detached dwellings.

- A. In the case of a one-family or two-family detached dwelling to be constructed on an approved, existing vacant lot, the Building Inspector may, in his or her discretion, issue the requisite permits under this chapter without formal review by the Planning Board, provided that the plot plan presented meets the following requirements, in addition to all other requirements of applicable laws:
 - (1) Minimum front yard: sixty-foot set back from lot line.
 - (2) Minimum rear yard: fifty-foot set back from lot line.
 - (3) Minimum side yards: forty-foot, one side; eighty-foot aggregate, provided that any side yard with a garage located on that side shall be a minimum of 30 feet.
 - (4) Minimum lot width: 150 feet at the site of the dwelling, and in the case of odd shaped lots, the width shall be determined as follows:
 - (a) A line drawn connecting the two corners of the lot fronting the road.
 - (b) Lines, parallel to that set forth in Subsection A(4)(a), running through the corner of the house closest to the road and the corner of the house farthest from the road. A lot width of 150 feet must exist at the midpoint between the two lines set forth in this subsection.

(c) On new cul-de-sac approved by the Planning Board, lot width must be a minimum of 50 feet at the street line and must expand to the minimum of 150 feet at the front yard setback line. The front yard setback line is set forth in Subsection A(1) of this section. The dimensions of a cul-de-sac are set forth in § 181-24J of the subdivision regulations of the Town.[1] These regulations set forth a minimum diameter and outside diameter. The dimensions of the cul-de-sac and the dimensions of the potential lots created around the cul-de-sac must conform to the attached diagram.[2] Lots around the cul-de-sac shall be limited to four lots.

[Amended 4-2-2009 by L.L. No. 2-2009]

[1] Editor's Note: See Ch. 181, Subdivision of Land, § 181-24J.

[2] Editor's Note: Said diagram is included at the end of this chapter.

(5) Minimum lot area (one-family): two acres.

(6) Minimum lot area (two-family): three acres.

- B. The Building Inspector may decline to approve any such plan, in his or her discretion, and refer the matter to the Planning Board for site plan review. However, such referral shall be made only in cases where the Building Inspector determines that the plan submitted may not meet the requirements of this section, and in such case, the referral by the Building Inspector to the Planning Board shall be accompanied by a written determination as to what portions of this section are in question. The fee for such review shall be as provided in Chapter A212, Fees.

§ 205-81 General considerations for review.

In reviewing any site plan, the Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and the intentions of the Town's Master Plan and may attach reasonable conditions and safeguards as a precondition to its approval. The Planning Board shall consider the special conditions set forth for any use requiring Planning Board site plan review in the Use and Bulk Tables[1] and the following general objectives:

- A. Fire and police protection. That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
- B. Harmony. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which is proposed to be situated and will not be detrimental to the orderly, efficient, economical and healthful development of adjacent properties and the Town as a whole in accordance with the zoning classification of such properties.
- C. In or adjacent to residential uses. That, in addition to the above, in case of any use located in, or directly adjacent to, a residential use:
- (1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential use or conflict with the normal traffic of the neighborhood.

- (2) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

[1] Editor's Note: The Use and Bulk Tables are included at the end of this chapter.

§ 205-82 Development plan.

In approving the plans for a particular use the Planning Board shall give specific consideration to the design of the following in the development plan:

- A. Traffic access. That all proposed traffic access ways are adequate but not excessive in number, adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- B. Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking.
- C. Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over 12 inches in diameter should be preserved to the maximum extent possible.
- D. Character and appearance. That the character and appearance of proposed use, buildings and/or outdoor signs will be in general harmony with the character and appearance of the surrounding neighborhood and that of the Town of Greenville and will not adversely affect the general welfare of the present and future inhabitants of the Town of Greenville.

§ 205-83 Public hearing; application; fee; approval.

