



Department of State
Corporations, State Records & UCC

New York
Department of State
DIVISION OF CORPORATIONS, STATE RECORDS & UNIFORM COMMERCIAL CODE
One Commerce Plaza
99 Washington Street
Albany, NY 12242-5500

Local Law Filing

Pursuant to Municipal Home Rule Law §27

Local Law Number ascribed by the legislative body of the local government listed below:

2 of the year 2025

Local Law Title: Village of Washingtonville Zoning Local Law Number 2 of 2025

Be it enacted by the Village Board
(Name of Legislative Body)

County City Town Village
(Select one)

of Village of Washingtonville as follows on the attached pages
(Name of Local Government)

For Office Use Only

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STATE RECORDS

JUL 15 2025

DEPARTMENT OF STATE

Department of State Local Law Index Number: 2 of the year 2025

(The local law number assigned by the Department of State for indexing purposes may be different from the local law number ascribed by the legislative body of the local government listed below.)

Table I  
**Use Schedule**  
**Mixed Use and Nonresidential Zoning Districts**

Use	Zoning Districts					
	OR	AB	OC	D	GC	LIO
Professional and business office	---	---	P	P	---	---
Resort lodge	---	P	---	P	---	---
Restaurant	SU-RU	P	---	P	---	---
Restaurant with drive-through	---	---	---	SU	---	---
Retail use (not listed elsewhere)	SU-RU	---	---	---	---	---
Tavern or bar	---	---	---	P	---	---
<b>Heavy Commercial and Light Industry Uses</b>						
Animal hospital and veterinarian office	---	---	---	SU	SU	SU
Animal kennels	---	SU	---	---	SU	SU
Autobody shop	---	---	---	---	SU	SU
Automotive repair garage	---	---	---	---	SU	SU
Brewery, winery and distillery	---	SU	---	SU	---	---
Building contractor storage yard	---	---	---	---	SU	SU
Business park	---	SU	---	---	---	---
Distribution warehouse	---	---	---	---	---	---
Gas and propane storage	---	---	---	---	---	SU
Landscape contractor yard and sales	---	---	---	---	SU	SU
Light industry	---	---	---	---	---	SU
Research laboratory	---	---	---	---	SU	SU
Self-storage facility	---	---	---	---	SU	SU
Wholesale business	---	---	---	---	SU	SU
<b>Utilities</b>						
Large-scale solar facility	---	SU	---	---	---	---
Public utility rights of way, transmission lines, or unmanned structures (e.g. substation, pumping station) serving the Village	P	P	P	P	P	P
Village sewer and water plants	---	---	---	---	P	---
Wireless telecommunication facilities	---	---	---	SU	SU	SU
<b>Accessory Uses</b>						

Table I  
Use Schedule  
Mixed Use and Nonresidential Zoning Districts

Use	Zoning Districts					
	OR	AB	OC	D	GC	LIO
<b>Open Space, Agriculture and Recreation Related Uses</b>						
Open space	P	P	P	P	P	P
Golf course	---	P	---	---	---	---
Passive recreation	P	P	P	P	P	P
Public recreational facilities	P	P	P	P	P	P
Walking path, trail	P	P	P	P	P	P
Agriculture, cropland and tree	---	P	---	P	---	---
Nursery, landscape	---	P	---	---	---	---
Stables, commercial and riding academies	---	P	---	---	---	---
<b>Residential Uses</b>						
One-family detached dwelling	P	---	---	---	---	---
Two-family dwelling in existence on the effective date of this law	---	---	---	---	---	---
One-Family Attached Dwellings (townhomes) in existence on the effective date of this law	---	---	---	---	---	---
Multifamily dwelling	SU-RU	---	---	---	---	---
Manufactured housing	---	---	---	---	---	---
Senior/active adult housing	---	SU	---	---	---	---
Continuing care retirement community	---	SU	---	---	---	---
Veteran housing	---	SU	---	---	---	---
Residence in upper story of mixed use buildings	---	---	---	SU	---	---
Residential professional office	SU	---	---	---	---	---
<b>Governmental, Civic and Institutional Uses</b>						
Benevolent, philanthropic uses	---	---	---	SU	---	---
Cemetery	---	---	---	---	---	---
Dance and music instruction	SU	---	SU	---	---	---
Educational institution	---	---	---	---	---	---
Emergency service buildings including fire, police and ambulance	P	P	P	P	P	P

Table I  
Use Schedule  
Mixed Use and Nonresidential Zoning Districts

Use	Zoning Districts					
	OR	AB	OC	D	GC	LIO
Museum	---	---	---	P	---	---
Performing arts center	---	SU	---	SU	---	---
Place of worship	SU	---	---	---	---	---
Village government buildings	P	P	P	P	P	P
<b>Retail and Commercial Uses</b>						
Adult uses						SU
Antique shop	P	P	P	P	---	---
Artisan craft shop and gallery	P	P	P	P	---	---
Bakery	---	---	P	P	---	---
Banks and other financial institutions	P	---	P	P	---	---
Business service (not listed elsewhere)	---	---	---	P	---	---
Child daycare	SU	---	SU	---	---	---
Commercial indoor recreation facilities	---	SU	---	---	---	---
Commercial outdoor recreation facilities	---	SU	---	---	---	---
Entertainment production studio	SU	---	P	P	---	---
Event Venue	---	SU	---	SU-RU	---	---
Farm market	---	P	P	P	---	---
Fast-food retail	---	---	---	P	---	---
Florist	P	---	P	P	---	---
Funeral home	SU	---	SU	P	---	---
Grocery store	---	---	---	P	---	---
Hardware store	---	---	---	P	---	---
Health fitness facility	---	P	---	P	---	P
Hotel, Boutique	SU	P	SU	---	---	P
Laundromat	---	---	---	P	---	---
Medical office	---	---	SU	SU	---	---
Movie theater	---	---	---	P	---	---
Personal service uses	---	---	P	P	---	---

# Local Law Filing

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

## 1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto ascribed as local law number 2 of 2025  
the (County)(City)(Town)(Village) of Village of Washingtonville was duly passed by  
Village Board on June 2, 2025 in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

## 2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_  
(County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by  
\_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was  
*(Name of Legislative Body)*  
(approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_  
*(Elective Chief Executive Officer\*)*  
on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

## 3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_  
(County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by  
\_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was  
*(Name of Legislative Body)*  
(approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_  
*(Elective Chief Executive Officer\*)*  
\_\_\_\_\_  
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the  
affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held at  
\_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

## 4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_  
(County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by  
\_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was  
*(Name of Legislative Body)*  
(approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_  
*(Elective Chief Executive Officer\*)*  
\_\_\_\_\_. Such local law was subject to permissive referendum and no valid  
requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_ in accordance with the  
applicable provisions of law.

# Local Law Filing

## 5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20 \_\_\_\_\_ the City of \_\_\_\_\_ having submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_ became operative.


## 6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed thereto, ascribed as local law number \_\_\_\_\_ of 20 \_\_\_\_\_ the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

## (If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in the paragraph \_\_\_\_\_ above.

(Seal)

  
Clerk of the county legislative body, City, Town or Village Clerk  
officer designated by local legislative body

(Date)

7 / 9 / 25

Village of Washingtonville  
Adopted Zoning Local Law

June 2, 2025

# Chapter 315, ZONING

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### **Attachments.**

#### **Table I. Use Schedule.**

#### **Table II. Bulk Table.**

# Chapter 315, ZONING

## Article I, General Provisions

### § 315-1 Title.

This local law shall be known and may be cited as the "Zoning Chapter of the Village of Washingtonville, Orange County, New York", also referred to herein as the "Zoning Chapter".

### § 315-2 Purpose; objectives.

This Zoning chapter is adopted pursuant to the Village Law of the State of New York, Chapter 63, Article 7 of Consolidated Laws, and the amendments thereof and supplements thereto, for the purpose of promoting the public health, safety, morals or the general welfare of the community and in furtherance of the following related and more specific objectives:

- A. To guide and regulate the orderly growth, development and redevelopment of the Village of Washingtonville, in accordance with a Comprehensive Plan, its Vision, and goals and objectives, principles and standards, that have been deemed beneficial to the interests and welfare of the Village of Washingtonville.
- B. To protect the established character and the social and economic well-being of both private and public property.
- C. To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate and in accordance with the adopted Comprehensive Plan.
- D. To secure safety from fire, panic and other dangers and to provide adequate light, air and convenience of access.
- E. To prevent overcrowding of land or buildings and to avoid undue concentration of population.
- F. To lessen and, where possible, to prevent traffic congestion on public streets and highways.
- G. To conserve the value of buildings and to enhance the value of land throughout the village in accordance with the Comprehensive Plan and this Zoning Chapter.
- H. To facilitate the efficient and adequate provision of community facilities and services and ensure that the Village's current and future needs, including but not limited to emergency service protection, recreational, and educational facilities, are considered and addressed during review of development applications.
- I. To protect properties and residents from nuisances such as noxious odors, noise, light, air and water pollution.
- J. To protect the Village's sensitive environmental features and avoid disturbances to these features, including but not limited to the 100-year floodplain and its associated floodway (also referred to as the special flood hazard area), wetlands, streams, ponds, lakes, and other surface water features, steep slopes, wetlands, streams, ponds, lakes and other surface water features, so as not to have detrimental negative impact on the Village's population and environs.

## Chapter 315, ZONING

- K. To protect the Moodna Creek other surface and groundwater resources within the Village that supply, either directly or indirectly, the Village's drinking water supply, by ensuring that appropriate design measures are integrated into development decisions to mitigate against pollution and contamination.
- L. To protect the Village's significant history by protecting its historic buildings, structures, features, and character by avoiding these resources, or adaptively reusing them in a manner set forth herein.
- M. To protect the Village's small-scale building pattern and community character, and its scenic qualities.
- N. To promote architecturally and visually attractive development that enhances the Village's appearances in order to maintain property values.
- O. To recognize that the Village's downtown, which is concentrated at the intersection of Main Street, Goshen Avenue, South Avenue, and to a lesser extent, North Street, is the traditional center of the community and any new development should seek to revitalize and improve the center for this purpose.
- P. To encourage economic development, including establishment of new nonresidential uses, and re-use of existing vacant and underutilized nonresidential buildings, in locations consistent with this Zoning Chapter.
- Q. To ensure that development is served by adequate transportation facilities in order to prevent and reduce traffic congestion, and to encourage a circulation system that promotes pedestrian and bicycle use and promotes connections to the Schunne-munk Rail Trail and other pathways.
- R. To protect the Village's scenic gateways, and expansive views to Schunne-munk Mountain where possible.
- S. To gradually eliminate nonconforming uses through conversion to conforming uses.

### § 315-3 Word usage; definitions.

Certain words and terms are used in this Zoning Chapter for the purposes hereof and are defined as follows.

- A. Scope and meaning of certain words and terms within this Section §315-3.
  - (1) Unless the context clearly indicates the contrary, words used in the present tense include the future.
  - (2) The singular number includes the plural, and the plural the singular, except that this clause shall not override specific use or density regulations (e.g. permitting multiple structures where only one is allowed, or more dwelling units that otherwise allowed as elsewhere regulated herein).
  - (3) The word "person" includes a profit or nonprofit corporation, company, partnership or individual.
  - (4) The word "shall" is mandatory and not directory; the word "may" is permissive.
  - (5) The word "lot" includes the word "parcel" and "plot."

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- (6) The word "structure" includes the word "building."
- (7) The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.

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

### **ACCESSORY USE OR BUILDING**

A use or structure that is subordinate to the principal use on the same lot and serving a purpose typically incidental and well established to the principal use. For a use or structure to be deemed an accessory use/customary incidental accessory use or accessory structure, it must be:

- (1) subordinate to the principal use on the same lot; and
- (2) serve a purpose that is typically incidental and well established to the principal use; and
- (3) possess unity of ownership between the principal and accessory uses. In no case shall such accessory use dominate in land area, water area, extent, surface area, gross floor area or purpose to the principal use but be minor in its association with the principal/primary use except as set forth below.

Examples of customary residential accessory uses and structures are decks, brick and mortar and similar constructed outdoor fireplaces, patios, garages, carports, and sheds. Examples of customary commercial accessory uses and structures include parking, loading docks and areas, and signs. Accessory parking is permitted to exceed in size, the size of the principal use, and be deemed accessory.

### **ADAPTIVE REUSE OF A HISTORIC BUILDING**

Reuse of a building for a purpose other than for which it was historically constructed, and in accordance with the provisions of §315-22.B of this Zoning Chapter.

### **ADULT USE**

The use of a building, a portion of a building, or land for the sale or rental for use off-site of films, videotapes or other materials displayed in an area that is not open to the public generally and/or from which area the owner or operator of the use excludes, or is required by law to exclude, any minor by reason of age. This use is allowed only in the LIO zone by special use permit approval of the Planning Board. Adult use shall include the following:

- A. **ADULT BOOKSTORE** - An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, photographs, slides and/or video tapes, of

## Chapter 315, ZONING

which establishment a substantial portion is customarily not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age. In determining whether a substantial portion of such establishment or stock is devoted to such materials or use, the following factors shall be considered: (a) the proportion of floor area allocated to such use that is not available to the general public in comparison to the floor area that is available to customers without restriction by reason of age; (b) the proportion of such materials maintained in space that is not available to the general public in comparison to the floor area that is available to customers without restriction by reason of age; and (c) the total amount of floor space allocated to use that is not available to the general public but which is restricted by reason of age.

- B. **ADULT ENTERTAINMENT CABARET** - A public or private establishment which presents topless or nude dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age.
- C. **ADULT MASSAGE ESTABLISHMENT** - Any establishment having a fixed place of business where massages are administered, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the lawfully established office of a duly licensed health-care professional, such as a physician, surgeon, chiropractor, osteopath or physical therapist, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. Adult massage establishments are prohibited.
- D. **ADULT THEATER** - A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age. Adult theaters are prohibited.
- E. **ADULT MOTEL/HOTEL** - A motel/hotel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would not be open to the public generally but would exclude, or be required by law to exclude, any minor by reason of age. Adult motels are prohibited.
- F. **PEEP SHOW** - The use of a building or a portion of a building to present material in the form of live shows, films or videotapes viewed from an individual room or similar enclosure which is not open to the public generally and which excludes, or is required by law to exclude, any minor by reason of age. Peep shows are prohibited.

### **AGRICULTURE**

Land and on-farm buildings, equipment, uses, activities, and practices which contribute to the production, preparation, and sale of crops. The term "agriculture" include animal husbandry specifically excludes the raising of livestock, slaughterhouses and concentrated animal feeding operations (e.g., factory farms for high-density animal production). Timber operations are not

## Chapter 315, ZONING

permitted as an agricultural use. The production of compost, soil or other biomass products is not an agricultural use but is allowed solely where it is accessory to and a product of the operation of an agricultural use. No housing of farm animals, storage of odor or dust producing materials, or outdoor storage of equipment and vehicles shall be located within 200 feet of any lot line.

### **AGRITOURISM USES**

Activities conducted in association with an agricultural use and offered to the public, including the sale of agricultural products, education, recreation or active involvement in the farm operation. An agritourism activity is secondary to the principal agriculture use. Agritourism activities may be conducted in an accessory building. Agritourism activities include, but are not limited to, "u-pick" operations.

### **ANIMAL HOSPITAL AND VETERINARIAN OFFICE**

An establishment accredited by the American Animal Hospital Association or similar national accreditation where animals are provided medical care by a NYS licensed veterinarian and where the boarding of animals is short-term and clearly incidental to its medical care.

### **ANIMAL KENNELS**

Any building, structure or premises in which domesticated household pets, such as dogs and cats, are kept, boarded or trained for a fee.

### **ANTIQUÉ SHOP**

A business dedicated to storing, selling, restoring, and trading in items from previous eras and offered for sale upon the basis, express or implied, that the value of the items, in whole or in substantial part, is derived from its age or from its historical association.

### **ARTISAN CRAFT SHOP AND GALLERY**

A business where soap, candles, glass, pottery, woolen goods, clothing, millinery, shoes or other personal articles or home goods are crafted on the premises where they are also displayed and sold.

### **AUTOBODY SHOP**

A commercial use building wherein motor vehicles, including their mechanical systems and body structure, are repaired. This use also includes automotive painting conducted in conjunction with the repair work. This definition does not include or permit the repair of trucks, box trucks, or other vehicles in excess of 10,000 pounds. This use does not include the sale of vehicles.

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### **AUTOMOTIVE REPAIR SHOP**

Any area of land, including structures thereon, or any building or part thereof that is used for the repair and service of motor vehicles, but not including body work, painting or the sales of vehicles. This definition does not include or permit the repair of trucks, box trucks, or other vehicles in excess of 10,000 pounds.

### **BAKERY**

A retail business with a where baked goods, such as bread, cookies, pastries, are made and sold. A bakery which produces baked goods primarily for distribution to other retail establishments or businesses and without a retail storefront business is excluded from this definition.

### **BAMBOO**

Any tropical or semi-tropical grass of the genera Bambusa, Dendrocalamus or of any other related genera that is classified as a leptomorph.

### **BAMBOO PROPERTY OWNER**

A property owner in the Village of Washingtonville who has planted or grown or caused the planting or growing of bamboo on his property and/or permitted or permits the growing of bamboo on his property that had initially encroached onto his property from an adjoining or neighboring property.

### **BANKS AND OTHER FINANCIAL INSTITUTIONS**

A use engaged in the business of dealing with financial and monetary transactions such as deposits, loans, investments, and currency exchange.

### **BASEMENT**

A story partly underground but having at least 1/2 of its height above the average finished grade level of the ground immediately adjacent to the building.

### **BASE ZONING DISTRICT**

A zoning district that establishes the regulations governing land use and bulk dimensional requirements for a specific geographic area.

### **BATTERY ENERGY STORAGE SYSTEM**

One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A

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battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System and regulated as follows:

- (1) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and if in a room or enclosed area, consist of only a single energy storage system technology. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the New York State Uniform Code and Energy Code and applicable permit from the Village Building Department.
- (2) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one (1) storage battery technology in a room or enclosed area. Tier 2 battery energy storage systems are prohibited in the Village of Washingtonville.

### **BENEVOLENT, PHILANTHROPIC USES**

An eleemosynary use. This definition shall not be interpreted to allow schools or places of worship which are defined elsewhere in this Zoning Chapter.

### **BREWERY, WINERY AND DISTILLERY**

A commercial establishment which produces on-premises beer, wine, cider, vinous beverages, spirits or edible goods for off- and/or on-site consumption in accordance with New York State Liquor Authority, Department of Health and other applicable agency regulations. Such an establishment may include on-premises retail sales, tasting room, restaurant and/or a retail or retail sales of related products. This definition includes cideries and wineries.

### **BUILDING**

A structure constructed or erected on the ground, with a roof supported by columns or walls. Structures divided by unpierced masonry division walls extending from the ground to the roof shall be deemed to be separate "buildings."

### **BUILDING INSPECTOR**

The Building Inspector of the Village of Washingtonville.

### **BUILDING CONTRACTOR STORAGE YARD**

A facility or area of land for the storage of materials, equipment and/or commercial vehicles utilized by building and construction contractors, craftsmen and tradesmen, and may include offices related to such activities. Retail or wholesale trade of any contractor materials or supplies is not a permitted accessory use. Aggregate material processing of organic or inorganic materials including rock

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crushing, mulching, or soil screening is also not a permitted accessory use. The outdoor storage of materials and equipment shall require a special use permit from the Planning Board.

### **BUILDING, MIXED USE RESIDENTIAL**

A building occupied by a ground floor nonresidential use, with the upper story or stories containing a dwelling or dwelling units where said uses are permitted in the district in which the building is located.

### **BUSINESS PARK**

A tract of land, buildings or structures planned as a whole and intended for one or more establishments for a commercial purpose on a site, whether built at one time as a unit or in two or more construction stages.

### **BUSINESS SERVICE (NOT LISTED ELSEWHERE)**

A business use which is not identified separately in the Table of General Use Regulations, and for which business is conducted. The business use shall not involve any outdoor storage. The Building Inspector shall determine whether the use fits within the allowable uses permitted in the D zoning district.

### **CEMETERY**

Land and buildings, whether privately or publicly owned or operated, used for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle. Such term shall also include land and accessory buildings for ground maintenance and storage of tools and equipment. A crematory is not deemed an accessory use or building to a cemetery.

### **CHILD DAYCARE CENTER**

Premises on which child day care is provided on a regular basis to more than six children from age six weeks through 12 years for more than three hours but less than 24 hours per day per child, for compensation or otherwise, where such care is provided on a regular basis by a person other than the parent, stepparent, guardian or relative of the child. A child day-care center shall have a license issued by New York State and shall not be a residence. Family day care home and group family day care home as defined in Section 390 of the New York State Social Service Law shall be allowed as a permitted use in a residence subject to registration or licensing by the NYS Office of Children and Family Services and issuance of a certificate of occupancy by the Building Inspector.

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### CLUSTER SUBDIVISION

A subdivision plat, approved pursuant to § 7-738 of the Village Law and this section, in which the applicable zoning local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping in order to preserve the natural and scenic qualities of open lands.

### CONTINUING CARE RETIREMENT COMMUNITY (CCRC)

A facility designed and established to provide a comprehensive continuum of care for older persons and oriented to the enhancement of the quality of life. A continuing-care retirement community shall provide a variety of living arrangements suited especially to the needs of older persons, including independent-living units, enriched housing units, skilled nursing beds, and common dining, social and recreational facilities. A continuing-care retirement community shall provide a range of resident care and social services and may include nursing care facilities. Dwelling units in a continuing-care retirement community may be provided in any combination of one-family dwellings, attached dwellings, and multiple dwellings. Accessory uses may be provided in any combination of principal buildings or accessory buildings or structures. A CCRC may consist of the following components:

- A. ENRICHED HOUSING UNIT (EHU) - A dwelling unit in a CCRC established and operated for the purpose of providing long-term residential care for persons primarily 65 years of age or older. It may include limited kitchen facilities and is designed, intended and operated for older persons needing assistance in daily care, including housekeeping, personal-care services, and supervision. Limited part-time ambulatory health-care services and common dining, social and recreational facilities may be made available.
- B. INDEPENDENT LIVING UNIT (ILU) - A dwelling unit in a CCRC containing a kitchen or kitchenette and bathrooms, which is designed and intended for occupancy by older persons and for which housekeeping service and common dining, social and recreational facilities may be made available.
- C. SKILLED NURSING BED (SNB) - A bed in a CCRC facility which provides regular nursing care services, both temporary and long-term.

### COURT

A space either on the ground or above, excepting a main roof, situated on the same lot with a building and which is unoccupied and open to the sky, and not a front yard, side yard or rear yard.

### COURT, DEPTH OF

The maximum horizontal dimension at right angles to the width.

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### **COURT, HEIGHT OF**

The greatest vertical distance measured from the lowest level of such court up to the roof of the building.

### **COURT, INNER**

Any court which is not an outer court.

### **COURT, OUTER**

Any court extending to a street, front yard or rear yard.

### **COURT, WIDTH OF**

The horizontal dimension parallel to the principal open side in the case of an outer court; and the least horizontal dimension in the case of an inner court.

### **DANCE AND MUSIC INSTRUCTION**

Uses which involve training of students in a variety of dance genres and music instruction, including instrument and vocal training.

### **DEVELOPMENT COVERAGE**

The percentage of the area of a lot covered by buildings, structures, parking areas, and other impervious surfaces on a lot.

### **DISTRIBUTION WAREHOUSE**

A use engaged principally in the indoor storage and distribution of finished goods and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazardous conditions. Nothing herein shall be construed to permit retail sale of merchandise to the general public or by membership.

### **DWELLING, ACCESSORY (ADU)**

A dwelling unit with its own cooking, sanitary and sleeping facilities and occupied by no more than one family, which accessory apartment is part of and subordinate to a single-family detached dwelling located on an individual lot, and wherein the principal single-family detached dwelling shall be owner-occupied. Also referred to as an ADU.

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### **DWELLING, MIXED USE**

A dwelling unit that inhabits the upper stories of a building and wherein the ground level of the building is occupied by or intended to be occupied by nonresidential uses.

### **DWELLING, MULTIFAMILY**

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

### **DWELLING, ONE-FAMILY ATTACHED (also TOWNHOUSE)**

A building containing three or more dwelling units, each on its own lot in which: each unit extends from the foundation to the roof; shares either one or two common walls in with another dwelling unit, and has a separate means of egress. Also commonly referred to as a "townhouse."

### **DWELLING, ONE-FAMILY SEMI-ATTACHED (also DUPLEX)**

A building containing two dwelling units, each on its own lot in which each unit (1) extends from the foundation to the roof and shares one common wall, and each unit has a separate means of egress. Also commonly referred to as a "duplex."

### **DWELLING, ONE-FAMILY DETACHED**

A detached building on its own separate and individual lot containing one dwelling unit only.

### **DWELLING, RESIDENTIAL PROFESSIONAL OFFICE**

A dwelling unit constructed in an existing building which has been or will be converted to office uses.

### **DWELLING, TWO-FAMILY**

A building arranged, intended and designed with two dwelling units on a lot, to be occupied by no more than two families living independently of each other as separate housekeeping units.

### **DWELLING or DWELLING UNIT**

One or more rooms with provision for cooking, living, sanitary and sleeping facilities arranged for the use of one family.

### **EDUCATIONAL INSTITUTION**

Any public or nonpublic pre-K, kindergarten, elementary, junior high, or high school subject to 8 NYCRR Part 100 regulations.

## Chapter 315, ZONING

### **EMERGENCY SERVICE BUILDING**

Any public building or facility housing services for fire protection, law enforcement, and emergency service care.

### **ENTERTAINMENT PRODUCTION STUDIO**

A facility in which activities are associated with the development and production of sound, film, video and similar media. Nothing herein shall be construed to permit an adult use as defined in this Zoning chapter in connection with an entertainment production studio.

### **ELECTRIC VEHICLE (EV)**

Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purposes. "Electric vehicle" includes a battery electric vehicle or a plug-in hybrid electric vehicle.

### **ELECTRIC VEHICLE (EV) CHARGING STATION**

An electric vehicle charging station, also called EV charging station, electric recharging point, charging point and EVSE, is an element in an infrastructure that supplies electric energy for the recharging of plug-in electric vehicles, including all-electric vehicles. No advertising signs shall be permitted to be installed on any EV charging station. All such stations will include designated and exclusive parking for vehicle charging. They are further defined by the type of charging equipment:

- (1) Level 1 is considered slow charging and operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
- (2) Level 2 is considered medium charging and operated on a forty to one hundred amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
- (3) Level 3 is considered fast or rapid charging and operated on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three (3) phase circuit with special grounding equipment. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

### **EVENT VENUE**

The accessory use of land or pre-existing buildings or structures for gatherings and events where compensation is paid to the property owner for said use, such as, but not limited to, weddings, parties, fund-raisers conferences, and other similar events, but not including events such as races and concerts.

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### FAMILY

- A. One (1), two (2) or three (3) persons occupying a dwelling unit who pay a single shared amount for rental or mortgage purposes.
- B. Four (4) or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- C. There shall be a rebuttable presumption that four (4) or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption are not the functional equivalent of a traditional family. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
  - (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
  - (2) 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 shall not be deemed to be occupied by the functional equivalent of a traditional family.
  - (3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
  - (4) The group is permanent and stable. Evidence of such permanency and stability may include:
    - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools under the care of a parent, legal guardian or equivalent;
    - (b) Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;
    - (c) Members of the household are employed in the area;
    - (d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
    - (e) Common ownership of furniture and appliances among the members of the household; and
    - (f) The group is not transitory or temporary in nature.
  - (5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.
- D. Regardless of the composition of the family, the maximum occupancy of any residence shall be established based on the requirements of the New York State Property Maintenance Code.
- E. Individuals residing in institutional uses, boarding homes, fraternities, sororities, clubs, associations, supervised or transient housing or other similar forms of housing shall not be considered a family.

### FARM MARKET

A building and premises for the seasonal sale of agricultural products grown by farmers primarily within the Hudson Valley region.

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### **FAST-FOOD RETAIL**

A business where consumers can purchase prepared food and take it with them to be consumed off-premises, and where less than 35% of the gross floor area of the restaurant is dedicated to a dining room equipped with tables and seats.

### **FENCE**

An unroofed wall or barrier or construction of materials made from concrete, wood, plastic, wire, stone or other materials erected on premises for the purpose of enclosing an area of land, including berms and retaining walls if located beneath same.

### **FLORIST**

A commercial retail use where plants, flowers and floral arrangements are sold.

### **FUNERAL HOME**

A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

### **GARAGE**

A building or part thereof used for the storage or parking of one or more motor vehicles. This definition excludes the storage of commercial vehicles in excess of 10,000 pounds.

### **GAS AND PROPANE STORAGE**

A facility for the storage of liquefied petroleum gas (LPG) and/or natural gas for commercial distribution.

### **GEOHERMAL ENERGY EQUIPMENT**

Any device, supply lines, return lines, control valves, wiring, meters, switches, modules, inverters or other equipment associated with the installation or function of a geothermal energy system.

### **GEOHERMAL ENERGY SYSTEM**

An energy system that uses heat or power from underground for heating, cooling, or generating other types of energy.

### **GOLF COURSE**

Premises having not fewer than six holes improved with tees, greens, fairways, and hazards for playing the sport of golf, excluding miniature golf. Accessory structures and buildings may include but are not limited to a driving range, clubhouse, locker room, food stand, restaurant, banquet or conference rooms. Overnight accommodations are not permitted in connection with this use.

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### **GOVERNMENT BUILDINGS**

Governmental buildings and uses that are owned or operated by the Village of Washingtonville, the Washingtonville Fire District, the Washingtonville Ambulance Corps, the Washingtonville Library, or public school district servicing the Village of Washingtonville, or other uses so determined by the Village Board of Trustees.

### **GROCERY STORE**

A retail use that sells food and miscellaneous other household goods and is usually operated on a self-service basis. A grocery store may also have a deli counter, butcher, florist, bakery, and other service counters associated with its operation.

### **HABITABLE SPACE**

A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

### **HARDWARE STORE**

A type of retail use conducted in a store which sells miscellaneous housewares, repair and construction-related materials, hand and power tools, lumber, plumbing supplies, electrical supplies, cleaning products, housewares, tools, paint, and lawn and garden products directly to consumers for use at home or for gardening, construction or business. A hardware store may also include specialty items for pet food and supplies, farm supplies (including animal feed), swimming pool chemicals, and similar items.

### **HEALTH FITNESS FACILITY**

A building where active exercise and related activities are performed utilizing weight control or muscle-building equipment or apparatus for the purpose of physical fitness. A health fitness facility may also include, as accessory uses, services and activities provided in conjunction with a day-care room, physical therapy activities, and refreshments.

### **HEIGHT OF A STRUCTURE**

The vertical distance derived from the average finished grade at the foundation corners of the building or structure to the highest point of the building or structure.

### **HOME OCCUPATION**

Any nonresidential use wherein a resident conducts business or employment, and where the use is incidental and clearly subordinate to an existing residential use, conducted fully within a dwelling

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unit or in an existing accessory structure by the owner of same, and which does not change the residential character of the dwelling unit or vicinity. Customers or clients do not enter the premises, and exterior storage of products or equipment is not allowed.

### **HOTEL, BOUTIQUE**

A commercial use consisting of overnight accommodations wherein in guest sleeping rooms are accessed from a lobby location and shared interior hallways within a building, regularly provided and offered to the public for a period of not more than fourteen (14) consecutive days for compensation. Accessory uses to a "hotel" may include a dining area, lounge, meeting rooms, swimming pool, office area for the conduct of business, indoor or outdoor fitness area, and other accessory uses determined accessory and appropriate during special use permit review. A boutique hotel shall contain no more than forty (40) guest rooms, and the occupancy of which is limited to one hundred (100) total guests, including any special functions, e.g., weddings, that may occur at the hotel. Accessory uses shall be established during special use permit review.

### **HOUSING, MANUFACTURED**

A parcel of land designed for occupancy by two or more manufactured homes. A manufactured home is a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The home is designed for year-round occupancy of one family. The term does not include a recreational vehicle. Manufactured homes are allowed in a manufactured housing community. The development may have other amenities shared by the occupants, including recreation, clubhouse, and other amenities.

### **HOUSING, SENIOR/ACTIVE ADULT**

A housing development with a mix of dwellings units which may consist of one-family detached, one-family attached, two-family and/or multifamily dwellings which are exclusively occupied by persons 55 years of age and older. The development may include accessory recreational uses, a clubhouse or shared activity rooms, and other amenities for the benefit of the occupants. The development may include supportive services, such as meals, housekeeping, social activities, transportation, emergency response and resident advisory services.

### **HOUSING, VETERAN**

A housing development consisting of multifamily dwellings occupied by veterans of the military, including but not limited to the National Guard and the United States Armed Services, wherein the housing is affordable and where supportive services or specialized facilities are integrated into development in order for a veteran to maintain an independent lifestyle with health, security and dignity.

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### **JUNKYARD**

A parcel of land or part thereof, including any buildings thereon, which is occupied in any part by a deposit, collection or storage, outside of a completely enclosed building, of, or which is used for the disposal by abandonment, dumping, burial, burning or any other means or for whatever purpose of, wastepaper, rags, scrap metal, garbage, sewage, trash, refuse, junk, discarded materials, tires, debris from construction and demolition activities or waste material of any kind or for the collecting, dismantling, storing or salvaging of machinery or the sale of parts thereof, excepting any substance that is flammable, combustible, explosive, reactive, corrosive or toxic to humans, as defined in United States Environmental Protection Agency regulations under 40 CFR 116. One cubic yard of refuse located on a property for more than 30 days shall constitute a junkyard.

### **JUNKYARD, MOTOR VEHICLE**

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

### **LANDSCAPE CONTRACTOR YARD AND SALES, LANDSCAPE NURSERY**

The sale of landscape materials, including the sale of trees, shrubs, or plants. Sale and storage of garden supplies, including hand tools, mulch, soil, decorative rock, pavers, and similar nonvegetative materials shall be allowed only where clearly incidental to the principal use and said accessory materials shall not occupy more than 20 percent of the lot area. The materials aggregate processing of organic or inorganic materials including rock crushing, mulching, or soil screening are not permitted in conjunction with this use.

### **LAUNDROMAT**

A commercial establishment with self-service use coin- or other payment-operated washers and dryers to wash and dry clothing, towels, and similar household items.

### **LIGHT, FULLY SHIELDED**

Fully shielded luminaire light fixture which can control the glare in any direction.

### **LIGHTING FIXTURE**

#### **A. FULLY SHIELDED**

An outdoor lighting fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90° horizontal plane from the base of the fixture. Fully shielded fixtures must

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be installed in a horizontal position as designed.

### B. OUTDOOR

An electrically powered illuminating device or other outdoor lighting fixture, including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot, flood, and area lighting for buildings and structures; recreational areas; parking lot lighting; landscape lighting; signs (advertising and other); streetlighting; product display area lighting; building overhangs; and open canopies.

### C. RECESSED CANOPY

An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

### D. WALL PACK

A lighting unit designed for direct mounting on building walls whose primary function is to light building exteriors.

### LIGHT INDUSTRY

A use engaged in the manufacture, predominately from previously prepared components or materials, of finished products or parts, including fabrication, assembly, packaging, and incidental storage, and distribution of such products, but excluding basic industrial processing.

### LOT

A designated parcel, tract or area of land, established by plot, subdivision or as otherwise permitted by this Zoning Chapter, to be used, developed or built upon as a unit. The lot boundaries are established by legal instrument, such as a recorded deed or map, and is recognized as a separate parcel for the purposes of transfer of title.

### LOT AREA (also "Gross Lot Area")

The total horizontal area included within the property lines of a lot.

### LOT AREA, NET

The total horizontal area included within the property lines of a lot after exclusion of the resources set forth in §315-16 of this Zoning chapter.

### LOT, CORNER

A lot at the junction of and fronting on two or more intersecting streets.

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### **LOT COVERAGE**

The percentage of the lot area that is occupied by the area of any buildings.

### **LOT, FLAG**

A lot characterized by a distinctive shape where the lot maintains a narrow frontage on a public road and is connected by a narrow strip of land for access to the major portion of the lot. On a map, the individual lot looks like a flag on a pole. The lot does not meet the minimum lot width at the minimum required front yard depth, but meets it at a point interior to the lot.

### **LOT, INTERIOR**

Any lot other than a corner lot.

### **LOT LINE or PROPERTY LINE**

Any boundary of a lot. Any "lot line" not a rear lot line nor a front lot line shall be deemed a side lot line.

### **LOT LINE, FRONT**

The street line at the front of a lot.

### **LOT LINE, REAR**

The lot line generally opposite to the front lot line.

### **LOT, THROUGH**

A lot extending from one street to another but excluding a corner lot.

### **LOT WIDTH**

The dimension measured from side lot line to side lot line along a line parallel to the street line at the required minimum required front yard depth.

### **MEDICAL OFFICE**

An office devoted to medical or dental care dispensed to persons on an outpatient basis by physicians or other medical professionals licensed in the State of New York, either singly or as a group, which may also offer laboratory and diagnostic facilities to patients on an outpatient basis.

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### **MOVIE THEATER**

A building or space with seating where films are shown to the general public, excluding adult movie theaters defined separately in this section.

### **MUSEUM**

A use involving displays, preserved artifacts, and/or exhibits of objects that are of community, historical and cultural interest in one or more of the arts and sciences, intended to be visited and used by members of the public for viewing, with or without an admission charge.

### **NONCOMPLYING STRUCTURE OR BUILDING**

A structure lawfully in existence on the effective date of this Zoning chapter which does not comply with the dimensional and bulk regulations of this chapter, irrespective of the use to which the building or structure is put.

### **NONCONFORMING USE**

Any use of a building, structure, lot or land or part thereof lawfully in existence on the effective date of this Zoning chapter affecting which does not conform to the use regulations of the zoning district in which it is situated.

### **NEW YORK STATE (NYS)**

The State of New York.

### **OPEN SPACE**

Land that is principally undeveloped and set aside or dedicated in a natural state.

### **USABLE OPEN SPACE**

That portion of the unbuilt area of a lot, exclusive of driveways and parking areas, which is suitable for outdoor recreation and sitting areas and which is available to all occupants of the building.

### **OUTDOOR DINING**

An outdoor area on private, commercially used property, or on a public or private sidewalk or other designated area, providing an area for patrons/customers to sit or to stand, with or without tables, and intended for the consumption of food and/or drinks.

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### **OVERLAY ZONING DISTRICT**

A zoning district that imposes an additional layer of regulation for a specific area that is laid over the underlying base zoning district.

### **PARKING**

A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

### **PARKING SPACE**

A defined area reserved for the parking of one (1) motor vehicle.

### **PERFORMING ARTS CENTER**

An indoor or outdoor facility for the live performance of dance, drama, music, or similar artistic performances, including but not limited to amphitheaters, pavilions, concert halls and other musical and performing arts performance areas together with administrative, food service, interpretive and learning centers and museums, parking, seating facilities together with various other accessory uses to accommodate performing arts patrons. Instructional courses in the performing arts are allowed accessory to an arts center. This definition does not include facilities principally used to display movies or other non-live performances. Nothing herein shall be construed to permit adult uses in conjunction with a performing arts center.

### **PERSON**

Any individual, group of individuals, firm, corporation, partnership, association, company, institution or any other legal entity, or any combination thereof.

### **PERSONAL SERVICE USES**

Commercial uses including but not limited to barber shops, hair, nail, and tanning salons, shoe repair shops, bicycle repair shop, appliance repair shop, tailor and seamstresses, financial services, in which the product offered is the work or action performed. Personal service uses shall not be deemed to permit adult uses.

### **PET, HOUSEHOLD**

A domesticated animal kept by a household for companionship and enjoyment such as cats, dogs, birds, reptiles, aquarium fish, and hamsters, which are normally and conventionally boarded in a residential dwelling or on a residential lot. A pet shall not include the following birds: roosters, turkeys, pigeons or any other type or kind of fowl or birds, which are not permitted to be raised or kept within the Village of Washingtonville. Nothing herein shall be intended to restrict animals that

## Chapter 315, ZONING

are raised as part of a farm operation within a NYS certified agricultural district or where permitted by this Zoning chapter.

### **PLACE OF WORSHIP**

The principal use of a building or structure for regular organized religious assembly.

### **PLANNING BOARD**

The Planning Board of the Village of Washingtonville.

### **PRINCIPAL USE OR BUILDING**

The main or primary purpose for which a building, other structure and/or lot is designed, arranged, or intended, or for it may be used, occupied or maintained under this chapter.

### **PROFESSIONAL AND BUSINESS OFFICE**

A use where services are performed involving predominately administrative or clerical operations for either business or professional purposes as follows:

- A. **BUSINESS:** A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, insurance brokers, real estate brokers and persons with similar occupations.
- B. **PROFESSIONAL:** An office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge. A professional office may include but not be limited to the office of an accountant, architect, consultant, engineer, or attorney.

### **PUBLIC NOTICE**

Notice of the time and place of a hearing, meeting or proceeding printed in the official newspaper of the Village of Washingtonville, New York, at least 10 days prior to the time of such hearing, meeting or proceeding, unless otherwise provided by law.

### **PUBLIC UTILITY RIGHTS OF WAY, TRANSMISSION LINES, OR UNMANNED STRUCTURES**

Any person, firm, corporation, or governmental agency, duly authorized to furnish to the public, under governmental regulation, electricity, gas, cable television, telephone, including transmission and distribution facilities and similar services. Also, a municipally owned wastewater treatment or water supply system, or a waterworks corporation or sewage works corporation formed under the provisions of the New York State Transportation Corporations Law and approved by the Village

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Board are included in this definition.

### **REAR DWELLING**

A dwelling located on the same lot and to the rear of the main building for which the lot is used.

### **RECREATIONAL FACILITIES, COMMERCIAL INDOOR**

Recreational activities conducted entirely within a building, including team or individual sports and related health and exercise facilities operated on a commercial or fee basis. An indoor recreation use may include accessory uses such as food service facilities, meeting rooms, video or computer game facilities, sales of sport- or exercise-related equipment or clothing, and other accessory uses clearly incidental to the recreational activity. Indoor commercial recreation uses include but are not limited to a gymnasium, fitness center, bowling alley, skating rink; tennis and other racquet courts, field house, indoor track, indoor basketball, indoor pool house, indoor shooting range.

### **RECREATION FACILITIES, COMMERCIAL OUTDOOR**

Recreational activities conducted outside of a building which include: ball fields for soccer, baseball, softball, and similar sports; tennis and other racquet courts; swimming; non-motorized bike trails; hiking; miniature golf; and similar outdoor activities conducted on a commercial or fee basis. An outdoor recreational use may also include accessory uses and buildings, such as a clubhouse, food stand, offices, and other uses accessory and incidental to the outdoor commercial use. Outdoor recreation includes batting cages and driving ranges. Golf courses are regulated as a separate use.

### **RECREATIONAL FACILITIES, PUBLIC**

Recreational facilities that are open to the general public including public parks, playgrounds and other facilities owned by the Village of Washingtonville, Town of Blooming Grove, Orange County, or State of New York.

### **RECREATION, PASSIVE**

Recreational use of land which requires no or few structured facilities, including walking, jogging, hiking and wildlife viewing.

### **RESEARCH LABORATORY**

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

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### **RESIDENTIAL FLOOR AREA**

The sum of the floor area of the habitable rooms in a dwelling.

### **RESORT LODGE**

A commercial use consisting of overnight accommodations with guest sleeping rooms, within a building or group of buildings that incorporate indoor and/or outdoor recreational facilities as integral and accessory uses into the overall design of the resort. A resort lodge may also include meeting rooms or conference center, dining facilities, and other areas for social gathering.

### **RESTAURANT**

Any establishment where food is commercially sold primarily for on-premises consumption to patrons seated at tables where food is served at the table. Use of a carhop or parking lot to bring food service to a car or use of a drive-through facility is not permitted.

Any facility making use of a carhop or parking lot to serve food to customers in vehicles, or primarily for the consumption of food to be eaten off-premises shall be regulated as a “restaurant with drive-through” for the purposes of this Zoning Chapter. A restaurant where less than 35% of the gross floor area of the restaurant is dedicated to a dining room equipped with tables and seats shall be deemed “fast-food retail” and is regulated elsewhere in this Zoning Chapter.

### **RESTAURANT WITH DRIVE-THROUGH**

Any restaurant or fast-food retail where food is commercially sold through a drive-through facility.

### **RETAIL USE (not listed elsewhere)**

A commercial use where merchandise is sold to the general public for personal or household use or consumption, including but not limited to a pharmacy, convenience store, stationary store, bookstore, clothing store, shoe store, jewelry store and similar personal or household goods. The interior storage of merchandise on the premises shall be clearly incidental and accessory to the space dedicated to retail sale of products and shall not exceed 45% of the total gross floor area of the building within which the retail use is situated. Outdoor storage is not permitted in association with a retail use unless approved by site plan approval of the Planning Board.

### **SCREENING**

A method of shielding or obscuring one abutting or nearby use from another use, that incorporates the use of vegetation, fencing, earthen materials or a combination thereof.

### **SELF-STORAGE FACILITY**

A building consisting of individual self-contained units that are leased or owned for the storage of

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personal property and/or household goods.

### **SHORT-TERM RENTAL**

Any or all portions of a dwelling rented for compensation in exchange for lodging for a period of not more than 30 consecutive days. For the purpose of this chapter, the term "short-term rental" shall not include a use within the definitions of a "boutique hotel" or "resort lodge" as defined herein. Where all or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO or similar site for a rental period of less than 31 days, it shall be the presumption that the property is being used as a short-term rental. Short-term rentals are prohibited.

### **SIGN**

(Definitions relating to signs and the regulation of signs are set forth in Article IV.)

### **SMALL-SCALE SOLAR FACILITY**

A solar energy system that does not produce more than 12kW per hour of energy and serves only the buildings or structures on the lot upon which the system is located. Nothing contained in this provision shall be construed to prohibit the sale of excess power through a net billing or net metering arrangement made in accordance with New York Public Service Law § 66-j or similar state or federal statute.

### **SPECIAL USE**

A use which is permitted by this Zoning chapter, subject to requirements set forth in Article IX to assure that the proposed use is in harmony with, and will not adversely affect, the neighborhood if such requirements are met.