- A. Public hearing. The Planning Board shall conduct a public hearing within 62 days from the day an application is received on any matter referred to it under this section. The Planning Board shall mail notice of said hearing to the applicant at least ten days before said hearing and shall give public notice of said hearing in the official newspaper of the Town at least five days prior to the date thereof. [Amended 12-11-1996 by L.L. No. 5-1996]
 - (1) At least ten days before such hearing, the Planning Board shall mail notices thereof to the Orange County Planning Board, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in § 239-m, Subdivision (2), of the General Municipal Law.
 - (2) If the land involved in an application lies within 500 feet of the boundary of another municipality, the Secretary of the Planning Board shall also transmit to the municipal Clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the Town.
- B. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants qualified to advise as to whether a proposed use will conform to the requirements of this chapter or will be operated in conformance with the performance

standards and, if not, what modification in design or operation would be necessary for conformance. A copy of the report of such consultants shall be furnished to the Planning Board, Building Inspector and the applicant. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

[Amended 12-11-1996 by L.L. No. 5-1996]

- C. Decision. The Planning Board shall make a decision upon the application within 62 days after the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof must be mailed to the applicant.

[Amended 12-11-1996 by L.L. No. 5-1996]

- D. Application and fee. All such applications made to the Planning Board shall be, in writing, on forms prescribed by the Board and shall be accompanied by a fee set from time to time by resolution of the Town Board in Chapter A212, Fees. Said fees are in addition to all other fees as set forth in this section and shall comprise a nonreturnable review fee for a review under the terms of this section. If site plan is simultaneous with subdivision review, the Planning Board shall, at its discretion, waive one or the other of the review fees. These fees shall be total fees for a single-family dwelling site plan, not to exceed two families.

[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- E. Submission of plans. Submission of plans meeting all requirements shall be accomplished within six months of date of application and payment of fees. A six-month extension may be granted by the Planning Board upon application.
- F. Approval. Site plan approval shall be void after a one-year period from date of approval unless a building permit has been issued.
- G. After approval of the final subdivision plat by the Planning Board, prior to any construction beginning at the property covered by the approved plat, the applicant/owner/developer must execute a development agreement, on a form approved by the Town. The language of said development agreement and the language of the Zoning Law shall be read and interpreted to as to compliment and supplement each other and not to be in any way in conflict with each other.

[Added 6-17-2010 by L.L. No. 1-2010]

§ 205-84 Renewal; uses to be considered conforming.

The Board may require that its approval be periodically renewed. Such renewal shall be granted and may be withheld only upon a determination by the Building Inspector to the effect that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of six days shall be granted the applicant for full compliance prior to the revocation of the said permit. Any use authorized by the Planning Board shall be deemed to be a conforming use in the district in which such is located provided that:

- A. The provision in this chapter under which such permit was issued is still in effect;
- B. Such permit was issued in conformity with the provisions of this chapter; and
- C. Such permit will be deemed to effect only the lot or portion thereof for which such permit shall have been granted.

Article XV Administration and Enforcement

§ 205-85 Building permits.

No building, structure or sign in any district shall be erected, added to, moved or structurally altered without a building permit duly issued upon application to the Building Inspector. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter or any other applicable law. Any building permit issued in violation of the provisions of this chapter shall be null and void and of no effect, and any work undertaken or use established pursuant to any such permit shall be unlawful.

- A. Application. Application for a building permit shall be made to the Building Inspector on forms provided and shall contain the following information:
 - (1) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations.
 - (2) The valuation of the proposed work.
 - (3) Such other information as may reasonably be required by the Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.
- B. Owner's authorization. Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- C. Plans and specifications.
 - (1) Content. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications indicating the nature and character of the work to be performed and the materials to be incorporated, the details of structural, mechanical and electrical work, including computation, stress diagrams, and other essential technical data.
 - (2) Signature. Plans and specifications shall bear the signature of the person responsible for the design and drawing.
 - (3) Waving of requirements. The Building Inspector may waive the requirements for filing architectural plans.
 - (4) Amendment. Amendments to the application or plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to approval of the Building Inspector.
- D. Plot plan.
 - (1) Every application for a building permit shall be accompanied by the plot plan drawn to scale showing:
 - (a) The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected or the lot on which it is situated, if an existing building.
 - (b) The section, block and lot numbers as they appear on the official assessment records.

- (c) The exact size and location on the lot of the proposed building or buildings or alterations of an existing building and of the other existing buildings on the same lot.
- (d) The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot or on adjacent property.
- (e) The existing and currently intended use of all buildings, existing or proposed, the use of the land and the number of dwelling units the building is designed to accommodate.
- (f) The widths and grades of adjoining and/or traversing streets, walks and alleys.
- (g) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the construction will conform to the provisions of this chapter. No foundation will be constructed which requires blasting.
- (h) Information on percolation tests taken at suitable intervals and information as to the depth to the water table where the applicant proposes new construction or new or expanded septic systems. Such test and septic design shall be performed by a New York State licensed engineer. No permit shall be used for any septic system unless the Town Engineer or his designee shall have witnessed the percolation and deep soil tests performed onsite and approved the results of such tests.

[Amended 2-24-1999 by L.L. No. 2-1999]

- (2) The Building Inspector may vary or waive the above requirements in the case of any accessory agricultural buildings.
- E. Building permit and other associated fees shall be set from time to time by the Town Board in Chapter A212, Fees.
[Amended 5-23-1990; 8-11-1993 by L.L. No. 2-1993; 11-6-1996 by L.L. No. 4-1996; 4-8-1998 by L.L. No. 1-1998]
- F. Frontage and access. No building permit shall be issued for the construction or alteration of any building upon a lot without frontage upon or at least legal permanent access to a street improved to the satisfaction of the Planning Board and meeting all the requirements of § 280-a of the Town Law. No building permit may be issued for any new construction other than additions or alterations until a curb cut permit or a highway entrance permit has been obtained from such highway authority as has the jurisdiction over the road frontage.
- G. Uses permitted upon site plan approval by the Planning Board. No building permit shall be issued for any building where the use is subject to site plan approval by the Planning Board, except in conformity with such authorization and the plans approved by said Board.
- H. Variance. No building permit shall be issued for a building for which a variance has been granted by the Board of Appeals, except in conformance with the conditions established by said Board.
- I. Duplicate documentation. The application and all supporting documentation shall be submitted in duplicate.
- J. Issuance of building permit. The Building Inspector shall examine or cause to be examined all applications for permits together with the plans, specifications and documents filed therewith.

- (1) Action. The Building Inspector shall, within 10 days after the filing of a complete and properly prepared application, either issue or deny a building permit (unless subject to site plan review by the Planning Board).
 - (2) Approval. Upon approval of the application (the legal fees having been properly paid beforehand), the Building Inspector shall issue a building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto. Both sets of plans and specifications shall be endorsed with the word "APPROVED."
 - (3) File copy. One set of such approved application, plans and specifications shall be retained in the files of the Building Inspector.
 - (4) Inspection copy. The other set shall be returned to the applicant, together with the building permit, and shall be kept at the building site open to inspection by the Building Inspector or his authorized representative at all reasonable times.
- K. Denial of building permit. If the application, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all the requirements of the applicable building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. The Building Inspector shall state, in writing, the reasons for such denial.
- L. Performance of work under building permit. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in conformance with the approved specifications and in accordance with the applicable building laws, ordinances or regulations.
- M. Expiration. Every building permit shall expire if the work authorized has not commenced within six months after the date of issuance. The Building Inspector may authorize, in writing, an additional six-month extension of the permit. Thereafter no further work may be undertaken without a new building permit and appropriate fee.
[Amended 8-1-1993 by L.L. No. 2-1993]
- N. Revocation of building permit. The Building Inspector may revoke a building permit theretofore issued and approved in the following Instances:
- (1) Where he finds that there has been any false statements or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
 - (2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
 - (3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
 - (4) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.
- O. Stop order. Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building laws, ordinances or regulations, or not in conformity with all the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, or the person performing the work, to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such

order and notice shall be in writing, shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building under construction and sending him a copy of the same by registered mail.

§ 205-86 Certificate of occupancy.

- A. New construction. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector.
- B. Alteration. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than 30 days after completion of the alteration or work unless a certificate of occupancy shall have been issued by the Building Inspector.
- C. Change of uses. No change shall be made in the use or type of occupancy of an existing building (whether conforming or nonconforming) unless a certificate of occupancy authorizing such change shall have been issued by the Building Inspector.
- D. Requirements.
 - (1) Affidavit. The owner or his agent shall make an application for a certificate of occupancy. Accompanying this application, and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector an affidavit of the registered architect or licensed professional engineer who filed the plans or of the registered architect or licensed professional engineer who supervised the construction of the work or of the superintendent of construction who supervised the work and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans and as erected complies with the law governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.
 - (2) Certificate of potability. Except where the water supply to the subject property is from an approved central water district, a certificate of potability shall accompany the application for a certificate of occupancy.
 - (3) Inspection. Before issuing a certificate of occupancy, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. Such site shall conform to § 205-29C(1).
 - (4) Filing. There shall be maintained in the office of the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the law.
- E. Issuance of certificate of occupancy.
 - (1) Uses permitted upon authorization and approval of plans by the Planning Board. No certificate of occupancy shall be issued for any use of a building or land requiring

authorization and approval of plans by the Planning Board unless and until such authorization and approval has been duly issued by said Board.