### **STABLES, COMMERCIAL AND RIDING ACADEMIES**

A facility where horses are boarded, cared for, and may be hired for riding. The facility may include the instruction of horse riding, jumping, and showing.

### **STORY**

That portion of a building between the upper surface of any floor and the upper surface of a floor or roof next above, that is habitable or can be made habitable. For purposes of this zoning chapter, any story having a finished floor where the finished floor next above is more than 4 feet above grade plane shall be deemed a story.

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### **STORY, HALF**

A space under a sloping roof, which has the line of intersection of the interior faces of the roof structure and main building wall not more than three (3) feet above the top floor level and in which space the floor area with a headroom of five feet or more occupies at least 60% of the total area of the story directly beneath.

### **STREET**

Any road, highway, avenue, street, parkway, lane or other way, public or private, set aside and commonly used by the public for street purposes and shown upon the village map or upon a filed plat.

### **STREET LINE**

The dividing line between a lot and a street.

### **STRUCTURE**

Anything constructed or erected on or under the ground or upon another structure or building.

### **TAVERN OR BAR**

A commercial use for the sale and consumption of alcoholic beverages primarily on site and for the purchase of prepared food such as sandwiches, soups, and similar items as an accessory use as may be required or permitted by applicable New York State licensing requirements.

### **VILLAGE BOARD OF TRUSTEES (also "VILLAGE BOARD")**

The Village Board of Trustees of the Village of Washingtonville, New York.

### **VILLAGE SEWER AND WATER PLANTS**

A water or sewer system facility designed to service the Village, in compliance with New York State Health Department regulations.

### **WALKING PATH (also "TRAIL")**

A formal or informal path or route established for use and travel by pedestrians, bicycles, horses, or other nonmotorized means.

### **WHOLESALE BUSINESS**

A commercial business where goods are stored which are purchased in bulk from manufacturers or distributors and sold in smaller quantities to retailers. The use is not open to the general public.

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### **YARD, FRONT**

An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the front lot line of the lot and extending from side lot line to side lot line. A corner lot has two front yards.

### **YARD, REAR**

A space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot and extending from side lot line to side lot line.

### **YARD, REQUIRED**

A required yard is that portion of any yard extending inward from a lot line the minimum distance specified in the Bulk Schedule for the zoning district in which the lot is located.

### **YARD, SIDE**

An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the side lot line of the lot and extending from the front lot line to the rear lot line. For a corner lot, only one side yard exists.

### **ZONING BOARD OF APPEALS (also "ZBA")**

The Zoning Board of Appeals of the Village of Washingtonville, NY.

§ 315-4. Reserved.

# Chapter 315, ZONING

## Article II, Zoning Districts; Zoning Map

### § 315-5 Classes of districts; purpose.

A. Classification. For the purpose of this Zoning chapter, the village is hereby divided into the following classes of districts:

#### Residential Districts

OSR	Open Space/Residential
R-40	Single Family Residential (Minimum Lot Size 40,000 sf)
R-15	Single Family Residential (Minimum Lot Size 15,000 sf)
R-10	Single Family Residential (Minimum Lot Size 10,000 sf)
MFR	Multi Family Residential
MFC	Manufactured Home Community

#### Mixed Use Districts

OR	Office Residential
AB	Agricultural Business
D	Downtown

#### Nonresidential Districts

OC	Office Commercial
GC	General Commercial
LIO	Light Industry Office

#### Overlay Districts

R-O	Reuse Overlay
SG-O	Scenic Gateway Overlay
FP-O	Floodplain Overlay

B. District purposes.

- (1) OSR - Open Space/Residential. The Open Space/Residential zoning district defines the areas within the Village that are held in public, private or common ownership as open space – much of this area has been set aside by conservation easement, or is in the ownership of the Village, and is constrained by wetlands and water bodies. It is the Village's intent to protect the OSR zone from commercial or residential encroachment.
- (2) R-40 - Single Family Residential (Minimum Lot Size 40,000 sf). The R-40 zone encompasses the

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larger lot, single-family dwelling residential neighborhoods within the community that are located primarily at the periphery of the Village.

- (3) R-15 - Single Family Residential (Minimum Lot Size 15,000 sf). The R-15 zoning district allows single-family and pre-existing two-family dwellings within the zone.
- (4) R-10 - Single Family Residential (Minimum Lot Size 10,000 sf). The R-10 zone allows smaller lot single-family residential uses.
- (5) MFR - Multi Family Residential. The MFR zoning district allows all residential dwelling types and the highest residential density within the community, including senior age-restricted and non-age restricted multifamily residential uses. It benefits from its walkability to the downtown center of the Village. The intent is to continue to allow the diversity of housing units located within the zone.
- (6) MHC - Manufactured Home Community. The MHC zone encompasses a neighborhood within the Village which allows manufactured housing within a planned community environment. The intent is to recognize and allow these uses to continue, but the Village acknowledges that large parts of the zone are also within the Floodplain Overlay zoning district, and further expansion of manufactured housing must avoid land areas that are subject to periodic flooding.
- (7) OR - Office Residential. The OR zone encompasses properties along the Main Street and South Street corridors which include lots with existing historic residential buildings in the Village. The intent is to preserve these pre-existing historic residential buildings while also allowing the conversion of these residential properties for office uses in accordance with the standards in this Zoning chapter. The Zoning chapter acknowledges that these historic buildings are located on well-traveled thoroughfares and can also be reused for low intensity commercial or commercial/residential uses where appropriate and where the building is preserved.
- (8) AB - Agricultural Business. The AB zone is located along the east side of South Street at the Village's southern gateway, and the zone contains expansive views of Schunnemunk Mountain. Lands in this zone have historically been in agricultural use, and the Village supports the continuation of agricultural uses, but also will allow residential and commercial uses that meet the goals of the Comprehensive Plan should agricultural operations no longer be viable. The size of the properties within the AB zone allows for creative and planned development of multiple uses.
- (9) D - Downtown. The D zone encompasses the historic downtown center of the Village. It allows a diversity of retail, personal service, business, and tourism-related commercial uses that meet the needs of the Village residents and visitors. The D zone also allows apartments in the upper stories of buildings.
- (10) OC - Office Commercial. The OC zone is intended to allow office and personal service businesses within the Village, where the office uses are designed to fit in architecturally with the existing historic and Village-scale character of the community.
- (11) GC - General Commercial. The GC zone allows miscellaneous general commercial uses including automotive related uses that cannot be accommodated elsewhere in the Village due

## Chapter 315, ZONING

to noise, air emissions and other operational characteristics.

- (12) LIO - Light Industry Office. The LIO zone is intended to allow light industry and other nonresidential uses which may generate truck traffic, and to screen these uses to limit impacts to adjoining residential neighborhoods.
- (13) R-O - Reuse Overlay. The R-O zone is an overlay zone which encompasses properties that include historic buildings and older single-family residences. The intent is to preserve the historic, architectural and community character of the buildings located in the overlay by allowing uses which will incentivize property owners to adaptively reuse the property and preserve and protect the existing character of older residential buildings.
- (14) SG-O - Scenic Gateway Overlay. The SG-O zone is an overlay zone located at the southerly entrance into the Village which provides expansive views of Schunnemunk Mountain. The intent of the SG-O zone is to protect the scenic vistas in this location by requiring development be setback from South Street so as not to block scenic views, allowing development to be shifted to other locations outside the overlay zone but within the AB zone and to only allow single-story buildings with building heights that will not adversely impact views of Schunnemunk Mountain.
- (15) FP-O - Floodplain Overlay. The FPP-O zone maps the special flood hazard area and floodway within the Village associated with the Moodna Creek. Development within the zone is regulated in accordance with 315-22C of the Zoning Chapter in order to limit development within the special flood hazard area, also referred to as the 100-year floodplain.

### § 315-6. Official zoning map.

- A. The location and boundaries of the districts enumerated in § 315-5 of this Zoning Chapter are hereby established and shown on the Official Zoning Map of the Village of Washingtonville, adopted June 2, 2025, and which may be amended from time to time, and which is attached hereto and made a part of this Zoning chapter, together with all notations, references and designations shown thereon.
- B. Authentication. Subsequent to the adoption of Local Law creating this Zoning chapter, the original paper copy of the Official Zoning Map shall be authenticated by the seal of the municipality, signed by the Village Clerk, under the following certificate: "I certify that this is the Official Zoning Map of the Village of Washingtonville, Orange County, New York, referred to in Chapter 315 of the Village Code of the Village of Washingtonville, New York."
- C. Maintenance. The Official Zoning Map shall be maintained in the office of the Village Clerk and shall be made available for public inspection. All local laws amending the Official Zoning Map shall be referenced on the map. Copies of the Official Zoning Map shall be reproduced for public distribution with the complete Zoning chapter. However, the original Official Zoning Map kept in the office of the Village Clerk shall be used as the final authority as to the current status of zoning districts in the Village of Washingtonville. Electronic copies of the map may be made available which shall not be official copies of the Official Zoning Map unless showing the authentication set forth in subsection B above.

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- D. Changes. When changes are made in district boundaries or other matters shown on the Official Zoning Map, such changes shall not become effective until filed with the New York State Department of State and shown on the Official Zoning Map in the Village Clerk office.

### § 315-7. District boundaries.

In determining the boundaries of zoning districts shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following streets, rights-of-way or watercourses, the center lines thereof shall be construed to be the district boundaries.
- B. Where district boundaries are indicated as approximately following the edge of lakes, ponds, reservoirs or other bodies of water, the mean high-water lines thereof shall be construed to be the district boundaries.
- C. Where district boundaries are indicated as approximately following the lot lines of private parcels, parks or other publicly owned lands, such lot lines shall be construed to be the district boundaries.
- D. In all cases where a lot in one ownership of record is divided by one or more district boundary lines, regulations for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.
- E. In all cases where a district boundary line is located not farther than 25 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- F. In all other cases where dimensions are not shown on the map, the location of district boundary lines shown on the map shall be determined by use of the scale appearing thereon.
- G. In cases of uncertainty or disagreement as to the true location of any district boundary line, the determination thereof shall lie with the Zoning Board of Appeals.

### § 315-8. Effect of establishment of districts; adoption of law.

- A. Following the effective date of this Zoning chapter, no building shall be erected, moved, altered, rebuilt or enlarged, except as specified herein, nor shall any land or building be used for any purpose or in any manner, except in conformity with all regulations, requirements and/or restrictions specified in this Zoning chapter for the district in which such building or land is located.
- B. In interpreting and applying the regulations set forth in this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of public health, safety, morals, comfort, convenience and general welfare as per New York State Village Law.

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This chapter shall not be deemed to affect in any easements, covenants or other agreements between parties; provided, however, that where this Zoning chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than is imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this Zoning chapter shall prevail.

- C. Any legally established existing use of a building or structure, lot or land or part thereof, which use constitutes a conforming use under the provisions of this chapter, may be continued.
- D. Interpretation of uses.
  - (1) Any use not allowed by this Zoning Chapter as a permitted use, special use, or accessory use, shall be deemed a prohibited use. Any list of prohibited uses contained in any section of this Zoning Chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses that are deemed undesirable and incompatible and thus prohibited.
  - (2) Where permitted or uses allowed by special use permit are identified by generic words or descriptions, the Building Inspector shall determine whether a specific use shall be construed to be part of such generic class. In making such a determination, the Building Inspector shall consider to what extent the proposed use is similar to the class of use indicated in the Use Table.
- E. Approved plans and permits; grandfathering.
  - (1) Upon the effective date of this Zoning chapter, nothing herein shall require any change in the plans, construction or designated use of a building or use of a lot shown on any of the following:
    - (a) Subdivision plats for which:
      - [1] Preliminary approval has been granted by the Planning Board prior to the effective date of this Zoning chapter and final subdivision approval shall be obtained within two (2) years of the effective date of this chapter.
      - [2] Final approval which has been granted, and the map is signed by the Planning Board within the time allotted in the approval resolution or any extensions thereof and the map is filed with the Orange County Clerk within the time allotted under New York State law.
      - [3] The final map has been filed with the Orange County Clerk prior to the effective date of this chapter. Building permits issued for said lots shall be issued using the lot dimensions, yard dimensions, height of buildings, floor area of buildings, coverage of lot by building, floor area ratio, off-street parking and loading requirements shown on the filed map and in effect at the time of the map filing.
    - (b) Site plans which have been approved by the Planning Board and a building permit issued prior to the effective date of this Zoning chapter and actual construction begun within one (1) year of the issuance of such permit.
    - (c) Site plans approved by the Planning Board prior to the effective date of this chapter and

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found to be conforming to the applicable regulations of the Zoning chapter then in effect, and a building permit shall be obtained and actual construction begun within one (1) year of the date of site plan approval.

- (d) Any site plan or subdivision which is approved by the Planning Board after the effective date of this chapter shall be subject to this Zoning chapter.
- (2) "Actual construction" is hereby defined to include the installation of construction and building materials in a permanent manner, e.g., a foundation. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on continuously and shall not have ceased for a period longer than thirty (30) days.
- (3) Nothing contained herein shall exempt any Applicant whose application is pending before the Planning Board prior to the effective date of this Zoning chapter from any other provisions of the Zoning chapter or Subdivision chapter of the Village of Washingtonville, effective on the date of obtaining final approval.

**§ 315-9. Reserved.**

## Chapter 315, ZONING

### Article III, Use Regulations

#### § 315-10. Table of general use regulations.

- A. Use requirements. No building or premises shall be erected, altered or used in any zoning district except in accordance with **Table I, Use Schedule**, attached to this Zoning Chapter. The notations shown on Use Schedule shall have the following meaning:

P = Permitted Use

SUP = Special Use Permit/Site Plan

SP = Site Plan

A = Accessory Use

X = Prohibited

SU-RU - Special Use Permit and within the Historic Reuse Overlay only, in accordance with Section 315-22.B of the Zoning Law.

--- = Not allowed in that zoning district.

- B. Effect of use regulations. Where this Zoning chapter imposes a greater restriction on the use of building or land or on the height of buildings or requires larger open spaces or imposes any higher standards than are imposed or required by any other statute, law, ordinance, rule or regulation, or by any easement, covenant, or agreement, the provisions of this Zoning chapter shall control.
- C. Accessory uses and structures. Accessory uses and structures shall be compatible with the principal use of the lot on which same may be situated, and an accessory use or structure shall not be established prior to the establishment of a principal use on the same lot.

#### § 315-11 Prohibited uses.

- A. No building, structure, lot or land in any district in the Village of Washingtonville shall be used or designed for the following:
- (1) Any trade, industry or use which is noxious or offensive by reason of the emission of smoke, noise, gas, odor, dust, vibration or excessive light beyond the limits of its lot, so as to be dangerous or prejudicial to the public health, safety or general welfare.
  - (2) Sky rides, Ferris wheels, roller coasters, shooting galleries and similar recreation center devices, unless part of an event approved by the Village Board.
  - (3) Rendering plants for animal products.
  - (4) Lighting facilities of any kind with light sources which are visible from outside the property lines, which create glare beyond the property lines or which create public hazards.
  - (5) Manufacture or storage of explosives or fireworks.
  - (6) Dump, junkyard and motor vehicle junkyards.

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- (7) Vending machines not located entirely within a principal or accessory building.
- (8) Open-front stores arranged and designed for the purpose of making sales to persons on the public street or sidewalk, except that seasonal kiosks are allowed by approval of the Village Board.
- (9) Sand or gravel pits or rock quarry.
- (10) Flag lots (referred to also as rear dwellings).
- (11) House trailers, mobile homes and manufactured homes, except within the Manufactured Housing Community zoning district as shown on the Official Zoning Map.
- (12) Short-term rentals.

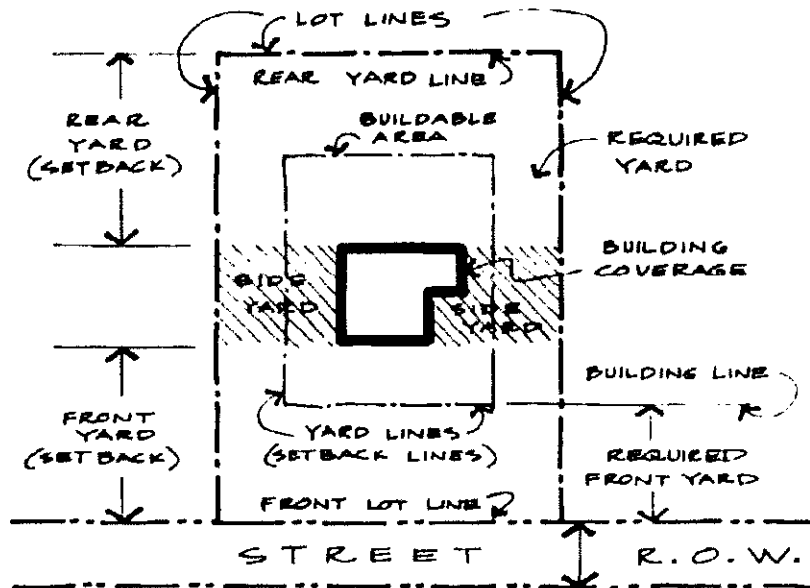
**§ 315-12 through 14. Reserved.**

# Chapter 315, ZONING

## Article IV, Bulk and Area Regulations

### § 315-15. Bulk Schedule.

- A. Purpose. In order to provide adequate space for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on streets, and to be consistent with the community character expressed in the adopted Comprehensive Plan, no building, lot or land shall be erected, altered, or used except in accordance with the Bulk Schedule attached to this Zoning chapter.
- B. Bulk schedule. **Table II, Bulk Schedule**, contains dimensional standards that regulate the size of buildings and arrangement of buildings and structures on a lot, and the density of residential and nonresidential uses occupying a lot for each of the districts established by Article III.



- C. Existing lots of record. For the purposes of this Zoning chapter:
- (1) Two (2) or more contiguous noncomplying vacant lots in common ownership on or after the effective date of this Zoning chapter shall be deemed to be merged to form one (1) or more lots complying so far as possible to the bulk standards of the district in which the parcels are located. The lots shall be merged so as to reduce the degree of any noncomplying bulk conditions.
  - (2) One or more vacant lots that adjoin a noncomplying lot in common ownership on or after the effective date of this Zoning chapter and containing a building or structure shall be deemed to be merged with said improved lot to the extent necessary to bring the improved lot into

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compliance so far as possible. If any remaining vacant parcel(s) constitutes a complying lot, said parcel(s) shall remain a separate lot. Otherwise, the merged lots shall constitute one lot.

- (3) No lot so merged, or portion thereof, may be subdivided in any manner that will create or increase the degree of noncomplying bulk conditions.
- D. Grandfathering of lots to be used for the construction of single-family detached dwellings. Any lot in existence prior to the effective date of this Zoning chapter, which did not adjoin another lot in common ownership and does not presently adjoin a lot in common ownership, and whose lot area, lot width, and/or lot depth are less than the minimum lot requirements for the district in which it is located, may be considered as complying with the minimum lot area requirements, and no variance shall be required, and only a single-family detached dwelling may be constructed, provided that:
- (1) Single-family detached dwellings are a permitted use in the zoning district in which the dwelling would be located.
  - (2) The lot has a minimum lot area of 7,500 square feet and a minimum lot width of seventy-five (75) feet.
  - (3) Any such single-family detached dwelling shall conform with all yard, development coverage building height and other bulk standards of the zoning district with a minimum lot area requirement in which the lot would conform in descending order from the largest to smallest lot area. Where a proposed dwelling cannot meet the bulk requirements of the applicable zoning district, area variances shall be required.
  - (4) The dwelling can be served by water supply and wastewater facilities that meet health department standards for said facilities.
- E. Existing average density (cluster) developments. Any lot located within a residential subdivision that was approved prior to the effective date of this Zoning chapter and platted in accordance with Section 7-738 of the New York State Village Law shall be developed in accordance with the bulk standards set forth on the residential subdivision plat. The bulk requirements on the cluster subdivision plat shall supersede the bulk requirements applicable to the zoning district within which said lot is located, provided that the lot is used in accordance with the uses approved as part of the subdivision.
- F. Corner lot. A corner lot having frontage upon two improved streets shall have two front yards, one side yard and one rear yard. The rear yard shall be located opposite the more narrow frontage. For lots subject to site plan or subdivision review and approval, the Planning Board shall designate which yard shall be the rear yard after consideration of the street to which the lot fronts, anticipated traffic volume on each street, and the arrangement of buildings on adjoining properties. For corner lots not involving site or subdivision plan review, the Building Inspector shall make such determination in consultation with the property owner.
- G. Flag lot. Flag lots are not permitted in the Village of Washingtonville. For flag lots in existence on the effective date of this Zoning Chapter, the interior portion of the flag lot (i.e., the portion of the lot excluding the flagpole portion of the lot and where the lot complies with the minimum lot width requirement) shall meet the bulk requirements applicable to the use and zoning district in which

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said lot is located or otherwise shall require an area variance from the Zoning Board of Appeals.

- H. Through lot. Through lots are not permitted. For any pre-existing through lot, where a lot extends through from street to street, the front yard dimensions shall apply to all street frontages. The yard which serves in function like a rear yard shall be screened from view of any street with an opaque fence and/or vegetative screen.
- I. Lot located in more than one zoning district. For any lot which is located in more than one zoning district, all yard, bulk and other requirements shall be measured from the zoning district boundary line and not the true lot line.

### § 315-16. Minimum lot area.

- A. Net lot area. Whenever the phrase lot area, minimum lot area, or minimum lot size or similar term appears in this Zoning chapter, such phrase shall be deemed to be based upon net lot area following the exclusion of the following lands:
  - (1) The 100-year floodplain (also special flood hazard area) as defined by and illustrated on the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as those maps now exist or as they may be amended from time to time including any floodplains which may have been filled without applicable Village floodplain permits;
  - (2) Wetlands, including New York State designated wetlands but excluding the 100-foot regulated adjacent area, as those wetlands now exist or may be found to exist;
  - (3) Lands under water, and lands covered by natural or constructed water bodies including, without limit, retention and detention basins.
  - (4) For steep slopes equal to or greater than 25 percent but less than 35 percent, fifty percent (50%) of said acreage shall be excluded.
  - (5) For steep slopes equal to or greater than 35 percent, one hundred percent (100%) of said acreage shall be excluded.
  - (6) Land encumbered by public or private easements or other restrictions, including utility easements, preventing use of such land for construction of buildings, uses, and/or development, except where it is determined by the Planning Board that said areas can still be used as part of a yard or as part of common open space
- B. The net lot area, after exclusion of the features set forth in subsection A above, shall be calculated, and any permissible residential density or nonresidential development intensity shall be calculated utilizing the net lot area. Any fractional dwelling unit shall be rounded to the nearest whole number.
- C. Area variance required. A lot shall be deemed conforming as to lot area only if it meets the minimum lot area set forth in Table II, Bulk Schedule, or as otherwise allowed in this Zoning chapter, after subtracting those areas listed in § 315-16.A above. Any lot area not meeting the minimum requirement shall require an area variance.

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- D. Gross lot area. Where the Zoning chapter references gross lot area, the specific bulk standard shall be based on gross lot area.
- E. Exceptions. These regulations shall not apply to any lot occupied legally by an existing single-or two-family dwelling, or to any existing nonresidential use proposing a nonresidential expansion of the use or building, but said expansion shall not exceed 15 percent of its building footprint or the gross lot area for nonbuilding uses.

### § 315-17 Accessory buildings and uses.

#### A. Accessory building and uses.

- (1) Except as may be otherwise allowed herein, no accessory building or use shall be placed within a front yard or a required side yard, except that decorative light poles, pillars at the entrance to a driveway with lights or mailboxes installed therein, signs, mailboxes, landscaping elements, and fences and walls are permitted. No accessory building shall be constructed within ten (10) feet of any rear lot line or side lot line, unless such rear lot line abuts a green area, as designated on a filed subdivision map, in which case no accessory building shall be permitted within five (5) feet of such rear lot line or side lot line.
- (3) A garage accessory and attached to a dwelling shall comply with all yard requirements for the principal dwelling
- (4) No accessory building, if detached from a dwelling, shall be placed within 10 feet of the principal dwelling except a detached garage shall be located no less than twenty (20) feet from any lot line and shall not exceed a building height of 20 feet and in no event shall the detached garage be placed in the front yard.
- (5) An access driveway providing access to a use or building on a lot may be located within a required front or side yard but no closer than five feet to any side or rear lot line.
- (6) Required accessory buildings and uses shall be on the same lot with the principal building or buildings to which they are accessory.
- (7) No accessory building in a residential zoning district or accessory to a residential use in a mixed use district shall exceed 1 1/2 stories or 20 feet in height, whichever is less; in a nonresidential district, an accessory building shall not exceed 25 feet.

#### B. Fences and walls.

- (1) A fence or wall is permitted in a front yard provided it does not exceed four (4) feet in height. Within a side or rear yard, a fence or wall shall not exceed six (6) feet in height and must include at least one self-closing gate. A fence shall be set back no less than six (6) inches from a lot line or such distance required to allow for maintenance or may be located on the property line upon mutual written consent of all property owners. All new fences require a property survey certified to the current property owner if being installed along the property lines.
- (2) A fence along a road shall be set back at least four feet from the curb or edge of pavement, but in no event shall be located within a public right-of-way.

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- (3) The decorative or finished side of a fence or wall shall face the exterior of the lot, i.e., facing the street or adjoining lots. Acceptable fence materials include wood, vinyl plastic, or vinyl coated chain link, except that chain link is not permitted in any front yard.
  - (4) The Planning Board shall determine acceptable materials for any fence proposed as part of a site plan, subdivision plan, or special use permit application. Any fence which is required specifically in connection with a use set forth in the Zoning chapter and which requires screening may be allowed only upon review and approval of the Planning Board. In a nonresidential zoning district, the Planning Board may allow a fence or wall exceeding the height dimension set forth in subsection (1) above where it finds the fence necessary to screen a use, and where the additional height of the fence or wall will not impact a neighboring property.
  - (5) No person shall be permitted to erect or cause to be erected any barbwire, razor, chain link except with closed loop at the top, electrically charged, short pointed metal, poultry, turkey wire, or any similar type fence. Tarpaulin, canvas, cardboard and other impermanent materials are prohibited fence materials.
- C. Street frontage. Except as otherwise allowed herein, the street frontage of a lot shall not be less than 50 feet measured along the street line.
- D. Height exceptions.
- (1) The height limitations of this chapter shall not apply to existing buildings steeples, cupolas, parapets not exceeding four (4) feet in height, and similar architectural, non-inhabited structures. The height limitations of this chapter shall not apply to rooftop bulkheads, elevator penthouses, water towers, fire towers, hose towers, cooling towers or air-conditioning or heating equipment, provided that such features shall not occupy, in the aggregate, more than 10% of the area of the roof of a building and are set back from the edge of the roof at least one foot for each one foot by which such features exceed the maximum height otherwise specified for the district in which they are located. In no case shall such features exceed 10 additional feet in height. All such mechanical equipment located on the tops of buildings shall be visually screened.
- E. Yards and courts.
- (1) The space in a required front yard shall be open and unobstructed except for:
    - (a) An unroofed balcony or terrace, projecting not more than six (6) feet.
    - (b) Steps giving access to a porch or first floor entry door.
  - (2) Every part of a required yard shall be open to the sky unobstructed except as allowed by this Zoning chapter. Sills, belt courses and ornamental features may project not more than six (6) inches. Cornices and eaves shall not project more than eighteen (18) inches. Retaining walls shall not exceed a cumulative height of ten (10) feet without Planning Board approval.
  - (3) Open or lattice-enclosed fireproof fire escapes or stairways, required by law, projecting into a yard not more than four (4) feet and the ordinary projections of chimneys and pilasters shall be permitted by the Building Inspector when placed so as not to obstruct light and ventilation.

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### (4) Courts.

(a) In all districts, the least horizontal dimension of an inner court at its lowest level shall be not less than the larger of the following two dimensions:

[1] One-third of the maximum height above such lowest level of the building walls erected on the same lot and bounding such court.

[2] Fifteen feet.

(b) In all districts, the least width of an outer court at its lowest level shall be not less than the largest of the following three dimensions:

[1] One-third of the maximum height above such lowest level of the building walls erected on the same lot and bounding such court.

[2] Two-thirds of the horizontal depth of such court.

[3] Fifteen feet.

(c) In all districts, the horizontal depth of an outer court shall not exceed 1 1/2 times its least width.

F. Corner lot sight distance; obstructions. On a corner lot, no obstruction that would be greater than 2 1/2 feet above the center-line grades of the intersecting streets shall be installed, erected, planted or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining said right-of-way at points which are 75 feet distant from the intersection of the right-of-way lines and measured along said right-of-way lines which are on the side of the property and for the full length of the right-of-way line when said right-of-way line is located in the front of the property. Trees whose branches are trimmed away to a height of at least eight (8) feet above the curb level shall be permitted.

### § 315-18. Minimum residential floor area.

A. Purpose. The minimum residential floor area standards are intended to: promote and protect the public health; prevent overcrowded living conditions; guard against the development of substandard residential neighborhoods; conserve established property values; and, contribute to the general welfare.

B. Minimum residential floor area standard. Every dwelling unit hereafter erected or altered, and the conversion of any space into a dwelling unit, shall meet the following minimum residential floor area standards:

(1) One- and two-family dwelling units: 900 square feet.

(2) Attached and semi-attached dwelling units: 800 square feet.

(3) Multifamily dwelling units: 600 square feet.

C. The minimum residential floor area shall encompass all habitable rooms and areas of a building that can be made habitable, but shall exclude porches, breezeways, and garages.

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### § 315-19. Noncommercial swimming pools.

- A. A noncommercial swimming pool shall not be located, constructed or maintained on any lot except in conformity with the following requirements:
- (1) Such pool shall not be located in any front yard or required side yard. The pool shall be not less than 15 feet from a rear lot line and five (5) feet from the principal building, unless such rear lot line abuts a protected open space area including lands within the OSR zone, as designated on a filed subdivision map, in which case such pool shall not be permitted within five (5) feet of the rear lot line.
  - (2) The pool shall be enclosed with a fence in accordance with NYS Building Code.
  - (3) Every gate or other opening in the fence enclosing such pool shall be self-closing and self-latching.
  - (4) Such pool shall not occupy more than 35% of the balance of the rear yard area, after deducting the area of all private garages and other accessory buildings or structures.
  - (5) If the water for such pool is supplied from a private well, there shall be no cross connection with the public water supply system.
  - (6) If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.
  - (7) Where applicable, swimming pools shall be constructed, operated and maintained in accordance with New York State Sanitary Code.
  - (8) No permit shall be issued for the installation of a swimming pool unless the plans meet NYS Building Code and unless the Village Engineer or a New York State licensed professional engineer certifies that the drainage of the pool has been designed so as not to interfere with the public water supply system, existing sanitary facilities, or public streets. Swimming pools shall not be drained to adjoining properties.
  - (9) No loudspeaker or amplifying device shall be permitted.
  - (10) When a pool is located within 25 feet of a rear or side lot line, a natural planting strip or opaque fence not less than three (3) feet wide shall be installed adjacent to said lot line(s) unless it adjoins permanent open space. Where a planting strip is installed, the design and layout of the required planting strip shall use suitable plant materials to attain and maintain a height of not less than six feet, to be fully opaque, and to effectively screen the pool from points outside the lot lines.

### § 315-20. Reserved.

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### Article V, Supplementary use and district regulations.

#### § 315-21. Supplementary uses.

##### A. EV charging station.

- (1) Level 1 and Level 2 charging stations are permitted in any zoning district, when accessory to a principal use.
- (2) Level 3, or DC fast charge, charging stations are permitted accessory to a principal use in any mixed use or nonresidential zoning district.
- (3) Standards.
  - (a) Installation of five (5) or more charging stations on a lot shall require Planning Board site plan approval. All level charging stations are subject to issuance of a building permit.
  - (b) Electric vehicle parking and charging stations shall be equal to the minimum parking space size. The installation of electric vehicle supply equipment shall not reduce the electric vehicle parking space length to below off-street parking space size and standards set forth in this Zoning chapter. If required, additional space shall be provided for the charging station. The charging station shall be subject to the same setback and yard requirements applicable to parking for the use and zoning district which it serves.
  - (c) Installations shall meet National Electrical Code Article 625, and New York State Electrical Code as may be amended.
  - (d) Charging station outlets and connectors shall be no less than thirty-six (36) inches and no higher than forty-eight (48) inches from the surface where mounted.
  - (e) Adequate electric vehicle charging station protection, such as concrete-filled steel bollards, shall be installed. Curbing may be used in lieu of bollards if the charging station is set back a minimum of twenty-four (24) inches from the face of the curb.
  - (f) If time limits or vehicle removal provisions are to be applied, regulatory signage including parking restrictions, hours and days of operation, towing, and contact information shall be installed immediately adjacent to, and visible from, the electric vehicle charging station.
  - (g) When placed in a sidewalk or adjacent to a walkway, the charging station shall not interfere with the minimum pedestrian clearance widths as defined in Chapter 11 of the New York State Building Code. Approval shall be obtained from the applicable jurisdiction when located in a public right-of-way.
  - (h) Cords, cables, and connector equipment shall not extend across the path of travel within a sidewalk or walkway.
  - (i) The Building Inspector may consult with the local fire department regarding the design and installation of the equipment.

##### B. Home occupation. A home occupation is permitted accessory to a dwelling unit subject to the following:

- (4) Such uses shall be confined to not more than twenty-five (25) percent of the habitable floor area of one (1) floor of the principal building, and the principal use and building shall otherwise

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- conform to all other applicable bulk standards.
- (5) Not more than two (2) persons shall be employed in the home occupation, at least one (1) of whom must be a resident of the premises.
  - (6) Such uses shall not take place earlier than 7:00 AM or later than 8:00 PM except the time restriction shall not apply to a home occupation that does not employ anyone other than the occupant of the dwelling.
  - (7) No equipment shall be used other than that which is customary for domestic or household purposes.
  - (8) No exterior storage of materials shall be allowed except that a display stand, no larger than 50 square feet for the sale of goods made on the premises, may be permitted upon Planning Board approval, where it finds that the stand is not disruptive to the neighborhood. No signs identifying the home occupation shall be permitted.
  - (9) One off-street parking shall be provided for the employee.
  - (10) No home occupation shall require or involve any overnight accommodation or renting out portion of the dwelling.
  - (11) A home occupation shall not require any lighting that is not otherwise customary to the dwelling.
- C. Outdoor dining. Notwithstanding any inconsistent provision contained in this Code, dining for the sale to the public of food and beverages accessory to a restaurant or similar use is permitted subject to site plan approval of the Planning Board. These requirements apply to outdoor dining on public sidewalks or on the same lot as the restaurant.
- (1) Any facility serving alcohol shall have all appropriate liquor licenses and approvals.
  - (2) A permit for outdoor dining may be issued only to the owner or the tenant of a building that is operating the restaurant, tavern, bar, distillery, or similar use that is permitted in the zone and serves food and beverages. For a sidewalk café, outdoor dining shall adjoin the establishment to which it is accessory.
  - (3) Standards for outdoor dining on a sidewalk. The following requirements shall be met:
    - (a) The sidewalk abutting the property, from property line to the curblin, shall have sufficient clearance to accommodate pedestrians and meet ADA requirements.
    - (b) Outdoor dining shall be at least fifty (50) feet from any residential lot in a residentially zoned district.
    - (c) The area to be used for outdoor dining must not encroach onto the sidewalk in a manner that fully obstructs pedestrian use or creates a pedestrian or parking hazard. The Planning Board may require that a barrier be installed to separate the outdoor dining area from the pedestrian area.
    - (d) No permanent structures may be affixed to the sidewalk used for outdoor dining or affixed to the building abutting the outdoor area, and the area may be occupied only by chairs, tables, benches, umbrellas, planters and menu signboard for the convenience of the patrons to be served in such area. Planters shall be so arranged as to enclose the dining area.
    - (e) A clear unoccupied and unobstructed space must be provided, not less than three (3) feet in

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width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk and otherwise meet ADA requirements. Tables shall not be located in front of the access doors.

- (f) Any exterior lighting shall be approved by the Planning Board.
  - (g) External music is not permitted.
  - (h) The Planning Board, as a condition of approval, may limit the time period within which the outdoor dining may operate.
  - (i) General comprehensive liability insurance naming the applicant and the Village of Washingtonville, its officers, agents and employees as named insureds must be provided in an amount and form recommended by the Village Attorney and approved by the Village Board, which shall be effective for the duration of the permit.
- (4) Standards for outdoor dining elsewhere than a sidewalk. The following requirements shall be met:
- (a) Said use shall be at least fifty (50) feet from any residential lot in any adjoining residential district.
  - (b) The Planning Board may prohibit or limit the hours of operation of any activities which could cause an adverse impact on adjacent or nearby residential properties, such as unreasonable noise emanating from the outdoor dining area.
  - (c) No exterior lighting shall be permitted which would cause illumination beyond the boundaries of the property on which it is located. Hours of lighting shall be as limited by the Planning Board.
  - (d) External music is not permitted unless approved by the Planning Board.
  - (e) The Planning Board, as a condition of approval, may limit the time period within which the outdoor dining may operate.
  - (f) Off-street parking spaces shall be provided for the additional outdoor dining space.

### D. Pop-up kiosks.

- (1) The Village Board finds that pop-up kiosks have the ability to offer a business a flexible, cost-effective way to test markets and increase brand awareness prior to the commitment of occupying permanent retail space. Kiosks can be operated year round or seasonally.
- (2) Within the NB zone, the Village Board may authorize the installation of a pop-up kiosk for retail sales. A kiosk may be located on any Village public property and parks subject to Village Board approval.
- (3) No kiosk shall be larger than 300 square feet. The kiosk may be in the same ownership as the property on which it is located, or it may be leased. The kiosk owner shall provide proof that the owner consents to the kiosk.
- (4) The kiosk shall comply with all bulk standards applicable to the principal building on the same lot, except that the Village Board, in its discretion, may vary said standards, where it finds it would not be detrimental to the adjoining properties and shall not create any sight distance

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issues. The Village Board shall find that the kiosk can be adequately protected from operating vehicles or other hazards.

- (5) The kiosk shall be secured from vandalism and theft.
  - (6) The kiosk shall be maintained and operated in proper condition for the life of its use.
  - (7) The Village Board may require that seasonal kiosks be relocated and/or dismantled when not in use.
  - (8) The Village Board shall establish the hours of operation and duration of the kiosk.
  - (9) A kiosk may be permitted up to a maximum time period of one calendar year. Thereafter, the owner shall appear before the Village Board for renewal.
  - (10) Where a kiosk is approved, the Building Inspector shall issue an operating permit for the kiosk and shall ensure any other permits, e.g., Department of Health, are secured prior to issuance of an operating permit.
- E. Geothermal energy systems.
- (1) Legislative intent and purpose. The purpose of this section is to allow and encourage non-solar renewable energy systems that harness geothermal energy within the Village according to certain safeguards and conditions. The intent is to balance the desirability and demand for geothermal energy systems with maintaining the aesthetics of the Village and minimize the potential for any negative impact by these systems and to protect the health, safety and welfare of the residents of the Village.
  - (2) Accessory use. A geothermal systems shall be accessory to a use and shall be located on the same lot it serves.
  - (3) System design. A geothermal system may be a close loop or open loop system.
  - (4) Permit. A permit shall be issued by the Building Inspector upon review of the Village Engineer.
  - (5) General design standards for geothermal energy systems and equipment.
    - (a) Any aboveground geothermal energy equipment shall not be located in any front yard, and shall be subject to side and rear yard setback requirements for accessory structures.
    - (b) At the discretion of the Village Engineer, outdoor aboveground geothermal energy equipment shall be screened from adjacent properties by landscaping, fencing, or other methods to minimize the aesthetic impact of the geothermal energy equipment on adjacent properties. Where screening is required, the plan shall be forwarded to the Planning Board for its approval of screening components.
    - (c) All underground components of geothermal energy systems, including borings, loops, and other equipment, shall be set back at least 10 feet from side and rear lot lines.
    - (d) All borings and loops shall be set back at least 10 feet from the foundation of any structure, unless the foundation is a concrete slab, in which case, all borings and loops shall be set back at least five feet from the foundation of any structure.
    - (e) Geothermal energy systems shall not encroach on any public or private utility or right-of-way easement.
  - (6) Procedure.
    - (a) An application with plan shall be submitted to the Village Engineer as a requirement for the

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issuance of a building permit for any geothermal energy system. Such plan shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed geothermal energy system. The plan shall also indicate the location of all property lines and shall comply with the requirements and standards of this Zoning chapter.

### § 315-22. Overlay zoning districts.

#### A. Scenic Gateway Overlay (SG-O).

- (11) Purpose. The southern gateway into the Village of Washingtonville, commencing at the intersection of South Street and Woodcock Mountain Road, offer significant and expansive views of Schunnemunk Mountain to the east. Schunnemunk Mountain, although not within the Village, forms part of the unique identity of the Village, which is located within the valley below the mountain. While Schunnemunk Mountain is visible from several other locations in the Village, it is this view which is the most significant, and which could be irreplaceably harmed if future disturbances and development are introduced that diminish or block this view.
- (12) Overlay district mapped. The Scenic Gateway Overlay zoning district has been mapped and is shown on the Official Zoning Map.
- (13) Uses allowed. Within the SG-O zone, permitted uses are limited to the following:
  - (a) Agricultural use of the property involving crops such as hay, wheat, and similar grasses;
  - (b) Animal pasture.
  - (c) Trails.
  - (d) Any use allowed within the base zoning district, subject to special use permit and site plan approval and subject to the design standards set forth herein.
- (14) Special use permit and site plan approval required.
  - (a) No building(s) or structure(s) which exceeds 200 feet of gross floor area, whether introduced singly or cumulatively, shall be permitted without Planning Board approval. For purposes of this overlay district, structure shall be deemed to include parking.
  - (b) Except in association with agricultural uses as defined herein, no trees shall be removed within the overlay district except by Planning Board approval.
- (15) Design standards.
  - (a) Development shall not be situated within 500 feet of the street line of South Street (NYS Route 208).
  - (b) No subdivision shall be approved which would create lots wherein the only location to place buildings and structures would be in the SG-O zone.
  - (c) The Planning Board has the authority to relocate the development yield within the SG-O zone to locations outside the SG-O zone, on the same property or on a property in the same ownership which may adjoin the parcel on which the SG-O zone is situated. For purposes of development yield, the site shall be laid out in accordance with the bulk and use standards applicable for the zoning district, and standards below. Where relocation occurs, the SG-O lands from which development has been removed and relocated shall be subject to a conservation easement.

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- (d) Where an applicant proposes development within the SG-O, a visual simulation shall be conducted that accurately depicts the appearance and height of the proposed buildings and structures. The visual simulation shall require that the Applicant conduct a balloon survey, install posts, flag or other means of depicting the height of buildings, taking into consideration any proposed grading which is proposed. The Planning Board shall approve the methodology of the visual simulation and vantage points for simulation prior to it being conducted.
- (e) The Planning Board may approve development within the overlay zone only where it determines that the development will not have a significant adverse impact on the viewshed. The following standards apply:
  - [1] No building or structure shall exceed 10 feet or 1-story.
  - [2] Buildings and structures shall be situated at the most easterly boundary of the zone but in no case closer than 250 feet to the nearest abutting right-of-way line of Woodcock Mountain Road and South Street (NYS Route 208).
  - [3] Grading may be required to ensure that the topmost roof or elevation of any building or structure does not block views of Schunnemunk Mountain.
  - [4] In no event shall buildings, structures and impervious surfaces exceed 30 percent of the gross land area within the SG-O zone, and they shall otherwise be located and designed in accordance with this section "(e)".

### B. Reuse Overlay (R-O).

- (1) Purpose. The Village was founded as a crossroads settlement, where development of the community was laid out along Goshen Avenue, North and South Streets, and West and East Main Streets. It is along these corridors that the older historic and architecturally stylized buildings including single-family residential dwellings can be found. The purpose of the Reuse Overlay zone is to preserve the existing residential, larger lot, and open character of areas and neighborhoods along the main road corridors within the Village, such as large setbacks and historic and architectural styles. The Village Board hereby finds that it is necessary to develop and enforce specific design criteria for these districts to retain the community character of the corridors and as a means of preserving the older, historic and/or architecturally significant building while allowing limited nonresidential uses in existing buildings or in sensitively designed new buildings or additions which maintain the existing character of this corridor. Development within the overlay district is intended to create a smooth transition in land uses and intensities of development from less intense uses within the residential zones to more intense uses approaching the Village's Downtown zone.
- (2) Demolition. Nothing herein shall permit the demolition of any local landmark or historic or architecturally significant building in this overlay zone absent a certificate of hardship in accordance with Article XI.
- (3) Authority. For buildings that are deemed to be local landmarks, the Planning Board and Historic Preservation Board shall review applications. For buildings which are not deemed local landmarks, the Planning Board and Architectural Review Board shall review applications.

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(4) Design criteria requirements.

(a) In considering an application for a permitted or special permit use within the district, the Planning Board shall consider the visual and aesthetic relationships between neighboring properties, the architectural style of buildings, particularly where there are structures of historic or architectural significance on or within view of the site, the height, width and bulk of buildings and structures and their arrangement on the site, including setbacks, materials, window locations, entry points, rooflines, exterior colors and details, exterior lighting (including the number, height and design of the lighting fixtures and the amount of light), fences and walls, the landscaping and paving materials to be used on the site, etc., so as to assure that all new construction, all alterations of existing structures and all standards provided in this section will be accomplished in such a manner as to further the purpose of this chapter.

(b) The following standards shall apply:

[1] Existing structures.

[a] Unless otherwise set forth herein for an adaptive reuse, the maximum percent a building area may be increased an additional 25%, provided that the resulting development shall not exceed the maximum development coverage permitted in the zone. Nothing herein shall be deemed to allow building height in excess of that permitted in the zone or the existing height of the building.

[b] No residential use shall be located on a floor below a nonresidential use.

[c] Residential units shall have separate access from the nonresidential uses.

[d] Off-street parking shall be wholly provided in the rear and/or one side yard, behind the front building line, and shall be screened from the road and adjoining properties.

[e] There shall be no substantial alteration to the exterior of the building except with approval by the Architectural Review Board or the Historic Preservation Board as set forth above. Alteration shall not substantially reduce the architectural value or character of a building and only that necessary to meet building code or other compelling reason.