- (2) Variance. Every certificate of occupancy in connection with which a variance has been granted by the Board of Appeals shall contain a detailed statement of such variance and of any condition to which the same is subject.
- (3) Major subdivision. No certificate of occupancy for any building in a major subdivision or a section thereof or where a bond has been posted under any other section of the law shall be issued by the Building Inspector until all the improvements, including water supply system, sewage disposal system, roads and any other requirements of the Planning Board, have been completed in every detail and approved by the Orange County Health Department, the Water Resources Commission of the State of New York, the Town Engineer, the Town Board and all other appropriate authorities.
- (4) Action. A certificate of occupancy shall be issued, where appropriate, within 10 days after application therefore is made. Failure to act upon such application within 10 days shall constitute approval of such application, and the building or portion thereof may thereafter be occupied as though a certificate of occupancy has been issued.
- (5) Issuance. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate of occupancy upon the form provided by him.
- (6) Denial. If it found that the proposed work has not been properly completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformance with the applicable building regulations.
- (7) Certification. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, ordinances and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.
- (8) Recording. A record of all certificates of occupancy shall be kept in the office of the Building Inspector, and copies shall be furnished upon request to any agency of the Town or to any persons having a proprietary or tenancy interest in the building or land affected.

§ 205-87 Tests to ensure compliance.

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 205-88 Designation of Building Inspector as public official.

There is hereby designated in the Town of Greenville a public official to be known as the "Building Inspector," who shall be appointed by the Town Board at a compensation to be fixed by it.

- A. Appointment of assistant building inspectors. The Town Board may appoint one or more assistant building inspectors, as the need may appear, to act under the supervision of the Building Inspector and to exercise any portion of his powers and duties. The compensation of such assistant building inspector shall be fixed by the Town Board.
- B. Acting Building Inspector. In the absence of the Building Inspector or in the case of his inability to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act on the behalf of the Building Inspector and to exercise all of the powers conferred upon him by the law.

[1] Editor's Note: Former § 733, Restrictions on employees, which immediately followed this section, was repealed 8-11-1993 by L.L. No. 2-1993.

- C. Duties and powers of the Building Inspector.
 - (1) Administration and enforcement. Except as otherwise specifically provided by law, ordinance or regulation or except as herein otherwise provided, the Building Inspector shall administer and enforce all the provisions of laws, ordinances and regulations, applicable to the construction, alteration, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof; such administration and enforcement is to be in accordance with the most strict interpretation of all pertinent laws, ordinances and regulations.
 - (2) Issuance of permits and certifications. He shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been issued, for the purpose of ensuring compliance with laws, ordinances and regulations governing building construction and, upon application, of certifying fitness for occupancy.
 - (3) Ensurance of compliance. He shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations.
 - (4) Inspection. The Building Inspector shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from assistant building inspectors or other employees of the Building Department or from generally recognized or authoritative service and inspection bureaus, provided that the same are certified by a responsible official thereof. The Building Inspector or his duly authorized assistant(s), upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at a reasonable hour, and no person shall interfere with or prevent such entry.
 - (5) Tests. Whenever the same may be necessary appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, the Building Inspector may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.
 - (6) Final grades. With the assistance of the Town Engineer where necessary, the Building Inspector has the power to control the final grades on any property.

- (7) Complaints of violations. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be written, signed by the complainant and filed with the Building Inspector. The Building Inspector shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken consequent to each complaint, which records shall be public records.

§ 205-89 Department records and reports.

- A. Records. The Building Inspector shall keep permanent official records of all transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection during business hours.
- B. Reports. The Building Inspector shall be present at each regular meeting of the Town Board and shall, monthly as well as annually, submit to the Town Board a written report and summary of all business conducted by the Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, appeals or litigation pending and all complaints or violations, with the action taken by him consequent thereon.

§ 205-90 Cooperation of other departments.

The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Police, Fire and Health Departments or officers and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

§ 205-91 Notification of Board of Appeals of denial of applications.

All applications to the Board of Appeals shall commence with the Building Inspector, (Zoning Officer), by application for a permit, either for a structure or a use, for a particular parcel. The Building Inspector will then advise the applicant that the permit or use are denied because of nonconformance with this chapter and the sections of this chapter which set conforming standards. For all denials, (except those of a prohibited use), the Building Inspector shall transmit to the Board of Appeals a letter citing the denial of permit or use, for the parcel, (identified by owner, section, block and lot) and the sections of this chapter causing such denial. A copy of this letter shall be sent to the Planning Board for reference purposes.

§ 205-92 Board of Appeals.

- A. Creation, appointment and organization. There shall be a Board of Appeals of five members pursuant to the provisions of Article 16 of the Town Law.
- B. Permitted action by Zoning Board of Appeals.
[Amended 12-11-1996 by L.L. No. 5-1996]

- (1) Definitions. As used in this section:

USE VARIANCE

The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this chapter.

AREA VARIANCE

The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter.

- (2) Orders, requirements, decisions, interpretations, determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this chapter and, to that end, shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- (3) Use variances. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.
 - (a) No use variance shall be granted by the 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:
 - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - [2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - [3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - [4] The alleged hardship has not been self-created.
 - (b) 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.
- (4) Area variances. 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 this chapter, to grant area variances as defined herein.
 - (a) 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:
 - [1] 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;
 - [2] Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

- [3] Whether the requested area variance is substantial;
- [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- [5] 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.

(b) 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.

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

C. Zoning Board of Appeals procedure.

[Amended 12-11-1996 by L.L. No. 5-1996[1]]

- (1) Meetings, minutes, records. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- (2) Filing requirements. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five business days and shall be a public record.
- (3) The Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
- (4) Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative official charged with the enforcement of this chapter. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.
- (5) Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of this chapter by filing with such administrative official and with the Board of Appeals a notice of appeal on forms prescribed by the Board,

specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. All appeals shall be accompanied by a fee set from time to time by the Town Board in Chapter A212, Fees

[2]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

- (6) Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- (7) Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper of the Town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal or a reasonable fee relating thereto shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney.
- (8) Additional notice. In addition to such published notice, the Board of Appeals shall cause notice to be given of the substance of every appeal for a use variance or an area variance, together with notice of the hearing thereon, by causing notices thereof to be mailed by postal card or other means at least 10 days before the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area (whether or not involved in such appeal) and all other owners within 200 feet, or such additional distance as the Board of Appeals may deem advisable, from the exterior boundaries of the land involved in such appeal, as the names of said owners appear on the last completed assessment roll of the Town. It shall be the appealing party's responsibility to issue any or all of the notices required by this section. Provided that due notice has been published as above required and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with the order, decision or determination of any appeal.
- (9) Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- (10) Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk, within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

- (11) Notice to Park Commission or Planning Agency. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the Regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the Orange County Planning Department for review in accordance with the provisions of §§ 239-l and 239-m of the General Municipal Law if the property affected by such appeal lies within 500 feet of the boundary of any other municipality, County or state park or right-of-way of any County- or state-controlled access highway or drainage channel or from the boundary of any County- or state-owned land on which a public building is situated.
- (12) Neighboring municipalities affected. If the property affected by such appeal lies within 500 feet of the boundary of any other municipality, the Town Clerk shall also transmit to the municipal Clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the Town.
- (13) Compliance with State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- (14) Notice to Planning Board. At least 10 days before the date of any public hearing, the Secretary of the Zoning Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.
- (15) Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
- (16) Unless work is commenced and diligently prosecuted within one year of the date of the granting of a use variance or area variance, such variance shall become null and void.
[1] Editor's Note: This local law also repealed former §§ 744, Variance, and 745, Procedure.

§ 205-93 Illegal activities; penalties.