[2] New construction.

[a] New construction shall be permitted, provided that it sensitively maintains the existing character of adjacent and surrounding historic and architecturally significant structures. This may be exhibited through architectural style and character, arrangement, texture, materials, details and ornamentation. Building facade materials shall be natural looking and should be a natural color; no metal siding, exposed concrete block or reflective or tinted glass shall be visible from any side of a building.

[b] No residential use shall be located on a floor below a nonresidential use.

[c] Residential units shall have separate access from the nonresidential uses.

[d] Setbacks for new buildings shall be equal to or exceed the average of the principal structures on either side of the property, but in no case shall such setback be less

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than required by applicable provisions of the Schedule of Zoning District Regulations for the underlying base zone.

- [e] Off-street parking shall be wholly provided in the rear and/or one side yard, behind the front building line, and shall be screened from adjoining properties.
- [f] All buildings and portions of buildings with multiple tenants will have a uniform architectural style. Every 75 feet of building façade will feature a recessed or protruding portion (or other means of architectural articulation as deemed acceptable by the Architectural Review Board) to reduce building mass.
- [g] Flat roofs are prohibited on buildings with less than two stories, and all rooftop equipment shall be shielded from view.

(5) Adaptive reuse of a historic building.

- [a] The purpose of this section is to assist in the preservation of the buildings in the Village of Washingtonville by allowing certain uses to occupy structures of historic and architectural merit in the R-O zone. These uses shall be in addition to any use which is otherwise allowed in the base zoning district in which the building is located. The following uses may be permitted by special use permit granted by the Planning Board, provided that the Board finds that the application meets all the conditions of this section, Article XI where applicable, and meets all the conditions set forth herein.
  - [1] Restaurants (not fast food or drive through) not to exceed an average seating capacity of 50 unless the Planning Board determines that preservation of the structure justifies a larger size.
  - [2] Multifamily dwellings in a mixed use building with nonresidential uses that allowed in in the base zoning district.
  - [6] Retail use not listed elsewhere.
- [b] There shall be no exterior alteration of the structure except where said alteration makes the building or property consistent with its original character and as may be allowed as per the applicable special use permit. The Planning Board may require that the building be updated to reflect the original design elements. Continuing maintenance of the building to protect its character shall be a condition of any special use permit.
- [c] A site plan shall be submitted and said submission is not waivable. The site plan shall be accompanied by schematic architectural drawings which shall show the existing conditions of the structure and the proposed alterations. The Planning Board shall be provided with a report from an architect qualified on historic preservation as to the appropriateness of the proposed restoration and its compliance with the Secretary of the Interior's national standards for the restoration of historic structures where they have been deemed a local landmark. The Planning Board must make the following findings before approval is granted:
  - [1] The exterior (and where appropriate, the interior) restoration shall maintain the architectural and historic integrity of the structure where applicable.
  - [2] The proposed use is compatible with the neighborhood and activities permitted within the structure can adequately be buffered from any surrounding residential dwelling.

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- [3] The resulting traffic generation will not overburden existing roads and adequate parking can be provided without unduly destroying the landscape or the setting of the structure.
- [4] The proposed use is appropriate to the structure, will aid in the preservation of the structure and will not result in undue additions or enlargement to the structure.

### C. Floodplain Overlay (FP-O); federal flood hazard areas.

- (1) Statement of purpose. The Village has been subject to repeated and periodic flooding and inundation from severe weather events, especially involving lands within the special flood hazard area associated with the Moodna Creek. These flooding events can and have resulted in loss of life and property, present health and safety hazards, disrupt commerce and government services, induce extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare of Washingtonville. It is the purpose of flood hazard regulations to promote the public health, safety, and general welfare and to minimize those losses described above by provisions designed to:
  - (a) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or that cause increased flood heights or velocities.
  - (b) Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.
  - (c) Inform existing and prospective property owners with regard to the presence of flood hazard areas affecting certain lands within the Village of Washingtonville.
- (2) Flood hazard areas. The areas of special flood hazard are shown on Flood Insurance Rate Maps on file in the office of the Village of Washingtonville Building Department, with an effective date of August 3, 2009, and which shall include any subsequent revisions to these map panels. Flood hazard areas are regulated in accordance with Chapter 93 of the Village Code, entitled "Flood Damage Prevention." No development shall be undertaken in any area of special flood hazard without first securing a floodplain development permit. Any application for site plan, subdivision, special use permit, building permit, or any application for a variance which proposes disturbance that is regulated by Chapter 53 shall be conditioned upon the Applicant securing a floodplain development permit if required.
- (3) Flood hazard areas to be mapped. Any site plan, subdivision, special use permit or any variance application that is submitted to a board for approval, or to the Building Inspector in support of a building permit application, shall clearly show the limits of the floodplain and floodway and all improvements proposed therein.
- (4) Special flood hazard area. After the effective date of this Zoning chapter:
  - (a) no new residential dwelling building shall be constructed within the special flood hazard area. Any new dwelling shall require a use variance from the Zoning Board of Appeals.
  - (b) New nonresidential uses shall be designed so as not to place buildings intended for employee occupancy with the special flood hazard area. The Planning Board shall consider

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this requirement when reviewing any site plan and may require that an Applicant pursue area variances where it determines that the nonresidential use can be accommodated elsewhere on the site.

- D. Relocation of proposed improvements. Any Village agency that is responsible for reviewing and deciding upon any variance, site plan, special permit or subdivision plan may, as a condition of approval, require that a proposed improvement(s) be relocated outside the floodplain or not placed within a floodplain to protect the health, safety and general welfare of the community.

**§ 315-23 and 24. Reserved.**

## Chapter 315, ZONING

### Article VI, Signs.

#### § 315-25. Signs.

##### A. Purpose and scope.

(12) Purpose. The purpose of this chapter is to preserve, protect, promote, and advance the public health, welfare, and safety by regulating and establishing standards for the erection of signs within the Village of Washingtonville. These regulations and standards are content-neutral, which means that they are to be construed to promote no distinction between the topic discussed or the idea or message expressed on any signage. The Village's ability to attract economic development is accomplished in part by the enforcement of regulations that maintain an attractive community and streetscape, of which signs are a contributing element. A multiplicity of signs clutters the overall appearance of the Village, detracts from its visual quality, and is discouraged. The objective of promoting a visually attractive streetscape shall be balanced with the objective of ensuring that a property owner or tenant is afforded ample and adequate means of identifying the occupancy or use of a property or establishment and/or conveying information in accordance with these sign regulations.

(13) The provisions of this article shall govern the construction, alteration, repair and maintenance of all signs and outdoor display structures, together with their appurtenant and auxiliary devices. By vesting the Architectural Review Board with authority to approve or deny sign permit applications, this article expands the jurisdiction and authority of the Architectural Review Board beyond that set forth in Chapter 48 of the Code. This article is authorized and adopted pursuant to the New York State Village Law and Municipal Home Rule Law.

##### B. Sign permit required.

(1) Unless otherwise permitted by this section, no person shall hereafter install, alter, enlarge, or relocate a sign without a sign permit. No sign permit shall be issued except as shown on an approved site development plan or sign plan. The Planning Board may approve any sign, in terms of location and size, shown on a site plan in accordance with the procedures set forth in Article X, Site plan review, of this Zoning Chapter, except that the sign shall require ARB approval. All signs requiring a sign permit and not reviewed by the Planning Board as part of a site plan application shall be reviewed and approved by the Architectural Review Board. A sign permit shall be issued only following submission, review and approval of a sign application and sign plan in accordance with the requirements set forth below, and payment of the required fee in accordance with the fee schedule established by the Village Board.

(2) A sign permit shall not be issued for a sign if any other sign on the same premises and in the same ownership has been determined to be in violation of this section.

(3) A sign permit shall not be required for the repainting or refurbishing of an existing sign when using similar colors, letters and signs. The determination of similarity shall be made by the Building Inspector.

(4) Sign permits for temporary signs, greater than eight (8) square feet in size and limited to one (1) sign

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per property per street frontage, shall be issued without a permit fee for a period of three (3) months. Thereafter, the required fee must be paid in accordance with the fee schedule established by the Village Board. All such signs shall be removed within seven (7) calendar days of expiration of permit and must adhere to the maintenance requirements set forth in § 315-25I.

- C. Sign application. A sign permit application shall be submitted to the Building Inspector and shall include the items listed below. The application shall then be forwarded to the ARB for review:
- (1) A scale drawing of the sign which shows the content, colors, and proposed location of the sign.
  - (2) A drawing with appropriate notes, describing the construction of the sign and the method of attachment to a building or the ground.
  - (3) A description or sample of the materials of which the proposed sign will be made.
  - (4) A description of the proposed method of sign illumination, if any.
  - (5) Any other information deemed necessary by the Building Inspector to determine whether the sign is consistent with the regulations set forth herein.
- D. Review.
- (1) Time period for decision. At such time that the Building Inspector deems that a complete application has been submitted with the information set forth in subsection C above, the ARB shall review all sign applications and approve, disapprove, or approve with modifications the application within thirty (30) days of receipt of a complete application. Where a sign is being approved in conjunction with a site plan, the Planning Board shall review and approve signs in accordance with the time frames established for site plan review and approval. The applicant shall submit to the Planning Board the sign information set forth in subsection C above.
  - (2) Criteria for sign plan approval. The ARB Board shall exercise discretion in approving signs in accordance with its powers and duties. If such sign or signs do not clearly and convincingly conform to the criteria of this section, the ARB shall deny the application and the applicant may pursue its remedies provided in this Chapter. Where design standards for signs are set forth for individual special uses, those standards shall apply.
    - (a) Accessory use. Signs must be clearly accessory to the uses on the lot on which they are located and are not permitted to be principal uses.
    - (b) Proportion and scale. The size and content of the sign shall be the minimum essential for legibility and for the provision of information. The scale of signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of a sign should be proportional with the scale of the structure. For example, small storefronts should have smaller signs than larger storefronts.
    - (c) Quality. Signs shall be durable and weather resistant.
    - (d) Coordination with other signs. Signs located on a multi-tenant building shall be coordinated in design to avoid sign clutter. For buildings with multiple storefronts, signs located on individual businesses' storefronts should relate well to each other in terms of locations, height, proportion, color, and illumination. Maintaining continuity reinforces the building's

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facade composition while still retaining each business's identity.

- (e) **Colors.** Colors shall not be garish. Contrast is an important influence on the legibility of signs. A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read during the day and night. Light letters on a dark background or dark letters on a light background are most legible. Light letters on a dark background work best for both day and nighttime use. Neon and day-glo colors are not permitted except in association with neon signs if approved by the ARB. Permissible sign colors shall be as established by the ARB.
  - (f) **Coordination with building.** Sign materials and colors should complement the materials and colors of the building on which the sign is situated or associated.
  - (g) **Architectural elements and details, including historic building details.** Many of the buildings in Washingtonville, especially in the Downtown district, exhibit architectural elements and details. Signs should not cover or otherwise interfere with design elements that contribute to the building's character. Signs shall not cover over architectural elements such as transom windows or vertical piers. Signs should fit into the building facade just as if they were one of the architectural elements. The building or storefront should be reviewed for its architectural elements that suggest a location, size, or shape for the sign. These could include the lintel band above transom windows, an entranceway that needs signage to provide direction, or display windows.
  - (i) **Typeface.** A multiplicity of different typefaces on an individual sign is discouraged. The number of lettering styles that are used on a sign should be limited to improve legibility. As a general rule, limit the number of different letter types to no more than two for small signs and three for larger signs. Intricate typefaces and symbols that are difficult to read reduce the sign's ability to communicate and effectiveness and may not be permitted by the ARB.
- E. Signs not requiring a sign permit. The following signs are allowed and may be installed and maintained without a permit, provided that they comply with the regulations of this subsection E.
- (1) Signs of or required by duly constituted governmental bodies, including traffic or similar regulatory devices and legal notices.
  - (2) Temporary signs in all districts, as follows:
    - (a) On-premise garage sale signs, provided the sign is erected on the property on which the sale is conducted and for a period not to exceed seven (7) days.
    - (b) Non-illuminated temporary "For Sale" or "For Rent" residential or commercial real estate sign concerning the premises upon which the sign is located. All such signs shall be removed within seven (7) calendar days after the sale, lease, or rental of the premises and must adhere to the maintenance requirements set forth in this article.
    - (c) Political campaign signs pertaining to candidates for public office, political parties, public referenda, or other public issues. The Village of Washingtonville encourages, but does not require, that said signs be displayed no earlier than 30 days prior to the relevant election or referendum and that they be removed no later than 7 days after such election or

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referendum. The Village encourages, but does not require, the candidate or his/her representative to designate a contact name of the person(s) responsible for erecting and removing the sign(s) and supply same to the Village Clerk.

- (3) Flags or emblems of civic organizations and governments.
  - (4) Memorial plaques, cornerstones, historical tablets and signs indicating the property's landmark designation by an authorized government agency.
  - (5) Exterior signs not visible from outside of the lot upon which they are situated.
  - (6) One identification sign containing only the name(s) of the building occupant and posted in conjunction with doorbells or mailboxes, provided that the sign does not exceed 30 square inches.
  - (7) Address or announcement signs, provided that only one such sign is installed per business or resident at each entrance to the premises and provided that the sign area does not exceed two square feet.
  - (8) One sign advertising the sale, lease or rental of the premises upon which sign is located, provided that the sign area does not exceed four (4) square feet and the sign is not located closer than 10 feet to any street or lot line.
  - (9) Cautionary signs, including but not limited to, "danger" and "no trespassing" signs, provided that the sign area does not exceed two square feet.
  - (10) Font changes on an existing sign.
  - (11) Sandwich boards, provided that the sign is of professional quality appearance and advertises only the name of the business and/or product being sold on the premises for the day it is displayed; the area of the sign shall not exceed eight (8) square feet and the sign shall not obstruct sidewalk access.
- F. Prohibited signs. Prohibited signs are signs that are not permitted in the Village of Washingtonville. Prohibited signs are as follows:
- (1) Signs that revolve or otherwise move or which utilize flashing or blinking lights or multiple illuminating units which operate alternately.
  - (2) Signs which emit noise, sounds or smoke, including audio signs.
  - (3) Signs containing obscene content.
  - (4) Signs made of cardboard, paper or similar impermanent material, except temporary signs displayed within a window area of a commercial use which shall not cover more than twenty-five percent (25%) of any window area or placed so as to obstruct the view inside the building.
  - (5) No sign shall be placed, painted or drawn on utility poles, bridges or on other road, utility structures or sign posts; or on trees, rocks or other natural features. No signs shall be placed on municipal property without the permission of the Village Board.
  - (6) No sign shall be erected, maintained or displayed which shall create a public hazard to health or safety by reason of the manner of its construction or placement or the nature of the materials used therein.

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- (7) No sign which is leased or rented for economic gain, including a sign commonly known as a billboard, shall be erected, maintained, or displayed, including those which advertise or promote any business, profession, interest or product on a lot other than upon the premises whereon such sign is situated. The Village of Washingtonville does not control or regulate billboards situated within any state highway right-of-way, provided a copy of the state approval is filed in the Building Inspector's office.
  - (8) Digital signs, except that the Village Board, upon review of the ARB, may approve digital signs in connection with any governmental or religious use.
  - (9) Roof signs.
  - (10) Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is prohibited.
  - (11) Internally lit signs, except pre-existing signs shall be allowed to continue until the tenant for said sign has vacated the premises or the sign face is being changed.
- G. Standards for signs accessory to nonresidential uses requiring site plan or sign permit approval.
- (1) Number and Type of Permanent Signs. Schedule A regulates the number, size and types of signs allowed on properties within each zoning district in the Village of Washingtonville. A "P" indicates that the type of sign is permitted in the applicable zoning district. A "NP" indicates that the sign type is not permitted in the applicable zoning district.

<b>SCHEDULE A</b>			
<b>PERMITTED NUMBER AND TYPE OF SIGNS BY ZONING DISTRICT</b>			
Zoning District ►	OS, R-40, R-15, R-10, MHC, MFR	OR, AB, OC, D	GC, LIO
Permitted Number of Permanent Signs per Lot* ►	2	2	2
Sign Type ▼			
<b>WALL SIGN</b> – A façade sign attached parallel to a wall and not projecting more than 6 inches from same, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall and building, and which displays only one sign face.	P	P	P
<b>PROJECTING SIGN</b> – Any sign other than a wall sign affixed to any building, structure or wall that is wholly or partly dependent upon such building, structure or wall for support whose leading edge extends beyond such building, structure or wall more than 6 inches or is constructed perpendicular to said building, structure or	NP	P	NP

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<b>SCHEDULE A</b>			
<b>PERMITTED NUMBER AND TYPE OF SIGNS BY ZONING DISTRICT</b>			
wall.			
<b>ICONIC SIGN</b> – A façade sign projecting perpendicular from the wall of a building that is a pictorial symbol conveying the nature of a business, e.g., a barber pole, eyeglasses, boots, mortar and pestle. They are normally constructed in heavy relief or are three dimensional.	NP	P	NP
<b>FREESTANDING SIGN</b> – A sign supported by structures or supports that are placed on, or anchored in, the ground independent of any building and which may display up to two faces. A freestanding sign may be installed on one post, two posts on either side of the sign, or may be installed directly on the ground, i.e., a monument sign.	P	P*	P
<b>FREESTANDING DIRECTORY SIGN</b> – A type of freestanding sign that includes panels listing tenants in a multi-tenant building.	NP	P*	NP
<b>WINDOW SIGN</b> - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, but not including graphics in connection with customary window display of products.	NP	P	NP
<b>AWNING SIGN</b> – A retractable or fixed shade-producing or weather-protection device made of flexible material, which is attached to a building or extends over a window or door identifying or advertising the business on premise.	NP	P	NP
Notes: *For any lot with a multi-use or multi-tenant building, one freestanding sign or freestanding directory sign is permitted for the building, and two signs (other than a freestanding or freestanding directory sign) shall be permitted for each tenant or use.			

(2) Design standards applicable to all signs.

(a) Illumination.

- [1] Sign lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Lighting shall be cast downward. Where the face of a sign is installed no more than 6 inches above ground level, lighting may be directed upward upon the sign. All lighting shall be shielded in order to focus the light upon the sign only

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- [2] Externally illuminated signs that project light onto the sign shall be permitted. The light source shall be shielded from direct view.
  - [3] Lighting shall be extinguished during times when the business is not in operation except where approved for security purposes. Lights may be required to be placed on timers to ensure this requirement is met.
  - [4] Internally illuminated box lit signs existing on the effective date of the enactment of the local law amending this section may be continued, but any new box sign shall be prohibited.
  - [5] In nonresidential zones, back-lit signs with opaque, reverse channel letters or back-lighted signs with dimensional Plexiglas letters are allowed upon ARB approval. Where said use is situated adjacent to a residential use, timers may be required by the ARB to control the hours of operation.
- (b) Materials.
- [1] Paper and injection molded plastic signs are not permitted.
  - [2] Raised surface-mounted letters of wood, steel, brass, stainless steel, bronze or PVC resin is preferred; sheet metal, finished plywood is permitted.
  - [3] Flat framed wooden signboards or synthetic resin boards with carved raised or recessed lettering or professionally-printed letters are permitted.
  - [4] Signs with gold-leaf lettering are encouraged.
- (c) No sign shall cover, wholly or partly, any wall opening, including doors and fire escapes, nor project beyond the side of the building face to which it is attached.
- (3) Wall sign design standards.
- (a) Except in the RO and LIO district, one wall sign per building or tenant is allowed on the façade facing a public street. The sign shall not conceal any part of a window and shall not extend above the roofline.
  - (b) Except in the RO and LIO district, the maximum length of a wall sign shall not exceed 70 percent of the length of the building façade fronting to the street or tenant's front façade, whichever is less. The maximum height shall not exceed two (2) feet.
  - (c) In the RO and LIO district, one wall sign per building is allowed on the façade facing the public street. The maximum length of a wall sign shall not exceed 70 percent of the length of the building façade fronting to the street, except that no wall sign shall exceed twenty (20) feet in length, nor shall the sign area exceed ten percent (10%) of the total wall area of the building space to which the sign is associated.
- (4) Projecting sign and iconic sign design standards.
- (a) One projecting or iconic sign per building or tenant is allowed on the façade facing a public street. No projecting sign shall overhang the public way beyond a line four (4) feet from the building face, and its bottom shall not be mounted above the level of the second story windowsill. The sign shall maintain a minimum clearance of eight (8) feet from the ground.

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- (b) The maximum length shall not exceed four (4) feet. The maximum height shall not exceed four (4) feet.
  - (c) The maximum sign area shall not exceed twelve (12) square feet.
  - d) Projecting signs shall be securely installed. Where a projecting sign projects into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage to hold the Village of Washingtonville harmless for any action associated with the sign.
- (5) Freestanding sign and freestanding directory sign design standards.
- (a) One freestanding sign or one freestanding directory sign is allowed per principal building.
  - (b) A freestanding sign is permitted in the front yard setback but shall not overhang a property line, driveway or walkway. The Building Inspector or Planning Board may consult with the Department of Public Works or Village Engineer with regard to the placement of the sign to ensure adequate sight distance is maintained. No sign may interfere with required sight distances.
  - (c) The maximum height of the sign shall not exceed ten (10) feet from ground level to the top of the sign. The maximum length shall not exceed five (5) feet.
  - (d) The maximum sign area shall not exceed twenty-five (25) square feet per side.
  - (e) For a freestanding directory sign, each panel shall be the same dimension, no less than eight (8) inches, nor more than one (1) foot in height. The colors used for background and lettering shall be the same on each panel, and no more than three colors may be used. One panel may be larger than the remainder, but in no case shall the total of all panels exceed the maximum sign area.
  - (f) The posts to which a freestanding sign is mounted shall be stone or other masonry, metal, aluminum, wood, or resin with a minimum diameter of four (4) inches. Treated wood posts shall not be used unless painted, stained, or finished with clear polyurethane. Metal, including aluminum, posts shall only be permitted if said posts are constructed to appear like wood or other similarly natural materials, as reviewed according to the Planning Board and Building Inspector's discretion under this section. The top of the posts shall be decorative, either through an appropriate wood cut or use of finials.
  - (g) Signs shall be installed in a landscaped bed or box unless the Building Inspector determines that installation of the landscaped bed or box would interfere with traffic maneuvering or sight distance.
- (6) Window sign design standards.
- (a) One window sign is permitted per building or per tenant.
  - (b) In addition to a window sign, one LED neon sign may be permitted in the HB and D districts only. The total sign area shall not exceed six (6) square feet. Neon signs shall not outline the shape or form of any window to which it is attached.
  - (c) All signs within a window – permanent, LED neon, and/or temporary - shall not exceed 25

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percent of the total area of the window in which the signs are located.

(7) Awning sign design standards.

- (a) An awning sign may be located above an entrance or window. The height of the skirt on the extension shall not exceed eight (8) inches. An awning sign may be permitted in addition to a wall or projecting sign.
- (b) Awnings shall be constructed of a material which shall be rot, weather, and abrasion resistant.
- (c) Awnings with a single, solid color are permitted. Awning colors should complement the colors of the building. Colors that call more attention to the awning than the building are inappropriate. Preferred colors include forest green, maroon, dark blue or black.
- (d) Where awnings have been installed previously on a building, the Building Inspector may require that the same shape or color of awning be installed.
- (e) Awnings should be designed to project over individual window and door openings (i.e., mounted in the reveals of openings). Awnings that are a continuous feature, extending over several windows, doors, masonry piers, or arches, are not permitted.
- (f) Where an awning projects into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage and holding the Village of Washingtonville harmless.

(8) Miscellaneous sign requirements.

- (a) Wall murals. A wall mural may be permitted at the discretion of the Village Board and is not subject to the maximum sign requirements set forth in Schedule A.
- (b) Banners in public rights-of-way. Banners, flags, and other temporary signs advertising seasonal events, e.g., a farmer market, are subject to approval of the Village Board.

H. Temporary signs. Unless exempt under subsection E, signs to be erected for short duration require sign permits which indicate the dates during which the signs may be displayed.

- (1) Such signage shall not consist of a sign prohibited by subsection F.
- (2) Such signage shall not exceed 16 square feet in total area.
- (3) Such signage shall not be displayed by an activity or business for more than 30 days total in any one calendar year on any one property. A new permit may be issued after expiration of a prior permit with Village Board approval, which will include new dates during which the sign may be displayed.
- (4) No lighting of temporary signs is permitted.
- (5) No more than one temporary sign permit may be granted to or be in effect for an applicant at any one time.
- (6) Permits for temporary signs pursuant to a site plan will be reviewed and approved by the Planning Board.
- (7) Permits for temporary signs, outside of a site development plan, will be approved and issued

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by the Village Board, provided that the guidelines and requirements of this section are followed.

- (8) Any sign not removed in the time provided for above is a violation of this law. Each day such violation continues is deemed a separate and distinct violation.
- I. Maintenance and repair required. All signs must be maintained in a safe, presentable, and structurally sound condition at all times. This includes keeping the sign clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring or loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety. In the event of violation of any of the foregoing provisions, the Building Inspector shall require its removal as per subsection "J" below.
- J. Enforcement; Removal and Disposal of Signs.
- (1) The Building Inspector of the Village of Washingtonville is hereby designated as the officer for the enforcement of the provisions of this section and is authorized to bring such criminal or civil proceedings at law in the Village Justice Court or otherwise on behalf of the Village of Washingtonville as may be necessary to compel compliance, or to pursue any other remedies available under this chapter or the laws of the State of New York.
- (2) Removal and disposal of signs. In addition to and not in lieu of other remedies and penalties for Zoning Chapter violations, unlawful, dangerous, or ill-maintained signs may be removed by the Village pursuant to the provisions below.
- (a) The Building Inspector shall cause to be removed any sign that endangers the public safety. If the Building Inspector shall find that any sign regulated by this section is unsafe or not properly secured, or is a menace to the public, the Building Inspector shall give written notice to the named owner of the sign and the named owner of the land upon which the sign is erected who shall remove or repair said sign within ten (10) days from the date of said notice. If the sign is not removed or repaired, the Building Inspector shall revoke the permit issued for such sign, as herein provided, and may, subject to procedures that must comply with due process, remove or repair said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which such sign was located pursuant to Chapter 5 of the Village Code. The Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.
- (b) Any sign existing on or after the effective date of this section which is no longer accessory to an existing activity on the premises shall be removed within sixty (60) days after the use has ceased operation or upon written notice of the Building Inspector as set forth in subsection (a) above. The Building Inspector, upon determining that any such sign exists, shall notify the owner of the premises in writing to remove said sign within thirty (30) days from the date of such notice. Upon failure to comply with such notice within the prescribed time period, the Building Inspector is hereby authorized, subject to procedures that must comply with due process, to remove or cause removal of such sign, and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located

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pursuant to Chapter 5 of the Village Code.

- (c) Any sign which has been erected or altered without issuance of a valid sign permit is an illegal sign and is subject to removal, alteration and penalties as set forth in this article.
- (3) Civil penalties. Civil penalties for any violation of this section may be pursued pursuant to Village Code.
- (4) Injunctive relief. An action or proceeding in equity may be instituted in the name of the Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Article or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, order to remedy, or other notice or order issued by the Building Inspector pursuant to any provision of this Article, pursuant to Village Code. In particular, but not by way of limitation, where the construction or use of a sign or sign structure is in violation of any provision of this Article, or any stop-work order, order to remedy or other order obtained under the Code or this chapter, an action or proceeding may be commenced in the name of the Village, in the Supreme Court or in any other court having jurisdiction, to obtain an order compelling the removal of the sign or sign structure or an abatement of the violations of such provisions. No action or proceeding described in this subsection shall be commenced without authorization by the Village Board.

### K. Nonconforming signs.

- (1) Any nonconforming sign, lawfully existing on the effective date of this Chapter, may continue indefinitely, except if such nonconforming sign is discontinued, removed, not maintained or structurally altered for any reason, or is deemed by the Building Inspector to be irreparably dangerous or defective, such exemption period shall terminate and shall result in the immediate removal of the nonconforming sign. Any change of use shall require removal of a nonconforming sign.
- (2) Billboards and box signs. Billboards and box signs in existence on the effective date of this section shall be allowed to continue. Once removed, box signs and billboards shall not be re-established. The installation of new billboards and box signs is prohibited.

### L. Appeals. Appeal to ZBA.

- (1) The ARB shall deny any application for a sign which is not in conformity with this Article. Any person desiring to erect, maintain or display a sign not in conformity with this Article, but not a prohibited sign pursuant to this section, may apply to the Zoning Board of Appeals for relief and shall supply any and all information and specifications as shall be required by the ZBA regarding the manner of construction, materials, dimension, shape, colors, illumination and proposed location.
- (2) A property owner which has received notice that their sign is to be removed by the Building Inspector can appeal the decision to the Zoning Board of Appeals.

### M. Penalties for offenses.

- (1) Any person committing an offense against any provision of this Article shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the section of New York, punishable by a fine

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not exceeding \$250. Each day that such violation is permitted to continue shall constitute a separate and distinct violation.

- (2) In addition to the penalties imposed by subsection (1) of this subsection, the Village of Washingtonville shall be entitled to recover a civil penalty in the sum of \$100 per day for each day during which the violation continues. Written notice to correct such violation shall be a prerequisite to the recovery of this penalty, which shall be recoverable commencing five days after service of the notice required hereunder.
  - (3) The imposition of penalties herein prescribed shall not preclude the Village or any other person from instituting appropriate legal action or a proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion or maintenance or use or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.
- N. Substitution. A protected non-commercial message of any type may be substituted, in whole or in part, for a commercial message displayed on any sign permitted by this code. Such substitution of message may be made without additional approval, permitting, registration, or notice to the Village.

**§ 315-26. Reserved.**

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### Article VII, Parking and Loading.

#### § 315-27. Parking standards.

- A. Off-street parking requirements. Off-street parking spaces, open or enclosed, are permitted accessory to any principal use, subject to the following provisions:
- (1) Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for uses as specified herein. Any land developed as an integrated project under common ownership and control shall be considered a single lot for the purpose of these parking regulations. Documentary proof of parking cross easements is required. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed in this section shall be determined by the Planning Board upon consideration of all factors related to the parking needs of each such use.
  - (2) Areas computed as parking spaces.
    - (a) Residential. A private garage, carport, or other area available for parking, other than a street or driveway, may be computed as an open or enclosed off-street parking space. A driveway within a required front yard for a single-family detached, single-family attached, or single-family semi-attached, or two-family dwelling may count as one (1) parking space, provided a minimum driveway length of twenty-five (25) feet is available for said space. No parking space shall be located on that portion of a corner lot within the sight triangle.
    - (b) For any multifamily residential uses, not more than 50% of the area of a minimum required rear yard shall be used as a parking area. The aggregate area of all private garages and other accessory buildings shall not occupy more than 40% of the rear yard area.
    - (c) In private garages accessory to multiple dwellings, no repairing of cars shall be done, but washing of tenants' cars shall be permitted if done without the aid of washing machinery. Private garages accessory to multiple dwellings shall conform in exterior architectural style and treatment to the architecture of the main building or buildings and shall be of similar materials.
  - (3) No required accessory parking area or off-street truck loading space shall be encroached upon by buildings, open storage or any other use.
  - (4) Size of spaces. The minimum parking stall width for a perpendicular parking space shall be nine (9) feet and the minimum length shall be eighteen (18) feet except no parking space shall result in a vehicle overhanging a sidewalk or walkway, in which case the minimum parking stall length shall be twenty (20) feet. Entrance and exit lanes shall not be computed as parking spaces except for driveways for residences as set forth in Subsection A(2) herein.
  - (5) Following construction of any parking area shown on a site plan, it shall be marked with paint or other durable material to show individual spaces, travel and fire lanes and traffic control points in conformity with standard traffic marking procedures, and such markings shall be maintained in good condition at all times. All parking areas shall be constantly maintained so as

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- to prevent potholes or other disruptions to the flow of traffic entering or within the parking area.
- (6) Each individual parking space shall be delineated on the surface of the parking area by "double striping" the space: two lines shall be painted parallel to the longest dimension of the space, each four inches in width and beginning eight inches on either side of the center line of the boundaries of the space. Handicapped parking spaces required in order to comply with local, state or federal requirements shall be striped and maintained in accordance with ADA guidelines and applicable requirements.
  - (7) All required parking spaces shall be available at all times for the use to which they are related and shall not be used for parking unrelated to the duly approved use of the lot nor for any form of temporary or permanent storage (including snow storage areas) or outdoor displays, except as may be authorized by a duly approved site plan.
  - (8) Access. Safe, unobstructed access to and from a street with an internal on-site turnaround area shall be provided. Such access shall consist of at least one, 15-foot wide lane for parking areas consisting of twenty (20) parking spaces or less, and two, twelve-foot lanes for parking areas of over twenty (20) parking spaces. No entrance or exit for any off-street parking area shall be located within seventy-five (75) feet of any street intersection. The Planning Board may waive this requirement as part of site plan or subdivision review and approval, provided that the Planning Board finds that vehicles can safely exit a parking space due to low volumes of traffic on the road to which the driveway shall obtain primary access.
  - (9) Drainage and surfacing. All parking areas and driveways shall be properly drained and paved, except that parking spaces or driveways accessory to single-family dwellings served by individual driveways may be constructed of properly compacted gravel or crushed stone where any portion of said area does not exceed five percent (5%) slope. The Planning Board may require alternative dustless surfaces for other uses based on the characteristics of the use and the character of anticipated parking usage, e.g., regular versus overflow parking. Driveways and turning areas shall be of adequate width and radii to assure ease of mobility, ample clearance and convenient access, egress and safety of vehicles and pedestrians.
  - (10) Joint facilities. Required parking spaces, open or enclosed, may be provided in parking areas designed to serve jointly two (2) or more uses whether or not located on the same lot, if the number of required spaces in such joint facilities is not less than the total required for all such uses.
  - (11) Shared spaces. The Planning Board, during site plan review, may approve the elimination of a portion of the required parking and allow for the shared use of parking spaces, provided that the Planning Board finds that the number of spaces to be provided will substantially meet the intent of this section by reason of variation in the probable time of maximum use by patrons and employees of the separate uses and provided the total number of spaces that would be required is reduced by no more than thirty-five percent (35%). In such event, hours of operation may be imposed by the Planning Board as a condition of site plan approval and may be so

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noted by map note and by reference to the Planning Board resolution on the certificate of occupancy issued with respect to the premises. The Planning Board may require that an unimproved reserve area be set aside to meet the full requirement for parking as per subsection "C" below.

- (12) Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory, unless considered a joint facility under subsection (6), and provided that all spaces are located within five hundred (500) feet of the nearest lot line of the lot that the parking serves. In all cases, parking spaces shall conform to all the regulations of the district in which they are located and in no event shall such parking spaces be located in any residential district unless the use to which the spaces are accessory is permitted in such residence district. Such spaces shall be in the same ownership as the use(s) to which they are accessory and shall be subject to an easement or deed restriction, approved by the Planning Board, and binding upon the owner and his heirs and assigns who shall maintain the required number of spaces so long as the use to which they are accessory exist, or until such spaces are provided elsewhere in conformity with the provisions of this section.
- B. Parking on lots divided by district boundaries. Where a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that no such parking spaces shall be located in any residence district unless the use to which they are accessory is permitted in such district.
- C. Postponement of full improvement of off-street parking. The Planning Board may allow an applicant to postpone the construction of parking facilities where the Board determines that there is some uncertainty as to the parking demand for a particular use, and that the immediate provision of parking would require the significant alteration of natural topography or disturbance to wooded sites. Where the Planning Board determines that the immediate use of any property may not require the full initial improvement of all off-street parking or loading facilities, it may waive the initial improvement of not more than twenty-five percent (25%) of the required number of spaces. The unimproved area shall be shown on the approved plan to be reserved for future parking facilities. The Planning Board may require that the reserve area be graded for parking in accordance with the approved plan. All reserved parking areas, if graded, shall be landscaped in accordance with an approved landscaping plan. Reserved spaces shall be improved within six (6) months of the date of a written notice from the Building Inspector that such spaces have been determined to be necessary. Appropriate written guarantees to the above shall be provided by the applicant and approved by the Village Attorney. The Planning Board shall require that a performance bond, in the form of cash or an irrevocable letter of credit, be submitted to the Village in an amount that is sufficient to ensure the construction of such spaces, which surety shall be acceptable in form to the Village attorney and the Board of Trustees and sufficient in amount to allow construction of the improvements in such parking area if required. The surety shall be held by the Village for five (5) years performance guarantee or other surety be posted to ensure the completion of any reserve parking.
- Before the site plan is signed, the applicant and property owner shall (a) file a written agreement

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with the Village Clerk, duly acknowledged in the same manner as a deed or other document of record, stating that they agree and consent to pave the parking area surfaces, install curbing and construct any other parking improvements within 120 days of receiving written notice from the Building Department.

- D. Number of required parking spaces required. The number of off-street parking spaces required shall be as set forth in Schedule A. A single use (e.g., a single-family dwelling) shall be calculated directly for the use listed in Table B. Multiple uses on the same lot (e.g., retail and office use) shall be determined by establishing the requirements for each component use and adding them together. When the required number of spaces is determined to be a fraction, it shall be increased to the next highest whole number.

<b>Schedule A</b>	
<b>Schedule of Parking Requirements</b>	
<b>Use</b>	<b>Required Parking Spaces</b>
Single-family detached; two family dwelling; single family semi-attached and attached dwelling	2 per dwelling unit
Dwelling, multifamily	1 per studio unit; 1.5 per 1 bedroom unit; 2 per 2 or more bedroom, plus an additional 15% of the total required number of spaces for visitor parking
Dwellings in mixed use building	1 per studio unit; 1.5 per 1 bedroom unit; 2 per 2 or more bedroom, plus an additional 15% of the required number of spaces for visitor parking
Automotive gas station	1 per 100 sf gfa of the principal building area
Automotive repair; autobody repair	2 per working bay plus one space for each 300 sf gfa of building area
Bank; Financial institutions	1 per 300 sf gfa of the principal building or 3 per teller, whichever is greater
Child Day Care	1 per staff member, plus 1 per 300 sf gfa, plus an additional 5 for buildings of 5,000 sf gfa or less
Cultural and performing arts center	1 per 4 seats in major assembly hall or meeting area, plus 1 per 4 seats in classroom facilities; or 1 per 150 square feet of gross floor area, whichever is less
Distribution warehouse; wholesale warehouse	1 per each 200 square foot of office space, and 2 per each 3 employees on largest shift for warehouse employees.

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<b>Schedule A</b>	
<b>Schedule of Parking Requirements</b>	
<b>Use</b>	<b>Required Parking Spaces</b>
Funeral home	1 per 3 seats, or 1 per 75 sf gfa, whichever is greater
Golf course	1 per 3 members or per 3 players at maximum capacity, whichever is greater
Boutique hotel; resort lodge	1 space per guest sleeping room plus one space for each 2 employees on the largest employee shift.
Home occupation	1 in addition to the required parking for the residential use
Kennel; animal hospital; veterinarians office	1.25 per employee or 1 for each 200 sf gfa of building area, whichever is greater, plus an additional 5 for buildings of 5,000 sf gfa or larger
Laundromat	1 space per 4 machines installed.
Laboratory research facility	1 per 2 employees on the largest shift or 1 per 400 sf gfa, whichever is greater
Light industry	1 per 500 sf gfa of building area
Museum, art gallery, library; craft workshop	1 per 200 sf gfa
Landscape nursey	1 per 200 sf gfa
Continuing care retirement community	1 per each 2 beds or dwelling units.
Office use, other than medical	1 per 200 sf gfa
Office use, medical	1 per 150 sf gfa
Place of worship	1 per 4 seats in an auditorium, or 1 per 300 sf gfa, whichever is greater
Public utilities	1 plus 1 per each on-site employee
Restaurant	1 per 3 seats or 1 per 75 sf gfa, whichever is greater.
Retail uses; personal service; health fitness facility; antique shop; grocery store	1 per 200 sf gfa

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Schedule A Schedule of Parking Requirements	
Use	Required Parking Spaces
Wholesale; warehouse	1 per 1,000 sf gfa, or 2 per each 3 employees on the largest shift, whichever is greater
All other uses not specifically listed herein	As determined by the Planning Board using parking standards promulgated by the Institute of Transportation Engineers, American Planning Association or similar industry standards.
Note: gfa - gross floor area sf - square foot. Gross floor area shall refer to building area, unless otherwise noted herein, but shall not apply to accessory buildings less than 250 square feet.	

- E. Off-street loading berths. Open or enclosed off street loading berths are permitted accessory to nonresidential uses in accordance with Table B requirements, and subject to the following:
- (1) Location and access. Unobstructed access at least twelve (12) feet wide per lane, to and from a street, shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory. No entrance or exit for any off-street loading area shall be located within seventy-five (75) feet of any street intersection. No off-street loading berth shall be located in any front yard or within a required side yard or required rear yard. Loading berths shall be screened from view of adjoining public streets. No light industrial, warehouse, or use that with truck loading spaces have any truck loading space or spaces or access driveway for trucks within fifty (50) feet of any side or rear lot line which constitutes the boundary of any residential district.
  - (2) Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two (2) or more adjacent uses, provided that the number of required berths in such joint facilities shall not be less than the aggregate of all such requirements.
  - (3) On lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of loading berths shall apply to the entire lot. Loading berths on such lot may not be located in any residence district unless the use to which they are accessory is permitted in such district.
  - (4) Where required by these regulations, off-street loading berths shall be a minimum twelve (12) feet in width and forty-four (44) feet in length, and a minimum ground to ceiling clearance of fifteen (15) feet, with sufficient turning and backing areas. Berths shall be paved and screened in a manner precluding view from any public street or residential use or residential district.
- F. Regulations for parking spaces adjacent to lots in a residence district or with a residential use.
- (1) Wherever a parking area consisting of five (5) or more parking spaces and abuts a lot in residential use in a residence district, the parking area shall be screened by a substantial wall, solid fence or thick hedge/planting approved by the Planning Board. Generally, such screen shall be

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not less than six (6) feet in height and fences and walls shall meet maximum height requirements set forth in this Zoning Chapter. The hedge or planting material shall provide year-round screening of the parking lot.

- (2) Wherever a parking area of five (5) or more parking spaces is located across the street from property located in a residence district or in residential use, the parking area shall be screened from view by a thick hedge, wall or fence approved by the Planning Board, located along a line drawn parallel to the street and within a distance of twenty (20) feet therefrom. Said screening shall be interrupted only at points of ingress and egress and the opening shall be minimized to the width of the driveway and to maintain adequate sight distance only. Generally, no such screening shall be less than three (3) feet and all fences and walls shall meet maximum height requirements set forth in this Zoning Chapter. The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street.

<b>Schedule B</b>	
<b>Schedule of Loading Requirements</b>	
<b>Gross Floor Area Devoted to Use, by District (square feet)</b>	<b>Required Number of Off-Street Truck Loading Spaces</b>
<b>LIO District:</b>	
Less than 4,800	None
4,800 to 25,000	1
<b>All other districts:</b>	
Less than 15,000	None
15,000 to 25,000	1
25,001 to 40,000	2
40,001 to 100,000	3
Each additional 60,000	1 additional

- G. **Driveways.** No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited, except residential, in the district in which such driveway is located. This provision shall not apply to driveways which pre-existed the Zoning Chapter, except that the Planning Board may condition any approval of a use served by such driveway upon reasonable mitigation measures designed to protect the uses in the district wherein the access begins. A single-family residential use may be permitted without planning board approval when served by such pre-existing driveway. The maximum gradient of parking areas serving five (5) or more vehicles shall not exceed five percent

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(5%). The maximum gradient of driveways serving a residential use shall not exceed twelve percent (12%). A driveway shall have a platform with a gradient not exceeding two percent (2%) within twenty-five (25) feet of the edge of the pavement of the street on which the driveway is accessed. The driveway shall have a negative gradient where it meets the street pavement sufficient to prevent flow of drainage onto the street and shall be paved for at least the first five (5) feet of the driveway as measured from the street line.

### H. Commercial vehicles.

- (1) One (1) commercial vehicle not exceeding twenty-five (25) feet in length may be parked on a property already occupied by a dwelling in any residential district, but not within the required yards of such lot and in no case between the street line and the principal building.
- (2) One (1) commercial vehicle not exceeding twenty-five (25) feet in length may be parked within a private garage in any residential district.
- (3) The use of commercial farm vehicles is permitted as an accessory use to an agricultural operation.
- (4) A commercial vehicle shall be registered to the owner who shall be the occupant of the dwelling or a company vehicle used solely by the occupant of the dwelling.
- (5) The parking of more than one (1) commercial vehicle on any lot shall not be allowed except as otherwise permitted in this Zoning Chapter.
- (6) Heavy construction equipment, i.e., bulldozers, loaders, cranes, and similar equipment shall not be parked or stored on any residential lot except in conjunction with construction occurring on-site. The storage of heavy construction equipment shall not be allowed except as otherwise permitted in this Zoning Chapter.
- (7) Tractor trailers, garbage trucks, dump trucks, tow trucks, and similar vehicles shall not be parked or stored on any residential lot within the Village of Washingtonville.

### I. Trailers, boats, RVs, and campers.

- (1) The storage or parking and use of a trailer by any person or persons is hereby prohibited in all districts, except that:
  - (a) One (1) camping trailer, motor home, RV, or camper, not exceeding a length as set forth in Section 385 of the New York State Vehicle and Traffic Law, or any subsequent law promulgated by the State of New York governing the lengths of camping trailers, motor homes, RV, and/or campers, may be stored on an occupied property in any residential district provided that such vehicle is not stored within the front yard or any other required yard. Said trailer or motor home shall be stored on-site only and shall not be occupied for residential use.
  - (b) Where a building permit has been issued for the construction or alteration of a building, the Building Inspector may issue a temporary permit for one (1) trailer for a period not to

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exceed six (6) months. Said temporary permit may be extended for additional periods of six (6) months where the Building Inspector finds that construction has been diligently pursued and that justifiable circumstances require such an extension. In no event shall the total period of the permit and extensions exceed two (2) years. Said trailer may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued.

- (2) Not more than one (1) boat per dwelling unit may be stored on an occupied lot in any residential district, provided that such boat is not stored within any required yard or between the street line and the principal building.

**§ 315-28 and 29. Reserved.**

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### Article VIII, Environmental Controls and Design Standards.