- A. Illegal activities. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, demolish, equip, use, occupy or maintain any building, structure or portion thereof in violation of any provision of this chapter or to fail in any manner to comply with a notice, directive or order of the Building Inspector or to construct, alter, use or occupy any building, structure or part thereof, in any manner not permitted by an approved building unit or certificate of occupancy.

B. Penalties. Any person who shall fail to comply with a written order of the Building Inspector within five days following written notice served by mail or by personal service by the Building Inspector that a violation of any provisions of this law exists; and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder shall be guilty of an offense within the meaning of the Penal Law of the State of New York and, upon conviction thereof, shall be subject to a fine of not less than \$75 nor more than \$1,000 or by imprisonment for a period not exceeding 30 days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

[Amended 8-11-1993 by L.L. No. 2-1993; 7-24-1996 by L.L. No. 2-1996]

C. Information. Upon probable cause that any provision of this chapter has been or is being violated, the Building Inspector is hereby authorized to file an information, the contents of which shall comply with the requirements of the Criminal Procedure Law of the State of New York, in the Town Court of the Town of Greenville.

[Amended 7-24-1996 by L.L. No. 2-1996]

D. Prosecutions. The Town Attorney for the Town of Greenville is hereby authorized to prosecute any information filed in the Town Court pursuant to this section.

[Amended 7-24-1996 by L.L. No. 2-1996]

E. Exceptions. This section shall not apply to violations of the provisions of the State Building Construction Code punishable under § 385 of the Executive Law of the State of New York; nor to violations of the provisions of the Multiple Residence Law punishable under § 304 of the Multiple Residence Law of the State of New York.

F. Abatement of violation. Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to the penalties prescribed in the preceding section.

§ 205-94 Interpretation; construal of provisions.

In their interpretation and application, the provisions of this law shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specially provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit or by any easement or agreement, the provisions of this chapter shall control. In the event of any conflict between any provisions of this chapter, the more restrictive provisions shall control.

Article XVI Amendments

§ 205-95 Procedure.

This chapter, or any part thereof, may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion, on petition or upon recommendation by the Planning Board as provided in Article 16 of the Town Law. Every such proposed amendment shall be referred by the Town Board to the Planning Board for a report before the public hearing.

- A. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:
 - (1) Text. Concerning a proposed amendment to or change in text in the law:
 - (a) Whether such change is consistent with the aims and principles embodied in this chapter as to the particular districts concerned.
 - (b) Which areas and establishments in the Town will be directly affected by such change and what way they will be affected.
 - (c) The indirect effect of such change on other regulations.
 - (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Development Plan of the Town. [1] Editor's Note: Said Plan is on file in the Town offices.
 - (2) Map. Concerning a proposed amendment involving a change in the Zoning Map:
 - (a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.
 - (b) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.
 - (c) Whether the proposed change is in accordance with the existing or proposed plans in the vicinity.
 - (d) The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Plan.
 - (e) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Town and probable effect there.
- B. Fee. Each petition for a zoning amendment shall be accompanied by a fee set from time to time by the Town Board in Chapter A212, Fees, payable to the Town Clerk upon the filing thereof. No fee shall be required for petitions filed in favor of or against a pending application.
[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).
- C. Notice of public hearing. By resolution adopted at a stated meeting, the Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with provisions of Article 16 of the Town Law.
- D. Notification of adjacent municipality. Should any proposed amendment consist of or include either of the following conditions, the Town Clerk shall transmit to the municipal Clerk of such other municipality a copy of the official notice of the public hearing thereof not later than the day after such notice appears in the official newspaper of the Town:
 - (1) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any other municipality; or

- (2) Any change in the regulations prescribed for any district any portion of which is located within 500 feet of such boundaries.
- E. Referral to County, see § 205-8E.
- F. Contents of notice. All notices of public hearing shall specify:
 - (1) The nature of any proposed amendment;
 - (2) The land or district affected; and
 - (3) The date when, and the place where the public hearing will be held.
- G. Protest. In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of Article 16 of the Town Law.
- H. Conformity with Comprehensive Development Plan. In all cases where the Town Board shall approve an amendment to the Zoning Map, said Board shall state, in writing, whether the amendment conforms to the Comprehensive Development Plan for the Town of Greenville. If said amendment does not conform to said Plan, the reasons for the decision shall be fully set forth in writing.