#### § 315-30. Wetlands; watercourses and waterbodies; Moodna Creek.

##### A. Wetlands.

- (1) Any building permit application involving an activity located on a lot with freshwater wetlands regulated by the ACOE or the NYSDEC shall comply with the U.S. Clean Water Act and New York State Environmental Conservation Law, and all regulations set forth therein.
- (2) The boundary of any wetland, and, in the case of NYSDEC-regulated wetlands, the 100-foot adjacent area, shall be illustrated on any site plan or subdivision plat involving property on which a wetland is situated. For NYSDEC-regulated wetlands, the plan showing the wetland boundary shall bear the signature of a NYSDEC officer that has approved the delineation of the wetland boundary. The reviewing entity may require submission of a wetland report which includes data sheets, photos, secondary resource maps, soil data and a wetland survey for review. The reviewing entity may retain a wetland scientist or professional to review the delineation, unless the delineation has already been approved by the NYSDEC or the ACOE. Evidence of said approval shall be furnished to the reviewing entity. The applicant shall bear the cost of any review conducted by a Village wetland scientist or professional pursuant to the Fee Schedule of the Village of Washingtonville.
- (3) No building permit shall be issued until such time that an applicant has provided proof that the regulated activity has received applicable NYSDEC and/or ACOE permits and approvals or that the activity authorized by the building permit will occur in a location that will not impact a wetland.

##### B. Watercourses and waterbodies.

- (1) Streams, lakes and ponds, and areas that adjoin same, are critical for water quality protection, erosion control, and as natural ecological habitat. To protect water quality, disturbances shall be avoided within close proximity to any stream or a waterbody, through regulation of DEC's mandated "buffer area". To preserve water quality, the following shall apply, except that activities occurring within 100 feet of the banks of the Moodna Creek shall be subject to the provisions of subsection "c" below:
  - (a) No building, structure or impervious surfaces shall be situated, nor clear-cutting of natural vegetation be permitted, in a buffer area located within 50 feet of a streambank of a stream with a NYSDEC water quality designation of A or B or any trout spawning (TS) or trout production (T) waters.
  - (b) No building, structure or impervious surfaces shall be situated, nor clear-cutting of natural vegetation be permitted, in a buffer area located within 25 feet of a streambank of a stream with a NYSDEC water quality designation of C or D, or within 25 feet of a waterbody.

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- (c) No building, structure or impervious surfaces shall be situated, nor clear-cutting of natural vegetation be permitted, in a buffer area located within 15 feet of a streambank of a stream without a NYSDEC water quality designation, or within 15 feet of a waterbody.
  - (2) In determining the appropriateness of a request to disturb a watercourse, waterbody, or buffer area, the Planning Board shall consider:
    - (a) Alternative locations for said structures or buildings.
    - (b) The necessity of the activity to serve the principal use, e.g., no other location for a septic system or well.
  - (3) The Planning Board may allow vegetation to be disturbed adjoining a watercourse or waterbody limited to that area necessary to gain access to same for fishing, boating, swimming or ice skating or similar recreational activity.
  - (4) The Planning Board shall establish such conditions as may be necessary to minimize disturbance to the buffer, including a delineation of the area to be disturbed prior to work being conducted on the site, and installation of soil erosion control measures.
  - (5) Where an activity also requires a permit from the NYSDEC and/or ACOE, approval of a site plan, subdivision, and/or special use permit shall be conditioned on that agency's approval.
  - (6) No building permit shall be issued for any activity that would result in disturbances to a stream regulated by this section until such time that the applicant receives an applicable permit or approval from the Planning Board, NYSDEC, and/or ACOE.
- C. Moodna Creek.
- (1) The Board of Trustees recognizes that improperly managed activities and land disturbances adjacent to the creek have had and continue to have the potential to impact water quality and flood levels. Water quality can be degraded by various pollutants, including excessive sedimentation. To protect the Moodna Creek, the following regulations shall apply:
    - (a) On any parcel with a nonresidential use, or proposed for such a use, which parcel immediately adjoins the creek, no land disturbance shall be permitted within 100 feet of the nearest bank of the river. This area is deemed the "nondisturbance setback". The storage of materials, equipment or other supplies are considered a "land disturbance" and are not permitted within the 100-foot nondisturbance setback.
    - (b) On any parcel with a multifamily residential use, or proposed for said use, which parcel immediately adjoins the river, no land disturbances shall be permitted within 100 feet of the nearest bank of the river.
    - (c) On any other parcel, any land disturbance activities within 100 feet of the streambank shall be subject to Planning Board review and approval in accordance with subsection (2) below.
    - (d) These provisions shall not apply to activities occurring within the right-of-way of the Schunemunk Rail Trail.
  - (2) Planning Board review and approval. The Planning Board may waive the requirements in Subsection C(1) and reduce the required 100-foot nondisturbance setback from the Moodna

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Creek to no less than 50 feet, provided that:

- (a) The applicant shall submit a site plan for approval. The site plan shall include soil erosion and sediment control measures, water quality measures, material handling measures, and other permanent measures, to limit encroachment into the nondisturbance setback.
  - (b) The Planning Board shall take into consideration the existing undisturbed slope of the land to be disturbed, and the likelihood that soil, pollutants or other materials will migrate as a result of the slope characteristics.
  - (c) The Planning Board shall take into consideration any man-made existing features which may effectively block the property from the Moodna Creek within the 100-foot nondisturbance setback, including the existing former rail right-of-way. To the extent that any such man-made feature is an effective barrier to soil, pollutant or other materials migrating into the river, the Planning Board may waive the nondisturbance setback in part or in its entirety for that portion of the property which is blocked from the river by said barrier.
- D. NYSDEC. Certain activities which occur within 50 feet of the banks of a stream regulated by the NYSDEC may require a Protection of Waters permit. Where a conflict exists between these regulations and any NYSDEC regulations or permit, the more restrictive requirements shall apply.

### § 315-31. Greenway compact.

- A. Greenway compact. The Village of Washingtonville is a designated Greenway Compact Community. During review of any subdivision, site plan, special permit, zone petition or use variance application, the reviewing entity shall consider an application's consistency with the principles set forth in "Greenway Connections" in its deliberations.

### § 315-32. Outdoor lighting standards.

- A. Purpose. It is the purpose of this section to regulate the installation of outdoor lighting in order to minimize light pollution in the Village of Washingtonville by:
- (1) Providing standards for outdoor lighting;
  - (2) Promoting energy efficient and sustainable lighting practices and luminaires by using fixtures with optical controls that distribute light in the most effective and efficient manner;
  - (3) Minimizing adverse off-site impacts from new and existing lighting installations by using shielded outdoor light fixtures where required and wherever feasible;
  - (4) Assuring that the light generated by outdoor fixtures does not extend beyond the property line of the property from which it emanates at levels exceeding the requirements of this section;
  - (5) Permitting reasonable uses of outdoor lighting for safety, utility, security, productivity, commerce, and enjoyment;
  - (6) Minimizing glare;
  - (7) Avoiding impacts on nearby residential properties;

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- (8) Reducing atmospheric light pollution; and
- (9) Requiring that certain outdoor fixtures be extinguished during nighttime hours as shall be determined by the Planning Board during site plan, special use permit, and subdivision plan review.

### B. Applicability.

- (1) Existing installations. All outdoor lighting on a structure which is replaced, modified, refurbished, retrofitted, and/or installed after the effective date of this Zoning Chapter, shall be the minimum necessary, in both number of luminaires and intensity of light, to achieve the intended purpose of the lighting, and shall conform to these standards.
- (2) Additions, improvements, alterations and additions of new fixtures. All outdoor lighting, including lighting and/or light fixtures as part of an addition, modification, alteration, or otherwise, installed after the effective date of this Zoning Chapter, shall conform to these standards.

### C. Lighting plan. As part of any site plan, special permit, or subdivision plan, the Planning Board shall require submission of a lighting plan and supporting data. In addition, the Building Inspector may refer an applicant for any work involving outdoor lighting fixtures governed by this article to the Planning Board for site plan approval with respect to said lighting. The lighting plan shall include the following, unless waived by the Planning Board:

- (1) Proposed fixture locations;
- (2) Lighting levels measured in footcandles;
- (3) Details and illustrations of proposed fixtures including photometric data, such as that furnished by manufacturers, or similar, showing the angle of cutoff of light emissions;
- (4) glare control devices, lamps;
- (5) mounting heights;
- (6) Additional information that the Planning Board or Building Inspector determines is necessary, including, but not limited to, an isolux plan indicating levels of illumination in footcandles, at ground level, and a statement of the proposed hours and days of the week when the luminaires will be on and when they will be extinguished maintenance, the location and use of adjacent properties, and a list of nearby properties that may be affected by the proposed lighting plan.

Prior to issuance of a certificate of occupancy, the developer or builder must be able to verify to the Building Inspector, in writing, that all outdoor lights were installed as described on the approved lighting plan.

### D. Lamp or fixture substitution. Should any outdoor lighting fixture or the type of light source therein be changed to a greater intensity after a lighting permit has been issued or a plan approved, a change request must be submitted to the Building Inspector for revised approval. The Building Inspector shall review the change request to assure compliance with this article. If the change request is not substantial, the Building Inspector may approve it. If the change request is substantial, the Building Inspector shall forward such request to the Planning Board for an amended

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approval, which must be received prior to substitution. Nothing shall permit a change where the light has been approved by the ARB without ARB approval.

- E. General standards. All outdoor lights and externally illuminated signs shall be designed, located, installed, and directed in such manner as to prevent light trespass at and across the property lines, and to prevent direct glare at any location off the property, and to be shielded to the extent possible so as to confine the light within the property. The Village may require that the minimum lighting levels be used to attain efficient and effective use of outdoor lighting.
- F. Prohibitions. The following types of lighting are prohibited:
  - (1) Uplighting that is unshielded. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping, and other objects lit for aesthetic or other purposes shall be illuminated only with steady, stationary, fully shielded light sources without causing glare or light trespass beyond the property line.
  - (2) Roof-mounted area lighting.
  - (3) The use of laser lighting for outdoor advertising or entertainment and the operation of search lights for advertising purposes, unless specifically approved by the Board of Trustees.
  - (4) Mercury vapor lights and quartz lamps as light sources, except to the extent that the local utility provider utilizes same for street lighting.
  - (5) Unshielded wall pack-type fixtures.
  - (6) LED storefront lights that outline doors or windows.
- G. Standards. Lighting shall conform to the following standards:
  - (1) All lighting, including sign lighting, shall be designed and arranged so as to be "dark sky compliant" by minimizing glare, light trespass, and reflection on adjacent properties.
  - (2) The style of the light, light standard, pole and fixture shall be consistent with the architectural style of the building and its surroundings.
  - (3) Unless specified elsewhere herein or except for outdoor recreational facilities, such as baseball and other field sports, the maximum height of a freestanding luminaire shall not exceed fifteen (15) feet above the average finished grade. The maximum allowable height of a building or structure-mounted luminaire shall be twenty (20) feet.
  - (4) The source of the light shall be fully shielded with full 90 degree cut-off luminaires or located such that it shall not be visible beyond the property boundary on which it is situated. The lighting shall also be shielded to prevent direct glare and/or light trespass and shall be, as much as physically practical, contained to the target area. Floodlighting is discouraged and, if used, must be (1) shielded to prevent direct glare for drivers and pedestrians; (2) must not permit light trespass past the property line; and (3) must not emit light above a ninety-degree, horizontal plane.
  - (5) All outdoor lighting shall be of such type and location to provide a minimum illumination of one (1) foot-candle in publicly-accessible areas and shall be shielded so as to prevent the source of the light from being a visual nuisance to any adjoining residential property.

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- (6) Light trespass. Illumination from light fixtures shall not exceed 0.1 foot-candle on adjacent residential property, or 0.1 foot-candle on adjacent business property, as measured along the shared property boundary at ground level. A maximum Uniformity Ratio (average to minimum) of 4:1 shall be achieved. The maximum illumination level anywhere on the property shall not exceed 5 footcandles. Mitigation to avoid or minimize light trespass may include landscaping and berming.
- (7) The Planning Board may impose limits on the hours of lighting operations. The Planning Board may require that lights be controlled by automatic timing devices. The Planning Board shall consider the need to provide security in determining the hours of lighting operations. Except for residential uses, all nonessential lighting shall be extinguished no later than one hour after, and no sooner than one hour before, normal business hours, leaving only the necessary lighting for site security and signage, which shall be reduced to the minimum level necessary, but in no event shall exceed one foot-candle. Nonessential lighting applies to display, aesthetic, parking and sign lighting. Motion-sensor security lighting is recommended to promote safety and reduce the amount of night lighting in the Village. Residential uses are encouraged to reduce the illuminance of their structures to the minimum levels necessary, such that lighting not exceed one foot-candle. Motion-sensor security lighting is recommended to promote safety and to reduce the amount of night lighting in the Village.
- (8) Auto/truck filling stations. Island canopy ceiling fixtures shall be recessed so that the bottom of the fixture is flush with the ceiling.
- (9) Recreational facilities, public or private. Lighting for outdoor recreational facilities shall be fully shielded, as defined in this Zoning Chapter.
- (10) Light control shall be accomplished primarily through the proper selection and layout of lighting fixtures. The installation of landscaping, fences, walls or similar screening devices may also be considered by the Planning Board.
- (11) Energy-efficient light sources are encouraged. LED color shall not exceed 3,000 Kelvin.
- (12) Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) for the type of activity/area being lighted, except light levels for ATM machines shall be in accordance with the New York State ATM Safety Act. Where no standard is available from the IESNA, the applicable standard shall be determined taking into account the levels for the closest IESNA activity, as determined by the approving board or person. Where said standard is inconsistent with the foot-candle requirements set forth herein, the more stringent shall govern.
- (13) Exemptions. The following uses/activities shall be exempt from the provisions of this section:
  - (a) Public highway lighting;
  - (b) Temporary lighting for circus, fair, carnival, religious, historic, or civic use;
  - (c) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency

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necessitating said lighting;

- (d) Temporary lighting, including holiday lighting for no more than two months per year;
  - (e) Lighting associated with agricultural pursuits, including harvest activities, unless such lighting is permanent and/or creates a safety hazard;
  - (f) Lighting, preferably low voltage, that is considered a landscape or building design element and is integral to the aesthetic value of the design, as determined by the Planning Board or Building Inspector;
  - (g) Flag up lighting, provided any such flag is not used for advertising purposes.
- (14) Waivers. Where site conditions warrant exceptions to the strict application of standards in this section, the Planning Board may waive the requirements set forth in this section provided that the intent of section is met.

### § 315-33. Cluster subdivisions.

- A. In any residential district, after resolution of authorization by the Board of Trustees, the Planning Board may review and approve a cluster subdivision in accordance with § 7-738 of the Village Law and the procedures and requirements set forth herein.
- B. Authorization; purpose.
  - (1) This section sets forth the standards and conditions upon which the Planning Board may request authorization from the Board of Trustees to approve a cluster development simultaneously with the approval of a subdivision plat or plats, subject to the conditions set forth in § 7-738 of the Village Law and in this section. Each proposed cluster subdivision requires prior specific authorization by the Board of Trustees.
  - (2) The purpose of a cluster 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 within the Village of Washingtonville, to facilitate the economical provision of adequate streets, utilities and other infrastructure facilities and to promote the most appropriate use of land.
  - (3) Among the specific factors that will be considered by the Board of Trustees in determining whether to authorize the development of particular lands as a cluster subdivision are:
    - (a) Whether the proposed cluster plan will allow a plan of development that conserves undisturbed lands, creates usable open spaces and recreation lands and preserves scenic aspects of the lands being developed to the maximum extent feasible.
    - (c) Whether the proposed cluster plan will encourage preservation of farmland, woodlands and areas with valuable natural vegetation, wetlands, ridgelines and other attractive natural features and protection of aquifers and areas of groundwater supply or recharge, and discourage development of steep slopes and areas with potential for soil erosion, flooding or aesthetic impacts.
    - (d) Whether the proposed cluster plan will encourage the development of land with shorter

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streets, in order to encourage the conservation of energy resources, reduce the costs of streets and other utilities likely to be dedicated to the public and facilitate the efficient provision of public services.

### C. Procedure.

- (1) The Village Board of Trustees may itself make application for authorization to require the owner or developer of property proposed for development to submit an application for cluster subdivision, subject to the criteria set forth in this section, if, in the Board's judgment, cluster development of the property would benefit the public interest.
- (2) If a cluster plan is proposed by the owner or developer (applicant) of the property, the following procedure shall be followed:
  - (a) The applicant seeking approval of the cluster plan shall make a separate application setting forth the number and type of units proposed in the cluster plan; any modifications of the dimensional regulations of the zoning district that would otherwise be applicable to the property that are necessary to allow the cluster development; a rationale supporting cluster development; and such other information as the Village Board of Trustees may request in order to make a recommendation to the Board of Trustees for authorization to approve a clustered plan of development.
  - (b) The Village Board of Trustees shall conduct an initial review and discussion with the applicant to determine whether the use of clustering appears appropriate and desirable.
  - (c) If it appears clustering may be appropriate, the Village Board of Trustees shall direct the applicant to submit a conventional plan of subdivision in sufficient detail to demonstrate that the proposed cluster development will result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Village Board of Trustees' judgment, if the land were subdivided into lots conforming to the minimum lot size and other dimensional requirements and density requirements of the Zoning Chapter applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.
  - (d) The Village Board of Trustees shall determine the maximum number and type of dwelling units that would be developed on the property, any conditions that the Village Board of Trustees deems necessary and such other matters as the Village Board of Trustees deems appropriate and relevant to the purposes of cluster development, and authorize use of cluster development for the applicable project. It shall set forth the number and types of units authorized, any modifications of the lot dimensional requirements, and such other conditions as it deems appropriate.
  - (e) Such authorization shall expire and become null, void and without effect unless a subdivision plan complying with the terms and conditions of the authorizing resolution is granted preliminary subdivision approval within two (2) years of the date of said resolution and the plan is filed in the County Clerk's office within three years of the date of said resolution, unless the Board of Trustees grants an extension of such time upon written request by the Applicant, which extension(s) shall be limited to a term of one (1) year.

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- (f) Where the plat contains land within two or more zoning districts, the Village Board of Trustees may approve a cluster development representing the cumulative density as derived from the sum of all units allowed in all such districts and may authorize any actual construction to take place in all or any portion of said lands.
  - (g) In instances where an application is made for a cluster development plan that does not consist entirely of detached single family residential units, the applicant or Village Board of Trustees, as the case may be, shall provide a rationale that demonstrates how the proposed plan of development will enhance the plan and promote the purposes of cluster development.
- (4) Every proposed cluster development shall be subject to review and public comment at a duly noticed public hearing or hearings held by the Village Board of Trustees pursuant to § 7-728 of the Village Law for the approval of plats.
  - (5) On the filing of the plat in the office of the County Clerk, a copy shall be filed with the Village Clerk, who shall make appropriate notations and references thereto on the Village Zoning Map required to be maintained pursuant to § 7-706 of the Village Law.
- E. Conditions of approval and other requirements.
- (1) As a condition of approval of a cluster plan, the Village Board of Trustees shall require that the size of all proposed lots abutting improved residential lot(s) located in any zoning district in the village be not less than the average size of existing improved residential lot(s) located within 200 feet of the property line of the proposed development and shall require that the yard of any proposed lot which abuts any existing improved residential lot be not less than the abutting yard of the existing improved residential lot(s). Notwithstanding the foregoing, the lot size and/or yard requirement as set forth in this subsection need not exceed the minimum requirements applicable to conventional lots in the zoning district in which the proposed lot is located. The foregoing restrictions shall not apply in circumstances where the applicant demonstrates to the satisfaction of the Village Board of Trustees that a reduction in the lot size and/or yard requirement of any such proposed lot(s) will not adversely affect the existing improved residential lot(s) referenced herein, which reasons shall be set forth in the Board's written resolution of approval.
  - (2) As a condition of approval of a cluster development plan, the Village Board of Trustees shall establish such conditions on the ownership, use and maintenance of the open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such lands. Such conditions shall be submitted to the Board of Trustees for review and approval prior to Village Board of Trustees final approval of the clustered subdivision plan, and shall include the following requirements:
    - (a) Areas of the plat consisting of land designed and designated for open space, recreation, common areas or other purposes furthering the purposes of this section which are not to be accepted for dedication in fee by the village shall be owned by a duly established condominium or cooperative association, homeowners' association or individual lot owners in fee, with adequate provision made to ensure that such land remains dedicated to such

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- use, cannot be further subdivided, is adequately maintained by the owner(s) of the fee and cannot be abandoned, for tax or other reasons, by the owner(s).
- (b) Such areas shall not be improved or used except as shown on the subdivision plan reviewed and approved by the Village Board of Trustees.
  - (c) The approved plan shall be filed in the County Clerk's office and shall contain reference to recorded declarations setting forth all covenants and deed restrictions limiting the use of the property to open space and providing for continuing and proper maintenance of the property, and any limitations or requirements imposed on the property as conditions of authorization and approval of the clustered development plan.
- (3) A cluster subdivision plan shall show all areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, streets, driveways and any other features required by the Village Board of Trustees.
  - (4) At the discretion of the Village Board of Trustees and the Board of Trustees, the type of dwelling units permitted in a cluster development may be detached, semidetached, attached or multistory buildings.
  - (5) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Zoning Chapter of the Village of Washingtonville applicable to such lands. Nothing in this section shall relieve the owner or developer of property from receiving subdivision approval in accordance with the applicable requirements of the Subdivision Regulations and the Zoning Chapter.
  - (6) Any open space set aside shall not constitute land for recreational use, which shall be determined separately, or a fee in lieu of recreation land provided in accordance with the provisions set forth for subdivision and/or site plan review.

### **§ 315-34. Storage and disposal of solid waste.**

All uses listed in Table I, Use Schedule, shall be provided with facilities for storage and disposal of solid waste. Common waste storage areas for single-family attached dwellings, multifamily dwellings and nonresidential uses shall be enclosed on all sides to screen said disposal area from view of any public street or residential area, and a screened gate shall provide access to said area. No front-end loaded refuse container(s) shall be located in any front yard.

### **§ 315-35. Accessory mechanical equipment.**

All mechanical rooftop equipment associated with any use other than residential uses shall be screened from view and shall not exceed ten percent (10%) of the rooftop on which it is located except that the use of solar panels that are affixed flat to a roof shall be permitted to exceed this requirement. To the maximum extent, the rooftop equipment shall be situated on the roof in a manner which limits views from adjoining properties. Mechanical equipment or other utility hardware located at

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ground level shall be harmonious with the building and shall be located and/or screened so as not to be visible from public rights-of-way.

### § 315-36. Invasive plant species.

- A. NYSDEC listed invasive species. The plantings of any plant genus that is nonnative to the Village of Washingtonville and whose introduction causes or is likely to cause economic or environmental harm or harm to human health is prohibited. For purposes of this section, prohibitive invasive plant species are those that are listed by the New York State Department of Environmental Conservation under Section 575.3 of 6 NYCRR Part 575.
- B. Bamboo. Any bamboo which has been planted or otherwise permitted to grow on any property within the Village of Washingtonville, prior to the effective date of this chapter, may remain on such property subject to compliance with this chapter. Each bamboo property owner shall be responsible to ensure that the bamboo planted or growing on his or her property prior to the effective date of this chapter does not encroach or grow upon any adjoining or any neighboring property, including all public property and rights-of-way held by the Village, and shall be required to take such measures as are reasonably expected to prevent such bamboo from invading or growing onto adjoining or neighboring properties. In the event bamboo encroaches on any adjoining or neighboring property, the bamboo property owner shall cause the removal of any such bamboo upon prior written consent of the adjoining or neighboring property owner. Such measures shall include installation of sheathing composed of metal or other material impenetrable by bamboo at a sufficient depth within the property line or lines where the bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by said bamboo.
- C. In the event that bamboo growing on a bamboo property owner's property invades or grows on adjoining or neighboring property that is owned or held on behalf of the Village of Washingtonville, the Village shall notify the bamboo property owner that the bamboo said owner had planted or caused to plant and permitted to grow on his property has invaded Village property and that the bamboo property owner is responsible for the removal of such bamboo from the Village property. This notice shall be sent by certified mail, return receipt requested, and by regular mail to the latest address of the bamboo property owner on file with the Village, and a copy of the notice shall also be left in a conspicuous location on the bamboo property owner's property in the Village.
- D. In the event that the bamboo property owner does not remove or contract for the removal of said bamboo from the Village property, or does not make an arrangement with the Village for removal of such bamboo within 30 days from the date the Village first deposited the notice as provided above, then the Village, at its discretion, may remove or arrange for the removal of such bamboo from the Village property. The bamboo property owner shall be liable and responsible to the Village for the cost to remove the bamboo from the Village property. Such costs may be assessed against the property of the bamboo property owner as a tax payable by such bamboo property owner in the event that the costs remain unpaid more than 30 days after the demand of payment has been made

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by the Village.

- E. In the event that the Village is compelled to undertake the removal or to contract for the undertaking of removal of bamboo, neither the Village nor its employees shall have any liability for damages or other claims to the bamboo property owner by reason of the removal of such bamboo. In the event such removal entails or causes damages to the flora or other property of a person other than the property of the bamboo property owner, the bamboo property owner in violation of this chapter shall be responsible for such damages.
- F. Replanting prohibited. Any bamboo either planted or caused to be planted or existing on a property prior to the effective date of this chapter may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed.
- G. Violations and penalties.
  - (1) Violations. Any property owner who violates any of the provisions of this section shall be guilty of an offense. Each and every day that a violation of this chapter shall exist shall constitute a separate offense.
  - (2) Penalties. An offense based on a violation of any provision of this section shall be punishable by a fine of not less than \$100 and not more than \$500, for each violation. Any person found by the Village to have violated any provision of this section shall likewise be subject to a monetary penalty of not less than \$100 and not more than \$500 for each violation.

**§ 315-37 through 39. Reserved.**

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### Article IX, Special use permits.

#### § 315-40. Special uses.

- A. Approval of special use permits. The Board of Trustees Board of the Village of Washingtonville authorizes the Planning Board to review and decide upon special use permit applications as set forth in this Zoning Chapter. The special uses for which conformance to additional standards is required by this Zoning Chapter are deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Zoning chapter. All such uses are declared to possess such unique and special characteristics that each specific use shall be considered as an individual case. All such uses require site plan approval, except that the Planning Board may waive site plan approval for special permits where no exterior changes to the site or building are necessary. The reason for waiving site plan approval shall be included in the minutes.
- B. Objectives. On application and after public notice and hearing, the Planning Board may approve by resolution, the issuance of a special use permit exclusively for uses that require a permit under this Zoning Chapter. In authorizing a special use permit, the Planning Board shall take into consideration the expressed intent of this Zoning Chapter, the general public health, safety, and welfare, and shall prescribe appropriate conditions and safeguards to ensure accomplishment of the following objectives:
- (1) The proposed use shall be deemed to be compatible with adjoining properties, and with the natural and built environment of its surrounds.
  - (2) The site is accessible to fire, police, and other emergency vehicles.
  - (3) The use is suitable to its site upon consideration of its scale and intensity in relation to environmentally-sensitive features, including but not limited to steep slopes, floodplains, wetlands, and watercourses.
  - (4) Adequate screening and separation distances are provided to buffer the use from adjacent properties where the authorized board deems it necessary.
  - (5) The use will not negatively impact ambient noise levels, generate excess dust or odors, release pollutants, generate glare, or cause any other nuisances.
  - (6) Parking shall be sufficient so as to not create a nuisance or traffic hazard on adjacent properties or roads.
  - (7) Vehicular, pedestrian and bicycle circulation, including levels of service and roadway geometry, shall be safe and adequate to serve the use.
  - (8) The location, arrangement, size, operation including hours of operation, and design of the use, including all principal and accessory structures associated with same, shall be compatible with the character of the neighborhood in which it is situated and shall not hinder or negatively impact the use, enjoyment or operation of adjacent properties and uses.

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- (9) Utilities, including stormwater, wastewater, water supply, solid waste disposal and snow removal storage areas, shall be adequate to serve the use.
  - (10) The use shall not negatively impact the visual character of the Village or neighborhood.
  - (11) The use shall not negatively impact historic, scenic or natural environmental features on-site or within the adjacent neighborhood.
- C. Waiver of standards. As stated within this article, the Planning Board, when reasonable, may waive any requirement for the approval, approval with modifications or disapproval of special use permits except where said waiver is specifically not authorized herein. Any such waiver of the standards may be exercised in the event they are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit. No waiver can be granted by implication and any waiver must be granted by specific affirmative vote of the majority of the full membership of the Board based upon findings required herein.
  - D. Area variance. Where a proposed special use contains one or more features which do not comply with this Zoning Chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XIII of this Zoning Chapter, without the necessity of a decision or determination of the Building Inspector.
  - E. Procedure. Any application for a special use permit shall require site plan approval by the Planning Board in accordance with the site plan regulations contained in this Zoning Chapter. The Planning Board shall deem that a special use permit application is complete prior to the conduct of a public hearing on the application. Whenever possible, a hearing on a special use permit should be held concurrently with any hearing held on the site plan.
  - F. Public hearing. The Planning Board shall conduct a public hearing within sixty-two (62) days from the date a complete special use permit application is received. Public notice of the hearing shall be printed in a newspaper of general circulation in the Village at least five (5) days prior to the date thereof. The Planning Board shall cause the applicant to post notice on the subject property indicating the date, time, and location of the public hearing, and a brief description of the action being considered, at least ten (10) days prior the public hearing date. The Applicant shall post one (1) notice along each property line adjoining a road and shall be clearly visible from said road. Notices shall be affixed in a manner prescribed by the authorized board. Said notice shall be removed following the close of the public hearing.
  - G. Notice to the applicant. At least ten (10) days before the public hearing, the Planning Board shall mail notices thereof to the applicant which cost shall be borne by the Applicant.
  - H. Notice to the Orange County Planning Department. At least ten (10) days before the public hearing, the Planning Board shall mail notices thereof to the Orange County Planning Department, as required by §239-m of the New York State General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.
  - I. Decision. The Planning Board shall decide upon the application within sixty-two (62) days following the close of the public hearing. The time within which it must render its decision may be extended by mutual consent of the applicant and the Planning Board.

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- J. Filing. The decision of the Planning Board on the application shall be filed in the office of the Village Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
- K. Existing violation. No special use permit shall be issued for a property known to be in violation of this Zoning Chapter unless the granting of a special use permit and site plan approval will result in the correction of said violation.
- L. Deemed to be a conforming use. Any use for which a special use permit has been granted shall be deemed to be a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted. The expansion of any special use shall require an amendment of the special use permit by Planning Board in accordance with the special use permit application and approval procedures contained herein. For purposes of this section, expansion shall be interpreted to mean an increase in the area allocated to the special use, an increase in development coverage, or an increase in the intensity of use, e.g., an increase in traffic or need for on-site parking.
- M. Expiration of special use permit; extension of special use permit for good cause. A special use permit shall be deemed to have expired if it ceases operation for a time period equal to or greater than twelve (12) consecutive months for any reason, or if construction is not completed within eighteen (18) months from the date of issuance. The Planning Board may consider two (2) extensions of up to six (6) months from the date of issuance for good cause, as determined solely by the Planning Board.
- N. Inspections. In connection with the issuance of a special use permit, the Planning Board may provide for inspections to be conducted by the Building Inspector to ensure continued compliance with this Zoning Chapter and any conditions of the special use permit.
- O. Renewal. The Planning Board may require that a special use permit be renewed periodically as a condition of special use permit approval. Sixty (60) days prior to the expiration of a special use permit, the applicant shall apply to the Building Inspector for renewal of the special use permit. The Building Inspector shall inspect the premises to verify that the conditions of the permit have been met within fifteen (15) days following a request for renewal. Upon a finding that there are no violations or non-compliance of the conditions of the special use permit, the Building Inspector shall so advise the Planning Board and the special use permit shall be renewed by the Planning Board for a time period to be set at its next regular meeting. However, where the Building Inspector finds that the applicant is not in compliance with the special use permit or that violations exist, then such renewal shall require Board approval and may be granted only following a public hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed 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 sixty (60) days shall be granted the applicant for full compliance prior to the revocation of said permit.
- P. SEQRA. In its review and decisionmaking, the authorized board shall comply with the regulations implementing the New York State Environmental Quality Review Act.
- Q. Fees. An application fee shall accompany the special use permit application in an amount established in the Fee Schedule duly adopted by the Board of Trustees.

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### § 315-41. Individual standards for special uses.

In addition to the general objectives set forth above, the following requirements shall apply to special permit uses and shall supersede any conflicting requirement of this Chapter. Special permit uses shall meet all other regulations established in this Zoning Chapter unless superseded by any standards set forth below in this section.

#### § 315-41.1 Accessory dwelling.

- A. This section allows the establishment of one accessory dwelling to be located entirely within an existing single-family dwelling in order to: provide an opportunity for the development of small rental housing units designed to meet the special housing needs of senior citizens and single persons; to ensure the protection of single-family neighborhood character; allow the more efficient use of the Village's housing stock with minimal impact on community character and resources; and provide economic support for existing resident families. Consistent with the intent of this section, any owner that occupies a single-family detached dwelling may apply to the Planning Board for special use permit approval of an accessory dwelling.
- B. An application for an accessory apartment shall require submission of a plan showing the proposed accessory apartment and parcel survey. The Planning Board is not granted the authority to waive any of the standards set forth below except as specifically provided herein:
- (1) Accessory to the single-family detached dwelling. Subject to the review and approvals set forth herein, an accessory apartment is allowed in any zoning district that permits a single-family detached dwelling as a permitted use.
  - (2) Compliance with district regulations. The lot on which the accessory apartment is to be located shall meet all use and dimensional requirements applicable to a single-family detached dwelling.
  - (3) Dwelling size. The minimum habitable floor area for an accessory apartment shall be 450 square feet, but in no case shall the accessory apartment exceed 30% of the gross floor area of the single-family detached dwelling in which it is located, or 750 square feet of gross floor area, whichever is less. Any application which proposes an accessory apartment that exceeds the maximum habitable floor area requirement shall be deemed a two-family dwelling. The applicant shall submit a floor plan to scale of the single-family detached dwelling that illustrates the interior space within which the accessory apartment will be created.
  - (4) Existing single-family detached dwelling. The principal single-family detached dwelling shall have been lawfully constructed and used as a single-family detached dwelling for at least 10 years prior to the date that an application is made for the creation of an accessory apartment. Evidence of such use shall include the date of a duly issued certificate of occupancy for the single-family detached dwelling or other evidence of use that the Planning Board finds adequate to establish that the single-family detached dwelling has been lawfully established and maintained for at least 10 years. The Planning Board may waive the ten-year requirement upon an evidentiary showing by the applicant establishing that the accessory apartment will enable

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the owner occupying the principal dwelling to provide care for an elderly or disabled relative residing in the accessory apartment.

- (5) Owner occupancy required. The single-family detached dwelling wherein the accessory apartment will be located shall be occupied, at the time of application and at all times thereafter while the accessory apartment is established and maintained, as the principal domicile of the record owner of title. Ownership shall be evidenced by the last deed recorded in the office of the Clerk of the County of Orange. Evidence that the dwelling is occupied as the principal domicile of the record owner may be established by an affidavit of the record owner, supported by voting records or such competent evidence as would be sufficient to establish domicile for purposes of voting. It shall be a condition of every certificate of occupancy issued for an accessory apartment that occupancy of such dwelling unit is valid only if the unit is located in an owner-occupied single-family detached dwelling, and the certificate of occupancy shall prominently display in bold print a statement that occupancy of such accessory apartment is not lawful and valid unless the single-family dwelling is owner-occupied. In the event a certificate of occupancy is issued without such statement, it shall not prevent enforcement of the condition. Nothing herein shall permit the establishment of separate ownership, e.g., condominium, of either dwelling unit.
- (6) Maximum number of accessory apartments; occupants. There shall be no more than one accessory apartment in any single-family detached dwelling. There shall be no more than two occupants in the accessory dwelling.
- (7) The accessory apartment shall comply with all applicable requirements of the New York State Uniform Fire Prevention and Building Code and shall be maintained in a neat and orderly manner.
- (8) Off-street parking shall be provided on the following basis: two parking spaces per unit. The parking spaces shall be provided with a backup or turnaround area so that cars which park in the parking spaces are not required to back out into the street. The backup or turnaround area shall not be construed as nor used as a legal parking space.
- (9) No use shall be permitted accessory to an accessory apartment.
- (10) Each dwelling unit in the structure shall contain its own separate and independent bathroom and kitchen entirely located within each dwelling unit. The accessory apartment shall contain no more than one bedroom and no other space shall, in the determination of the Planning Board, be so configured that it could be used as a second bedroom (e.g., a den, a sewing room, etc.).
- (11) No exterior changes or expansion which may alter its existing foundation, existing roofline, or existing facade may be made to the principal single-family detached dwelling except for the installation of an entrance to serve the accessory apartment. The structure in which the accessory apartment is located shall have only one front entrance and only one entrance from any other facade of the structure. An exterior entrance leading to a foyer with interior entrances leading from the foyer to the dwelling units will be acceptable pursuant to this requirement.
- (12) Development coverage. The Planning Board may allow an increase in development coverage to

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create the required parking spaces pursuant to this section, or to construct a sidewalk to the entrance of the accessory apartment. In no case shall the maximum development coverage for the single-family detached dwelling applicable to the zoning district within which it is located shall not be exceeded.

(13) The accessory apartment shall be served by public sewer and water.

### C. Conditions of approval.

- (1) In addition to the standards above, the Planning Board shall grant such application and issue the required accessory apartment permit only after determining that the issuance of such accessory apartment permit will not adversely impact adjoining properties and the general surrounding neighborhood where the accessory apartment is proposed to be located.
- (2) The Planning Board may require that the applicant establish and maintains landscaping or fencing, or other mitigation measures, where necessary, to avoid such adverse effects.
- (3) It shall be a condition of the accessory apartment permit, whether or not specifically incorporated therein, that:
  - (a) The owner shall maintain the accessory apartment use in conformance with the requirements of this section and all applicable provisions of the Uniform Fire Prevention and Building Code, including, but not limited to, the Property Maintenance Code of New York State; and
  - (b) The accessory apartment permit shall be valid for a period of one year from the date that a certificate of occupancy is issued for the accessory apartment, and that it shall be automatically renewed annually by the Building Inspector upon submission by the owner of an annual certification for renewal to be provided by the Town, attesting that the principal single-family dwelling is maintained as the owner's domicile; and payment of a renewal fee, in such amount as established by resolution of the Town Board, provided the Building Inspector determines such use has been maintained in accordance with all requirements herein and any applicable conditions of approval.
  - (c) If the Building Inspector determines at any time prior to renewal that the use has not been maintained in accordance with the requirements herein or any applicable conditions of approval, the Building Inspector shall give notice of such determination to the record owner and the Planning Board shall approve, disapprove, or approve with conditions the accessory apartment permit subject to renewal. The Planning Board shall consider the Building Inspector's findings in evaluating whether to renew the accessory apartment permit. If it determines that it intends to deny such renewal or to impose additional conditions on such renewal, the Planning Board shall give written notice of its intent to the record owner at the most recent address shown on the tax roll of the Town, and provide an opportunity for the record owner to be heard on the matter, and shall consider any evidence submitted by the record owner in support of the renewal of the accessory apartment permit. The Planning Board shall thereafter approve, approve with conditions or deny the accessory apartment permit, stating the reasons for its decision.

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- (d) Transfer of title. Within 60 days after the record owner transfers title to premises for which an accessory apartment permit has been granted for an accessory apartment, the new record owner shall provide such evidence to the Building Inspector as may be necessary to demonstrate that the principal residential structure is occupied by the new record owner in accordance with this section. In the event that the new record owner fails to do so, the Building Inspector shall serve a written notice upon the owner or occupant to do so by a date certain. In the event that the record owner fails to do so, the Building Inspector shall give notice of such noncompliance to the record owner and the Planning Board, and the Planning Board shall consider the Building Inspector's findings in considering whether to renew the accessory apartment permit; and if it determines that it intends to deny such renewal or to impose additional conditions on such renewal, the Planning Board shall give written notice of its intention to the record owner at the most recent address shown on the tax roll of the Town, and provide an opportunity for the record owner to be heard on the matter, and shall consider any evidence submitted by the record owner in support of the renewal of the accessory apartment permit. The failure of the Planning Board to take any action required by this section shall not constitute a waiver of such requirement. The Planning Board shall thereafter approve, approve with conditions or deny the accessory apartment permit, stating the reasons for its decision.
- (e) Effect of denial of renewal. The Planning Board shall direct that the accessory apartment created pursuant to this section be vacated, its use as an accessory apartment created pursuant to this section be discontinued, and that all improvements installed to allow its use as an accessory apartment be removed.
- (f) Inspections. The applicant shall agree and acknowledge, in writing, to the Village of Washingtonville the understanding that, should the parcel be sold, the Building Inspector is authorized to conduct a site visit to verify that the accessory apartment is in compliance with the conditions of the accessory apartment permit issued for the property. The Building Inspector, or a duly authorized designee of the Building Inspector, may perform a fire, safety and property maintenance inspection of the accessory apartment upon the request of the owner of the property to be inspected or an authorized agent of such owner or the occupant. In the event that the Building Inspector has a reasonable basis to believe that the accessory apartment or principal structure does not comply with applicable provisions of the accessory apartment permit, Chapter 57 or the Uniform Fire Prevention and Building Code, and the owner or an authorized agent or occupant does not consent to such inspection, the Building Inspector may apply for a warrant to permit such inspection. Nothing in this subsection shall permit such inspection in such circumstances unless such warrant has been obtained.

### § 315-41.2 Adult uses.

- A. Purpose. This section is intended to regulate uses which, because of their very nature, are recognized as having serious objectionable operations and characteristics, particularly when several

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of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

### B. Regulated uses; restrictions.

- (1) Regulated uses include all adult uses defined in Section 315-3, except for those which are otherwise prohibited.
- (2) Adult uses shall be allowed by special use permit, subject to the following restrictions:
  - (a) No such adult uses shall be allowed within 1,500 feet of another existing adult use or approved site for such use.
  - (b) No such adult use shall be located within 1,500 feet of any zoning district which is zoned for residential use.
  - (c) No such adult use shall be located within 1,500 feet of a preexisting school or place of worship.
  - (d) No such adult use shall be located in any zoning district except an LIO zone.

### C. Registration with Village Clerk required.

- (1) The owner of a building or premises, his agent for the purpose of managing, controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register with the Village Clerk of the Village of Washingtonville the following information:
  - (a) The address of the premises.
  - (b) The name of the owner of the premises and the names of the beneficial owners if the property is in a land trust.
  - (c) The address(es) of the owner and the beneficial owners.
  - (d) The name(s) of the owner and the beneficial owners.
  - (e) The name(s) of the owner, beneficial owner or the major stockholders of the business or the establishment subject to the provisions of this section.
  - (f) The address of those persons named in Subsection C(1)(e).
  - (g) The date of initiation of the adult use.
  - (h) The nature of the adult use.
  - (i) If the premises or building is leased, a copy of said lease must be attached.
- (2) It is unlawful for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without first having properly registered and received certification of approved registration.

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(3) The owner, manager or agent of a registered adult use shall display in a conspicuous place on the premises a copy of the registration form approved by the Village of Washingtonville.

- D. Exterior display prohibited. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

### § 315-41.3 Animal hospital and veterinary office; animal kennels

- A. The Planning Board will determine the maximum number and type of animals to be boarded based on site conditions, ability of the proposed facility to provide a safe and sanitary environment for the animals and their caretakers, and the ability to mitigate any potential noise and odor impacts.
- B. All boarding of pets shall be indoors unless approved by the Planning Board, where it shall find that outdoor boarding will not create noise or odors so as to impact any adjoining residences.
- C. No animal waste or substance which produces a noxious or offensive odor or dust shall be stored or permitted to accumulate within 200 feet of any lot line. The storage area shall be clearly shown on any site plan and whether inside or outside, shall not attract or harbor vermin, rodents, flies or other animals and shall be subject to the approval of the Planning Board. If the Building determines that a problem does exist, he or she shall so notify the owner in writing, and the owner must commence steps to rectify the situation within a timely fashion but not to exceed 30 days.
- D. Minimum lot size shall be two (2) acres.
- E. Work spaces, runs, pens or other facilities shall be located within a completely enclosed soundproof building, and such hospital or kennel shall be operated in such a manner as to produce no objectionable noise, odors or other nuisances beyond the boundaries of the site on which it is located. The building shall be constructed with sufficient internal sound-absorbing materials so as to minimize noise emanating from the premises.
- F. Any odors which are emitted from the building shall be mitigated or dispersed in a manner which will minimize their impact.
- G. The Planning Board shall review and approve any facilities for storage or disposal of animal cadavers or medical waste as part of the special use permit application process. Such disposal shall conform to all applicable health and safety codes.
- H. The facility shall maintain a covered outdoor trash receptacle and bag dispenser for use by persons whose animals defecate entering or exiting the structure. Additionally, there shall be signs prominently posted prohibiting the walking of animals outdoors on or around the property.
- I. All trash stored outside shall be in fully enclosed dumpsters, and no dumpster used for the disposal of fecal matter shall be located within any required yard or be located closer than 200 feet to any lot line.
- J. The facility shall employ an exterminator to regularly monitor and remediate any vermin infestations on the site, especially in and around outdoor areas and dumpsters.

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### § 315-41.4 Autobody shop and automotive repair garage

- A. All automotive repair work shall be conducted in a fully enclosed building. All vehicles stored on the premises in excess of seventy-two (72) hours shall be placed in an enclosed and fully screened storage yard.
- B. The exterior and sale display or storage of new or used automobiles or automobile parts is prohibited.
- C. Where an automotive repair use adjoins a residential use, a minimum twenty-five (25) foot landscape screen shall be provided adjacent to the shared property line, consisting of evergreens and perennial plantings. A landscaping plan shall be submitted and approved as an element of the site plan.
- D. Bay/loading doors shall not face any street right-of-way. The doors shall face the rear yard or to a side yard not abutting any residential use. The Planning Board may approve an alternative arrangement of bay/loading doors to mitigate impacts to adjoining residential uses.
- E. Dumpster locations shall be screened from public view. All refuse shall be disposed of in waste containers and removed from the premises on a regular basis.
- F. No parking or storage shall be permitted within the required front yard.
- G. Strict compliance with New York State standards shall be required in the design and construction of devices for storing and handling gasoline and other products to keep the hazards of fire and explosion involving the same to a minimum.
- H. The minimum required lot area for such use shall be 20,000 square feet, with a minimum lot width and road frontage of 100 feet.
- I. No dead storage or parking of vehicles shall be permitted, except vehicles awaiting immediate service or repair or those vehicles impounded at the direction of the police.
- J. For auto body shops, said shop shall be licensed by the applicable regulating agency. A copy of said license shall be filed as part of the special use permit application.

### § 315-41.5 Benevolent philanthropic uses

- A. Private nature. The privileges of any club shall be limited to bona fide regularly enrolled members and their guests. The club shall be operated solely for recreational, athletic, social, cultural or political purposes and not for pecuniary gain. It must be incorporated pursuant to the provisions of the Not-For-Profit Corporation, the Benevolent Order Laws of the State of New York, or other law of the State of New York.
- B. Residential character. All structures shall be residential in character, in keeping with the style prevalent in the neighborhood, and shall have pitched roofs.
- C. Public address systems. Public address systems are not permitted.
- D. Outdoor entertainment. Outdoor entertainment, live or mechanical, shall be allowed only by special permit of the Village Board, renewed for each event, unless the Village Board approves a series of events for the operator.

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- E. Nuisance. No club shall be operated so as to create a nuisance to surrounding properties. The Planning Board may require such facilities as are required to protect neighbors from any nuisances or hazards which would be inherent in the operation of the club.
- F. Food facilities. A snack bar and/or a dining room is allowed, provided that it is incidental to the activities of the club and is conducted for the benefit of the members thereof and their guests only, and, if applicable, has received and maintains Orange County Health Department approvals and permits.
- G. Change of use. A conditional use approval shall be issued to a qualified organization for a specific use or purpose and for a maximum number of members or seating capacity, and a new approval shall be required for any change of organization, use or purpose or increase in maximum membership or seating capacity.

### § 315-41.6 Brewery, winery, distillery

- A. The use and operation shall meet all of the requirements of the New York State Liquor Authority, Alcoholic Beverage Control Law and any other town, county, state or federal agency having jurisdiction over the manufacture and sale of alcohol.
- B. Such use shall be open to the public during hours in accordance with state regulations. The Planning Board, in its discretion, may limit such hours depending on location and proximity to adjoining residential uses.

### § 315-41.7 Building contractor storage yard

- A. The minimum lot area shall be two (2) acres.
- B. All buildings and storage areas must be a minimum of 100 feet from all property lines and shall be buffered by a living fence of not less than 10 feet deep and 10 feet high. If the Planning Board determines that the living fence is not adequate to screen views of the storage area, an additional six-foot high fully opaque fence may be required by the Planning Board, in addition to the living fence.
- C. Only vehicles, machines, plants, trees and construction materials shall be stored outside the building and storage locations shall be approved by the Planning Board as part of the special use permit, and the Applicant shall be required to document the materials that shall be stored outdoors.
- D. Processing organic or inorganic materials, including rock crushing, mulching or soil screening is allowed only if approval is granted by the Planning Board. The Planning Board shall consider the proximity of residences to such activities which can generate noise and odor which is a nuisance to residents.
- E. The outdoor storage area shall not exceed two times the area of the office/storage building.
- G. The maximum height of stored materials shall not exceed fifteen (15) feet and shall be screened from the public right-of-way.
- H. A minimum of one (1) bathroom facility shall be provided in the building.

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- I. As part of the special use permit application, the Planning Board shall review impacts associated with noise and lighting and may impose limitations on the hours of operation to ensure that the use does not exceed noise standards and is not impactful to the surrounding environs.

### § 315-41.8 Business park.

- A. Purposes. It is the intent of this section to allow construction of a business park with the following objectives:
  - (1) Creation of an attractive and innovative environment for compatible business park uses.
  - (2) Growth of employment and enhancement of employment opportunities in the Village of Washingtonville and the control of conflicting or incompatible uses.
  - (3) The efficient provision of utilities and services, including emergency services, as required by business park uses.
  - (4) Preserve the surrounding landscape.
- B. Permitted uses.
  - (1) This use classification permits the combination on a single parcel of any two or more of the following uses in two or more buildings that are permitted in the district in which the property is situated. The special use permit application shall specifically identify all uses intended to occupy the business park.
  - (2) The Planning Board shall determine that the proposed site is appropriate for development as a business park and that the uses are appropriate for the site and the surrounding area.
  - (3) Warehouses are not permitted within a business park. However, nothing herein shall be construed so as not to permit the indoor storage of materials and equipment related to the allowable use, provided that storage shall not exceed thirty percent (30%) of the floor area of each business.
  - (4) Pre-existing solar facilities shall not be include when delineating the minimum area required for the business park.
- C. Ownership.
  - (1) The area of a business park shall be in a single ownership or under unified control.
  - (2) The site may be subdivided into individual parcels or may be maintained in single ownership, but must be maintained as a unified grouping of parcels and buildings.
  - (3) A narrative shall be submitted as to how the common elements, e.g., open space and recreational resources, are to be owned, operated and maintained.
- D. Site plan requirements and standards.
  - (1) The site plan shall be developed as a unified, planned arrangement of roads, buildings, utilities and services and landscaping.
  - (2) The following site planning standards shall apply:
    - (a) The minimum area for a business park shall be ten (10) gross acres.

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- (b) A business park is not permitted in the SG-O zoning district.
  - (c) The minimum separation between two buildings shall be 50 feet or twice the height of the tallest building, whichever is greater.
  - (d) No building shall be located closer than 75 feet to a street.
  - (e) All yards shall be substantially landscaped. A minimum area equivalent to 25 feet in width along all lot lines shall be planted in accordance with a landscaping plan approved by the Planning Board, except that the width along any street line shall be 50 feet.
  - (f) All signs and site lighting shall be decorative, coordinated and designed to complement building and landscape design.
  - (g) No building footprint shall be less than 5,000 square feet nor shall any building footprint exceed 10,000 square feet.
  - (h) The maximum development coverage of a business park shall not exceed fifty percent (50%).
  - (i) The maximum building height shall be 35 feet, or 2 stories, whichever is less.
- (3) Restrictive covenants shall be imposed on the site, based on the approved site plan, enforceable by all occupants or tenants of such business park.
- E. Architectural review and approval of the buildings shall be required. All buildings shall possess qualities that are uniform in appearance so as to create the appearance of a unified building landscape. Architecture shall be designed with an architectural and building style consistent and compatible with that existing in traditional and historic buildings in the Village of Washingtonville.
  - F. The business park will be physically linked or extended to link in the future to the Village of Washingtonville's Downtown district business district by creation or enhancement of a pedestrian and/or bicycle corridor. A description and examples of the architectural design features to be incorporated into the development along with building elevations and floor plans shall be submitted.
  - G. The buildings shall be designed using energy-saving and building techniques, like those promulgated by the U.S. Green Building Council.
  - H. The business park shall be served by Village water and sewer services.
  - I. Master plan requirements. The special use permit and site plan application shall be accompanied by a business park master plan. The master plan shall be approved as part of the special use permit, and shall include the following:
    - (1) A conceptual site/subdivision plan for the business park showing the following:
      - (a) Delineation of the proposed nonresidential lots;
      - (b) The proposed pedestrian, bicycle and/or vehicular circulation system illustrating how said system connects the business park to the Downtown district or may connect to the same in the future. A pedestrian and trail system is a requirement of the business park;
      - (c) Delineation and approximate acreage of any protected open space areas and description of the uses, if any, proposed within said areas, together with proposals for the ownership,

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- maintenance and protection of the open space;
- (d) Delineation of all proposed uses and a description of ownership and proposed access, whether public or private;
  - (e) Description and preliminary mapping of the water and sewer system connections. The proposed capacity, ownership and maintenance of said system shall be specifically described. The Village Planning Board must find that sufficient capacity exists to serve the business park.
  - (f) A location and outline of existing water bodies, streams, marshes and wetlands and their respective classification as determined by the appropriate governmental regulatory body and the boundaries of any areas subject to flooding or within a FEMA-mapped special flood hazard area;
  - (g) Identification of any other significant natural or cultural features including significant viewsheds;
  - (h) The approximate location and dimensions of proposed principal and accessory buildings on site and the relationship to one another and to other structures in the vicinity. Proposed bulk regulations to guide development of the business park shall be submitted;
  - (i) Proposed safeguards to be provided to minimize possible detrimental effects of the proposed development on adjacent properties and the neighborhood in general, including proposed plans for landscaping, tree preservation and/or buffering to adjacent properties;
  - (j) A preliminary stormwater management plan;
  - (k) Approximate location of any lands, if any, proposed to be dedicated to the Village;
  - (l) Other information, plans and details as may be required by the Planning Board to assess whether the business park will result in one or more of the public benefits set forth in Subsection A.
- (2) If the project is to be phased, a proposed Phasing Plan shall be submitted indicating the approximate phasing of land dedication, site development and infrastructure improvements both on and off site, including the general order of construction and estimated timing of each phase.

### § 315-41.9 Child daycare

- A. There shall be not more than one child for each fifteen hundred (1,500) square feet of lot area and a total of not more than one hundred (100) children in a facility.
- B. The site shall contain at least two hundred (200) square feet of outdoor play space per child with a minimum play space of one thousand (1,000) square feet for any nursery or school. The play space shall be located in a rear or side yards at least fifty (50) feet from any lot line and at least one hundred (100) feet from any dwelling on an adjacent property. The outdoor play area shall be screened with a fence that is six (6) feet in height to protect the school children and to avoid any nuisance to adjoining properties. The Planning Board may require that additional vegetative

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screening supplement the fence for visual purposes.

- C. Play or instructional space within a building shall be located on the first floor only and contain at least thirty-five (35) square feet of area for each child, exclusive of cloakrooms, lavatories, storage rooms and hallways. No play or instructional areas shall be below grade. There shall be at least one (1) toilet and one (1) washbasin for each fifteen (15) children.
- D. One (1) off-street parking space for each teacher and staff member and one (1) space for every ten (10) children. Parking areas shall be located at least fifteen (15) feet from side and rear lot lines and at least fifty (50) feet from the street line. The parking area shall be permanently improved and, if located adjacent to any play area, shall be demarcated by a fence or hedge at least four feet in height. Adequate space shall be provided to allow for queuing of vehicles for child pick-up and drop off areas.
- E. The facility shall be licensed if required by applicable state law and shall be subject to the requirements of any federal, state, county or local regulatory agencies.
- F. The Building Inspector shall inspect the school or nursery and issue a permit renewal on an annual basis provided the facility continues to meet all requirements and conditions of any approval, including any renewals required as part of its state permit.
- G. All accessory structures and features shall be adequately accommodated on the site. Dumpsters shall be indicated on the site plan and shall be enclosed and screened. Storage buildings shall be directly accessible and shall not interfere with circulation patterns or open space areas.

### § 315-41.10 Commercial recreation facilities, outdoor

- A. Exterior lighting. Exterior lighting shall be restricted to that essential for the safety and convenience of the users of the premises; and the source of such illumination shall be shielded from the view of all surrounding streets and lots. A lighting plan shall be provided and designed so as not to affect adjoining residential properties. The Planning Board shall find that the height of any lighting will not be detrimental to adjoining residential uses.
- B. Landscaping. The entire lot, except for areas covered by buildings, parking lots or loading areas, shall have a landscape plan approved by the Planning Board.
- C. Public address systems. The Planning Board may permit the use of outdoor public address systems, provided that no more sound shall carry beyond the limits of the recreational facility. property.
- D. Outdoor entertainment. Outdoor entertainment, live or mechanical, shall be allowed only by special permit of the Village Board, renewed for each event, except that the Village Board may approve a series of events for the operator.
- E. Nuisance. No recreational facility shall be operated so as to create a nuisance to surrounding properties. The Planning Board may require such facilities as are required to protect neighbors from any nuisances or hazards which would be inherent in the operation of the facility. The Planning Board shall consider the need for safety nets and similar design elements to secure stray balls or other equipment from reaching adjoining properties.

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- F. Food facilities. A snack bar and/or a dining room is allowed, provided that it is incidental to the activities of the recreational nature of the facility and any permits required from the NYS Department of Health are issued.
- G. Security. Provisions shall be made for sufficient security so as to prevent the use of the premises as a loitering place during hours of operation.
- H. Hours of operation. The hours of operation may be limited to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to adjoining uses.
- I. Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the approving Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community.

### **§ 315-41.11 Commercial recreation facilities, indoor.**

- A. An indoor recreation use may include accessory uses, such as food service facilities, meeting rooms, video or computer game facilities, sales of sport- or exercise-related equipment or clothing, and other accessory uses clearly incidental to the recreational activity.
- B. Indoor commercial recreation uses include, but are not limited to: a gymnasium, fitness center, bowling alley, skating rink; ping pong tables; tennis and other racquet courts, field house, indoor track, indoor basketball, soccer field, indoor pool facility.
- C. The facility shall obtain any other necessary permits and approvals to operate, including those which may be required from the NYS Department of Health.

### **§ 315-41.12 Continuing care retirement community**

- A. Purpose and intent. It is the purpose and intent of this section to permit the development of residential communities which serve a diverse senior population having a wide range of abilities and needs. A continuing-care retirement community (CCRC) provides a continuum of care for residents through a variety of living environments and support services for older persons primarily 65 years or older, which may include independent housing for which residential support services are available, enriched housing units for which different levels of associated personal care and daily living support are provided, and resident-care facilities, including nursing-care facilities. Common dining, social and recreational facilities may also be made available.
- B. Accessory uses. The following are permitted accessory uses within a CCRC:
  - (1) Medical offices, limited to use by residents of the CCRC.
  - (2) Pool, physical therapy and exercise rooms.
  - (3) Limited retail and service uses, including banking.
  - (4) Common kitchen and dining facilities.
  - (5) Common recreational facilities for the use of residents and visitors.

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(6) Common library, educational and social facilities for the use of residents and visitors.

(7) Common laundry facilities.

Other customary accessory uses incidental to a CCRC.

E. Permitted density. The maximum permitted density of a continuing-care retirement community shall be one EHU, ILU or SNB per 10,000 square feet of lot area, in any combination.

F. Off-street parking and loading.

(1) Off-street parking may be provided in any combination of parking structures or on-grade areas, and the minimum number of required off-street parking spaces shall be as follows:

(a) Independent-living unit:

[1] One bedroom: 1.25 per unit.

[2] Two or more bedrooms: 2.0 per unit.

(b) Enriched-housing unit: 0.4 per unit.

(c) Skilled nursing bed: 0.4 per unit.

G. Special permit approval. The Planning Board may authorize the issuance of a special permit for a CCRC project, after a public hearing, provided that it shall find that the following conditions and standards have been met:

(1) The CCRC use shall be of such character, intensity, size and location that it will be in harmony with the orderly development of the neighborhood in which the property is situated and will not be detrimental to the orderly development of adjacent districts.

(2) Traffic involved in or conducted in connection with the CCRC, the size of the site in relation to it, and the location of the site with respect to the type, arrangement and capacity of streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is located.

(3) The location, nature and height of building, walls and fences, and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(4) Operations in connection with a CCRC use will not be more objectionable to nearby properties by reason of noise, fumes, vibrations, lighting or flashing of lights than would be the operations of any permitted use not requiring a special permit.

(5) Parking areas will be of adequate size for the CCRC use, properly located and suitably screened from any adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

(6) The CCRC will be connected via trails and sidewalks to the Downtown zoning district.

### § 315-41.13 Dance and music instruction

A. Sufficient drop off and pick up area shall be provided.

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### § 315-41.14 Dwelling, one family attached

- A. One-family attached dwellings approved previous to the enactment of this Zoning chapter shall comply with any approvals issued for the use and as required by the approved site and/or subdivision plan.

### § 315-41.15 Dwelling, Multifamily

- A. multifamily dwellings approved previous to the enactment of this Zoning chapter shall comply with any approvals issued for the use and as required by the approved site and/or subdivision plan..

### § 315-41.16 Dwelling, Upper story of mixed use buildings

- A. Dwellings are permitted only within the upper stories of a building and not on the ground floor level.
- B. Dwellings are permitted in a building that maintains nonresidential uses on the ground floor. In no event shall the ground level space be converted to residential space, and occupancy of the ground floor by nonresidential uses is required in order to maintain occupancy of upper-level dwellings.
- C. The maximum residential density shall be eight (8) dwelling units per acre. The residential density shall be calculated on the entire lot area regardless of the amount of lot area devoted to the ground floor nonresidential use(s).
- D. The maximum building height shall be two (2) stories, except it shall be permitted to be three (3) stories in pre-existing three story buildings.
- E. The minimum habitable area of each dwelling shall be six hundred (600) square feet and no less than one (1) bedroom shall be provided for each dwelling.
- F. Access to the dwelling units shall be from a central hall or halls and dwellings shall have access to the outside of the building distinct and apart from access to nonresidential uses on the ground floor.
- G. Nonresidential uses shall be only those uses allowed as permitted uses or special uses within the zoning district in which the project is located. A separate special use permit shall be applied for and obtained for any nonresidential use that so requires a permit.
- H. To continue to be a valid special permit use, residential uses shall not be continued in any building not fully occupied by nonresidential uses on the ground floor. The special use shall expire where the ground floor has not been fully occupied by a nonresidential use for a period of eighteen (18) months or longer, after which the residential uses shall be vacated.
- I. Parking spaces for dwellings and nonresidential uses shall be provided in accordance with Article VII of this Zoning chapter.

### § 315-41.17 Educational institution

- A. Minimum lot area. The minimum lot area for an educational institution shall be a net lot area of 10 acres.

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- B. Maximum development coverage. The maximum development coverage shall not exceed thirty-five (35) percent of the lot area.
- C. The total floor area of the building(s), including principal and accessory dwellings, shall not exceed 25% of the lot area.
- D. Required road frontage and access. An educational institution shall have a minimum of 250 feet of frontage on a public road and shall provide sufficient and safe access to such public road.
- E. Required setbacks and screening. All buildings, recreation areas, parking areas and other property uses and structures shall be set back a minimum of 125 feet from each property line. Such setback shall include a buffer area of a minimum of 35 feet in width consisting of trees, shrubs, plants, fencing and/or other materials as determined by the Planning Board to be sufficient to screen the educational use from adjoining uses and streets.
- F. Required parking. The following number of off-street parking spaces shall be provided: one space per employee plus one per each eight students in the 12th grade, or one parking space per four seats of public assembly area, whichever is greater.
- G. Noise and exterior lighting.
  - (1) The sources of exterior lighting shall be so shielded that they are not visible beyond the boundaries of the lot on which they are located.
  - (2) No outdoor public address systems shall be permitted.
- H. Signage. One monument sign, limited to eight square feet in area and set back 10 feet from lot lines, may be placed at the main entrance to the school.
- I. Public water and sewer. The site shall be served by public water and sewer.
- J. The Planning Board may impose such restrictions and regulations which would avoid or minimize traffic hazards, impairment of the use, enjoyment or value of property in the surrounding area, or generally protect the health, safety and welfare of the neighborhood and to otherwise implement the purpose and intent of this chapter.
- K. The location and size of the 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 shall not be hazardous.
- L. 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 development and use of adjacent land and buildings.
- M. All educational institutions shall meet the standards published in the Manual of Planning Standards for School Buildings, March 1998, as amended, published by the State of New York, The State Education Department, Office of Facilities Planning, unless said standards are waived by the Planning Board.

### **§ 315-41.18 Entertainment production studio**

- A. Adult uses shall not be permitted in connection with this use.

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- B. A maximum of two productions shall be active in a multimedia production studio at any single time.
- C. No outdoor filming shall be permitted on the site without prior receipt of a film permit (or similar Village-issued permit), which shall be subject to the ordinary and typical regulations for film productions within the Village.
- D. Food preparation for service on-site shall be conducted within buildings and no food trucks shall be permitted to operate on the site.

### § 315-41.19 Event venue

- A. Use. An event venue is allowed, by special use permit approval of the Planning Board, as an accessory use to a principal permitted use or a special use within the D and AB zoning district.
- B. Design standards.
  - (1) Minimum size. The minimum lot size for an event venue shall be no less than three gross acres, and the event venue shall permit a maximum of 50 attendees for every acre, which acreage shall be in addition to the minimum lot size required for all principal permitted or special uses on the site. In no event shall an event venue exceed a maximum of 250 attendees. Attendees is exclusive of any employees or staff managing and serving the event.
  - (2) Access. The site of the event venue shall have at least two means of egress, at least one of which is adequate for emergency vehicles, as determined by the Planning Board in consultation with emergency responders based on its width, length, surface and ability to support the gross vehicle axle weight of emergency vehicles. The Planning Board may require the construction of improvements to ensure adequate emergency access to the site. The Planning Board may waive the requirement for two access points where one access point is determined to be adequate for emergency access based on a review of NYS Fire Code, Village Engineer input, and/or emergency service provider input.
  - (3) Attendees. The maximum number of attendees at an event venue shall be 250. The Planning Board may set a lower maximum number for an event venue in its discretion based on the standards set forth herein.
  - (4) Number of events. The Planning Board shall establish the maximum number of events per calendar year. The facility operator shall be required to notify the Building Inspector of any event scheduled a minimum of three business days prior to the event by either electronic mail or written letter.
  - (5) Parking. All parking shall be located on-site and the site plan shall demonstrate there is sufficient parking area for an event. No less than one parking space shall be provided for each two attendees. This requirement shall not preclude an event venue from utilizing shuttle buses or other methods of guest transportation.
  - (6) Water and sewer. An event venue shall be provided with adequate potable water and sanitary system as determined by the Village Engineer. The applicant shall document compliance with all other applicable health and safety regulations.

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- (7) Hours of operation. The Planning Board shall determine the permitted hours of operation of an event venue. Events shall commence no earlier than 10:00 a.m. and shall terminate no later than 11:00 p.m. Setup and dismantling hours shall be limited to between 7:00 a.m. and 12:00 midnight. However, the Planning Board shall have the power to modify the commencement and termination times for a particular event venue based upon the specifics of the application before it, potential impacts including noise and traffic, and consideration of the health, safety and welfare of the neighborhood and the surrounding community. For purposes of this section, "termination" shall mean the termination of food, drinks, service and entertainment, with the understanding that attendees and servers will need a reasonable amount of time after termination to exit the premises.
- (8) Food service. Catering services, including the use of food trucks, are allowed to provide the food and beverages for the event. On-site preparation of food shall be subject to all applicable Board of Health permits and approvals. Alcoholic beverages may be consumed on-site provided the venue or catering service has appropriate insurance coverage and complies with local laws. Open or cash bars are allowed subject to New York State Liquor Authority rules and regulations.
- (9) Buffers. The Planning Board shall require appropriate setbacks and/or vegetative, topographic or other physical barriers or buffers from property lines between the event venue and adjoining properties, given the nature of the event and extent to which noise will be generated, size of parcel, the natural topography, and vegetative cover. In no case shall the event venue be located in any required yard applicable to the principal permitted use or principal use allowed by special use permit.
- (10) Seating. Seating for events may occur outdoors, under a tent or other fabric structure temporarily constructed on the property, or in a permanent principal or accessory building meeting the standards set forth in Subsection B(11) below. The location and dimension of any proposed tents must be shown on the site plan. All buildings and structures, including tents, to be used as part of the event venue shall, where required, obtain a certificate of occupancy for their intended uses, including an event building subject to the standards in Subsection B(11) below. All temporary structures and equipment must be removed within four days after each event and shall remain in place a maximum of seven consecutive days, unless the Building Inspector approves a greater time period wherein the next event is scheduled within seven days of the preceding event.
- (11) Accessory buildings. An event venue may utilize former agricultural or other accessory buildings as a place of public assembly, e.g., a barn, provided the following criteria are satisfied:
- (a) The use of an event building shall be permitted only after issuance of a building permit and a certificate of occupancy for public assembly by the Building Inspector.
  - (b) A plan prepared by a registered licensed design professional to improve the building to enable it to obtain a certificate of occupancy for an assembly area, where none exists. A copy of the plan and floor plans shall be submitted to the Planning Board as part of site plan review.
  - (c) The occupancy of the event building shall not exceed occupancy load and exiting provisions

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of the New York State Uniform Code and those occupancy load limits shall be posted at the premises by the Building Inspector.

(12) No overnight accommodations shall be provided in temporary structures such as tents or recreational vehicles. An event venue which provides overnight accommodations must comply with this chapter for said use, and all other applicable codes and laws related to the regulation of said accommodations.

(13) **Noise.** The event venue shall not result in a change in the ambient noise levels of the neighborhood within which it is located, nor shall it impact any adjoining residential uses. Ambient noise levels shall be those existing noise levels at the property line of the event venue. The Planning Board may require that the application include submission of ambient noise monitoring analyses and a prediction of future noise levels based on noise modeling. The Planning Board, in its discretion, can limit or prohibit any exterior/outdoor activities associated with the event venue where it finds it may increase ambient noise levels at the property line. Where the Planning Board allows activities (e.g., a band) that uses amplifiers, it may require that any event venue continuously monitor the noise levels and submit a report to the Building Inspector who shall keep a record of such events. The Planning Board, in its discretion, can limit the hours of operation, to ensure that the event venue does not impact ambient noise levels.

D. **Application.** A special use permit and site plan shall be submitted to the Planning Board for review and approval. The following additional requirements shall apply:

(1) **Event management plan.** An event management plan shall be prepared and submitted to the Planning Board for review and approval. Once approved, the event management plan shall be incorporated into the special use permit. The plan shall include a narrative which describes the proposed operation of the event venue, including but not limited to the following:

- (a) Owner/operator in charge of the event venue, and which shall be present on-site during same, with contact information provided;
- (b) Provisions for traffic and parking management;
- (c) Hours of operation and maximum number of events to be held on an annual basis;
- (d) Detailed information on the use of any amplifying equipment, and details to control noise levels. The Planning Board may require a noise analysis, and establish a maximum noise level, in decibels (dBA), as measured at the nearest property line, when appropriate;
- (e) Water and sanitary facilities;
- (f) Information on food preparation and alcohol consumption;
- (g) Plans for the storage and collection of refuse;
- (h) Maximum number of attendees;
- (i) List of contacts for specific emergency situations to be used by the guests shall be provided at each event and the legal name and address of an emergency contact person at the site shall be provided;
- (j) Any other information requested by the Planning Board to make its determinations.

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- (2) Referrals. The application, site plan and event management plan shall be referred by the Planning Board to the applicable fire district or other fire and safety providers and personnel for comment and recommendations with regard to fire and safety issues associated with the operation of the rural venue.
- (3) Criteria for decisionmaking. The Planning Board shall consider the following:
  - (a) The size and capacity of the site to accommodate an event venue safely.
  - (b) The facilities available to safely handle the capacity.
  - (c) The availability and capacity of streets and highways and other means of transportation to and from the site are adequate.
  - (d) The event shall not impact the safe and orderly movement of traffic within and contiguous to the event.
  - (e) The impact of noise on the ambient noise levels of the neighborhood surrounding the event venue.
  - (f) The need for Village law enforcement shall be minimized at the event venue by providing adequate on site security.
  - (g) Any other matters that relate to the health, safety and welfare of the general public.
- (4) Special use permit. The special use permit for the event venue shall specifically set forth the following:
  - (a) The maximum number of attendees permitted during any event.
  - (b) The hours of operation of the event venue and whether amplified sound is permitted.
  - (c) Any other conditions on operation, design and layout reasonably necessary to ensure compatibility with surrounding uses and to protect adjoining residential uses.
  - (d) The duration of the special use permit, if established by the Planning Board.
- (5) Special use permit; duration. Upon issuance of a special use permit, individual events may be held at the event venue without further review by the Planning Board so long as such events comply with the event management plan, site plan and special use permit. Nothing herein shall limit the Planning Board from establishing a time frame for the special use permit and requiring renewal. Any increase in the number of events, or increase in the maximum number of attendees, shall require a special use permit amendment.

### § 315-41.20 Funeral home

- A. The funeral home shall maintain the appearance and site design characteristics of a residential dwelling. If the funeral home is to be newly constructed, it shall be designed to resemble a residential dwelling.
- B. Access to the funeral home shall occur directly from a Village street other than a residential subdivision street.
- C. On-site vehicular circulation, including the queue of processional vehicles, shall be adequate and not

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unduly impact the surrounding street system.

- D. Screening from neighboring residential properties shall be provided by intervening landform and/or natural vegetation.
- E. One dwelling is permitted accessory and attached to the funeral home which may be occupied by the funeral home owner, a manager or employee.

### § 315-41.21 Gas and propane storage

- A. Storage tanks in excess of 2,000 gallons capacity shall be set back from all lot lines at least 50 feet.
- B. Storage facilities shall be so screened that adjacent properties shall be adequately protected from noise, odors and unsightly appearance.
- C. The site shall provide adequate off-street parking for all employees and loading spaces for all trucks which may be involved with the facility.
- D. Gas and propane shall be stored and handled according to the latest edition of the National Fire Protection Association requirements.
- E. Aboveground storage containers shall not exceed a capacity of 50,000 gallons, nor shall the total volume of gas at any one site exceed 150,000 gallons. Gallons shall be measured in terms of their maximum storage capacity.
- F. No combustible material of any kind, weeds and grass shall be kept within 10 feet of a LPG storage tank or container.
- G. Storage shall not be located within the special flood hazard area.
- H. Aboveground storage tanks shall be separated from each other a minimum of 20 feet.
- I. Where these standards conflict with NYS Fire Code, NYSDEC and/or U.S. Department of Labor Occupational Safety and Health Administration regulations and standards, the more restrictive regulations shall apply.

### § 315-41.22 Golf course.

- A. The following uses shall be permitted as accessory uses to a golf course: clubhouse (including dining rooms, common rooms, pro shop, social rooms, kitchen, recreation facilities and locker rooms), snack bar/refreshment stand, a groundskeeper residence, putting greens, practice range, parking, maintenance facility, garage, cart storage facility, water supply impoundments, and other uses and buildings that the approving agency determines are accessory to the golf course use. The proposed golf course shall be integrated with any existing development and land uses adjacent to the site, including safe locations for golf holes (tees, holes and greens) and practice areas, as related to adjacent roads, residential development, and other neighboring improvements.
- B. Where a golf course site is adjacent to, contains, or incorporates flood plains, open water, watercourses, trails, flyways, and conservation areas, the applicant may be required to provide and maintain an adequately-designed walking trail easement within the property open to the public in furtherance of the Village's goal of linking open spaces in the community. The pedestrian easement shall be located so it does not interfere with play and shall be appropriately isolated from the general operation of the golf course.

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- C. Assurances shall be provided by the applicant that the necessary infrastructure and utilities, including sanitary disposal system, potable water and irrigation water, are available from on-site municipal or private systems. The provision of infrastructure and utilities shall not have a detrimental impact on groundwater or surface water resources.
- D. The golf course shall have two safe and adequate access points from one or more public roads. One of the two accesses may be provided for emergency access only, if, in the determination of the Planning Board, said arrangement provides adequate access. The two means of access shall be connected internally and may be achieved by use of a stabilized surface sufficient to allow passage by emergency vehicles.
- E. Ample provisions shall be made for solid waste collection and storage. All solid waste storage shall be adequately screened and buffered.
- F. One monument sign not exceeding twelve (12) square feet shall be permitted at the entrance to the golf course. All other signs shall be directional signs, and each shall not exceed four (4) square feet. All signs, including size, location, materials and design, shall be approved as part of site plan approval. The Planning Board may approve an additional monument sign at the second access.
- G. Amplifier systems shall be designed so as not to be audible beyond the property lines. The Planning Board shall assess potential sources of noise, including maintenance-related noise, and may establish conditions to minimize noise impacts on sensitive noise receptors in the vicinity.
- H. The number of parking spaces shall be as few as necessary to serve the golf course and accessory uses. The number shall be determined by a parking needs study to be conducted by the applicant and submitted at the same time as the special use permit application.
- I. A minimum vegetative buffer shall be maintained between any waterbody, watercourse or wetland and any turf area which is to be treated chemically. The Planning Board shall retain an ecologist and/or other specialist(s) to review the plans and recommend appropriate buffer sizes, which will depend on the specific nature of the watercourse or wetland to be protected, including whether same contribute to any public water supply reservoir or impoundment. The buffer shall be of sufficient size and design to protect the surface water from chemicals carried by stormwater runoff. The Planning Board may consider alternative methods of protecting waterbodies, wetlands and water courses (e.g., diversion of runoff via swales) where it determines that these methods are equally protective.
- J. Special events open to the general public, such as tournaments, shall be approved by the Village Board. Adequate provisions shall be made by the golf course operator to handle any crowd generated by such an event and to satisfactorily mitigate off-site impacts, including traffic management, parking, trash removal and waste disposal, security, and safety and utility demand. The golf course may be required to post a performance guarantee for these purposes. All local permissions and permits required for a special event shall be obtained prior to the event.
- K. The course shall be designed, to the extent practicable, in a manner that preserves existing woodland and wooded corridors. Clearance of woodland shall not exceed 50 percent of the total acreage of the lot on which the golf course shall be situated.

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- L. Turf management and water quality. As part of the application for site plan approval, the applicant shall submit a turf management plan and an integrated pest management plan specific to the operation and maintenance of the proposed golf course. These plans shall be prepared in accordance with any guidelines established by the New York State Department of Environmental Conservation and shall also take into consideration guidelines established by the United States Golf Association. These plans must include best management practices to prevent or minimize adverse impacts of chemical applications on the groundwater and surface water resources to which the golf course contributes drainage.
- M. Driving range. The Planning Board, in its discretion, shall determine whether a driving range with nets shall be permitted and the Planning Board may restrict use of nets, or otherwise require a type that will not result in unintended capture of birds in the netting.
- N. Assurances shall be provided that any adverse impacts on groundwater or surface water quality attributable to the golf course will be mitigated. The applicant shall provide for the monitoring of water quality of groundwater and surface water resources. The monitoring program, including the timing and frequency of testing and the identification of chemical parameters to be tested, shall be established at the time the integrated turf management plan and integrated pest management plan are approved as part of the application. The applicant may be required to install permanent water-quality monitoring devices to monitor water quality on an ongoing basis. The Planning Board and the applicant shall mutually agree to an independent consultant who shall be responsible for carrying out the monitoring program, and the cost of the monitoring shall be borne by the applicant/owner of the golf course facility. The results and findings of any water quality monitoring shall be submitted by the owner to the Village to ensure compliance with the conditions of special use permit approval.
- O. The applicant shall detail methods for conserving water consumption at the course, and the Planning Board may require the use of recycled or gray water systems for purposes of water management at the course.

### § 315-41.23 Hotel, boutique

- A. Use. Use of a hotel site and any buildings or structures thereon shall be limited to the usual hotel activities, as defined herein and accessory uses incidental to the operation of a hotel shall be planned as an integral part of the hotel and located on the same site.
- B. Accessory uses. All space dedicated to accessory uses except for parking and landscaped areas, and including dining rooms, swimming pools and recreational areas whether indoors or outdoors or a combination thereof, shall not occupy more than thirty percent (30%) of the total gross floor area of the hotel. The following accessory uses are permitted, subject to approval by the Planning Board:
  - (1) Caretaker residence. One accessory dwelling within the hotel and with or without kitchen facilities for the use of the hotel/desk manager.
  - (2) Restaurant. Restaurants and kitchen areas, serving either hotel guests exclusively or to the general public, provided that no music or other sound shall be audible beyond the boundaries of

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the lot on which the use is constructed and further provided sufficient parking is made available to patrons.

- (3) Recreation facilities. Indoor and outdoor amusement and sport facilities for the exclusive use of hotel guests, including swimming pools, children's playgrounds, tennis or other game courts and game or recreation rooms, and not including membership clubs. A swimming pool is permitted to be outdoors and shall not be open to the general public.
- (4) Parking. Automobile parking lots for the exclusive use of hotel patrons and employees, and off-street parking spaces.
- (5) Office and lobby. Office and lobby, provision of which shall be mandatory for each hotel.
- (6) Retail sales. A small retail area for the purchase of sundries and snacks by guests.
- (7) Spas, restaurant/bar, conference rooms, ballrooms.

### C. Guest units.

- (1) Occupancy. In no case are guest units to be used as apartments for nontransient tenants. The maximum stay shall be no more than fourteen (14) consecutive days within any thirty (30) day time period and the hotel shall meet all requirements for transient use as set forth in the NYS Building and Fire Codes. The Planning Board, in its discretion, can waive this standard for an extended stay hotel, only where it finds that ample safeguards are provided to ensure guests do not become non-transient tenants.
- (2) Interconnections. Hotel sleeping rooms shall not be interconnected by interior doors in groups of more than two (2).
- (3) Size. Each sleeping room shall have an area, inclusive of bathroom and closet space, of at least 225 square feet.
- (4) The maximum number of guest sleeping rooms for any hotel site, inclusive of all buildings, shall be 50, or no more than one (1) guest sleeping room for every two thousand (2,000) square feet of lot area, whichever is less, which maximum cannot be waived by the Planning Board.
- (5) There shall be no kitchen facilities in a guest sleeping room except for a small refrigerator less than 3 cubic feet. Each guest unit shall include a full bathroom, including sink, toilet facility, and shower/bath installation.
- (6) All rooms shall be furnished by the hotel operator. No furniture may be added or provided by any guest.

D. Dimensional regulations. The maximum length of any hotel building shall not exceed three hundred (300) feet.

E. Access roads. Access roads shall be properly related to public streets and highways so as to avoid unsafe conditions and traffic congestion. Up to two driveway accessways shall be provided.

F. Off-street parking. Where a hotel includes a restaurant or other eating and drinking facilities open to the public, required parking space shall be provided for such facilities, in addition to required parking spaces for sleeping rooms and other floor space. No parking space shall be located within twenty-five (25) feet from any hotel building ingress or egress, including emergency egress. All off-

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street parking areas shall be at least twenty-five (25) feet from any property lines. All areas not dedicated to buildings and off-street parking shall be suitably landscaped.

- G. Solid waste. There shall be a central facility for deliveries, management of solid waste and similar activities.
- H. There shall be no outdoor public-address or music system audible beyond the property line.
- I. The site shall be served by public water supply and sanitary sewer.
- J. As part of any site plan application for a boutique hotel, a market study may be required by the Planning Board which shall demonstrate that demand exists for such use within the Village of Washingtonville.

### § 315-41.24 Housing, Senior active adult; veteran housing

- A. Senior housing. Existing senior housing approved previous to the enactment of this Zoning chapter shall comply with any approvals issued for the use. New senior active adult developments shall meet the standards set forth in this section.
- B. The active adult housing community shall be limited to persons who are 55 years of age or over, with the following exceptions:
  - (1) A husband or wife under the age of 55 years who is residing with his or her spouse or other member of his or her immediate family who is 55 years of age or over.
  - (2) Children or grandchildren residing with their parents or grandparents where one of said parents or grandparents with whom the child or children is residing is 55 years of age or older, provided that said child or children or grandchild or grandchildren is over the age of 18 years.
  - (3) Adults under 55 years of age may be admitted as permanent residents if it is established to the satisfaction of the Board of Trustees that the presence of such person is essential for the physical care and economic support of eligible older persons.
- C. Minimum site requirements for active adult community. No active adult housing community shall be approved except in accordance with the following standards:
  - (1) Minimum area. The minimum area shall be 20 acres.
  - (2) Residential density. There shall not be more than four dwelling units per gross acre of land planned and approved for this use.
  - (3) Building area. Principal and accessory buildings shall together not cover more than thirty-five percent (35%) of the gross area.
  - (4) Height. No building shall exceed 25 feet or 1.5 stories, whichever is less.
  - (5) Yard requirements. No building or structure other than garages, entrance gatehouses, walls or fences shall be located within 30 feet of any property boundary line.
  - (6) Off-street parking. There shall be provided at least 2 spaces for each dwelling unit plus an additional visitor parking space per every 2 dwelling units.
  - (7) Dwellings units may consist of single-story detached patio dwellings and single-story semi-attached dwellings. In no event shall any dwelling unit be less than 900 square feet per dwelling, and no less than two (2) bedrooms shall be provided per unit.
  - (8) Each dwelling unit shall be provided with an outside courtyard or dedicated space which is no

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less than 30 percent of the gross floor area of the dwelling.

### D. Development standards for active adult community.

- (1) Due consideration shall be given in planning walks, ramps and driveways to prevent slipping or stumbling; handrails and ample places for rest shall be provided. Gradients or walks shall not exceed 10% and single-riser grade changes in walks shall not be permitted. All outdoor areas available to the residents shall permit them to move about without danger and with minimum effort.
- (2) The architectural design of all buildings and site selection and recreational facilities must be consistent with the ultimate purpose of achieving independent, self-reliant and pleasant living arrangements for a group of older persons and should take into account the desires and needs of older persons for privacy, participation in social and community activities and access to community facilities. The architecture shall reflect and draw upon the historic styles of buildings within the Village of Washingtonville.
- (3) Adequate facilities shall be provided for the removal of snow, trash and garbage and for the general maintenance of the community.
- (4) Lighting of the grounds shall provide illumination sufficient for the convenience and safety of the residents. A lighting plan shall be submitted, and decorative lighting shall be used which is consistent with the architecture of the development.
- (5) The site shall be adequately landscaped to provide privacy and to buffer the development from any adjoining residential uses. There shall be provided a landscape buffer consisting of a vegetative opaque screen and fence with a width of no less than 25 feet along every property line. A landscaping plan shall be approved by the Planning Board.
- (6) Within an active adult community, land area shall be set aside areas for indoor and outdoor recreational purposes exclusively for the use of the occupants and their guests. These areas shall be delineated on the site plan Areas for outdoor and indoor recreational purposes and open spaces shall be no less than 30 percent of the overall site. Such areas shall be improved, constructed and maintained at the expense of the owner thereof.
- (7) Trails and sidewalks shall be designed and constructed to serve the active adult use as well as to provide access to the Downtown zoning district.

### E. Veteran housing.

- (1) The following standards shall apply:
  - (a) Minimum area. The lot for the housing shall be no less than 3 acres.
  - (b) Density. Veteran housing shall be permitted at a density of 8 dwelling units per acre.
  - (c) Housing. Housing is permitted as multifamily dwellings. All dwellings shall be one bedroom and no less than 600 square feet.
  - (d) Height. The maximum height shall be 30 feet or two stories.
  - (e) Evidence shall be provided that the housing shall be dedicated to veterans. Veteran occupancy shall be maintained for the life of the use. Agreements and deed restrictions

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ensuring that veteran occupancy is maintained shall be provided in a manner suitable to the Village Attorney and approved by the Village Board of Trustees. Any such documents shall be filed with the Village Clerk and in the Office of the Orange County Clerk prior to issuance of any certificate of occupancy.

- (f) Indoor and outdoor recreational and other activity areas shall be provided at a rate of 500 square feet per dwelling unit. Housekeeping facilities, including shared laundry areas, shall be provided.
- (g) Services may be provided onsite to provide access to health care, mental health treatment, substance use counseling, and other supports necessary to help them in any recovery process and with their ability to maintain housing in the community.
- (h) There shall be provided a landscape buffer consisting of a vegetative opaque screen and fence with a width of no less than 25 feet along every property line.

### § 315-41.25 Housing, Manufactured

- A. Manufactured housing is allowed only in a Manufactured Home Community zoning district. For purposes of these regulations, existing manufactured homes within an existing park shall be allowed to continue without the need to comply to the design criteria for a manufactured home. Any new home shall comply with these standards, and any alterations shall meet the standards to the maximum extent practicable. The expansion of the capacity of a manufactured home park shall require site plan amendment and issuance of a special use permit. For a replacement manufactured home, the Building Inspector shall review the replacement home in accordance with these standards.
- B. Design criteria for a manufactured home. A manufactured home shall comply with the following design criteria:
  - (1) A manufactured home and any deck or other addition shall be mounted on a permanent concrete slab base or footing at least four inches thick, with skirting provided. The base of each manufactured home shall be enclosed with suitable material approved by the Planning Board.
  - (2) A manufactured home shall be finished with a natural or artificial materials that, because of their color and texture, have the appearance of clapboards, wood shingles or other traditional house siding and blend in with the landscape to enhance or maintain the attractive visual character of the neighborhood.
  - (3) Two (2) off-street parking spaces shall be provided for each manufactured home. Dustless surface off-street parking spaces shall be provided for each mobile home lot as that term is defined herein, which may be permitted in the front yard of the mobile home lot. There will be no parking on any public street.
  - (4) A manufactured home shall have shingled, peaked roofs with a minimum pitch of four over twelve (4:12).
  - (5) A manufactured home shall comply with currently applicable federal and state standards applicable to manufactured homes.

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- (6) A manufactured home shall have a minimum size of seven hundred twenty (720) square feet and a minimum width of twelve (12) feet.
  - (7) No evidence of a manufactured home's trailer hitch or wheels shall be visible once it has been installed.
  - (8) One or more of the above criteria may be waived where the applicant demonstrates that:
    - (a) The manufactured home will be effectively screened year-round; or
    - (b) The installation of the manufactured home will not detract from the existing visual character of the neighborhood.
- B. Manufactured home park standards.
- (1) The minimum lot area developed as a manufactured home park shall be ten (10) acres.
  - (2) Each manufactured home shall be located on a manufactured home lot, which is a defined area within a manufactured home park surrounding the manufactured home and as shown on a site plan. It shall contain at least seven thousand five hundred (7,500) square feet and be not less than seventy-five (75) feet wide. Each lot shall have a lot depth of at least one hundred twenty-five (125) feet, a front yard of at least twenty (20) feet, two (2) side yards of at least fifteen (15) feet each and a rear yard of at least thirty-five (35) feet.
  - (3) Each manufactured home lot will have at least seventy-five (75) feet of lot frontage on an internal access street and shall gain access therefrom.
  - (4) The manufactured home park shall be well-drained, have such grades and soil as to make it suitable for the purpose intended and have an adequate stormwater drainage collection, piping and drainage system.
  - (5) Each manufactured home shall be provided with an adequate concrete or similar type walkway from the parking area to each mobile home. No manufactured home shall be closer than seventy-five (75) feet to any other manufactured home.
  - (6) All manufactured homes and any other structures related thereto shall be set back at least twenty-five (25) feet from perimeter property lines of the manufactured home park and said area shall be landscaped.
  - (7) A manufactured home park shall be provided with two (2) means of access from a public street, each entrance no less than twenty-four (24) feet in width and paved. All internal drives shall be paved.
  - (8) A manufactured home park 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, with a minimum of six (6) foot high plantings.
  - (9) All utilities shall be underground.
  - (10) Such fire safety standards as shall be appropriate for the development shall be established.
  - (11) No exterior public address systems are allowed.
  - (12) There shall be documentation of the availability and adequate capacity of all utility providers to

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service the park and there shall be one master meter for the home park. There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed. Sanitary sewer shall be provided and approved by the applicable review agency.

- (13) Adequate provisions shall be made for outside storage space, and these shall not in any way interfere with emergency access.
- (14) A centralized area for waste disposal shall be provided, and adequate provisions made to control nuisance situations such as accumulation of unused materials or vehicles.
- (16) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided. A minimum of ten percent (10%) of the lot area or one-half (0.5) acre, whichever is less, shall be devoted to this purpose. A manufactured home shall be deemed a dwelling for purposes of recreation fees as per § 315-46.
- (17) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this chapter are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing and Urban Development regulations under the Manufactured Housing Act.
- (18) The manufactured home park shall be attractively landscaped in accordance with the standards of this Zoning chapter. A lighting and landscape plan shall be approved by the Planning Board.

### § 315-41.26 Landscape contractor yard and sales

- A. No equipment shall be parked or stored out of doors. Equipment shall include but not be limited to mowers, snowplows, bobcats, wood chippers, compressors, backhoes, front-end loaders, forklifts, etc., without Planning Board approval.
- B. Vehicles shall not be permitted to idle on site for more than five minutes.
- C. Any noise generated in the operation of the business or due to the use of vehicles or equipment shall not be audible across property lines.
- D. Outdoor storage of materials, mulch, leaves, yard waste, debris or similar items used in connection with the business shall be prohibited.
- E. No unlicensed or dismantled vehicles shall be parked or stored out of doors nor shall any vehicles or equipment be repaired or serviced out of doors.
- F. Landscape contractors shall maintain an office for the operation of its business on the lot. Such office shall be a minimum of 400 square feet.
- G. All vehicles and/or equipment not required to be parked or stored indoors shall be parked or stored in an area designated on the site development plan and adequately screened so as not to be visible from any street or adjoining property.
- H. The Planning Board shall require sufficient landscaping to be installed and maintained to screen the use from adjoining properties and from the street.

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- I. The Planning Board may require the site or any part thereof to be screened with a six-foot-high solid fence. A solid, self-closing gate shall be provided and closed after each entry and exit to and from the site. The gate shall be locked at night. The fence design shall be subject to approval by the Planning Board.
- J. No material shall be stored at a height in excess of six feet nor stored in such manner as to be visible from a residential zoning district or property used for residential purposes or from the street.
- K. Storage of materials, such as, but not limited to, gravel, sand, stone, brick, pavers, and railroad ties, shall occur in the rear of the property only, but not in any required yard.
- L. No debris or material from job sites or from demolition shall be brought to the site or stored on the site or stored in any vehicles on the site. Such debris or material shall include but not be limited to concrete, stone, paving materials, asphalt, masonry materials, wood, brick, metals, branches, leaves, yard waste or mulch.
- M. No chipping, mulching and/or woodcutting activities, including splitting trees or branches into firewood, shall be permitted on site nor shall firewood storage or sales be permitted on site.
- N. The storage of diesel fuel, gasoline or biodiesel in aboveground or underground storage tanks shall be prohibited. Only the use of state-approved gasoline or diesel cans not exceeding five gallons may be stored for daily use.
- O. There shall be no operation between 10:00 p.m. and 7:00 a.m. except for office operations and snowplowing operations.
- P. There shall be no odors emanating from the site nor detectable across any property line.
- Q. Storage of materials which could be hazardous to the environment, such as chemicals, road salt and others, shall be stored in a manner to ensure that they will not impact on the environment. Method of storage shall be subject to approval of the County Department of Health, Fire Inspector or other governmental agencies having jurisdiction and the Planning Board.

### § 315-41.27 Light industry

- A. All applications shall describe in detail the procedures and equipment to be utilized and shall further indicate the anticipated characteristics of the light industrial process in terms of noise, lighting, smoke, and dust.
- B. All uses, processing and storage shall be within fully enclosed structures, and no tanks, cupolas, vents or other apparatus peculiar to the processing shall be visible outside the approved buildings. The facade of buildings and structures in light industrial use shall be compatible with adjacent development and the site shall be fully landscaped.
- C. A light industry use is prohibited from any parcel wherein sole access to the use is through a residential zoning district or neighborhood.
- D. The applicant shall submit a list of the goods and materials to be stored and manufactured on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials,

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or prohibit same.

- E. The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.
- F. A wall, fence, landscaping or other buffer shall be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width and consist of a combination of opaque landscaping and fence.

### § 315-41.28 Medical office

- A. A medical office shall not exceed the height requirements for the zoning district. Where a medical office is proposed within a building identified as historic by the Historic Preservation Board, the allowable height shall be the equivalent of the building within which the use will be located.
- B. A medical office may include a testing laboratory incidental to the medical office use.
- C. A medical office building may include multiple tenants provided they are offices for physicians, dentists or therapists.
- D. The medical office shall not operate for outpatient services, and no medical office shall require overnight inpatient bed facilities.

### § 315-41.30 Performing arts center

- A. The buildings and structures shall be compatible with the community character exhibited within the surrounding environs and the natural surroundings. The ARB shall review and approve the architectural style of the buildings and structures, taking into consideration the objectives set forth herein.
- B. The applicant shall demonstrate that adequate emergency services are available to serve the use. The applicant shall prepare a safety management plan that demonstrates that adequate emergency access is provided to the site. Police, fire, ambulance and other agencies that are required to service the use shall be provided with a copy of the application for review and comment, and the Planning Board shall take said comments into consideration in its deliberations. The Village Board shall approve the safety management plan, and a copy thereof in final form shall be filed by the applicant with the Village Clerk and County and local emergency service organizations.
- C. To minimize visual and noise impacts on adjoining parcels, no building, parking area or road shall be permitted within one hundred (100) feet of any property line. A combination of fencing, natural, undisturbed areas, supplemental plantings or landscaping shall be provided to create a separation between surrounding existing and prospective uses and the proposed development.
- D. A traffic study shall be submitted in conjunction with the special use permit application. The applicant shall confer with the Planning Board regarding the scope of the traffic analysis prior to the study being conducted. The Planning Board shall evaluate the use's impact on the surrounding road network and may limit the size of the facility to mitigate significant adverse traffic impacts.
- E. Parking areas shall be broken up and landscaped to avoid the appearance of significant expanses of impervious surfaces.

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- F. All areas of the site shall be amply landscaped by preserving existing vegetation, or by installing a combination of decorative and native plant materials. A landscape plan shall be submitted and approved as part of the site plan application pursuant to this Zoning chapter.
- G. On-site lighting shall be designed and installed in accordance with § 315-32. A lighting plan shall be submitted and shall meet the standards set forth in this Zoning chapter. Decorative lighting fixtures appropriate to a rural and woodland setting shall be incorporated into the overall design of the development.
- H. The applicant shall furnish a master signage plan illustrating the location and design of on-site signs, which shall be approved as part of the site plan. Signs shall be uniform and attractive in appearance. The Planning Board is authorized to modify the sign standards to accommodate the master signage plan, provided that the signage is part of a consistent theme that blends into the natural environment, makes maximum use of ground signs as contrasted with pole signs, mostly utilizes natural materials such as wood and stone for sign construction, and employs landscaping of such signs to enhance appearances.
- I. The site plan must depict all uses proposed for development that are anticipated for development including, but not limited to, pavilions, amphitheaters, concert halls and other musical and performing arts performance areas, together with major administrative, food service, interpretive, lodging, parking, accessory residential structures (for a groundskeeper) and seating facilities to accommodate performing arts patrons. The site plan must also depict off-site parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses. The plan shall include all infrastructure including water supply, sewer service, and stormwater facilities. The plan must also demonstrate that the development design standards listed above will be met or the extent to which any modifications will be necessary.
- J. Concurrent with its overall development plan submission, an applicant may also submit a detailed site plan application for one or more phases of its overall development. That site plan must comply with the requirements of this section and of Article X of this Zoning chapter.

### § 315-41.31 Place of worship

- A. The minimum lot area for a house of worship shall be a net lot area of three acres.
- B. The use shall have a minimum of 200 feet of frontage on and access to a public road.
- C. The proposed structure meets all state requirements for a place of public assembly, including the Fire Prevention and Building Code.
- D. Adequate off-street parking on the same lot as the house of worship shall be provided. A minimum of one parking space for every 200 square feet of floor space shall be required. The Planning Board may waive not more than 25% of the required number of parking spaces if the Board determines that such spaces are not needed based on the parking demands of the proposed use. The burden shall be on the applicant to prove that such spaces are not needed.
- E. All buildings, structures and other uses, including driveways and parking areas, shall be set back a minimum of 125 feet from all property lines. Such setback area shall include a buffer screening area of at least 35 feet which, in the judgment of the Planning Board, will be adequate to screen the use

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from adjoining properties. The buffer area may include trees, bushes, fences, walls, berms or any combination of the aforesaid, to be determined by the Planning Board.

- F. The total development coverage shall not exceed thirty-five (35) percent.
- G. The sources of exterior lighting shall be so shielded that they are not visible beyond the boundaries of the lot on which they are located. No outdoor public address systems shall be permitted.
- H. One monument sign, limited to eight square feet in area and set back a minimum of 10 feet from the lot line, may be permitted at the front entrance to the house of worship. Illumination, if provided, shall be indirect, and the source of such light shall not be visible from adjoining properties or roads.
- I. Such other requirements as may be imposed by the Planning Board to mitigate traffic, safety hazards, drainage, aesthetics or other adverse impacts on adjacent properties or on the neighborhood.

### **§ 315-41.32 Residential professional office; office-multifamily mixed use**

- A. Where permitted, one residential dwelling unit may be permitted in an existing building with professional office uses.
- B. Within the Office Residential zone, an office-multifamily mixed use is permitted only with the HR-O zone, and subject to Planning Board approval in accordance with the standards of the HR-O zone in 315-22B, and subject to the following:
  - (1) Multifamily dwellings shall only be permitted where a designated historic building and its contributing accessory structures are adaptively reused for such purpose, in combination with an office use.
  - (2) The existing historic building may be expanded, provided that the addition shall constitute no more than 50 percent of the total floor area of the existing historic building, the addition shall be attached and integrated into the building so that its design appears as a historic addition that meets the Secretary of the Interiors Standards for Rehabilitating Historic Buildings, including:
    - (a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
    - (b) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
    - (c) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  - (3) No multifamily dwelling shall be less than 650 square feet and no less than one (1) bedroom.
  - (4) No more than one dwelling per 15,000 square feet of net lot area shall be permitted.
  - (5) In no case shall the office space be less than 30 percent of the overall floor area of the entire building, including addition.

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### § 315-41.33 Restaurant

- A. Within the Office Residential zone, a restaurant is permitted only with the HR-O zone, and subject to Planning Board approval in accordance with the standards of the HR-O zone in § 315-22B.

### § 315-41.34 Restaurant with drive through

- A. Drive-through facilities, which are convenient to motorists, can diminish the pedestrian experience if not designed appropriately and can negatively impact adjoining properties. The Planning Board, in assessing whether to allow a drive through facility, shall consider the following:
- (1) Entrances and exits for a drive-through facility shall not require any additional driveway and curb cut than required for the principal building to which is it accessory. The drive-through service window shall be attached to the principal building.
  - (2) Shared use of existing or proposed driveways shall be encouraged.
  - (3) The drive through shall be accessory and incidental to a use allowed in the district.
  - (4) The drive through window, access queuing lane, and other related elements shall be located behind or on the side of the building and shall be screened from view of any public street or right-of-way.
  - (5) The Planning Board may require that a vehicle stacking analysis be submitted to ensure that the vehicle queue at the drive through window will not block or interfere with an entry/exit from any parking space and to or from a street. All drive-through facilities shall include a bypass lane in order for vehicles to exit the queue lane before the window.
  - (6) Landscaping, walls, and fences shall be used to screen parking areas and provide visual interest. Where a drive-through adjoins a residential use, vegetative screening and a fence shall be provided along the shared lot line for a minimum width of twenty-five (25) feet. A plan for continual maintenance of debris and garbage shall be provided.
  - (7) All boards, speakers, and service windows shall be situated in a manner so as not to be audible beyond the property line on which the use is located. The use is allowed menu boards which shall be sized to identify menu items only. The Planning Board can limit the size of the board to meet this requirement.
  - (8) The drive-through window and drive lanes shall be situated so as not to require a pedestrian to cross the drive-through lane when accessing the interior of the building.

### § 315-41.35 Retail use (not listed elsewhere herein)

- A. Within the Office Residential zone, a retail use (not otherwise listed elsewhere in the Use Schedule) is permitted only with the HR-O zone, and subject to Planning Board special use permit and site plan approval in accordance with the standards of the HR-O zone in 315-22B.

### § 315-41.36 Research laboratory

- A. A research laboratory use is prohibited from any parcel wherein sole access to the use is through a

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residential zoning district or neighborhood.

- B. The Applicant shall submit a list of the goods and materials to be stored onsite. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials, or prohibit same.
- C. The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width.

### § 315-41.37 Self-storage facility

- A. Permitted activities. Only dead storage activities shall be permitted. For the purpose of this section, "dead storage" shall mean the keeping of goods not in use and not associated with any office, retail or other business activity conducted on the premises. Conducting an office, retail or other business use or sales from a storage unit shall be prohibited. An office facility shall be permitted within the site in appropriately designed structures.
- B. Inside storage required. Outside storage shall be prohibited except for boats and campers which may be stored in a special parking area not in a required front yard. Storage of all other property shall be inside a building. Vehicle parking shall be provided for tenants and employees only while they are on the premises. Except for storage of boats and campers, motor vehicles shall not be parked overnight or otherwise stored outdoors on the site.
- C. Building locations and materials. Wherever possible, any new buildings shall be located so that their long dimension is perpendicular to the fronting street. Building facades facing the fronting street shall be on masonry construction. Minimum distance between buildings shall be 25 feet.
- D. Minimum width of drives shall be 20 feet. Drives shall be set back from the ends of buildings by a minimum of five feet. Drives shall be surfaced with asphalt or oil and chip.
- E. Hazardous materials prohibited. Storage of gasoline or other vehicle petroleum products, radioactive materials, explosives and flammable or hazardous chemicals shall be prohibited, and the operator of the self-storage center shall include a provision to that effect in any lease used to rent the storage units.
- F. Landscaping and security. The entire site shall be fenced to prevent vandalism or criminal activity. Any fencing for security or aesthetic purposes shall be approved by the Planning Board as to material, height and color. Site lighting shall be provided and shall be directed or shielded to prevent glare on adjacent properties or roadways in accordance with this chapter.
- G. Drainage. All areas between buildings shall be properly drained to the satisfaction of the Planning Board.

### § 315-41.38 Wholesale business

- A. Outside storage shall be prohibited.
- B. Truck-loading bays shall be located at the rear or side of the building, as determined by the Planning

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Board, and shall be appropriately screened from any public roadway and neighboring properties.

- C. Access drives shall be a minimum width of 20 feet. At least two access drives shall be provided. Access drives shall be located at least 100 feet from any residential zoning district.
- D. Storage of gasoline or other volatile petroleum products, radioactive materials, explosives or flammable or hazardous chemicals shall be prohibited.
- E. A minimum buffer of 25-foot foot width, consisting of planting materials, trees, berms, fences or combination thereof, shall be located between buildings and parking areas and the property line.

**§ 315-42 through 44. Reserved.**

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### Article X, Site plan review.

#### § 315-45. Site plan review.

- A. Intent. In all cases where this Zoning Chapter requires site plan approval, no building permit or certificate of occupancy shall be issued by the Building Inspector except upon approval of and in compliance with a site plan approved by the Planning Board. Any application which requires special use permit approval shall also require site plan approval from the Planning Board. For existing buildings, the following procedure shall be followed.
- (1) Where a building exists and complies with a previously approved site plan, and a change of occupancy is occurring without exterior structural changes to the building:
    - (a) If the change of use is of the same type and intensity (i.e., office to office, sit-down restaurant to sit-down restaurant, etc.), no Planning Board action will be required prior to the issuance of a building permit and/or certificate of occupancy.
    - (b) If the new use is not of the same type and intensity (i.e., office to retail, sit-down restaurant to fast-food restaurant, etc.), the new occupant shall appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy.
    - (c) Conversions in use between multiple dwellings and condominium, cooperative or similar types of ownership shall require special use permit review and approval.
  - (2) In instances where the building exists, the site does not comply with a previously approved site plan and a change of occupancy is occurring without exterior structural changes to the building, a revised site plan approval shall be required prior to the issuance of a building permit and/or certificate of occupancy.
  - (3) In instances where the building exists, a change of occupancy is occurring and exterior structural changes will be made to the building, a revised site plan approval shall be required prior to the issuance of a building permit and/or certificate of occupancy.
  - (4) In instances where the building exists, no change of occupancy is occurring and exterior structural changes will be made to the building, the new occupant shall appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy.
- B. Objectives. In its decision-making, the Planning Board shall consider the public health, safety and welfare and the comfort and convenience of the public in general, the occupants of any proposed development, and the residents of the immediate neighborhood in particular. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent, further the expressed intent of this Zoning Chapter and accomplish the following objectives:
- (1) Location, arrangement, size, design of buildings, lighting and signs shall be compatible with the Village's community character as defined in the Village Comprehensive Plan and design

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standards set forth in this Zoning Chapter.

- (2) The development shall be consistent with the Village of Washingtonville Road Specifications, where applicable, and the arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, sight distance and traffic controls, shall be deemed adequate.
- (3) Sufficient and adequately designed off street parking spaces and loading areas are provided, and the internal circulation system shall be adequate to provide safe accessibility within and throughout the site.
- (4) The arrangement and relationship of pedestrian access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience shall be adequate.
- (5) All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets and shall be reviewed and approved by the appropriate state, county, or local authority prior to the granting or as a condition of site plan approval.
- (6) All lighting on premises shall comply with the outdoor lighting standards in § 315-32.
- (7) Wherever practicable, cross access between properties shall be provided to reduce the number of curb cuts and limit the amount of traffic on any arterial or collector road. The Planning Board may require a site layout, subject to appropriate agreements, that facilitates future cross access in anticipation of future adjoining development.
- (8) Wherever practicable, shared joint access to roads shall be provided to limit conflicting turning movements, reduce traffic congestion, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement.
- (9) Any increase in the rate of stormwater runoff shall be mitigated in accordance with Village standards, NYSDEC regulations and best management practices.
- (10) Water supply and sewage disposal facilities shall be adequate to serve the development.
- (11) The type and arrangement of existing or proposed fences, walls, trees, shrubs and other landscaping shall be adequate to constitute a visual screen and/or noise buffer where required or determined necessary by the Planning Board.
- (12) Landscape plantings such as shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials, such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of a visually attractive community character through the use of native plant material and the retention of existing natural vegetation to the greatest extent.
- (13) All recreational, parking, mechanical equipment, refuse and service areas, during all seasons of the year, shall be screened from the view of adjacent residential lots, neighborhoods, and streets and the general landscaping of the site is in character with that generally prevailing in

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the neighborhood. Existing trees over ten (10) inches diameter breast height (dbh) shall be retained to the maximum extent.

- (14) The preservation of mature plant species, hedgerows and stone walls, wetlands, and watercourses shall be in accordance with the purposes of this Zoning Chapter and disturbances shall be minimized to the maximum extent.
- (15) The preservation of scenic, historic and architectural features shall be considered and impacts to same shall be minimized to the maximum extent.
- (16) Solid waste facilities and containers, outdoor service areas, and loading docks shall be adequate to serve the proposed use and screened from public view and from adjacent residential properties.
- (17) Utilities. Newly installed on-site utility service systems, and service revisions shall be installed underground to the maximum extent practicable. The Planning Board may require that on-site aboveground utility service systems be placed underground where upgrades are proposed to same as part of the development.
- (18) Any application involving the renovation or reuse of existing buildings or structures shall require the retention of architectural and stylistic elements that preserve historic character where applicable.
- (19) Improvements shall be consistent with the Village of Washingtonville Comprehensive Plan.
- (20) Development shall limit impacts to the Moodna Creek, groundwater and surface water resources to the maximum extent practicable through implementation of appropriate water quality protection measures.
- (21) Where a sign is shown on the site plan, the sign shall comply with the regulations of Article VI of this Zoning Chapter.

### C. Effect of site plan approval.

- (1) No building permit shall be issued prior to approval of the site plan by the Planning Board.
- (2) No certificate of occupancy or use shall be issued for any building, structure or use of land regulated by this Zoning Chapter unless the structure is complete or the land is developed or used in accordance with the approved site plan.

### D. Procedure.

- (1) Pre-submission meeting. Prior to the submission of a site plan application, the applicant may meet in person with the Planning Board or its designated representatives at a Technical Advisory Committee meeting. The Planning Board or its designated representatives will review a sketch plan or other materials that are submitted by the potential applicant and shall advise the applicant preliminarily of the merits of the proposal based on a review of the Zoning Chapter, its consistency with the Village Comprehensive Plan, and potential site plan issues and concerns. The Planning Board or its designated representatives will identify the data to be submitted with the site plan application.

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- (2) Within six (6) months following the pre-submission meeting, the requisite number of copies of the site plan and any related information shall be submitted to the Planning Board at least fifteen (15) days prior to the Board meeting at which the application shall be reviewed. If the site plan is not submitted within the six-month period, another Technical Advisory Committee meeting may be appropriate.
- (3) Area variance. Where a proposed site plan contains one or more features which do not comply with this Zoning Chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XIII, without the necessity of a decision or determination of the Building Inspector or a referral from the Planning Board.
- (4) Acceptance of site plan application. Upon receipt of an application for site plan approval, the Planning Board shall review the application and site plan for completeness. Upon a determination that the application is complete, the Board shall accept the application at its next regular meeting. The date on which the Planning Board deems the application complete shall be considered to be the date an application for site plan approval is made. An application shall not be deemed complete unless a fee for site plan application has been paid in accordance with the Schedule of Fees of the Village of Washingtonville.
- (5) Fees. An application for a site plan approval shall be accompanied by an application fee as set by the Village Board. All application fees are in addition to any required escrow fees, and do not cover the cost of SEQR environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Planning Board requires professional review of the application by the Village's planning, engineering, legal or other consultants, or if it incurs other expenses to review documents or conduct special studies in connection with the proposed application, the applicant shall be responsible for reimbursing the Village in accordance with Chapter 156, Fees, of the Code of the Village of Washingtonville.
- (6) Violations. No site plan approval shall be issued for any use or new construction where a violation exists on the subject property of any chapter of the Village of Washingtonville Code or the New York State Uniform Building Codes. Further, upon written report or receipt of a notice of violation or order to cease and desist from the Building Inspector, the Planning Board shall not review, hold public meetings or public hearings, or take action regarding an application for site plan approval until notified by the Building Inspector that such violation has been cured or ceased by the applicant. A site plan application shall not be deemed complete in the absence of such notification. However, the Planning Board may, upon written recommendation of the Building Inspector, review and act on an application involving property for which there is a violation where such application is a plan to cure the violation and bring the property or use of the property into compliance with the Zoning Chapter and/or Village Code.
- (7) Referrals. Depending on the nature of the application, the Planning Board may require that additional copies of the site plan application be forwarded to one or more of the following reviewers:
  - (a) Village DPW Superintendent;

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- (b) Village Engineer, Village Planner or other department, official or agency of the Village;
  - (c) Emergency and community service providers, including the applicable fire and/or school district;
  - (d) Water, sewer, electric, gas, cable, phone, or other utility service providers;
  - (e) Orange County Highway Department or Orange County Health Department;
  - (f) The NYSDOT, the NYSDEC, NYSOPRHP;
  - (g) U.S. Army Corps of Engineers;
  - (h) An expert consultant qualified to advise on the subject matter, e.g., a radiofrequency or traffic engineer.
  - (i) Any other agency that the Planning Board deems appropriate based on the nature of the application.
- (8) SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- (9) Public hearing. The Planning Board may hold a public hearing on the site plan. If a hearing is held, such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of a complete site plan application. The Planning Board shall give public notice of said hearing in a newspaper of general circulation in the Village at least five (5) days prior to the date thereof. Notice of such hearing shall be given by the applicant to the owners of adjacent or surrounding properties within two hundred (200) feet of the subject property at least ten (10) days before said hearing and proof of such notice shall be filed with the Planning Board. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required. Where a special use permit is required for the proposed action, the public hearing on the special use permit shall be coordinated with any hearing on the site plan application to the maximum extent possible.
- (10) Notice to Orange County Planning Department. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the Orange County Planning Department as required by section 239-m of the General Municipal Law of the State of New York, which notice shall be accompanied by a full statement of such proposed action as defined therein. In the event a public hearing is not required, such proposed action shall be referred before the final action is taken thereon.
- (11) Site plan decision. The Planning Board shall render a decision within sixty-two (62) days of the close of a public hearing, or within sixty-two (62) days after receipt of a complete site plan application if no public hearing is held. The Planning Board may approve, conditionally approve, or disapprove a site plan. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The date of the decision shall be the date on which the Planning Board meets and votes and renders the decision. The decision of the Planning Board shall be filed in the office of the Village Clerk within

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five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. A copy of the decision shall also be filed with the Building Inspector. The Planning Board may approve, approved with modifications or disapprove the site plan:

- (a) **Approve.** Upon approval of the site plan, payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board Chairman shall endorse its approval on a copy of the site plan by affixing his or her signature thereto.
  - (b) **Approve with modifications.** The Planning Board may approve the site plan with modifications or conditions attached thereto. Upon a determination that the modifications and conditions have been met, and after payment by the applicant of all fees and reimbursable costs due the Village, the Planning Board Chairman shall endorse the site plan by affixing his or her signature thereto.
  - (c) **Disapprove.** The Planning Board shall set forth its findings of disapproval as part of the record of decision.
- (12) **Conditions.** The Planning Board shall have the authority to impose reasonable conditions and restrictions as are related and incidental to a site plan. The Planning Board may require that site plan approval be periodically reviewed if the intensity of the projected use and other impacts of the project are uncertain. Upon approval of the site plan, any conditions attached to said approval must be met prior to the signing and filing of the site plan map.
- (13) **Site plan amendments.** Amendments to a site plan shall be acted upon in the same manner as the approval of the original plan.
- (14) **Signing and filing.** Following approval by the Planning Board, the site plan shall be signed by the Planning Board Chairperson and filed with the Building Department. The maps may not be signed until all Planning Board conditions required prior to filing the signed map are satisfied. One (1) copy shall also be filed with the Building Inspector, who may thereafter issue a building permit or certificate of occupancy in reliance thereon. No changes, erasures, modifications or revisions shall be made to any site plan after approval has been granted by the Board and endorsed, in writing, on the site plan, otherwise the site plan shall be deemed void.
- (15) **Site plan approval; maintenance a continuing obligation.**
- (a) **Expiration of approval.** Site plan approval, with or without conditions, shall expire no later than six (6) months from the date of the approval, as per subsection 315-45.D(11) above, unless a building permit has been issued by the Building Inspector, or unless a certificate of occupancy has been issued by the Building Inspector in the event a building permit is not required. The Planning Board may, in its sole discretion, grant up to three (3) extensions of the site plan approval, each for a period not to exceed six (6) months. Each extension may only be granted upon written request of the applicant delivered to the Planning Board no less than ten (10) days prior to expiration of the site plan approval. No further extensions shall be granted.
  - (b) If no certificate of occupancy has been issued, site plan approval shall be effective for a total period of two (2) years from the date the resolution of approval is adopted by the Board,

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notwithstanding any extension granted. If, at the end of the two-year period, the applicant has not completed construction, final site plan approval shall automatically expire and the applicant must reapply for site plan approval pursuant to this Zoning Chapter.

- (c) Site maintenance. It shall be a continuing obligation and requirement to maintain a property in conformity with the approved site plan. Failure to do so shall constitute a violation of this Zoning Chapter.

### **§ 315-46. Reservation of parkland.**

- A. Before the Planning Board may approve a site plan or subdivision plan containing residential dwelling units or lots for the construction of dwelling units, such site plan or subdivision, as the case may be, shall show, when required, a park or parks suitably located for playground or other recreational purposes.
- B. Land for parks, playgrounds, or other recreational purposes may not be required until the Planning Board finds that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village.
- C. In the event the Planning Board finds that the proposed site plan or subdivision plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be located on the property, the Planning Board may require a sum of money in lieu thereof be provided in an amount established by the Village Board. In making such determination, the Planning Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for parks or recreational facilities, as well as practical factors including whether or not there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes shall be deposited into a fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property.
- D. Notwithstanding the foregoing, if the land included in a site plan is a portion of a subdivision plat which has been reviewed and approved pursuant to the Village of Washingtonville subdivision regulations, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

### **§ 315-47. Performance bond or other surety.**

As an alternative to the installation of required infrastructure and improvements and prior to approval by the Planning Board, a performance bond or other surety sufficient to cover the full cost of same shall be furnished to the Village by the Applicant. The amount of the security shall be estimated by the Village Engineer or a designated representative of the Planning Board, and its form shall be approved by the Village Attorney. Such security shall be provided to the Village pursuant to the provisions of § 7-725-a.7 of the New York State Village Law.

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### § 315-48. Site plan data.

- A. **Application form.** An application for site plan approval shall be submitted to the Building Department on forms provided by the Department for such purpose. The application form shall be completed by the applicant and the owner and shall be accompanied by a site plan. A site plan application form must be completed and an owner consent affidavit shall be completed in full with original signature(s) and submitted with the application. An Environmental Assessment Form shall accompany the site plan application unless the Planning Board determines that the action is an exempt action (Type II action) as that term is defined in the regulations implementing the New York State Environmental Quality Review Act.
- B. **Site plan.** The site plan shall use as a base map an accurate boundary and topographic survey of the property depicting all existing improvements and site topography, and shall be prepared by a licensed land surveyor, a professional engineer, a landscape architect, or an architect licensed by the State of New York. The site plan shall have a maximum size of 34 inches x 44 inches and shall contain the data below, unless waived by the Planning Board. The Applicant shall be responsible for requesting any waiver and shall provide a reason why the waiver would be appropriate:
- (1) Section, block and lot number of the property as identified on the most current tax records, and Washingtonville project ID number.
  - (2) Name and address of the owner of record and name and address of the applicant, if different than the owner.
  - (3) Name, address and telephone number of the person, firm or organization preparing the map.
  - (4) Date, north arrow and written and graphic scale.
  - (5) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths and hundredths of a foot. All angles shall be given to the nearest ten (10) seconds or closer or equivalent in decimal degrees. The error of closure shall not exceed one (1) in ten thousand (10,000).
  - (6) The location, name and existing right-of-way width and pavement width of adjacent streets and curb locations.
  - (7) Locations and owners of adjoining property as identified on the most current tax records within 200 feet of the property boundary.
  - (8) Location, width and purpose of all existing and proposed easements, setbacks, reservations and other restricted areas, whether private or dedicated to public use, within or adjoining the property.
  - (9) A complete description and references to existing deed restrictions or covenants applicable to the subject property. The Planning Board may require submission of a copy of a title report prepared for the subject property to be reviewed by the Planning Board attorney.
  - (10) Existing zoning and bulk requirements applicable to the subject property.
  - (11) Area map taken from, and at the same scale as, the Village of Washingtonville zoning map. Existing zoning district boundaries within 500 feet of the property lines shall be shown.

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- (12) A map showing all contiguous property held in the same ownership or controlled by the same applicant on the area map.
  - (13) A 3.5-inch blank square, in the lower right-hand corner, situated above the title block, to be used for the signature of the Planning Board Chairperson.
  - (14) A reference to NYS Public Service Law Part 753 requirements (Dig Safely New York).
  - (15) Standard site plan notes described in the application for site plan approval.
- C. Natural features.
- (1) Existing contours at intervals of two (2) feet or less, referring to a datum satisfactory to the Village Engineer.
  - (2) Approximate boundaries of any areas subject to flooding or storm water overflows, including the 100-year and 500-year floodplain as shown on the most recent maps prepared by the Federal Emergency Management Agency.
  - (3) Delineated and surveyed boundaries of all freshwater wetlands in accordance with the methodology promulgated by the Village, the U.S. Army Corps of Engineers, and the NYSDEC, as applicable. In the case of a NYSDEC-regulated wetland, the 100-foot regulated adjacent area shall be shown.
  - (4) Location of existing watercourses, marshes, outline of wooded areas, rock outcrops, identification of trees with a diameter at breast height (dbh) of 10 inches or more, measured four and one-half (4 1/2) feet above the base of the trunk, and other significant existing natural features as required by the Planning Board. For water courses, the water quality classification shall be included, and any area subject to a NYSDEC Protection of Waters Permit shall be delineated on the plan.
  - (5) Location of steep slopes in the slope ranges set forth in § 315-16.
- D. Existing structures and utilities.
- (1) Location of uses and outline of structures on the subject property and adjacent properties, drawn to scale, within one hundred feet of the lot lines.
  - (2) Streets, paved areas, sidewalks and vehicular driveways and access locations on the subject property and immediately adjacent thereto.
  - (3) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines as well as gas, electric, or other underground and aboveground utilities within and adjacent to the property. The potential for any use, activity, or operation to come in close proximity to electrical lines regulated under the High Voltage Proximity Act shall be identified.
  - (4) Other existing structures, including fences, walls, landscaping and screening.
- E. Proposed development.
- (1) The footprint or location of proposed buildings and other structural improvements. Building footprints shall show the locations of regular and emergency access to any proposed building or use. Sufficient spot elevations shall be provided so that the elevations of any proposed improvements can be evaluated in comparison to surrounding grade.

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- (2) Proposed contours and grading of the site and limit of disturbance. A calculation of the total amount of disturbance shall be provided.
  - (3) All pertinent zoning setback and yard dimensions and parking computations. A bulk table shall be provided, identifying non-complying items or those that require a variance.
  - (4) Single line building floor plans and elevations.
  - (5) The location and design of all accessory uses and facilities, including but not limited to parking and loading areas, retaining walls, fences, benches, recreation facilities, garbage enclosures.
  - (6) The location of all open spaces, including but not limited to recreation areas, landscaped areas, and areas to remain in their natural state.
  - (7) A lighting plan, showing the location, height, direction, power and time of use for any proposed outdoor lighting or public address systems (if applicable).
  - (8) Sign location, dimensions and details.
  - (9) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas; profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks.
  - (10) The location and size of all proposed water, sewer, electric, and drainage lines and facilities.
  - (11) Landscaping plan including labels for existing and proposed plants and plantings, including plant species, quantities and planting size.
  - (12) Soil erosion and sediment control measures.
  - (13) Drainage and erosion control measures.
  - (14) Detail sheets for the various improvements shown on the site plan.
  - (15) A description or outline of proposed easements, deed restrictions or covenants.
  - (16) Any contemplated public improvement on or adjoining the subject property.
  - (17) If the site plan indicates a first phase only, a phasing plan shall indicate ultimate development.
  - (18) A list of all required federal, state, county or local permits and approvals.
- G. Additional data. The Planning Board may require submission of any additional data or information that it deems necessary to determine compliance with this Zoning Chapter.
- H. Stormwater. A stormwater pollution prevention plan shall be submitted where required in accordance with NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, as may be amended, and any requirements of the Village Code.
- I. Site plan revisions. All site plans that have been revised shall have a number noted in a triangle next to the revision, accompanied by the date and a brief descriptive summary of the revision.

**§ 315-49. Reserved.**

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### Article XI, Historic Preservation Board

#### § 315-50. Intent and purposes.

The Board of Trustees finds that there exist buildings and structures that have a special character or special historical or aesthetic interest or value in American, Orange County, Town of Blooming Grove or Village of Washingtonville history, architecture and culture; that it is feasible to preserve and continue the use of such improvements; and that such improvements face the danger of being uprooted and destroyed without adequate consideration of the irreplaceable loss to the people of the Village of Washingtonville of the aesthetic, cultural and historical values represented by such improvements. The Village Board finds that Washingtonville is steeped in the history and culture of Orange County and the Hudson Valley region, which requires the maintenance and enhancement of the historical, aesthetic, cultural and architectural heritage of the Village.

The purpose of this article is to:

- A. To foster public knowledge, understanding, and appreciation in the beauty and character of the Village of Washingtonville and in the accomplishments of its past;
- B. To ensure the harmonious, orderly, and efficient growth and development of the Village Washingtonville;
- C. To enhance the visual character of the Village by encouraging new design and construction that complements Washingtonville's historic buildings;
- D. To protect and promote the economic benefits of historic preservation to the Village of Washingtonville, its inhabitants and visitors;
- E. To protect property values;
- F. To promote and encourage continued private ownership and stewardship of historic structures;
- G. To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and
- H. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

#### § 315-51. Historic Preservation Board; local landmarks and local historic districts.

- A. HPB created. There is hereby created a HPB to be known as the Village of Washingtonville Historic Preservation HPB (HPB). Where the Village Board authorized an existing board to serve as the HPB, appointments, terms of office, vacancies, reappointments, and terms of membership shall be as set forth for the applicable board.
- B. Organization.
  - (1) Chairperson; designation and duties. A Chairperson shall be appointed annually by the Village Board. The chairperson shall have the right to vote in all matters before the HPB. All meetings

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of the HPB shall be held at the call of the Chairperson and at such other times as the HPB may determine by affirmative vote.

- (2) Secretary. A Secretary shall be appointed by the Village Board to serve as the HPB Secretary.
- (3) Quorum. A simple majority of the HPB shall constitute a quorum for the transaction of business. An affirmative majority vote of the full HPB is required to approve any resolution, motion or other matter before the HPB.
- (4) Records. The HPB shall be subject to the provisions of the Public Officers Law, including Article 7 related to the Open Meetings Law. The HPB records shall be readily available to the public. The vote or failure to vote of each HPB member shall be recorded. If any HPB member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.

### C. Powers and Duties of the Historic Preservation HPB.

- (1) General and Advisory Powers. The HPB shall, from time to time:
  - (a) Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the Village of Washingtonville, and recommend to the Village Board any changes and amendments thereto;
  - (b) Recommend to the Village Board additional regulations to be adopted by local law that may be necessary for the HPB to conduct its business, consistent with the scope and intent of this section;
  - (c) Recommend to the Village Board specific criteria that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;
  - (d) Recommend to the Village Board the designation of landmarks and historic districts, and from time to time changes thereto;
  - (e) Maintain an inventory of locally-designated historic resources or districts within the Village of Washingtonville and publicize the inventory;
  - (f) Recommend to the Village Board additional criteria to be adopted in local law to be used when evaluating applications for a certificate of appropriateness;
  - (g) Recommend to the Village Board proposals for the acquisition of preservation easements or other interests in real property;
  - (h) Conduct investigations, prepare maps, reports and recommendations in connection with its advisory authority relating to the planning, development and administration of the Village of Washingtonville historic preservation policies, regulations and local law as needed, provided the total expenditures of said HPB shall not exceed the appropriation provided by the Village Board together with any public or private grant funding received by the Village for the HPB to undertake its landmarks preservation powers and duties.
  - (i) Report on matters referred to it by the Village Board. The Village Board may by resolution provide for the referral to the HPB for a report on any matter or class of matters that impact this section, policies, regulations or administrative processes before final action is taken

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thereon by the Village Board. The Village Board may further stipulate that final action thereon shall not be taken until the HPB has submitted its report thereon, or has had a reasonable time, to be fixed by the Village Board in said resolution, to submit the report.

- (2) Administrative reviews. In accordance with the regulations adopted by the Village of Washingtonville for landmarks and historic preservation purposes, the HPB shall:
  - (a) Evaluate an application for a certificate of appropriateness; approve, approve with modifications, or deny any proposal for exterior changes to a designated individual landmark or property within a designated historic district resulting from any such application;
  - (b) Evaluate an application for a certificate of economic hardship; approve, approve with modifications, or deny any such application;
  - (c) Evaluate an application for a certificate of appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application;
  - (d) Evaluate, without public hearing, an application for ordinary maintenance and repair of historic resources, properties or landmarks; approve, approve with modifications, or deny any such applications;
  - (e) Perform other functions that the Village Board may designate by local law.
- D. Cooperation of Village of Washingtonville departments. All Village departments shall, upon request of the HPB, assist and furnish available permits, plans, reports, maps and statistical and other information which the HPB may require for its work.
- E. Consultants. The Village Board may retain a consultant with relevant experience in history, architectural history, architecture or similar design-related field to assist the HPB in its functions.

### **§315-52. Criteria for designating landmarks or historic districts.**

- A. The HPB may delineate landmarks or historic districts and recommend them to the Village Board for designation. Nothing herein shall limit the Village Board from conducting designations under its own initiative.
  - (1) Individual landmark: The HPB may delineate an individual property as an individual landmark if it:
    - (a) exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of the Village of Washingtonville, unincorporated Town of Blooming Grove or Orange County;
    - (b) is identified with persons or events significant in local, county, state, or national history;
    - (c) embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
    - (d) represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar

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visual feature of the community; or

(e) has yielded or may be likely to yield information important in prehistory or history.

- (2) Historic district. The HPB may delineate a group of properties within the Village of Washingtonville as an historic district if a majority of properties therein:
  - (a) meet one or more of the criteria for designation as a landmark and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
  - (b) constitute a unique section of the Village of Washingtonville by reason of possessing those qualities that would satisfy such criteria.
- (3) Interior landmark. The HPB may delineate the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the village, town, city, state or nation and:
  - (a) it is customarily open or accessible to the public; or
  - (b) it is an interior into which the public is customarily invited.
- (4) Scenic landmark. The HPB may delineate a landscape feature or group of features.
- (5) National Register and State Register of Historic Places: The Village Board may designate any properties, structures, buildings or districts which are listed on the National Register of Historic Places, State Register of Historic Places, or eligible for listing on the National or State Register of Historic Places and such designations carry the presumption that they are historically significant in the Village.

Recommendations for designation under (1) through (5) above must be accompanied by such historical and architectural information as is required by the HPB to make an informed recommendation concerning the application to the Village of Washingtonville Village Board.

- B. The boundaries of each landmark, interior landmark, scenic landmark, historic district or National Register property shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the Village of Washingtonville Clerk's office and made available for review by the public.
- C. Properties that have achieved significance within the past fifty (50) years are ordinarily not considered eligible for delineation under this local law adopted by the Village of Washingtonville Village Board. However, such properties will qualify if they are:
  - (1) Integral parts of historic districts that meet the criteria for designation; or
  - (2) If they are properties of exceptional importance.

### **§315-53. Designation process.**

- A. Notice and hearing requirements for proposed designation. Landmarks or historic districts shall be designated in the following manner:

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- (1) Initiation of proposed designation.
  - (a) Designation of an individual historic landmark or historic district may be proposed by the HPB, by the owner of the property, or by any resident of the Village of Washingtonville, or by the Village Board on its own initiative.
  - (b) Work moratorium. Once the Village Board has issued notice of a proposed designation, it may place a moratorium on the subject property prohibiting any work or alterations relating to the individual landmark or district proposed for designation as long as the proposed designation is under active consideration and until the Village Board has made its decision on designation.
- (2) Public hearing; general notice.
  - (a) Within 62 days after receipt of a full application or other matter referred to it, the Village Board shall schedule a public hearing on all proposed resource, individual, landmark or historic district designations. Public notice of any such hearing shall be given by publication in a newspaper of general circulation within the Village of Washingtonville at least ten (10) days prior to the public hearing date.
  - (b) The Village Board, property owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed resource, individual, landmark or historic district.
- (3) Notice of public hearing; multiple properties proposed for designation.
  - (a) Ten properties or less. Notice of public hearing for a proposed designation involving no more than ten properties shall be sent by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery to the owners of properties located within the area of the proposed historic district at least ten (10) days prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public hearing to consider such designation will be held by the Village Board.
  - (b) More than ten properties. Where the proposed designation of an historic district includes more than ten properties and the Village Board deems individual notice infeasible, notice may instead be published at least once in newspaper of general circulation in the Village of Washingtonville ten (10) days prior to the date of the public hearing. The notice shall specify the time and place of the public hearing, a brief description of the proposed designation, and the location where the proposal may be reviewed prior the hearing.
- (4) Permits not issued. Once the Village Board has issued notice of a proposed designation, no building or demolition permits may be issued for the property(ie) by any Village of Washingtonville department or agency until such time that the designation process is complete.
- (5) Record.
  - (a) The Village Board, or HPB when so requested by the Village Board, shall compile a public record in support of its designation of a landmark or historic district. In addition to

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testimony or documentary evidence received at any public hearing, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the Village Board's consideration by the date when the hearing is closed. At a minimum, the record of the designation shall contain the application, HPB and/or staff reports, any comments made on the application at the public hearing, and the Village Board's decision to approve, approve with modifications, or deny the application requesting designation.

- (b) Where a property is already listed on the National Register of Historic Places or the State Register of Historic Places, or eligible for listing on the National or State Registers, the record for said listing may be deemed the record for designation of a landmark or historic district in accordance with this section.
- (6) Decision. Within sixty-two (62) days after the close of the public hearing, the Village Board shall by resolution approve a designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. Within seven (7) days, the Village Board shall send notice of its designation to the applicants and owners of a designated property by certified mail return receipt requested, or in the case of a designated historic district, the Village Board shall send notice by certified mail return receipt requested to the applicants and owners of all properties within the approved district.
- (7) Filing. The Village Board shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the building department and planning department and Village of Washingtonville Clerk which shall be maintained in the Village's files.
- (8) Failure to Send Notice. Failure to send any notice by mail to any property owners where the address of such owner is not a matter of property tax records shall not invalidate any proceedings in connection with the proposed designation.
- (9) Amendment or Rescission. The Village Board may amend or rescind any designation of an individual landmark or historic district in the same manner and using the same procedures as followed for designation and subject to public hearing and notice.

### **§315-54. Certificate of Appropriateness for Alteration, Demolition, or New Construction Affecting Individual Landmarks or Historic Districts.**

- A. Authority. The HPB is responsible for the approval or disapproval of proposals for exterior changes to a historic property designated under this section. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or move a designated historic landmark or property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the HPB.
- B. All changes to Village of Washingtonville owned property affecting an individual landmark or within a historic district shall be subject to the provisions of this Article.
- C. The building department shall receive and file all applications issued for any individual landmark, or

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landmarks or historic district to which this Article applies. The building department shall transmit a copy of any such application to the HPB.

- D. The HPB may require that the application for certificate of appropriateness be supplemented by such additional information or materials as may be necessary for a complete review by the HPB. The HPB shall append the renderings, materials and material specifications approved and shall require conformance of same as a condition of approval. The HPB may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this Article. Any deviation from the approved renderings, materials, material specifications or other imposed conditions or restrictions shall require an amendment to the approval by the HPB.
- E. Criteria for Issuing a Certificate of Appropriateness.
- (1) Certificate of appropriateness; general criteria. The HPB shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or if the proposed work is within a historic district, proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of the property itself, the district or neighboring properties in such district.
  - (2) In making this determination, the HPB's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for an individual landmark, interior landmark, scenic landmark will be guided by the Secretary of the Interior's Standards for Rehabilitation and by the following principles:
    - (a) the HPB's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for an improvement to property located within a historic district shall be based on the following principles:
      - [1] properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
      - [2] any alteration of existing properties shall be compatible with the surrounding historic district; and
      - [3] new construction shall be compatible with the historic district in which it is located.
    - (b) In applying the principle of compatibility, the HPB shall consider the following factors:
      - [1] the general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
      - [2] the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
      - [3] texture and materials, and their relation to similar features of the property and other properties in the neighborhood;
      - [4] visual compatibility with surrounding properties, including proportion of the property's facade, proportion and arrangement of windows and other openings within the facade,

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- roof shape, and the rhythm of spacing of properties on streets, including setback; and
- [5] the importance of historic physical and visual features to the significance of the property.
- (c) In approving an application for a certificate of appropriateness, the HPB shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this Article, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the Village.
- (3) Where the HPB grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the HPB shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the HPB shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.
- F. Certificate of Appropriateness application procedure.
- (1) Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for a building permit with the Village of Washingtonville Building Inspector and an application for such certificate with the HPB.
- (2) The application for certificate of appropriateness shall contain:
- (a) name, address, and telephone number of applicant;
  - (b) building permit application number as assigned by the building department;
  - (c) location and photographs of property;
  - (d) elevation drawings of proposed changes, if available;
  - (e) perspective drawings, including relationship to adjacent properties, if available;
  - (f) samples of building materials to be used, including their proposed color;
  - (g) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and any other information which the HPB may deem necessary in order to visualize the proposed work.
- (3) Upon receipt of all the information required herein, the HPB shall deem the application complete and shall place the application on the agenda of the next meeting of the HPB.
- (4) Upon submission of a complete application, the HPB shall have the authority to, without public

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hearing and notice:

- (a) determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;
  - (b) approve work which is considered replacement-in-kind;
  - (c) approve work that is of any other type that has been previously determined by the HPB to be appropriate for delegation to staff.
- (5) The HPB is required to report to the Village Board on a monthly basis on all activities for which applications were submitted and decisions were made without any public hearing and notice.
- G. Certificate of Appropriateness public notice requirements.
- (1) Upon application for a certificate of appropriateness, public notice of the application shall be posted by the owner or owner's representative on the property for a minimum of ten (10) days. This notice must remain in place until a decision to approve or deny the certificate of appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.
  - (2) The HPB shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness once the application is deemed complete. Notice of the public hearing shall be published in a newspaper of general circulation in the Village of Washingtonville at least ten (10) calendar days prior to the public hearing date. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record.
  - (3) Within sixty-two (62) days after the close of the public hearing, the HPB shall approve, approve with conditions, or deny the certificate of appropriateness.
  - (4) All decisions of the HPB shall be in writing. A copy shall be sent to the applicant by certified mail/return receipt, and a copy filed with the Building Inspector and Village Clerk within ten (10) days of the date of the decision. The HPB's decision shall state the reasons for denying or modifying any application.
- H. Other permits and approvals. The certificate of appropriateness required by this Article shall be in addition to and not in lieu of any building permit or other land use approval that may be required by any other local law or regulation of the Village of Washingtonville.
- I. Expiration of approval; extensions. Certificates of appropriateness shall be valid for 24 months, after which time the owner shall apply for a new certificate if he/she still wishes to undertake work on the property. At least two months prior to expiration of the 24-month period, the owner may apply, in writing, for an extension and shall explain the reasons for the extension request. The HPB

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may grant up to two (2) extensions of six (6) months each. A written application for an extension of a certificate of appropriateness approval shall not be considered an application for a new certificate of appropriateness.

### **§315-55. Alteration hardship process and criteria.**

- A. An applicant whose certificate of appropriateness for a proposed alteration of a landmark property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. As promptly as is practicable after making a preliminary determination of hardship as provided in this Article, the HPB, with the aid of such experts as it deems necessary, shall, in consultation with the applicant, endeavor to develop a plan whereby the improvement may be preserved and perpetuated in such manner as to effectuate the purpose of this Article, and also rendered capable of earning a reasonable return.
- C. Consultation; plan development. The applicant shall consult in good faith with the HPB, local preservation groups, and other interested parties in a diligent effort to seek an alternative that will result in appropriate preservation of the property. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.
- D. Economic hardship; criteria. Following the denial of a certificate of appropriateness, the applicant may request a certificate of economic hardship. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by demonstrating to the HPB that: (1) the applicant cannot realize a reasonable return if compliance with the HPB's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested relief, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- E. The HPB, in the granting of a certificate of economic hardship, shall grant the minimum terms deemed 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.
- F. Public hearing.
  - (1) The HPB may hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application.

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- (2) If no public hearing is held, the HPB shall render a decision on the hardship application within 62 days following its receipt of a complete application.
- G. A complete application includes the conclusion of all activities under subsection C initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this Article. A complete application also includes receipt by the HPB of all submissions necessary to meet the applicant's burden of proof. Following the submission of a complete application, the HPB may schedule a public hearing within a reasonable time and determine within 62 days following the close of any public hearing held on the application whether the applicant has met his or her burden of proof.
- H. HPB decision.
- (1) If the HPB finds that the applicant's burden of proof has not been met, the HPB shall deny the application for a certificate of economic hardship.
  - (2) If the HPB finds that the applicant's burden of proof has been met, the HPB shall issue a preliminary determination of landmarks or economic hardship within 62 days of the close of any public hearing held on the application or within 62 days after the HPB has received a complete application.
  - (3) Within 62 calendar days following the HPB's preliminary determination of economic hardship the HPB must make a final determination.
  - (4) A decision of the HPB on the hardship application shall be in writing and shall state the reasons for granting or denying it. A copy shall be sent to the applicant by certified mail/return receipt and a copy filed with the Village of Washingtonville Clerk's office.
  - (5) No building permit or other land use approvals shall be issued unless the HPB grants the hardship application. If the hardship application is granted, the HPB shall approve only such work as is necessary to alleviate the hardship.

### **§315-56. Demolition, removal, or relocation of landmark buildings.**

- A. Demolition of an individual landmark or of a structure located in and contributing to the significance of a historic district shall be allowed only in case of economic hardship, unless the building department, upon due deliberation has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare and then only upon further approval of the Village Board.
- B. Any person desiring to demolish a designated historic building shall first file an application for a historic building demolition permit with the building department and an application for such certificate with the HPB. An applicant must submit the following items:
- (1) Current level of economic return including evidence that the applicant used or attempted to utilize the property during the review period set forth below and did not abandon use of the property during the time period;

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- (2) Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
  - (3) Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
  - (4) Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;
  - (5) Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
  - (6) All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
  - (7) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
  - (8) Any state or federal income tax returns relating to the property for the last two years;
  - (9) Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
  - (10) Feasibility of alternative uses for the property that could earn a reasonable economic return;
  - (11) Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
  - (12) Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
  - (13) Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
  - (14) Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
  - (15) Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
  - (16) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- C. Demolition of any such building may be approved only in connection with approval of a replacement project.
- D. The HPB shall hold a public hearing and shall take one of the following actions:
- (1) Approve the demolition permit in conformance with the provisions of this Article;

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- (2) Approve the demolition hardship permit subject to a waiting period of up to 120 days to consider relocation/documentation;
  - (3) Deny the permit.
- E. During the continuance period, the HPB may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building, including adaptive reuse in accordance with this Zoning Chapter.

### **§315-57. Demolition, removal or relocation hardship criteria.**

- A. Certificate of appropriateness for demolition, removal or relocation. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. Certificate of Appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the HPB's satisfaction, an imminent plan of reuse or redevelopment of the affected property. The applicant for an income-producing property shall establish that:
- (1) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and,
  - (2) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and,
  - (3) efforts to find a purchaser interested in acquiring the property and preserving it have failed.
  - (4) In deciding upon such application for removal, relocation or demolition, the HPB may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
- C. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the HPB may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the HPB, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.

### **§315-58. Affirmative maintenance and repair requirement.**

- A. Ordinary maintenance; repair.
- (1) Nothing in this Article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district that does not involve a change in design, building materials, color or outward appearance.
  - (2) The HPB may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.

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- B. No owner or person with an interest in real property designated as an individual landmark or included with an historic district shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.
- C. Every owner or person in charge of an improvement on a landmark site or in an historic district shall keep in good repair:
- (1) all of the exterior portions of such improvements; and
  - (2) all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a serious state of disrepair. Examples of types of prohibited disrepair include, but are not limited to:
    - (a) deteriorated or crumbling exterior plasters, mortar or facades;
    - (b) deteriorated or inadequate foundation;
    - (c) defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
    - (d) deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;
    - (e) members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
    - (f) ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;
    - (g) defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;
    - (h) fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety; and
    - (i) any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.
- D. Interiors. Every owner or person in charge of an improvement to an interior landmark shall keep in good repair:
- (1) all portions of such interior landmark; and
  - (2) all other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair.
- E. Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

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### §315-59. Enforcement and violations; penalties.

- A. All work performed pursuant to a certificate of appropriateness issued under this Article shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom, including conformance with renderings, materials and material specifications approved by the HPB. It shall be the duty of the Building Inspector to periodically inspect any such work to assure compliance with the certificate and all applicable law. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the HPB, the Building Inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- B. Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this Article in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the HPB, may be required by the Village Board to restore the property and its site to its appearance prior to the violation.
- C. If, in the judgment of the HPB, a violation of this Article exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the HPB shall notify the Building Inspector. If, upon investigation, the Building Inspector finds non-compliance with the requirements of the Property Maintenance Code of the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the Building Inspector shall order such remedies as are necessary and consistent with this Article and shall provide written notice thereof to the secretary of the HPB.
- D. Penalties. A violation of this Article is deemed an offense punishable by a fine, imprisonment or both, as follows:
- (1) First Offense: A first conviction for violation of this Article may result in a fine not exceeding \$350;
  - (2) Second Offense: A second conviction for violation of this Article, if the occurrence that leads to conviction began within a period of five years from the date of first conviction, may result in a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both;
  - (3) Third Offense: A conviction for a third or subsequent offense all of which were committed within a period of five years from when the occurrence leading to the first conviction began, shall include a fine of not less than \$700 nor more than \$1000 or imprisonment for a period not to exceed six months, or both.
  - (4) In addition to any penalties imposed under this Article, continuing violations shall be punishable in any other manner provided under other local regulations, and state and federal law.
- E. The HPB shall notify the Village Board of an enforcement matter arising under this Article who shall refer it to the Village Attorney. Action to enforce this Article shall be brought by the Village Attorney or other attorney designated by the Village Board. Civil remedies authorized under Article shall be in addition to and not in lieu of any criminal prosecution and penalty.

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### **§315-60. Appeals.**

Any person aggrieved by a decision of the HPB relating to a certificate of economic hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written appeal to the Village Board for review of the decision. Appellate review shall be based on the same record that was before the HPB and using the same criteria in this Article.

### **§315-61. Reimbursement of costs and expenses.**

A. The applicant, for review of any application set forth in this Article, shall reimburse the Village for all of the Village's reasonable and necessary architectural, historic and related fees and expenses incurred by the Village in connection with the review of the application. Said fees and expenses are deemed application fees. Reimbursement shall be made in accordance with this chapter. For the purposes of this chapter, the term "application" shall include, but not be limited to: a certificate of appropriateness; a demolition, removal, or relocation of landmark buildings applications; request to review any application under the hardship criteria; appeals; and compliance with the State Environmental Quality Review Act (SEQRA).

### **§315-62. Definitions.**

As used in this Article, the following words and phrases have the following meaning:

#### **ACQUISITION**

The act or process of acquiring fee title or other interest in real property, including acquisition of development rights or remainder interest.

#### **ADDITION**

Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with or increasing the size or capacity of the building or structure.

#### **ALTERATION**

Any act or process, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

#### **APPROPRIATE**

Especially suitable or compatible.

#### **ARCHITECTURAL SIGNIFICANCE**

The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

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### **BUILDING**

Any construction created to shelter any form of human use, such as a house, garage or barn, and which is permanently affixed to the land. Building may also refer to a historically related complex, such as a house and a barn.

### **BUILDING INSPECTOR**

The person, or his or her designee, authorized and certified to enforce the New York State Fire Prevention and Building Code. The person, or his or her designee, who is also authorized by the Village of Washingtonville governing board to enforce this Article, except where another official is expressly authorized. The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the Village of Washingtonville.

### **CERTIFICATE OF APPROPRIATENESS**

An official form issued by the Village of Washingtonville HPB stating that the proposed work on an designated historic landmark is compatible with the historic character of the property and thus in accordance with the provisions of this Article and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the Village of Washingtonville's departments may issue any permits needed to do the work specified in the certificate.

### **CERTIFICATE OF ECONOMIC HARDSHIP**

An official form issued by the HPB when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

### **CHANGE**

Any alteration, demolition, removal or construction involving any property subject to the provisions of this Article.

### **CHARACTER**

Defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

### **COMPATIBLE**

In harmony with location, context, setting, and historic character.

### **HPB**

The Village of Washingtonville Historic Preservation Board established pursuant to this Article.

### **CONSTRUCTION**

The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

### **DEMOLISH**

Any act or process that removes or destroys in whole or in part a building, structure, or resource.

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### **DEMOLITION PERMIT**

A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of demolition approval from the HPB for those properties that are designed landmarks or local historic districts.

### **EVALUATION**

The process by which the significance and integrity of a building, structure, object, or site is judged by an individual who meets the professional qualification standards published by the National Park Service at 36 CFR Part 61 as determined by the State Historic Preservation Office, using the designation criteria outlined in this Article.

### **EXTERIOR ARCHITECTURAL FEATURES**

The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure.

### **FEATURE**

Elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic resource, including, but not limited to, the type of building materials, and type and style of windows, doors, or other elements related to such landmark or historic resource.

### **HISTORIC CONTEXT**

A unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

### **HISTORIC DISTRICT - LOCAL**

An area designated as a historic district by this Article, and which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

### **HISTORIC FABRIC**

Original or old building materials (masonry, wood, metals, marble) or construction.

### **HISTORIC INTEGRITY**

The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance.

### **HISTORIC LANDMARK**

A building, district, site, structure or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

### **HISTORIC RESOURCE**

Any evaluated building, structure, object, or site that potentially meets the designation criteria outlined in this Article.

### **HISTORIC PROPERTY**

A district, site, building, structure, or object significant in American history, architecture, engineering,

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archeology, or culture at the national, state, or local level.

### **HISTORIC RESOURCES SURVEY**

The process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this Article, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation, as may be amended.

### **HISTORIC SIGNIFICANCE**

The quality of a place, site, building, district or structure based upon its identification with historic persons or events in the Village of Washingtonville.

### **INTEGRITY**

The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

### **INTERIOR LANDMARK**

Interior landmarks are noted for the portions of their interior that are open to the public.

### **INVENTORY**

A list of historic properties determined to meet specified criteria of significance.

### **LANDMARK**

Any building, structure or site that has been designated as a "landmark" by the Village of Washingtonville Village Board, pursuant to this Article that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

### **LANDMARK ALTERATION PERMIT**

A permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed in the heritage resource inventory pursuant to the provisions of this Article.

### **MAINTAIN**

To keep in an existing state of preservation or repair.

### **MINOR WORK**

Any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property.

### **MOVE**

Any relocation of a building or structure on its site or to another site.

### **NATIONAL REGISTER CRITERIA**

The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

### **NATIONAL REGISTER OF HISTORIC PLACES**

The official inventory of the nation's historic properties, districts, sites, districts, structures, objects and

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landmarks which are significant in American history, architecture, archaeology, and culture, maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 USC. 470 et seq., 36 CFR Sections 60, 63, as may be amended).

### **NON-CONTRIBUTING**

A feature, addition or building, structure, object or site which does not add to the sense of historical authenticity or evolution of an historic resource or landmark or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, structure, object or site has been so altered or deteriorated that the overall integrity of that historic resource or landmark has been irretrievably lost.

### **OBJECT**

Constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be moveable by nature or design, an object is associated with a specific setting or environment. Examples include boundary markers, mileposts, fountains, monuments, and sculpture. This term may include landscape features.

### **OWNER**

Those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the property tax records for the Village of Washingtonville.

### **PERIOD OF SIGNIFICANCE**

The length of time when a property was associated with important events, activities, or persons, or attained characteristics which qualify it for landmark status. Period of significance usually begins with a date when significant activities or events began giving the property its historic significance; this is often a date of construction.

### **PRESERVATION**

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

### **PREVENTATIVE MAINTENANCE**

Any work to prevent deterioration or damage to the structural integrity or any exterior feature of a landmark or historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, roof repair, foundation or chimney work, or landscape maintenance.

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### **REHABILITATION**

The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical, architectural and cultural values.

### **REPAIR**

Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource, such as repainting. This includes methods of stabilizing and preventing further decay, and may incorporate replacement- in-kind or refurbishment of materials on a building or structure.

### **RESTORATION**

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

### **RETAIN**

The act of keeping an element, detail or structure and continuing the same level of repair to aid in the preservation of elements, sites, and structures.

### **REVERSIBLE**

An addition which is made without damage to the project's original condition.

### **SCENIC LANDMARK**

Scenic landmarks encompass structures that are not buildings, such as bridges, piers, parks, cemeteries, sidewalks, clocks, and trees.

### **SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES**

Principles developed by the National Park Service (36 CFR 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this Article as "Secretary of the Interior's Standards."

### **SIGNIFICANT**

Having particularly important associations with the contexts of architecture, history and culture.

### **SITE – HISTORIC**

The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures or other objects. Examples of a site are a battlefield, designed landscape, trail, or camp site.

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### **STABILIZATION**

The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

### **STRUCTURE**

Any assemblage of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

### **STYLE**

A type of architecture distinguished by special characteristics of structure or ornament and often related in time; also a general quality of distinctive character.

### **UNDERTAKING**

Any project or other action involving the expansion, modification, development or disposition of the physical plant or any site or building."

### **315-63. Landmark and Historic District Designation.**

The Village Board of Trustees hereby adopts the following list of buildings, structures and historic districts as Landmarks and Historic Districts as these buildings, structures and districts have been found to meet the criteria set forth in §315-52 of this local law. The properties set forth below which are hereby deemed to be Landmarks and Historic Districts and may be added to the Zoning Map of the Village of Washingtonville for informational purposes, and these properties shall be subject to the provisions set forth in this Article XI. The properties are as follows:

- A. Moffat Library
- B. Brotherhood Winery

### **315-64. Reserved.**

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### Article XII, Nonconforming Uses, Buildings or Structures

#### § 315-65. Policy.

- A. It is the policy of the Village of Washingtonville to allow the continuation of lawful nonconformities where, of themselves, such nonconformities do not endanger the public health, safety and welfare.
- B. Continuing existing uses and structures. Except as otherwise provided herein, the lawful uses, buildings, and structures in existence on the effective date of this Zoning Chapter that are made nonconforming may be continued subject to the conditions set forth in this Article.

#### § 315-66. Nonconforming uses.

- A. The nonconforming use of land not involving the use of a building or structure may be continued, provided, however, it may not be physically enlarged or intensified, moved in whole or in part to any other portion of the lot or parcel of land, extended to occupy a greater area of land, nor shall external evidence of the use be increased by any means.
- B. A building, structure or property containing a nonconforming use shall not be enlarged, extended or altered structurally unless the use is:
  - (1) changed to a conforming use;
  - (2) changed to conform to an order of the Building Inspector to either correct an unsafe condition or to conform to the requirements of applicable laws or regulations; or
  - (3) is changed in accordance with § 315-69.
- C. No nonconforming use shall be changed to another nonconforming use.
- D. Discontinuance. If active and continuous operations are not carried on with respect to a nonconforming use during a continuous period of one year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.
  - (1) A nonconforming use is deemed to be discontinued when either:
    - (a) Activities consistent with or required for the operation of the nonconforming use have ceased;  
or
    - (b) The structure in which the nonconforming use was conducted is substantially vacated.
  - (2) A discontinuance within the meaning of this Zoning Chapter may occur regardless of whether an intent to abandon the nonconforming use exists and irrespective of the adaptation of the structure to that activity.
- E. If any nonconforming use is discontinued, any subsequent use must comply with the standards specified in this Zoning Chapter.

#### § 315-67. Noncomplying bulk.

A building, structure, or activity that is conforming to use but situated on a lot in a manner that does not comply to applicable bulk requirements, including but not limited to lot area, yard dimensions, building height, development coverage, off street parking, loading, or other bulk requirements set forth in this Zoning Chapter shall be deemed to possess noncomplying bulk. Routine normal maintenance, repairs, and alterations that decrease or diminish said noncompliance are permitted. No permit shall be issued that

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will increase the noncompliance of any bulk requirements without an area variance from the Zoning Board of Appeals.

### **§ 315-68. Reconstruction.**

- A. A building, structure or activity which contains a nonconforming use which is destroyed or damaged by any means to an extent of more than fifty (50%) percent of the replacement cost of the entire building or structure, may not be reconstructed or used except in conformity with this Zoning Chapter.
- B. A building, structure, or activity which contains a nonconforming use that is destroyed or damaged by any means to an extent of fifty (50%) percent or less of the replacement cost of the entire structure may be reconstructed. The same nonconforming use may be continued if the reconstruction is completed within one (1) year of the date of such damage, and said reconstruction is completed according to a plan approved by the Planning Board that does not result in any greater level of nonconformity with this Zoning Chapter.

### **§ 315-69. Improvements to a non-conforming use that diminish impacts.**

In order to bring a use that becomes nonconforming upon the adoption of this Zoning Chapter into greater conformity with this Zoning Chapter and reduce and diminish any impacts associated with the operation of said nonconforming use, the property owner may submit a site plan application to the Planning Board that demonstrates said impacts will be diminished. Impacts may be diminished through installation of screening materials, creation of buffer areas, application of noise attenuation measures, reduction of smoke or odors, installation of lighting controls, minor structural or architectural changes, changes to the location or layout of parking lots, loading areas or access drives, or other appropriate means. Such plan shall be presented to the Planning Board, and the Planning Board may approve, approve with modifications or conditions, or disapprove the site plan application in accordance with Article XI of this Zoning Chapter. Said improvements shall otherwise conform to the regulations and requirements of this Zoning Chapter.

### **§ 315-70 and 71. Reserved.**

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### Article XIII, Zoning Board of Appeals

#### § 315-72 Appointment of members; vacancies; officers.

Pursuant to the Village Law of the State of New York, Chapter 63, § 7-712, of Consolidated Laws, there shall be a Zoning Board of Appeals, also referred to as the ZBA, consisting of five (5) members, each to be appointed by the Board of Trustees for a term of three (3) years. Such members shall be residents of the Village. Vacancies shall be filled by appointment by the Board of Trustees for the unexpired term. The Board of Trustees shall elect a Chairperson and the Board may select an Acting Chairperson from its membership.

#### § 315-73 Continuance of previous Board.

The ZBA heretofore established shall continue to function under the provisions of this Zoning chapter, and the members thereof may continue in office until their respective terms expire.

#### § 315-74 Secretary.

The ZBA is authorized to employ a secretary or clerk, who is not a member of the Board, at a salary to be fixed by the Board of Trustees.

#### § 315-75 Powers and duties.

The ZBA shall have all the powers and duties prescribed by New York State Village Law and by this Zoning Chapter, which are more particularly specified herein, provided that none of the following provisions shall be deemed to limit any power of the ZBA that is otherwise conferred by law.

- A. Orders, requirements, decisions, interpretations, determinations. The ZBA 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 an administrative official charged with the enforcement of such ordinance or local law. To that end, the ZBA shall have all the powers of the administrative official from whose order, requirement, decision, interpretation, or determination the appeal is taken.
- B. The ZBA may issue use variances.
- C. The ZBA may issue area variances.
- D. Imposition of conditions. The ZBA shall, in the granting of use variances, area variances, and any other discretionary relief, 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 Zoning Chapter and shall be imposed for the purpose of minimizing any adverse impact such variance or relief may have on the neighborhood or community.

#### § 315-76 Rules of procedure.

The Board shall adopt such rules of procedure, consistent with the provisions of Village Law and local

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ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers. The existing rules and regulations of the Zoning Board of Appeals heretofore established, in so far as not inconsistent with this chapter, are hereby continued in force and effect until amended or repealed by the ZBA.

### § 315-77 Meetings.

Meetings of the ZBA shall be held at the call of the Chairperson and at such other times as the ZBA may determine. Meetings shall be at sufficiently frequent intervals, in the discretion of the Board, for the efficient conduct of its business. All meetings shall be open to the public. A quorum shall consist of three (3) members.

### § 315-78 Procedure.

- A. Chairperson duties. All meetings of the ZBA shall be held at the call of the Chairperson and at such other times as such ZBA may determine, and a quorum of the ZBA's membership is required for any meeting. The chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses.
- B. Meetings. Meetings of the ZBA shall be open to the public to the extent provided in Article 7 of the New York State Public Officers Law.
- C. Minutes. The ZBA 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 examination and other official actions.
- D. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the ZBA shall be filed in the office of the Village Clerk within five (5) business days and shall be a public record.
- E. Assistance to Zoning Board of Appeals. The ZBA shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance.
- F. Appellate jurisdiction. The jurisdiction of the ZBA 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 an enforcement or administrative official. Such appeal may be taken by any person aggrieved, or by an officer, department, or board of the Village.
- G. Filing of administrative decision and time of appeals.
  - (1) Each order, requirement, decision, interpretation or determination of the Building Inspector shall be filed in the office of same within five (5) business days from the day it is rendered and shall be a public record. Any delay or failure to so file shall not affect the validity of what is filed.
  - (2) An appeal shall be taken within sixty (60) days after the filing of any order, requirement decision, interpretation or determination of the administrative official, by filing with the administrative official and the ZBA a written notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the ZBA all the papers constituting the record upon which the action appealed from was taken.

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- (3) Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the Zoning chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance or other relief that is applied for and the grounds on which it is claimed that the same should be granted.
  - (4) All appeals and applications made to the ZBA shall be accompanied by a fee in accordance with the Fee Schedule of the Village of Washingtonville.
- H. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the Building Inspector, 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 Zoning Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.
- I. Hearing on appeal. The Zoning 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 a paper of general circulation in the Village at least five (5) 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 ZBA prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
- (1) Should any appeal involve either of the two (2) following conditions, the ZBA shall transmit to the designated office or official a copy of the official notice of the public hearing not later than ten (10) days prior to the date of the hearing. The designated official for counties shall be the Clerk of the County Legislature. In villages and towns, the designated official shall be the Clerk of the municipality.
    - (a) Any change in the boundaries of any district, which change would occur within a distance of five hundred (500) feet of the boundary of any village or Town, state or county road, park or other state-owned facility.
    - (b) Any change in the regulations prescribed for any district, any portion of which is located within five hundred (500) feet of the boundary of any village or Town, state or county road, park or other state-owned facility.
- J. Time of decision. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the ZBA.
- K. Filing of decision and notice. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- L. GML review. Notice to Orange County Planning Department. At least five (5) days before such hearing, the ZBA shall mail notices thereof to the Orange County Planning Department, as required by section 239-m of the New York State General Municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in section 239-m of the General Municipal Law.
- M. SEQRA. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) and its implementing regulations.

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- N. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision, or determination of the ZBA not previously reheard may be made by any member of the ZBA. A unanimous vote of all members of the ZBA 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 ZBA may reverse, modify, or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- O. Voting requirements.
- (1) Decision of the ZBA. Except for a rehearing as set forth in subsection "N" above, every motion or resolution of the ZBA shall require for its adoption the affirmative vote of a majority of all members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences. When an action is the subject of a referral to the Orange County Planning Department, the voting provisions of section 239-m of the General Municipal Law shall apply.
  - (2) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subsection "J" above, the appeal is denied. The ZBA may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in subsection "N" above.
- P. Article 78 proceeding. Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of the Village, may apply to the supreme court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the ZBA in the office of the Village Clerk.

### **§ 315-79 Expiration of variances; extensions.**

Variances from the provisions of this Zoning chapter shall expire if action authorized by the variance is not started within six months and completed within 18 months. Extensions of these periods may be granted by the ZBA. Variances which have not been acted upon or extended shall become void.

### **§ 315-80 Variances.**

#### A. Use variances.

- (1) The Zoning Board of Appeals, on appeal from the decision or determination of the Building Inspector, shall have the power to grant use variances.
- (2) No such use variance shall be granted by the ZBA 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 ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

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- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (d) The alleged hardship has not been self-created.
- (3) The ZBA, in the granting a use variance, 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) Issuance of a use variance shall be conditioned upon the applicant obtaining site plan approval from the Planning Board.
- B. Area variances.
- (1) The ZBA shall have the power, upon an appeal from a decision of the Building Inspector, to grant area variances.
- (2) In making its determination, the ZBA 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 ZBA shall also consider:
- (a) Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment will be created to nearby properties by granting the area variance;
  - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) Whether the requested area variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.
- (3) The ZBA, in the granting of an area variance, 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.
- (4) For an area variance where said variance is part of a subdivision, site plan, or special permit review that is currently, or will be, before the Planning Board, the ZBA shall submit said variance request and all associated documentation to the Planning Board for their review and comment. If the Planning Board does not provide comment upon the area variance application within thirty (30) days of receipt of said application from the ZBA, the Planning Board shall be deemed to have waived its right to comment upon the variance.

§ 315-81. Reserved.

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### Article XIV, Enforcement

#### § 315-82 Enforcement.

Unless otherwise set forth herein, it shall be the duty of the Building Inspector to administer and enforce the provisions of Article 7 of the Village Law and the provisions of this zoning chapter. Should said Building Inspector be in doubt as to the meaning or intent of any provision of this Zoning chapter, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a building permit or a certificate of occupancy in a particular case related to the provisions of this chapter, the Building Inspector shall appeal the matter to the ZBA for interpretation and decision. The Building Inspector shall adopt rules of procedure, consistent with this Zoning chapter, for the purpose of assuring efficient and uniform administration of its provisions. If the Building Inspector should mistakenly issue a building permit which violates the provisions of this Zoning chapter, that building permit shall be invalid.

#### § 315-83 Right of entry.

The Building Inspector, upon the showing of proper credentials and in the discharge of his or her duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

#### § 315-84 Issuance of permits.

- A. Building Code. All procedure with respect to applications for and issuance of building permits shall be in conformity with the provisions of the NYS Building Code which may be amended from time to time. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of this chapter.
- B. Site plan required. No building permit or certificate of occupancy for any building or structure or use, other than a one- or two-family dwelling or permitted accessory buildings, structures or uses thereto, shall be issued unless the Planning Board has previously approved a site plan pursuant to this section. Continued compliance with the approved final site plan shall be a requirement of the continued validity of any certificate of occupancy.
- C. A subdivision plan shall show a separate lot for each principal building/use. Where a development consists of an integrated arrangement of dwellings or other buildings allowed in accordance with this Zoning chapter and designed and intended to be maintained in single ownership, the Building Inspector may waive the requirement of showing individual separate lots for each separate principal building/use.
- D. No building permit shall be issued for the erection, construction, reconstruction, structural alteration, restoration, repair or moving of any building or structure or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Zoning chapter.
- E. Where a lot is formed from part of a lot already improved, the separation must be effected in such a manner as not to impair any of the provisions of this chapter, whether related to the then existing improvement or to a proposed or future new improvement on the lot so formed, and in such a manner that both the remainder of the former lot and the new lot so formed shall comply with the lot area and lot width provisions of this chapter.

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- F. After completion of footings and establishing forms on the first course of the walls or equivalent structure, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Building Inspector before any further construction is commenced.
- G. No building permit shall be issued unless the provisions of the Village of Washingtonville subdivision regulations have been complied with, including but not limited to required completion of public improvements.

### § 315-85 Completion of permitted buildings.

- A. Nothing in this chapter shall require any change in the plans, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Zoning chapter or any amendment thereto affecting such building or structure or the use thereof, provided that:
  - (1) The construction of such building or structure shall have been begun and diligently prosecuted within three (3) months of the date of such permit.
  - (2) The ground story framework, including the second tier of beams, shall have been completed within six (6) months of the date of such permit.
  - (3) The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based within one (1) year from the effective date of this Zoning chapter or any such amendment thereto.
- B. In the event that any one of the conditions of Subsection A(1), (2) and (3) above are not complied with, such building permit shall be revoked by the Building Inspector.

### § 315-86 Certificate of occupancy.

- A. It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land or part thereof hereafter erected or altered, enlarged or moved or put into use, in whole or in part, after the effective date of this chapter or any building, structure, premises, lot or land or part thereof of which the use is changed until a certificate of occupancy has been obtained by the owner, as provided for under the NYS Building Code.
- B. No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless the erection, construction, reconstruction, structural alteration, restoration, repair or moving of any building or structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this Zoning chapter.
- C. The Building Inspector shall obtain a written decision from the applicable board before issuing a certificate of occupancy in a case involving a special use pursuant to Article IV or a variance from the provisions of Article XIII of the Zoning chapter.
- D. Upon written application by the owner or his authorized agent, the Building Inspector shall issue a certificate of occupancy for any building or structure, lot or land existing and in use on the effective date of this Zoning chapter, provided that the Building Inspector shall find that such building or structure, lot or land is in conformity with the applicable provisions of this Zoning Chapter or is a

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nonconforming building or structure as defined in § 315-3B or a nonconforming use as defined in § 315-3B and in any case is in conformity with all other laws.

- E.** No certificate of occupancy shall be issued unless the subdivision regulations have been complied, including but not limited to completion of public improvements.

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### Article XV, Administration.

#### § 315-87 Fees and escrow.

##### A. Statement of intent.

- (1) The Village of Washingtonville incurs expenses in the operation of the Village Board of Trustees, the Planning Board, the Architectural Review Board, the Historic Preservation Board, the Zoning Board of Appeals and the office of the Building Inspector.
- (2) These expenses include but are not limited to administrative, legal, engineering planning and environmental review costs.
- (3) Administrative costs include but are not limited to processing applications, consultations among municipal officers and officials regarding the facts and circumstances of the application, preparation of hearing notices, publication of hearing notices, providing notice to other governmental agencies, preparation of affidavits of posting and publication, preparation and maintenance of official records regarding the application and municipal review of the application, testimony by municipal officials at public hearings, processing of resolutions and determinations, filing fees and miscellaneous services and disbursements.
- (4) Legal, planning, architectural, historic review and environmental costs include but are not limited to application review, review and analysis of applicable zoning law provisions, review and analysis of applicable subdivision regulations, preparation of hearing notices, attendance at meetings and public hearings, preparation of resolutions and determinations, preparation of State Environmental Quality Review Act (SEQR) determinations, review of bonds for public improvements, review of offers of dedication, review of easements, preparation and review of agreements, review of deeds and miscellaneous services and disbursements.
- (5) Engineering costs include review of site or subdivision plans at various stages, analysis of public improvements, preparation of reports, design analysis, inspection fees, preparation of improvement costs estimates, examination of property descriptions and miscellaneous services and disbursements.
- (6) When these expenses are occasioned in connection with an appeal, application or petition made by an applicant to the Village or an instrumentality of the Village, then it is proper and in the public interest for the applicant to bear the cost of these expenses.

B. Fees to be paid in advance with complete applications. Unless otherwise specifically provided in this section or a subsequent resolution establishing fees, the fees required pursuant to this section shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application incomplete.

##### C. Fees set by resolution.

- (1) The fees required pursuant to this section may be established by resolution of the Village Board and such resolution may be modified from time to time. Any such resolution or modification shall take effect after approval and upon filing with the Village Clerk and shall apply to all applications filed thereafter, including pending applications.
- (2) Except in the case of area variances, the fees established pursuant to this section shall be deemed to be minimum fees, and any additional expenses actually incurred by the Village for

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professional consultations, hearing notices and other nonministerial expenses shall be imposed on the applicant and paid prior to the endorsement of an approved subdivision plat or site plan, or the issuance of any building permit, or the filing of any applicable local law with the Secretary of State.

- D. Zoning Board of Appeals fees. Fees shall be established for the following Zoning Board of Appeals matters:
  - (1) Area variances.
  - (2) Use variances.
  - (3) Zoning law interpretation (at request of applicant alone).
- E. Planning Board fees. Fees shall be established for the following Village Board of Trustees matters:
  - (1) Site plan application.
  - (2) Special use permit applications.
  - (3) Accessory dwelling unit applications.
  - (4) Fees for any applications requiring Planning Board approval as per the Use Schedule.
  - (5) Minor subdivision applications:
    - (a) For two lots.
    - (b) For three lots.
    - (c) For four lots.
  - (6) Major subdivision applications:
    - (a) For five lots.
    - (b) For each additional lot.
    - (c) Recreation fees in lieu of parkland.
- F. Historic Preservation Board fees.
  - (1) Certifications of appropriateness.
  - (2) Alteration, removal, relocation or demolition hardship fees.
- G. Zoning amendment fees.
  - (1) Whenever, in connection with an application or petition, a local law is necessary or appropriate to implement the benefit or relief sought or to regulate conditions occasioned by the granting of an approval or approvals, the total actual expenses incurred by the Village in connection with the preparation and consideration of a proposed local law shall be borne by the applicant. The minimum fees established by resolution shall be paid by the applicant upon the earlier of submission of a petition, if applicable, or prior to the endorsement of an approved subdivision plat or site plan, or the issuance of any building permit, or the filing of any applicable local law with the Secretary of State.
  - (2) Fees shall be established for the following:
    - (a) Zone change local law.
    - (b) Annexation local law.
    - (c) Miscellaneous local laws including stop sign, speed limit and parking local laws considered in

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connection with subdivisions and zoning amendments (other than zone changes).

- (1) If the administrative or other expenses of the village exceed the amount deposited pursuant to this section, the balance shall be paid by the applicant prior to the endorsement of any subdivision plat or site plan, or the issuance of any building permit, or the filing of any applicable local law with the Secretary of State.

- H. **Building Inspector fees.** Fees shall be established for the following activities of the Building Inspector:
- (1) **Building permits:**
    - (a) Residential.
    - (b) Other uses.
  - (2) **Certificates of occupancy:**
    - (a) Residential.
    - (b) Other uses.
    - (c) Temporary.
    - (d) Permanent.
  - (3) **Demolition permits.**
  - (4) **Fire prevention and safety inspections:**
    - (a) For buildings containing more than two dwelling units.
    - (b) For nonresidential buildings.
  - (5) **Floodplain development permits.**
- I. **Freshwater wetlands fees.** Fees shall be established for freshwater wetlands application and/or permit fees.
- J. **Extension fees.** Whenever an extension is necessary to prevent an approval from lapsing or becoming otherwise void, the first such request for an extension shall be processed at no charge, and the second and each subsequent request for an extension shall be processed only upon prior payment of fees established by resolution of the Village Board.
- K. **Fees for building permits applications and for issuance of building permits and certificates of occupancy shall be as prescribed in the schedule of fees adopted by resolution of the Board of Trustees to cover all review costs, including but not limited to filing fees, engineering fees, legal fees, planning fees and hearing notice fees.**
- L. **SEQR compliance.** Whenever environmental analysis is required pursuant to the provisions of the State Environmental Quality Review Act (SEQRA) or any local law implementing SEQRA, all expenses relating to the environmental analysis shall be borne by the applicant.
- M. **Amendments to approved plans.** Whenever an application is submitted to amend an approved plan or permit, it shall be deemed a new application and the fees specified pursuant to this section shall apply; provided, however, that in the case of an amendment to a subdivision plat, the fees shall be based on the number of lots modified or affected by the amendment, and provided further that in no event shall the fees due on a subdivision amendment application be less than the minimum provided for a minor or major subdivision, respectively.

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- N. Fees general. Fees may be charged, at the discretion of the Village Board, for any other permit or application required by this zoning chapter.
- O. Escrow.
- (1) Notwithstanding any inconsistent provision of any local code, rule, regulation, law or ordinance, where a permit or approval is required by local law, rule, regulation or ordinance shall, before permitting use of or construction on, under or adjacent to real property, require the applicant to deposit funds with the Village sufficient to reimburse the Village for all reasonable costs of planning, engineering, legal, architectural, accounting and/or other consultants deemed appropriate by each reviewing board utilized in connection with the review of any application. At the time of the first hearing or appearance on the application, the amount of the initial deposit (escrow) to be made by the applicant shall have occurred. The Village's consultants shall invoice the Village no less frequently than monthly for services in reviewing each application and performing their duties with respect to such application. If at any time during the review process the amount of the escrow account falls below 50% of the initial, then the applicant shall be required to submit an additional deposit to bring the total escrow up to the full amount of the initial deposit.
  - (2) In the event the amount held in escrow by the Village is more than the amount of the actual billing or invoicing, the difference between such amount and the actual billing or invoicing shall be promptly refunded to the applicant after final action is taken on the application.
  - (3) In the event the amount of escrow is less than the full amount actually charged by the Village's consultants, the applicant shall promptly pay any remaining balance.
  - (4) All invoices for fees charged to applicants by consultants shall be reviewed and approved by the Village as to reasonableness before payment by the Village, and the applicant shall be provided with copies of the invoices charged against the escrow deposit. In the event an applicant believes that the charges invoiced are excessive, the applicant may file a written protest to the Village Board within 15 days of receipt of the invoice questioning such invoice, and the Village Board shall review the protest by the applicant and provide the applicant with a written response within 15 days of receipt of the protest.
  - (5) Failure to pay fees. In the event an applicant fails to make any escrow payment required and/or fails to pay the full amount billed for consultant fees, the reviewing board shall adjourn any pending application and/or withhold final approval until such payment is made. In the event final approval has been granted and an outstanding balance for consulting fees remains unpaid, no site or subdivision map shall be signed by the Planning Board where said signature is required, or the Building Inspector shall not grant a building permit and/or certificate of occupancy until payment of approved outstanding consulting fees has been made in full.

### § 315-88 Penalties for offenses.

- A. A violation of any provision or requirement of this Zoning chapter or a violation of any statement, plan, application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$1,000. Each day's continued violation shall constitute a separate and distinct violation.
- B. The owner, agent or contractor of a structure, building, premises, lot or land or part thereof where

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such violation has been committed or exists and any agent, contractor, architect, builder, corporation or other person who commits, takes part in or assists in such violation shall be guilty of such an offense.

- C. In the event that the Building Inspector or designated representative determines a violation has been committed or exists, he or she shall deliver either personally or by certified mail, return receipt requested, to the owner, agent or contractor of the building, structure, premises, lot or land a written notice of the violation and order to remedy, setting forth the date by which the violation must be ceased, corrected or remedied. Delivery by mail of the notice of violation and order to remedy shall be to the last known address of the owner, agent or contractor.
- D. In the event that the violation is not ceased, corrected or remedied within the time set forth in the notice of violation, the Building Inspector is authorized to issue and serve an appearance ticket. The appearance ticket shall be served personally. A copy of the same, along with an affidavit of service, shall be delivered to the court prior to the appearance date.
- E. The imposition of penalties herein prescribed shall not preclude the Village or any person from instituting an appropriate legal action or proceeding to prevent any unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate a violation or to prevent the unlawful occupancy of a structure, building, premises, lot or land or part thereof.

### **§ 315-89 Public records.**

Duly certified copies of this Zoning chapter and of the Zoning Map which forms a part hereof, together with copies of all amendments hereto, shall be filed in the Village Clerk's office and in the Building Inspector's office and shall be open to public inspection.

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### Article XVI, Amendments.

#### § 315-90 Amendments.

- A. Amendments. The Village Board may from time to time amend, supplement, modify or repeal this Zoning chapter, including the Zoning Map and accompanying tables, pursuant to New York State Municipal Home Rule Law.
- B. Public hearing.
- (1) No zoning amendment shall become effective until after a public hearing in relation thereto, at which the public shall have an opportunity to be heard. At least ten days notice of the time and place of such hearing shall be published in a paper of general circulation in the Village.
- C. Notice.
- (1) At least ten days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including amendments thereto, affecting property within five hundred feet of the following shall be served personally or by mail by the village upon each person or persons as listed below:
    - (a) the property of the housing authority erecting or owning a housing project authorized under the public housing law; upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto;
    - (b) the boundary of a city, village or town; upon the clerk thereof;
    - (c) the boundary of a county; upon the clerk of the board of supervisors or other person performing like duties;
    - (d) the boundary of a state park or parkway; upon the regional state park commission having jurisdiction over such state park or parkway.
  - (2) Additional notice. The Village Board may, in its discretion, by resolution, direct further notice in addition to that required by law. However, giving of such additional notice shall not render aggrieved any person not otherwise aggrieved under the law, nor shall failure to give such notice or reference at any time invalidate or affect any action of the Village Board.
- D. The Village Board shall refer to the Planning Board for report thereon any proposed amendment, and the Planning Board shall file its report with the Board of Trustees within 60 days after proposed amendment is delivered or mailed to the Chairperson or Secretary of the Planning Board. Should the Planning Board fail to file such report within said 60 days, the Board of Trustees may, at its discretion, hold a public hearing on the proposed amendment without the report of the Planning Board, and absence of such a report shall not be due cause for adjournment of the public hearing.
- E. Fees. All petitions for amendment of this Zoning chapter except those recommended by the Village Board or by the Planning Board shall be accompanied by a fee as set forth in the Village schedule of fees.
- F. Content of petition. Zoning petitions shall be in writing and shall contain a description and map of the property affected, together with such other information as the Village Board shall require. Such petitions shall include the names and addresses of all owners on the Tax Map of the Village owning property within 500 feet of the property affected, or any other contiguous property of the applicant

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in the same ownership.

- G. GML and SEQRA review. The procedural requirements set forth herein shall be in addition to the requirements of the provisions of sections 239-l and 239-m of the New York State General Municipal Law and the regulations implementing the New York State Environmental Quality Review Act.
- H. Decision. An amendment shall be effectuated by a simple majority vote of the Village Board, except that an amendment shall require the approval of at least three-fourths of the members of the Village Board in the event such amendment is the subject of a written protest, presented to the board and signed by:
  - (1) the owners of twenty percent or more of the area of land included in such proposed change; or
  - (2) the owners of twenty percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred feet therefrom; or
  - (3) the owners of twenty percent or more of the area of land directly opposite thereto, extending one hundred feet from the street frontage of such opposite land.
- I. Filing. Every zoning amendment (excluding any map incorporated therein) adopted pursuant to the provisions of the Zoning chapter shall be entered in the minutes of the Village Board and shall be filed with the Secretary of State. Such minutes shall describe and refer to any map adopted in connection with such local law or amendment.
- J. Map. The Village Clerk shall maintain every map adopted in connection with a zoning local law or amendment.
- K. Effective date. Any local law adopting a zoning amendment shall take effect upon filing in the office of the New York State Secretary of State.

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### Article XVII, General Provisions.

#### § 315-91. Construal of provisions.

Where this Zoning Chapter imposes a greater restriction upon the use of a 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 more stringent shall control.

#### § 315-92. Earlier ordinance repealed.

The Village of Washingtonville Zoning Law of 1962, including all amendments thereto, is hereby repealed.

#### § 315-93. Severability.

Should any section or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this local law as a whole or part thereof other than the part so decided to be unconstitutional or invalid. Should any provision pertaining to special use permits be declared unconstitutional or invalid, the Village Board declares that such uses would not be permitted in whole or in part, and that such uses are declared prohibited, absent the specific special use permit regulations.

#### § 315-94. Effective date.

Upon adoption, this Local Law shall become effective upon filing with the New York Secretary of State.

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### Article XVIII, Wireless Telecommunication Facilities

#### § 315-95 Wireless communications facilities.

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

#### **ADEQUATE COVERAGE**

Coverage is considered to be adequate within the service area of the Village of Washingtonville if the minimum standards set forth by the Federal Communications Commission to permit the applicant to operate a personal wireless communications service within the area are met.

#### **ALTERNATIVE TOWER STRUCTURE**

Existing water towers, clock towers, steeples, light poles and similar existing structures.

#### **ANTENNA**

A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

#### **CAMOUFLAGED TOWER**

A structure which is designed and constructed to camouflage or conceal the presence of the tower, antennas, supports and appurtenances.

#### **COLLOCATION**

The siting and/or mounting of multiple communications facilities used by the same provider, or by two or more competing providers, on the same property and/or antenna support structure or communications tower.

#### **MAJOR WIRELESS COMMUNICATIONS FACILITY**

Any wireless communications facility that is not a minor wireless communications facility. A major wireless communications facility includes all related and appurtenant buildings, structures and equipment, including a communications tower.

#### **MINOR WIRELESS COMMUNICATIONS FACILITY**

Any wireless communications facility situated on or in an existing building or other structure or on a camouflaged tower, where such equipment consists of a combination of antennas or other receiving devices necessary in number to facilitate the provision of wireless communications services from such location, provided that such minor installation is comprised of antennas or transmitting or receiving devices which are no more than six feet in height, including supports, and which are

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mounted on supports affixed to the existing structure or camouflaged tower; and may include, if necessary, a new small (10 feet by 20 feet and 10 feet high) building to house necessary equipment.

### WIRELESS COMMUNICATIONS FACILITY

Any site containing equipment used in connection with the commercial operation of wireless communications services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended, to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

### WIRELESS COMMUNICATIONS SERVICES

The provision of personal wireless communications services, including, but not limited to, those more commonly referred to as "cellular telephone service," which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended.

### WIRELESS COMMUNICATIONS TOWER

Any freestanding structure, including a lattice structure or framework and freestanding self-supported vertical pole (commonly known as a "monopole"), constructed for the placement of any equipment for use in connection with the provision of wireless communications services.

- B. Compliance with State Environmental Quality Review Act. The Village Board of Trustees shall comply with the provisions of the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and its implementing regulations. An application for approval of a wireless communications facility shall constitute a Type 1 action, except where the facility is conditionally permitted as provided in Subsection D(1)(a) or is permitted as provided in Subsection F(1).
- C. Restrictions on use.
  - (1) No wireless communications facility, except one approved by all authorities having jurisdiction prior to the effective date of this section, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with this section. No wireless communications facility may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this section. No existing structure shall be modified to serve as a wireless communications facility unless in conformity with these regulations.
  - (2) All wireless communications facilities shall at all times be in conformance with the rules and regulations of any governmental entity having jurisdiction over such communications facilities and uses, antenna and/or supporting structures and towers, including, without limitation, the FCC and FAA.
  - (3) A wireless communications facility shall be operated and maintained by an FCC licensee only.
  - (4) The applicant of a wireless communications facility shall show that the facility is necessary to provide adequate coverage to an area of the village which at that time is proven to have

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inadequate coverage and shall show that any proposed communications tower or antenna is the minimum height and aesthetic intrusion necessary to provide adequate coverage. The applicant seeking to locate a wireless communications facility in the village shall demonstrate the need for a new or additional tower or antenna; that the primary purpose of the facility is to provide adequate coverage within the village; and that the coverage area of the facility lies predominately within the village.

- (5) If a wireless communications facility is proposed for placement on a lot that is within or abuts a residential zoning district, the applicant shall prove that adequate coverage cannot be achieved by placing a facility on a lot which is not within or does not abut a residential zoning district, except where the facility is conditionally permitted as provided in Subsection **D(1)(a)**.
- (6) All wireless communications facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.

### D. Major wireless communications facilities.

- (1) Approved zoning districts or other locations.
  - (a) Major wireless communications facilities are permitted as a conditional use on property designated as Tax Map No. 117-2-14.1, at a location approved by the Board of Trustees and the Village Board of Trustees.
  - (b) If the applicant demonstrates that there is no site as provided in Subsection **D(1)(a)** above which would provide adequate coverage consistent with federal regulations, the Village Board of Trustees may determine that a major wireless communications facility, excluding a tower, is permitted as a conditional use on municipal water tank sites.
  - (c) If the applicant demonstrates that there is no site as provided in Subsection **D(1)(a)** or **(1)(b)** above which would provide adequate coverage consistent with federal regulations, the Village Board of Trustees may determine that a major wireless communications facility, if located on a camouflaged tower, may be permitted as a conditional use on municipal water tank sites. Location of a major wireless communications facility on a proposed new tower is not permitted pursuant to this provision, unless the tower is approved by the Village Board of Trustees as a camouflaged tower.
- (2) Conditions precedent to granting site plan or conditional use approval.
  - (a) Service coverage map and report. The applicant shall submit a service coverage map which shows and describes all existing and proposed areas of service coverage relating to the proposed communications facility. The service coverage map shall show the location and identify all existing sites in the village and in bordering municipalities which contain communications towers or related facilities. A detailed report shall accompany the service coverage map and shall show why the proposed communications tower, equipment and facility is necessary. The report shall identify locations within the proposed project site service coverage area which are not, and could not be, served by existing facilities, collocation, utilization of alternative technology or an alternative tower or other structure.
  - (b) Long-range communications facilities plan. The applicant shall submit a facilities plan which shows that the proposed location of the communications facility and related buildings and equipment have been planned to result in the fewest number of communications transmission tower sites within the village. The plan shall indicate how the applicant intends

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to provide service throughout the village and how the applicant plans to coordinate with all other providers of wireless communications services in the village. The plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related or other service area coverage and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and of tower(s) height, community intrusion impacts and visual and aesthetic impacts.

- (c) Community impacts. The applicant shall submit documentation which demonstrates that the proposed communications tower height and bulk is the minimum height and bulk necessary to provide licensed communications services to locations within the village which the applicant is not able to serve with existing facilities. Such documentation shall include evidence that visual, aesthetic and community character impacts have been minimized to the greatest extent practicable.
- (d) Demonstration that shared use is impracticable. A conditional use permit may be authorized for a major wireless communications facility only if the applicant demonstrates that shared use of existing structures or sites is impractical. An applicant shall be required to present a report inventorying all existing structures within 1/2 mile of the proposed site which are at an elevation suitable as potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reasons why shared usage is not feasible or practical in each case. The applicant's written request for shared use and the property owners' written responses shall be provided.
- (e) Commitment for future shared use. New wireless communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Village Board of Trustees an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit future shared use of the proposed tower by other telecommunications providers. This letter shall also be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the conditional use permit following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors-in-interest to the following:
  - (1) To respond within 90 days to a request for information from a potential shared-use applicant.
  - (2) To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.
  - (3) To allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable charges. 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 and/or equipment to accommodate a shared user without causing electromagnetic interference.

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- (f) NIER certification. A written certification shall be submitted, prepared by a qualified engineer and/or health physicist, which calculates the maximum amount of nonionizing electromagnetic radiation (NIER) which will be emitted from the proposed wireless communications facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission as of the day of application. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what, if any, restrictions on access will be maintained to ensure compliance; and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether those emissions were considered in determining compliance and the reasons why those emissions were or were not considered.
  - (g) The applicant shall comply with all other requirements, standards and conditions set forth in the zoning code governing conditional use and site plan applications.
- E. Other requirements.
- (1) Design.
    - (a) Visual impact assessment. The applicant shall submit the following:
      - [1] A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible. For this purpose, the Village may require a balloon test to visually verify the height of the structure.
      - [2] Graphic representations of "before" and "after" views from key viewpoints located inside and outside of the village, including, but not limited to, state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, residential developments and any other location where the site is visible to a large number of visitors or travelers.
      - [3] Assessment of alternative tower designs and color schemes, as set forth in Subsection **E(1)(b)** below.
      - [4] Assessment of the visual impact of the tower base, guy wires, accessory buildings and structures and overhead utility lines on abutting properties and streets.
    - (b) Tower design. The applicant shall submit a report describing alternative tower designs, which includes lattice and monopole structures and other designs to minimize visual impacts. The Village Board of Trustees may request a review of the tower design by a qualified engineer in order to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
      - [1] Towers shall be designed to accommodate future shared use by other wireless communications providers.
      - [2] Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
      - [3] No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.

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- [4] Any new tower shall be securely mounted to withstand the wind and ice loads and earthquake damage for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code.
- [5] The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for adequate coverage of the service area.
- (c) Fully engineered site plan. The applicant shall submit a site plan in accordance with Article X and showing, at a minimum, all existing and proposed roads, buildings, tower(s), guy wires and anchors, antennas, parking and landscaping and shall include grading plans for new facilities and roads.
- (d) Engineer's report.
  - [1] The applicant shall submit a report prepared by a New York State licensed professional engineer specializing in electrical engineering with expertise in communications facilities. If a monopole or tower is required and/or the electrical engineer is not qualified to certify the structural soundness of the installation, then an additional report shall be submitted by a New York State licensed professional engineer specializing in structural engineering. The report(s) shall contain the following information:
    - [a] Name(s) and address(es) of person(s) preparing the report.
    - [b] Name(s) and address(es) of the property owner, operator and applicant.
    - [c] Postal address and section, block and lot number of the property.
    - [d] Zoning district in which the property is situated.
    - [e] Size of the property and the location of all lot lines.
    - [f] Location of nearest residential structure.
    - [g] Location of nearest occupied structure.
    - [h] Location of nearest day-care center, school, camp or recreational area.
    - [i] Location of all structures on the property.
    - [j] Location, size and height of all proposed and existing antennas and all appurtenant structures.
    - [k] Type, size and location of all proposed and existing landscaping.
    - [l] Number, type and design of antenna(s) proposed and the basis for the calculations of capacity.
    - [m] Make, model and manufacturer of the antenna(s).
    - [n] Description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.
    - [o] Frequency, modulation and class of service of radio equipment.
    - [p] Transmission and maximum effective radiated power of the antenna(s).
    - [q] Certification that the proposed antenna(s) will not cause interference with existing communications devices.

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- [r] Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna(s), mounting device and structure, if any, on which the antenna(s) is mounted.
  - [s] A map depicting and listing all existing sites in the village and bordering municipalities containing transmitting antenna(s) used by the operator, owner or applicant.
  - [t] All applications, communications and permits submitted to or issued by the Federal Aviation Administration and Federal Communications Commission.
- [2] The Village Board of Trustees may, in a proper case, waive one or more of the requirements of this Subsection **E(1)** and may require additional reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community is adequately protected.
- (e) Intermunicipal notification. In order to keep neighboring municipalities informed, to facilitate the consideration of shared use of existing tall structures in a neighboring municipality and to assist the continued development of communications for emergency services, the applicant shall provide the following additional notice of the application:
- [1] Notification in writing to the clerk of any adjoining municipality within one mile of a proposed site or a greater distance if determined by the Village Board of Trustees to be impacted by a proposed new telecommunications tower.
  - [2] Notification in writing by certified mail of all landowners within 1,000 feet of the property line of the parcel on which a new tower is proposed.
- (2) Location, lot size and setbacks. Any proposed wireless communications tower and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below.
- [a] In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communications towers shall be a distance of not less than 350 feet from the nearest property line of a school, day-care center, camp, public park, playground, recreation area or other area where children may congregate.
  - [b] Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower or the required setback in the zoning district, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the zoning district.
  - [c] The lot size of major wireless communications facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.
  - [d] Additional setbacks may be required by the Village Board of Trustees to contain on-site all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
- (3) Vegetative screening and fencing.
- [a] Landscaping. All facilities shall provide landscaping as follows:
    - [1] All facilities shall be located and designed to have the least possible adverse visual and

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aesthetic affect on the environment.

- [2] The area surrounding the installation, other than the area necessary to maintain a clear line of site to the signal source, shall be landscaped and maintained with trees, shrubs and ground cover to maximize screening and visual buffering. The Village Board of Trustees may determine that an existing natural vegetative buffer which meets or exceeds the above requirements is sufficient.
  - [3] Landscaping shall include trees of a height and density established by the Village Board of Trustees that will, over time, further screen the site, buffer neighboring properties and reduce visual impacts resulting from the installation of said facility.
  - [4] The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material.
  - [5] The base of any communications tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional plantings shall be required, as necessary, to screen and buffer all structures from nearby properties or important viewsheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
- [b] Security and safety fencing. Security and safety fencing shall be located around all communications towers, equipment and related facilities to prevent unauthorized access. Access to all structures shall be through a locked gate or locked principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said security and safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector. In addition:
- [1] All communications towers, antenna towers, monopoles and other supporting structures shall be made inaccessible to unauthorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
  - [2] All transmitter controls shall be designed and installed in such a manner that they are accessible only to persons authorized by the licensee to operate or service them.
  - [3] All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event that an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
  - [4] All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been activated to cause the transmitter to radiate.
  - [5] All transmitters shall be designed in such a manner that they can be turned off independently of any remote control circuits.
- [c] Coloring and marking. Unless otherwise required by the FAA or FCC, all communications facilities, including antenna and communications towers, shall be colored, camouflaged

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and/or shielded to blend with surrounding areas, provided that such coloring, camouflage and/or shielding does not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appurtenances shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.

- [d] Signals and lights. No antenna or tower shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide to the Village Board of Trustees any legal authority which requires lighting. If lighting is required, the lighting shall be such as to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be the minimum necessary and shall be properly shielded to prevent light emission and glare onto adjacent properties.
  - [e] Signage. No signs, including advertising signs, shall be permitted on any antenna, communications tower, antenna tower or monopole, or antenna support structure, except as follows:
    - [1] Signs specifically required by a federal, state or local agency.
    - [2] Each site shall include a sign containing the name and emergency phone number of the owner and operator of all antennas. Any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly posted.
    - [3] All signage shall comply with the sign regulations of the zoning code.
    - [4] Any graffiti on a structure shall be removed within 48 hours.
  - (4) Undergrounding of electrical power and noise suppression. All electrical power supply to service the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.
  - (5) Access and parking.
    - (a) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
    - (b) Parking. Parking shall be provided on-site in an amount determined by the Village Board of Trustees based upon recommendation from the applicant. No parking shall be located in any required front yard.
  - (6) The Village Board of Trustees may waive any of the requirements of this Subsection E if demonstrated by the applicant that any such requirement is inapplicable or unnecessary to the particular application. The Village Board of Trustees shall specify, in writing, with supporting reasons, any requirement so waived.
- F. Minor wireless communications facilities. At all times, shared use within or on existing tall structures and on existing approved towers shall be preferred to the construction of major wireless communications facilities.
- (1) Minor wireless communications facilities are a permitted use at a location approved by the

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Village Board of Trustees on property identified as Tax Map No. 117-2-14.1 and on municipal water tank sites, subject to site plan review by the Village Board of Trustees. The Village Board of Trustees may require the applicant to submit any of the items set forth in Subsections **D(2)** and **E** herein as part of the site plan review process.

(2) Application.

(a) An application for site plan approval of a minor wireless communications facility shall include the following:

[1] Consent from the owner of the existing facility to allow shared use.

[2] Site plan showing all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, landscaping, grading plans, any methods used to conceal the modification to the existing facility and all other items required by the zoning code for site plans.

[3] Engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and will not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify the above.

[4] Copy of the applicant's Federal Communications Commission (FCC) license.

[a] The Village Board of Trustees may waive any of the above requirements if it is demonstrated by the applicant that under the facts and circumstances the submission of such documentation would cause an unnecessary and undue hardship. The reason(s) for any such waiver shall be stated in writing.

[b] The Village Board of Trustees may require any other documentation, reports or evidence that it deems necessary to ensure the health, safety and welfare of the community is adequately protected.

G. Required conditions of all approvals.

(1) Removal.

(a) Any antenna, communications facility, communications tower, antenna tower or monopole, including any supporting structure and related appurtenances, or part thereof, which is not used for six months, including a noncontinuous but cumulative period of six months, in any twelve-month period shall be removed by the operator of said facility and the property restored, at its sole cost and expense.

(b) An extension of an additional six months may be granted by the Village Board of Trustees upon submittal of a written request for said extension, including proof as determined reasonable by the Board that the owner is actively engaged in the marketing of the property for sale or rent.

(c) In the event that the tower is not removed as herein required, the village, after notice and opportunity for the property owner and operator to be heard, may cause the tower to be removed and the property restored. The total cost to the village of such removal and restoration, including but not limited to removal and disposal costs and engineering, attorney and employee expenses, if not paid, shall be assessed against the property and collected in the same manner as real property taxes.

## Chapter 315, ZONING

- (2) Operational certification. Within 45 days of initial operation or modification of a wireless communications facility, the owner or operator shall submit to the Building Inspector a written certification by a professional engineer that the operation is in compliance with the application submitted, all conditions imposed and all other provisions of this section. Such certification shall be a condition of lawfully operating past this forty-five-day period. The village may confirm and periodically reconfirm compliance as necessary to ensure compliance with all provisions of law, including NIER levels as set forth by the FCC. The operator of the facility shall supply all necessary documentation to permit the village to make such a determination regarding compliance. If found to be not in compliance, the facility shall cease operation until compliance is restored.
- (3) Existing installations.
  - (a) The current operator of any communication facility or communications tower, antenna or monopole in lawful existence at the time of adoption of this section shall be permitted to remain in operation, provided that the operator submits proof within six months of said adoption that a valid building permit(s) was issued for the facility, that the facility complies with current emission standards as promulgated or recommended by the FCC and that the facility meets the security requirements of this section.
  - (b) Any lawful nonconforming communications facility or communications tower shall be permitted to remain until such time as the use, facility or structure is altered, at which time compliance with this section shall be required.
  - (c) Any facility for which emission and security compliance documentation is not received shall cease operation within six months of adoption of this section and shall be immediately removed thereafter. If the facility is not removed, then the village may cause removal in the manner set forth in Subsection G(1) above.

### H. Review and compliance costs.

- (1) The applicant and operator, respectively, of a facility are responsible for the payment of all of the village's costs to review an application and to determine continued compliance after commencement of operation. Payment of all such costs within 30 days of billing shall be a condition of approval and of continued operation.
- (2) The Village Board of Trustees is authorized and shall require the applicant to post funds in escrow in an amount determined by the Village Board of Trustees to pay for the Village Board of Trustees' review costs. Such escrowed amount shall be replenished by the applicant, as directed by the Village Board of Trustees, such that sufficient funds are available at all times.
- (3) As a condition of approval, the applicant shall be required to post funds in escrow in an amount determined by the Village Board of Trustees to pay for the village's cost of inspection and determining continued compliance with the conditions of approval, this section and all other applicable requirements. Such escrowed amount shall be replenished by the operator, as directed by the Village Board of Trustees, such that sufficient funds are available at all times.

## Chapter 315, ZONING

### Article XIX, Solar Energy Systems.

#### § 315-96 Solar Energy Systems.

- A. Purpose. The purpose of this article is to encourage and promote solar energy systems while protecting the health and safety of the residents of the Village of Washingtonville by establishing regulations for the installation of small-scale solar energy systems and equipment for residential and commercial purposes.
- B. Definitions. Unless otherwise stated, the following definitions shall apply solely to this Article and subsections herein:

#### **ALTERNATIVE ENERGY SYSTEMS**

Structures, equipment, devices, or contrition techniques used for the production of heat, light, cooling, electricity, or other forms of energy on site and may be attached to or separate from the principal structure.

#### **BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS**

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

#### **COLLECTIVE SOLAR**

Solar installation owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

#### **FLUSH MOUNTED SOLAR PANEL**

A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

#### **FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM**

A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered Freestanding or Ground-Mounted Solar Energy Systems for purposes of this Local Law.

#### **GLARE**

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

#### **NET-METERING**

A billing arrangement that allows solar customers to get credit for excess electricity that they generate

## Chapter 315, ZONING

and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

### **PERMIT GRANTING AUTHORITY**

The Building and Code Enforcement Department, which is charged with granting permits for the operation of solar energy systems.

### **PHOTOVOLTAIC (PV) SYSTEMS**

A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

### **QUALIFIED SOLAR INSTALLER**

A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installation and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), and 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 the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers and NABCEP's list of certified installers may be deemed to be qualified solar installers if the Village determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

### **ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM**

A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

### **SETBACK**

The distance from a front line, side lot line or rear lot line of a parcel within which a free standing or ground-mounted solar energy system is installed.

### **SMALL SCALE SOLAR**

For purposes of this Article, the term "small-scale solar" refers to solar photovoltaic systems that produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

## Chapter 315, ZONING

### **SOLAR ACCESS**

Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

### **SOLAR ARRAY**

A group of multiple solar modules with purpose of harvesting solar energy.

### **SOLAR CELL**

The smallest basic solar electric device which generates electricity when exposed to light.

### **SOLAR COLLECTOR**

A solar photovoltaic cell, panel, or array, or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

### **SOLAR EASEMENT**

An easement recorded pursuant to NY Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

### **SOLAR ENERGY EQUIPMENT/SYSTEM**

Solar collectors, controls, energy devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar Systems include solar thermal, photovoltaic, and concentrated solar. For the purposes of this law, solar energy system does not include any solar energy system of four square feet in size or less.

### **SOLAR FARM or SOLAR POWER PLANT**

Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

### **SOLAR MODULE**

A grouping of solar cells with the purpose of harvesting solar energy.

### **SOLAR PANEL**

A device for the direct conversion of solar energy into electricity.

## Chapter 315, ZONING

### **SOLAR STORAGE BATTERY**

A device that stores energy from the sun and makes it available in an electrical form.

### **SOLAR-THERMAL SYSTEMS**

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

### **SOLAR WATER HEATER**

A device that can be used to capture sunlight in order to heat the water in pipes to be used for baths, showers and/or swimming pools consisting mainly of a thermal panel (solar collector), a hot water storage tank and accessories including a circulating pump to carry the solar energy from the collector to the tank, and a thermal regulator.

#### **C. Applicability.**

- (1) The requirements of this section shall apply to all solar energy system and equipment installations.
- (2) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the State Uniform Fire Prevention and Building Code ("Uniform Code"), the New York State Energy Conservation Construction Code ("Energy Code") and the Village Code.
- (3) Solar collectors, unless part of a Solar Farm or Solar Power Plan, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit "collective solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law 66 or similar state or federal statute.

#### **D. Permit Required**

- (1) No Small Scale solar energy system or device shall be installed or operated in the Village except in compliance with this article.
- (2) Rooftop and Building-Mounted Solar Collectors are permitted in all zoning districts in the Village subject to the following conditions:
  - (a) Building permits shall be required for installation of all rooftop and building-mounted solar collectors.
  - (b) Rooftop and Building-Mounted Solar Collectors shall not exceed the maximum allowed height by more than two (2) feet of the principal use in any zoning district.
  - (c) There shall be adequate ventilation opportunities afforded by panel set back from other rooftop equipment (for example; shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);

## Chapter 315, ZONING

- (d) In order to ensure firefighter and other first responder safety, in accordance with the New York State Uniform Fire Prevention and Building Code in effect at the time of the application, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop and Building-Mounted Solar Collectors. In the event of any of the standards in this subsection B(d) are more stringent than the New York state Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only and the standards of the State Code shall apply. Additionally, installations shall provide for adequate access and spacing in order to:
- [1] Ensure access to the roof;
  - [2] Provide pathways to specific areas of the roof;
  - [3] Provide for smoke ventilation opportunity areas; and
  - [4] Provide emergency egress from the roof.
- Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:
- [a] Alternative access opportunities (such as adjoining roofs);
  - [b] Ground level access to the roof are in question;
  - [c] Adequate ventilation opportunities afforded by panel set back from other rooftop equipment;
  - [d] New technology, methods, or other innovations that ensure adequate emergency responder access, pathways, and ventilation opportunities.
- (e) Rooftop and Building Mounted Solar Collectors must be properly engineered to support solar collectors. In the event any standard in this subsection is more stringent than the New York State Uniform Fire Prevention and Building Code, the standards in this subsection shall be deemed to be installation guidelines only and the standards of the State Code shall apply. The applicant must provide a signed and sealed certification from a New York State licensed professional engineer containing the following information:
- [1] The roof structure is strong enough to support the additional weight of the solar units as chapter 16 "dead load" standards of the New York State Building Code.
  - [2] All solar collectors are in compliance with Chapter 14 of the New York State Mechanical Code.
  - [3] The solar energy system is constructed and installed in compliance with Article 690 of the National Electric Code.
- (3) Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be down on the plans submitted for the building permit application for the building containing the system.
  - (4) Freestanding and ground-mounted solar energy collectors, unless part of a commercial Solar Farm or Solar Power Plan, shall not be permitted in the Village.
  - (5) Building permits are required for the installation of all commercial ground-mounted and free standing solar collectors.

## Chapter 315, ZONING

- (6) Solar Thermal Systems: Solar Thermal Systems are permitted in all zoning districts subject to the following conditions:
    - (a) Building permits are required for the installation of all solar thermal systems.
  - (7) Solar energy systems and equipment shall be permitted only if they are determined by the Village not to present any unreasonable safety risks, including, but not limited to, the following:
    - (a) Weight load, inclusive of snow and ice loads
    - (b) Wind resistance
    - (c) Ingress and egress in the event of fire or other emergency.
  - (8) The Building Inspector shall have authority to determine compliance with the requirements set forth in this provision. Consideration shall be made regarding glare or other adverse effects on neighboring properties when determining compliance with this provision.
  - (9) Notwithstanding any regulations set forth herein, all Photovoltaic and Solar Energy Systems shall comply with the applicable provisions of the International Residential Code ("IRC"), including, but not limited to, 2015 IRC Sections R324 and R325, inclusive of all supplements and updates.
- E. Safety.
- (1) All solar collector installations must be performed by a qualified solar installer.
  - (2) Prior to operation, electrical connections must be inspected by a Village Building Inspector and by an appropriate electrical inspection person or agency, as determined by the Village.
  - (3) Any connection to the public utility grid must be inspected by the appropriate public utility.
  - (4) Solar energy systems shall be maintained in good working order.
  - (5) All solar collectors shall meet New York's Uniform Fire Prevention and Building Code Standards.
  - (6) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Village and other applicable laws and regulations.
  - (7) The operator of a ground mounted solar collector shall notify the Village in writing if the system has not been operated for a period of three (3) months. If a ground mounted solar collector ceases to perform its originally intended function for more than six (6) consecutive months, the property owner fails to remove the aforesaid non-functioning system within the time proscribed herein, the Village shall then be permitted to enter upon the land where such system has been installed and remove same. All expenses incurred by the Village in connection with the removal of the non-functioning system shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Village Law for the levy and collection of a special ad valorem levy.
  - (8) Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
    - (a) For Commercial application, the marking shall be placed adjacent to the main service

## Chapter 315, ZONING

disconnect in a location clearly visible from the location where the lever is operated.

- (b) In the event any of the standards in this subsection for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code they shall be deemed to be guidelines only and the standards of the State Code shall apply.

F. Solar Farms and Solar Power Plants. Solar Farms and Solar Power Plants shall be permitted in any zone as in "Electric Generating use", subject to site plan review and approval by the Board of Trustees, and subject to the following supplementary regulations:

- (1) Solar farms and solar power plants shall be enclosed by perimeter fencing at a height of at least seven (7) feet to restrict unauthorized access.
  - (a) The fencing shall be black, rubber coated, and chain linked, or other suitable fencing materials as may be approved by the Board of Trustees.
  - (b) For any parcel of property that is primarily forested, no fencing shall be closer than 250 feet from any road.
  - (c) For any parcel of property that is primarily clear of brush, trees and other screening vegetation, no fencing shall be closer than 500 feet from any public road. Notwithstanding the foregoing, if there is sufficient vegetation and/or topography that will result in appropriate screening, as determined by the Board of Trustees, the required setback may be reduced from 500 feet to 250 feet.
- (2) Solar farms and solar power plants shall not be permitted on any lot size that is less than sixty (60) acres.
- (3) Solar Farms and Solar Plants cannot exceed twenty (20) acres of property. No greater than 15% of a parcel of property will be permitted for use as a Solar Farm or Solar Power Plant. This restriction shall apply to all residential zones. Notwithstanding the foregoing, two or more property owners may enter into appropriate agreements to form a contiguous aggregate parcel of property for the purpose of the development of a Solar Farm or Solar Power Plant, provided that said combined solar farm or solar power plant does not exceed twenty (20) acres in the aggregate.
- (4) The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site clearly visible.
- (5) Solar farm and solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
- (6) No more than 15% of the total existing brush, trees and other screening vegetation on a parcel or property may be removed in order to accommodate a solar farm. Any tree removed with a dbh of 6 inches or more shall be replaced on the site, or elsewhere within the Village for beautification purposes. Where trees can be readily located or installed elsewhere, the Applicant shall be a fee for each tree removed in accordance with the Village of Washingtonville Fee Schedule. Trees to be replanted shall be selected by the Village, and shall be no less than 2.5" caliper.
- (7) Appropriate landscaping and/or screening materials may be required to help screen the solar power plant, access roads and accessory structures from public roads.

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- (8) The average height of the solar panel array shall not exceed fifteen (15) feet.
  - (9) Solar Farm and Solar Power Plant panels and equipment shall be ground-mounted only, and shall be surfaced, designed and sited so as not reflect unreasonable glare onto adjacent properties and roadways.
  - (10) All on-site power lines shall be installed underground with the exception of the main service connection at the utility company right of way.
  - (11) The following requirements shall be met for decommissioning:
    - (a) Solar farms and solar power plants which have not been in active and continuous service for a period of six (6) months shall be removed at the owners or operators expense;
    - (b) The site shall be restored to as natural a condition as possible within three (3) months of removal.
  - (12) Bond/Security
    - (a) The applicant for a commercial system shall be required to execute and file with the Village Clerk a bond, or other form of security acceptable to the Village Clerk a bond, or other form of security acceptable to the Village Attorney and Engineer, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued hereunder, and to provide for the aforesaid removal and restoration of the site subsequent to its removal. The amount of the bond or security shall be no less than 150% of the cost of the removal of the solar energy system and restoration of the site, and shall be reviewed and adjusted at 5-year intervals. In the event of a default upon performance of such conditions of any of them, the bond or security shall be forfeited to the Village, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of all solar energy system structures and components and site restoration is complete.
    - (b) The applicant for a non-commercial system shall be required to agree in writing to remove the system in accordance with 10a(1) above. In the event this is not completed the Village, upon seven (7) day notice to the applicant may take any and all action necessary to complete the removal with all incurred costs being the responsibility of the village applicant. All such costs shall be paid by the applicant to the Village within thirty (30) days of invoice therefore. In the event payment is not made by the applicant within said thirty (30) days the Village shall include said charges on the next scheduled billing for property tax on the property on which the system is located.
  - (13) Insurance. The applicant shall also maintain general liability insurance coverage on any commercial solar power system facility in the amounts of \$1,000,000.00 for injuries and \$500,000.00 for property damages, naming the Village of Washingtonville as an addition insured.
- G. Penalties. The provisions of 315-88 and subsections thereof shall apply.
- H. Appeals.
- (1) Upon finding of a violation of the provisions of this Local Law, appeals should be made in accordance with the established procedures and time limits of this Chapter and the New York State Village Law.
  - (2) If a building a permit for a solar energy device is denied based upon failure to meet the

## Chapter 315, ZONING

requirements of this Local Law, the applicant may seek relief from the Village of Washingtonville Zoning Board of Appeals as per the procedures set forth in Article XIII.

I. Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Village Board may by resolution establish and amend from time to time.

J. Preexisting solar cell(s), solar collector(s), and/or solar energy equipment/systems.

Any preexisting residential solar cell(s), solar collector(s) and/or solar energy equipment/systems and related structures installed in the Village prior to the effective date of this Local Law shall be permitted to remain in place provided that the property owner is able to demonstrate to the satisfaction of the Building Inspector that the installation occurred prior to said effective date. No such unpermitted and preexisting solar cell(s), solar collector(s) and/or solar energy equipment/systems or related structures shall be replaced or upgraded unless the property owner complies with the permitting provisions of this Local Law.

Table I  
**Use Schedule**  
**Residential Zoning Districts**

Use	Zoning Districts				
	OS	R-40	R-15	R-10	MHC
<b>Open Space, Agriculture and Recreation Related Uses</b>					
Open space	P	P	P	P	P
Golf course	---	---	---	---	---
Passive recreation	P	P	P	P	P
Public recreational facilities	P	P	P	P	P
Walking path, trail	P	P	P	P	P
Agriculture, cropland and tree	---	P	---	---	---
Nursery, landscape	---	---	---	---	---
Stables, commercial and riding academies	---	---	---	---	---
<b>Residential Uses</b>					
One-family detached dwelling	---	P	P	P	P
Two-family dwelling in existence on the effective date of this law	---	---	P	---	---
One-Family Attached Dwellings (townhomes) in existence on the effective date of this law	---	---	SU	---	SU
Multifamily dwelling	---	---	---	---	---
Manufactured housing	---	---	---	---	SU
Senior/active adult housing	---	---	---	---	SU
Continuing care retirement community	---	---	---	---	---
Veteran Housing	---	---	---	---	---
Residence in upper story of mixed use buildings	---	---	---	---	---
Residential professional office	---	---	---	---	---
<b>Governmental, Civic and Institutional Uses</b>					
Benevolent, philanthropic uses	---	---	---	---	---
Cemetery	---	SU	---	---	---
Dance and music instruction	---	---	---	---	---
Educational institution	---	SU	---	---	---
Emergency service buildings including fire, police and ambulance	---	---	---	---	---
Museum	---	---	---	---	---

Table I  
**Use Schedule**  
**Residential Zoning Districts**

Use	Zoning Districts				
	OS	R-40	R-15	R-10	MHC
Performing arts center	---	---	---	---	---
Place of Worship	---	SU	SU	SU	SU
Village government buildings	---	---	---	---	---
<b>Retail and Commercial Uses</b>					
Antique shop	---	---	---	---	---
Artisan craft shop and gallery	---	---	---	---	---
Bakery	---	---	---	---	---
Banks and other financial institutions	---	---	---	---	---
Business service (not listed elsewhere)	---	---	---	---	---
Child daycare	---	P	---	---	---
Commercial indoor recreation facilities	---	---	---	---	---
Commercial outdoor recreation facilities	---	---	---	---	---
Entertainment production studio	---	---	---	---	---
Event Venue	---	---	---	---	---
Farm market	---	---	---	---	---
Fast-food retail	---	---	---	---	---
Florist	---	---	---	---	---
Funeral home	---	---	---	---	---
Grocery store	---	---	---	---	---
Hardware store	---	---	---	---	---
Health fitness facility	---	---	---	---	---
Hotel, Boutique	---	---	---	---	---
Laundromat	---	---	---	---	---
Medical office	---	---	---	---	---
Movie theater	---	---	---	---	---
Passive adult uses	---	---	---	---	---
Personal service uses	---	---	---	---	---
Professional and business office	---	---	---	---	---

Table I  
**Use Schedule**  
**Residential Zoning Districts**

Use	Zoning Districts				
	OS	R-40	R-15	R-10	MHC
Resort lodge	---	---	---	---	---
Restaurant	---	---	---	---	---
Restaurant with drive-through	---	---	---	---	---
Retail use (not listed elsewhere)	---	---	---	---	---
Tavern or bar	---	---	---	---	---
<b>Heavy Commercial and Light Industry Uses</b>					
Animal hospital and veterinarian office	---	---	---	---	---
Animal kennels	---	---	---	---	---
Autobody shop	---	---	---	---	---
Automotive repair garage	---	---	---	---	---
Brewery, winery and distillery	---	---	---	---	---
Building contractor storage yard	---	---	---	---	---
Business park	---	---	---	---	---
Distribution warehouse	---	---	---	---	---
Gas and propane storage	---	---	---	---	---
Landscape contractor yard and sales	---	---	---	---	---
Light industry	---	---	---	---	---
Research laboratory	---	---	---	---	---
Self-storage facility	---	---	---	---	---
Wholesale business	---	---	---	---	---
<b>Utilities</b>					
Large-scale solar facility	---	---	---	---	---
Public utility rights of way, transmission lines, or unmanned structures (e.g. substation, pumping station) serving the Village	P	P	P	P	P
Village sewer and water plants	---	---	---	---	---
Wireless telecommunication facilities	---	---	---	---	---
<b>Accessory Uses</b>					
Agritourism uses	---	---	---	---	---

Table I  
**Use Schedule**  
**Residential Zoning Districts**

Use	Zoning Districts				
	OS	R-40	R-15	R-10	MHC
Any accessory use customarily incidental to a principal use allowed in the zoning district	A	A	A	A	A
Buildings or stands for the display or for sale of products of agricultural products all of which are grown on the same premises	---	---	---	---	---
EV charging station	A	A	A	A	A
Geothermal system	---	A	A	A	A
Home occupation	---	A	A	A	A
Outdoor restaurant seating	---	---	---	---	---
Parking	A	A	A	A	A
Signs	A	A	A	A	A
Small-scale solar facility	A	A	A	A	A
<b>Prohibited Uses</b>					
Large-scale battery energy storage	X	X	X	X	X
<p>P= PERMITTED  SU = SPECIAL USE PERMIT/SITE PLAN  A = ACCESSORY  SP- SITE PLAN  X = PROHIBITED  SU-RU = Special Use Permit and within the Historic Reuse Overlay only, in accordance with Section 315-22.B of the Zoning Law.  --- = NOT ALLOWED IN THAT ZONING DISTRICT</p>					

Table I  
**Use Schedule**  
**Mixed Use and Nonresidential Zoning Districts**

Use	Zoning Districts				
	OR	AB	OC	D	GU
<b>Open Space, Agriculture and Recreation Related Uses</b>					
Open space	P	P	P	P	
Golf course	---	P	---	---	
Passive recreation	P	P	P	P	
Public recreational facilities	P	P	P	P	
Walking path, trail	P	P	P	P	
Agriculture, cropland and tree	---	P	---	P	
Nursery, landscape	---	P	---	---	
Stables, commercial and riding academies	---	P	---	---	
<b>Residential Uses</b>					
One-family detached dwelling	P	---	---	---	
Two-family dwelling in existence on the effective date of this law	---	---	---	---	
One-Family Attached Dwellings (townhomes) in existence on the effective date of this law	---	---	---	---	
Multifamily dwelling	SU-RU	---	---	---	
Manufactured housing	---	---	---	---	
Senior/active adult housing	---	SU	---	---	
Continuing care retirement community	---	SU	---	---	
Veteran housing	---	SU	---	---	
Residence in upper story of mixed use buildings	---	---	---	SU	
Residential professional office	SU	---	---	---	
<b>Governmental, Civic and Institutional Uses</b>					
Benevolent, philanthropic uses	---	---	---	SU	
Cemetery	---	---	---	---	
Dance and music instruction	SU		SU		
Educational institution	---	---	---	---	
Emergency service buildings including fire, police and ambulance	P	P	P	P	

Table I  
**Use Schedule**  
**Mixed Use and Nonresidential Zoning Districts**

Use	Zoning Districts				
	OR	AB	OC	D	GI
Museum	---	---	---	P	--
Performing arts center	---	SU	---	SU	--
Place of worship	SU	---	---	---	--
Village government buildings	P	P	P	P	--
<b>Retail and Commercial Uses</b>					
Adult uses					
Antique shop	P	P	P	P	--
Artisan craft shop and gallery	P	P	P	P	--
Bakery	---	---	P	P	--
Banks and other financial institutions	P	---	P	P	--
Business service (not listed elsewhere)	---	---	---	P	--
Child daycare	SU	---	SU	---	--
Commercial indoor recreation facilities	---	SU	---	---	--
Commercial outdoor recreation facilities	---	SU	---	---	--
Entertainment production studio	SU	---	P	P	--
Event Venue	---	SU	---	SU-RU	--
Farm market	---	P	P	P	--
Fast-food retail	---	---	---	P	--
Florist	P	---	P	P	--
Funeral home	SU	---	SU	P	--
Grocery store	---	---	---	P	--
Hardware store	---	---	---	P	--
Health fitness facility	---	P	---	P	--
Hotel, Boutique	SU	P	SU	---	--
Laundromat	---	---	---	P	--
Medical office	---	---	SU	SU	--
Movie theater	---	---	---	P	--
Personal service uses	---	---	P	P	--

Table I  
**Use Schedule**  
**Mixed Use and Nonresidential Zoning Districts**

Use	Zoning Districts				
	OR	AB	OC	D	GO
Professional and business office	---	---	P	P	--
Resort lodge	---	P	---	P	--
Restaurant	SU-RU	P	---	P	--
Restaurant with drive-through	---	---	---	SU	--
Retail use (not listed elsewhere)	SU-RU	---	---	---	--
Tavern or bar	---	---	---	P	--
<b>Heavy Commercial and Light Industry Uses</b>					
Animal hospital and veterinarian office	---	---	---	SU	SI
Animal kennels	---	SU	---	---	SI
Autobody shop	---	---	---	---	SI
Automotive repair garage	---	---	---	---	SI
Brewery, winery and distillery	---	SU	---	SU	--
Building contractor storage yard	---	---	---	---	SI
Business park	---	SU	---	---	--
Distribution warehouse	---	---	---	---	--
Gas and propane storage	---	---	---	---	--
Landscape contractor yard and sales	---	---	---	---	SI
Light industry	---	---	---	---	--
Research laboratory	---	---	---	---	SI
Self-storage facility	---	---	---	---	SI
Wholesale business	---	---	---	---	SI
<b>Utilities</b>					
Large-scale solar facility	---	SU	---	---	--
Public utility rights of way, transmission lines, or unmanned structures (e.g. substation, pumping station) serving the Village	P	P	P	P	--
Village sewer and water plants	---	---	---	---	--
Wireless telecommunication facilities	---	---	---	SU	SI
<b>Accessory Uses</b>					

Table I  
**Use Schedule**  
**Mixed Use and Nonresidential Zoning Districts**

Use	Zoning Districts				
	OR	AB	OC	D	GI
Agritourism uses	---	---	---	---	---
Any accessory use customarily incidental to a principal use allowed in the zoning district	A	A	A	A	
Buildings or stands for the display or for sale of products of agricultural products all of which are grown on the same premises	---	---	---	---	---
EV charging station	A	A	A	A	
Home occupation	---	A	A	A	
Geothermal systems	A	A	A	A	
Kiosk, Pop-Up	---	---	---	A	---
Outdoor restaurant seating	---	---	---	---	---
Parking	A	A	A	A	
Short-term rental	---	---	---	---	---
Signs	A	A	A	A	
Small-scale solar facility	A	A	A	A	
<b>Prohibited Uses</b>					
Large-scale battery energy storage	X	X	X	X	
P= PERMITTED					
SU = SPECIAL USE PERMIT/SITE PLAN					
A = ACCESSORY					
SP- SITE PLAN					
X = PROHIBITED					
SU-RU = Special Use Permit and within the Historic Reuse Overlay only, in accordance with Section 315-22.B of the Zoning Law.					
--- = NOT ALLOWED IN THE DISTRICT					

Table II  
Bulk Schedule

Bulk Requirements	Zoning Districts							
	R-40	R-15	R-10	MHC	MFR	OR	AB	OC
Minimum lot area* (SF)	40,000	15,000	10,000	15,000	80,000	15,000	40,000	40,000
Minimum lot area per DU (SF)						10,000		
Minimum lot width (SF)	150	100	85	85	100	100	100	150
Development coverage, Max (%)	25%	30%	35%	40%	45%	35%	45%	50%
Minimum yards (ft)								
Front	50	50	50	50	50	50	50	50
Side, One	35	25	25	25	25	25	25	25
Side, Both	70	50	50	50	50	50	50	50
Rear	50	50	50	50	50	50	40	45
Height (FT)	30	30	30	30	30	30	35	35
Height (Stories)	2	2	2	2	2	2	2	2.5

**Notes:**

\* Subject to Section 315-16 regarding net lot area.

See also special use permit standards, which may supersede the requirements of this Bulk Table for particular special  
See the SG-O zone to allow additional height in the AB zone.

Refer to zoning chapter for regulations which may impose other including more restrictive standards.

